Glen C. Robertson, Mayor
Jim Gerlt, Mayor Pro Tem, District 4
Victor Hernandez, Councilman, District 1
Floyd Price, Councilman, District 2
Jeff Griffith, Councilman, District 3
Karen Gibson, Councilwoman, District 5
Latrelle Joy, Councilwoman, District 6

James Loomis, City Manager
Chad Weaver, City Attorney
Rebecca Garza, City Secretary

City of Lubbock, Texas
Regular City Council Meeting
Thursday, December 3, 2015

http://www.mylubbock.us

City Council Chambers, 1625 13th Street, Lubbock, Texas

City of Lubbock City Council Meetings are available to all persons regardless of disability. If you require special assistance, please contact the City Secretary's Office at 775-2061 or write to Post Office Box 2000, Lubbock, Texas 79457 at least 48 hours in advance of the meeting.

Note: On occasion the City Council may consider agenda items out of order.

2:30 p.m. -- City Council convenes in open session and recesses into executive session to consider items 1.-1.5.3.

5:15 p.m. -- City Council reconvenes in open session to consider items 2.-6.13.

1. **Executive Session**

1. 1. Hold an executive session in accordance with Texas Government Code, Section 551.074, to discuss personnel matters, regarding the duties, responsibilities, and/or appointments to the Central Business District Tax Increment Financing Reinvestment Zone Board of Directors, Lubbock Emergency Communications District Board of Managers, and Lubbock Housing Finance Corporation.

1. 2. Hold an executive session in accordance with Texas Government Code, Section 551.071, with legal counsel for advice about pending or contemplated litigation or settlement agreement and on matters in which the duty of the attorney under the Texas Disciplinary Rules of Professional Conduct conflicts with Chapter 551.

1. 2. 1. Discuss Texas Government Code Chapter 411 and the legal authorities related thereto.

1. 2. 2. Discuss Chapter 1, Article X. of the City of Lubbock Charter.

1. 3. Hold an executive session in accordance with the Texas Government Code, Section 551.072, to deliberate the purchase, exchange, lease, or value of real property.

1. 3. 1. 2420 3rd Street.

1. 3. 2. LP&L Plant 1, located at 421 Avenue J.

1. 4. Hold an executive session in accordance with Texas Government Code, Section 551.076, to discuss the deployment, or specific occasions for implementation, of security personnel or devices or a security audit.

1. 5. Hold an executive session in accordance with the Texas Government Code, Section 551.074, to discuss personnel matters.

1. 5. 1. City Attorney

1. 5. 2. City Manager

1. 5. 3. City Secretary

2. **Proclamations and Presentations**

2. 1. Invocation by Pastor Eric Hiner, Hope Lutheran Church and School

2. 2. Pledges of Allegiance

3. **Citizen Comments - Pursuant to City Council Resolution 2014-R0320, any citizen wishing to appear before a regular meeting of the City Council shall:**

Notify the City Manager's office of that fact, completing the form available at the City Manager's office, or online at the following hyperlink:

Public Comments Sign-Up Form

and submit it no later than seventy-five (75) hours prior to the start of the meeting at which the citizen wishes to appear; or

sign up to speak at the City Council meeting itself, completing the form provided at the meeting, with regard to any item posted on the City Council agenda.

See the Supplemental Citizen Comment Agenda.

4. **Minutes**

4. 1. November 5, 2015 Regular City Council Meeting

5. **Consent Agenda - Items considered to be routine and enacted by one motion without separate discussion. If the City Council desires to discuss an item, the item is removed from the Consent Agenda and considered separately.**

5. 1. **Budget Amendment Ordinance 2nd Reading - Finance:** Consider Budget Ordinance 2015-O0119 Amendment 6 amending the FY 2015-16 budget for municipal purposes respecting the Grant Fund to accept and appropriate funding from the Texas Department of Aging and Disability Services (TDADS) pass-through Federal funds from the South Plains Association of Governments (SPAG) for the Area Agency on Aging (AAA) - Direct Purchase of Services grant; accept and appropriate funding from the Texas Department of State Health Services (DSHS) for the Community Prevention System (CPS) one-time discretionary Public Health Emergency Preparedness (PHEP) Grant; accept and appropriate funding from the United States Department of Justice (DOJ) for the Edward Byrne Justice Assistance Grant (JAG); providing for filing; and providing for a savings clause.

5. 1. 1. **Resolution - Parks and Recreation:** Consider a resolution authorizing the Mayor to execute a contract and all related documents with the South Plains Association of Governments (SPAG), related to funds passed through the U.S. Department of Health and Human Services to the Texas Department on Aging and Disability Services for an Area Agency on Aging (AAA) Direct Purchase of Services Program to provide meals and transportation services for the City of Lubbock's Senior Citizens Program.

5. 1. 2. **Resolution - Health Department:** Consider a resolution authorizing and directing the Mayor to execute for and on behalf of the City of Lubbock Contract 2016-004025 and any associated documents with the State of Texas acting by and through its Department of State Health Services (DSHS).

5. 1. 3. **Resolution - Police:** Consider a resolution authorizing the Mayor to execute an agreement with the United States Department of Justice for an Edward Byrne Memorial Justice Assistance Grant to fund the Lubbock County Joint Enforcement Initiative Program.

5. 2. **Budget Amendment Ordinance 2nd Reading - Finance:** Consider Budget Ordinance 2015-O0120 Amendment 8 amending the FY 2015-16 budget for municipal purposes respecting the Capital Program to amend Capital Improvement Project (CIP) 8543, Lake Alan Henry Repairs/Maintenance, and CIP 92255, BCWF Supply Line/Pumping System; providing for filing; and providing for a savings clause.

5. 3. **Budget Amendment Ordinance 1st Reading - Finance:** Consider Budget Ordinance Amendment 7 amending the FY 2015-16 budget for municipal purposes respecting the Cemetery Fund to modify the fee schedules for revenue derived from Lot Sales and Grave Services; providing for filing; and providing for a savings clause.

5. 4. **Budget Amendment Ordinance 1st Reading - Finance:** Consider Budget Ordinance Amendment 9 amending the FY 2015-16 budget for municipal purposes respecting the Capital Program to amend Capital Improvement Project 92254, North Overton TIF Public Improvements; providing for filing; and providing for a savings clause.

5. 5. **Budget Amendment Ordinance 1st Reading - Finance:** Consider Budget Ordinance Amendment 10 amending the FY 2015-16 budget for municipal purposes respecting the Electric Utility Capital Program to amend Capital Improvement Project (CIP) 92373, Dispatch Control Room Upgrade/Remodel; CIP 92319, Transmission Loop; providing for filing; and providing for a savings clause.

5. 6. **Resolution - Finance:** Consider a resolution authorizing the Mayor to execute contract 12506, a Master Lease Agreement, between the City of Lubbock and Banc of America Public Capital Corp (BAPCC), RFP 15-12506-MA.

5. 7. **Resolution - Finance:** Consider a resolution authorizing the Mayor to execute an Industrial Tax Abatement Agreement with United Supermarkets, L.L.C. and Safeway, Inc.

5. 8. **Ordinance 1st Reading - Public Works Traffic Engineering**: Consider an ordinance amending Section 20.05.103 of the Code of Ordinances of the City of Lubbock, with regard to the establishment of school zones.

5. 9. **Resolution - Public Works Traffic Engineering:** Consider a resolution authorizing the City Council to accept, for and on behalf of the City of Lubbock, the donation of parking signs from Vintage Town Assembly, Incorporated.

5. 10. **Resolution - Utility and Street Maintenance:** Consider a resolution authorizing the Mayor to execute contract 12566 with MUDco, Inc. to purchase concrete and related materials to maintain the City public right-of-way structures, ITB 16-12566-SS.

5. 11. **Resolution - Right-of-Way:** Consider a resolution authorizing the City Council to accept on behalf of the City of Lubbock an easement from Raymond D. Stevens regarding the acquisition of right-of-way for the Northwest Water Reclamation Project, easement being out of Section 14, Block A, Lubbock County, Texas.

5. 12. **Resolution - Right-of-Way:** Consider a resolution authorizing the City Council to accept on behalf of the City of Lubbock an easement from Roy R. Hernandez and Yvonne M. Torres regarding the acquisition of right-of-way for the Northwest Water Reclamation Project, easement being out of Section 13, Block JS, Lubbock County, Texas.

5. 13. **Resolution - Civic Center:** Consider a resolution authorizing the Mayor to execute Change Order 1 with Yates Flooring to provide additional carpet and for the scheduled carpet overage at the Lubbock Memorial Civic Center.

5. 14. **Resolution - Fleet Services:** Consider a resolution authorizing the Mayor to execute purchase order contract 10015415 with Kubota Tractor Corporation for two 2016 L606HSTC tractors.

5. 15. **Resolution - Fleet Services:** Consider a resolution authorizing the Mayor to execute purchase order contract 31025378 with Lubbock Truck Sales, Inc. of Lubbock, TX for the purchase of 21 cab and chassis M2-112 Freightliner bodies. ITB 15-12518-SS.

5. 16. **Resolution - Fleet Services:** Consider a resolution authorizing the Mayor to execute purchase order contract 31025384 with Kann Manufacturing Corporation for 21 Kann packer bodies.

5. 17. **Resolution - Fleet Services:** Consider a resolution authorizing the Mayor to execute purchase order contract 31025337 Associated Supply Company, Inc. for a 2015 Advantage 500 Landfill Compactor.

5. 18. **Resolution - Information Technology:** Consider a resolution authorizing the Mayor to execute purchase order contract 33000678 with Dell Marketing LP for the purchase of a Disk Backup and Deduplication Appliance for the Data Center.

5. 19. **Resolution - GIS and Data Services:** Consider a resolution authorizing the Mayor to execute Contract 12643 for an Enterprise License Agreement (ELA) with Environmental Systems Research Institute (ESRI) for Geographic Information Systems (GIS) software and services.

5. 20. **Resolution - Community Development:** Consider a resolution authorizing and directing the Mayor to execute contract 12594, and all related documents, between the City of Lubbock Community Development Department and the U. S. Department of Housing and Urban Development (HUD) for the Community Development Block Grant (CDBG).

5. 21. **Resolution - Community Development:** Consider a resolution authorizing and directing the Mayor to execute contract 12595 and all related documents between the City of Lubbock Community Development Department and the U. S. Department of Housing and Urban Development (HUD) for the Home Investment Partnerships Grant (HOME).

5. 22. **Resolution - Community Development:** Consider a resolution authorizing and directing the Mayor to execute contract 12596, and all related documents, between the City of Lubbock Community Development Department and the U. S. Department of Housing and Urban Development (HUD) for the Emergency Solutions Grant (ESG).

5. 23. **Resolution - Community Development:** Consider a resolution authorizing and directing the Mayor to execute for and on behalf of the City of Lubbock a Community Development funding contract 12597 and all related documents between the City of Lubbock and the Lubbock Boys and Girls Clubs from the Community Development Block Grant (CDBG) program to fund the D-League.

5. 24. **Resolution - Community Development:** Consider a resolution authorizing and directing the Mayor to execute for and on behalf of the City of Lubbock a Community Development funding contract 12598 and all related documents between the City of Lubbock and the Court Appointed Special Advocates (CASA) of the South Plains from the Community Development Block Grant (CDBG) program for advocacy services.

5. 25. **Resolution - Community Development:** Consider a resolution authorizing and directing the Mayor to execute for and on behalf of the City of Lubbock a Community Development funding contract 12599 and all related documents between the City of Lubbock and Community Health Center of Lubbock (CHCL) from the Community Development Block Grant (CDBG) program for dental care services.

5. 26. **Resolution - Community Development:** Consider a resolution authorizing and directing the Mayor to execute for and on behalf of the City of Lubbock a Community Development funding contract 12600 and all related documents between the City of Lubbock and Communities In Schools of the South Plains (CISSP) from the Community Development Block Grant (CDBG) program to fund the Champions Program, an in-school program.

5. 27. **Resolution - Community Development:** Consider a resolution authorizing and directing the Mayor to execute for and on behalf of the City of Lubbock a Community Development funding contract 12601 and all related documents between the City of Lubbock and the Young Women's Christian Association of Lubbock (YWCA) from the Community Development Block Grant (CDBG) for child care, special needs and youth services.

5. 28. **Resolution - Community Development:** Consider a resolution authorizing and directing the Mayor to execute for and on behalf of the City of Lubbock a Community Development funding contract 12602 and all related documents between the City of Lubbock and Community Housing Resource Board (CHRB) from the HOME Investment Partnership Program Grant for the Community Housing Development Organization’s (CHDO) operations.

5. 29. **Resolution - Community Development:** Consider a resolution authorizing and directing the Mayor to execute for and on behalf of the City of Lubbock a Community Development funding contract 12603 and all related documents between the City of Lubbock and Community Housing Resource Board (CHRB) from the HOME Investment Partnership Grant Program for the Community Housing Development Organization’s (CHDO) elderly, disabled and handicapped program.

5. 30. **Resolution - Community Development:** Consider a resolution authorizing and directing the Mayor to execute for and on behalf of the City of Lubbock a Community Development funding contract 12604 and all related documents between the City of Lubbock and the North & East Lubbock Community Development Corporation (NELCDC) from the HOME Investment Partnership Program for new construction of homes.

5. 31. **Resolution - Community Development:** Consider a resolution authorizing and directing the Mayor to execute for and on behalf of the City of Lubbock a Community Development funding contract 12605 and all related documents between the City of Lubbock and Guadalupe Economic Services Corporation (GESC) from the HOME Investment Partnership Program for Mahon Neighborhood revitalization.

5. 32. **Resolution - Community Services:** Consider a resolution authorizing and directing the Mayor to execute for and on behalf of the City of Lubbock a Community Development funding contract 12606 and all related documents between the City of Lubbock and the Alcoholic Recovery Center (ARC) from the Emergency Solutions Grant (ESG) for emergency shelter operations.

5. 33. **Resolution - Community Development:** Consider a resolution authorizing and directing the Mayor to execute for and on behalf of the City of Lubbock a Community Development funding contract 12607 and all related documents between the City of Lubbock and the Family Promise of Lubbock from the Emergency Solutions Grant (ESG) for the emergency shelter operations and rapid rehousing.

5. 34. **Resolution - Community Development:** Consider a resolution authorizing and directing the Mayor to execute for and on behalf of the City of Lubbock a Community Development funding contract 12608 and all related documents between the City of Lubbock and the Salvation Army of Lubbock from the Emergency Solutions Grant (ESG) for essential services, emergency shelter operations, rapid re-housing and homeless prevention.

5. 35. **Resolution - Community Development:** Consider a resolution authorizing and directing the Mayor to execute for and on behalf of the City of Lubbock a Community Development funding contract 12609 and all related documents between the City of Lubbock and the Women's Protective Services (WPS) from the Emergency Solutions Grant (ESG) for essential services, emergency shelter operations and rapid re-housing.

5. 36. **Resolution - Municipal Court:** Consider a resolution authorizing the Mayor to execute contract 12637, an Interlocal Agreement between the City of Lubbock, Lubbock Independent School District and Lubbock County to approve continued funding of the Specialized Treatment and Rehabilitation (STAR) Program for FY 2015-16.

6. **Regular Agenda**

6. 1. **Public Hearing 5:30 p.m. – Planning:** Consider a request for Zone Case 2821-A, a request of Ralph Carlisle, for Carlisle Motors, for a zoning change from R-1 to C-4 on Lot 3, Block 8, Southport Addition, 1706 43rd Street, and consider an ordinance.

6. 2. **Public Hearing 5:30 p.m. – Planning:** Consider a request for Zone Case 3266, a request of Day & Company, Inc. for a zoning change from T to C-3 on 9.16 acres of unplatted land out of Block E2, Section 21, 3101 114th Street, and consider an ordinance.

6. 3. **Public Hearing 5:30 p.m. – Planning:** Consider a request for Zone Case 3267, a request of Day & Company, Inc. for a zoning change from T to C-2 on 5 acres of unplatted land out of Block E2, Section 21, 3101 114th Street, and consider an ordinance.

6. 4. **Public Hearing 5:30 p.m. – Planning:** Consider a request for Zone Case 3268, a request of Day & Company, Inc. for a zoning change from T to C-3 on 6.41 acres of unplatted land out of Block E2, Section 21, 3101 114th Street, and consider an ordinance.

6. 5. **Public Hearing 5:30 p.m. – Planning:** Consider a request for Zone Case 3269, a request of AMD Engineering, LLC., for MRXNO, for a zoning change from R-1 to C-3 on 7.27 acres of unplatted land out of Block AK, Section 44, 3206 West Loop 289, and consider an ordinance.

6. 6. **Public Hearing 5:30 p.m. – Planning:** Consider a request for Zone Case 3049-C, a request of AMD Engineering, LLC., for Wooded Forest, for a zoning change from R-1 Specific Use and R-2 Specific Use to R-2 Specific Use on 2.045 acres of unplatted land out of Block E, Section 10, 9802 Avenue U, and consider an ordinance.

6. 7. **Public Hearing 5:30 p.m. – Planning:** Consider a request for Zone Case 3126-B, a request of Tommy J. Swann, for South Frankford Commercial Park, LLC., for a zoning change to amend conditions of Ordinance 2012-O0123 on Tracts A, B, and C, Mel Abbe Addition, 5910, 5914, and 6010 130th Street, and consider an ordinance.

6. 8. **Public Hearing 5:30 p.m. – Planning:** Consider a request for Zone Case 3089-E, a request of CLCL Development for a zoning change from Apartment-Medical District (AM) to Garden Office District (GO) on 1.19 acres of unplatted land out of Block AK, Section 21, 10208 Frankford Avenue, and consider an ordinance.

6. 9. **Resolution - Planning:** Consider a resolution approving and granting a variance from the applicable 300-feet minimum distance provisions of City of Lubbock Ordinance 2009-O0060, at the request of applicant Cowboy Chicken located at 2407 9th Street, Suite 500, for an alcoholic beverage permit.

6. 10. **Resolution - Aviation:** Consider a resolution authorizing the Mayor to execute a lease agreement with Boomer Development LLC, at Lubbock Preston Smith International Airport for a hotel.

6. 11. **Resolution - Mayor Robertson:** Consider a resolution concerning the rights of certain eligible City of Lubbock employees to carry concealed handguns in the workplace.

6. 12. **Resolution - Councilman Hernandez:** Consider a resolution concerning the rights of certain eligible City of Lubbock employees to carry concealed handguns in the workplace.

6. 13. **Board Appointments - City Secretary:** Consider four appointments to the Central Business District Tax Increment Financing Reinvestment Zone Board of Directors, two appointments to the Libraries Board, one appointment to the Lubbock Housing Finance Corporation Board of Directors, and one appointment to the Lubbock Emergency Communications District Board of Managers.


City of
Lubbock
TEXAS

BOARD APPOINTMENTS FOR
REGULAR CITY COUNCIL MEETING, DECEMBER 3, 2015 - EXECUTIVE

Officer of City		Board Name & No.	Member Name	Term Expires	Attend %	Membership Requirements	Recommended Action	Eligible?
*	1	CENTRAL BUSINESS DISTRICT TIF BOARD OF DIRECTORS	PATEL, HENRY	1/1/2016	100%		REAPPOINT	Y
			POPE, DAN	1/1/2016	100%		REAPPOINT	Y
			TAYLOR, ROBERT	1/1/2016	83%		REAPPOINT	Y
			VACANT				FILL	
*	2	HOUSING FINANCE CORPORATION	LOPEZ, DEBORA	1/1/2016	N/A	REAL ESTATE AGENT	REPLACE	N/A
*	3	LUBBOCK EMERGENCY COMMUNICATIONS DISTRICT BOARD OF MANAGERS	HAILEY, STEVE	1/1/2016	100%		REAPPOINT	Y

*Officer of City Status board members as an individual or business shall not contract with the City of Lubbock and serve as a board member.

Applicants No Preference

Update Date	Last Name	First Name	Gender	Ethnicity	Age	Occupation	Business Name	District
01/27/2011	Aguero	Olga	Female	Hispanic or Latino				1
11/03/2014	Alderson	David	Male	Anglo	50-59	Auto Dealer	Alderson Enterprises, LP	5
09/09/2014	Arnett	Claire	Female	Anglo	50-59	Education	Covenant School of Nursing	4
06/18/2010	Ashley	Kyle	Male	Anglo	40-49	CEO	Alliance Federal Credit Union	4
01/27/2011	Bass	Byrn	Male	Anglo				6
10/28/2010	Beck	Jim	Male	Anglo	50-59	Professor of Mission	Lubbock Christian University	6
01/14/2015	Been	Mattie	Female	Anglo	18-29	Director of Development	Texas Tech University Health Sciences Center	4
07/01/2003	Bennett	James	Male	Anglo	50-59		Economic Development	4
11/02/2010	Bentley	Donnie	Male	Anglo	60+	Owner	Don Bentley Roofing Co.	3
02/02/2010	Berry	Timothy	Male	Anglo	40-49	Paramedic	UMC Lubbock EMS	5
03/24/2010	Berryhill	Korbi	Female	Anglo		RN Instructor	South Plains College, Reese	5
11/01/2010	Beversdorf	Cynthia	Female	Anglo	40-49			5
10/27/2010	Beversdorf	Fredrick	Male	Anglo	50-59	Senior Training Instructor	Atmos Energy	5
10/28/2010	Billings	Toby	Male	Anglo	30-39	Custodial Staff	Broadway Church of Christ	1
10/28/2010	Bosscher	Karen	Female	Anglo	50-59	Business Manager	Hemmo A. Bosscher, MD.	4
10/26/2010	Bryant	Gary	Male	African-American	40-49	House Manager	Lubbock Faith Center	2
02/06/2014	Carlson	Paul	Male	Anglo				7
10/28/2010	Clayton	Letitia	Female	Anglo	40-49	Orthopedic Tech	Dr. Kenneth Stephenson	5
07/06/2009	Coppola	Martin	Male	Anglo	40-49	Associate Professor & Program Director	Texas Tech HSC	5
10/25/2010	Craig	Karl	Male	Anglo	60+			5
07/22/2004	Craig	Mickey	Male	Anglo	60+		Retired	2
11/15/2010	Dingle	Darnell	Female	Anglo	60+			5
09/06/2006	Dirks	James	Male	Anglo	60+	Architect	Cox/Dirks Architects P.C.	5
01/14/2010	Dulin	Jim	Male	Anglo	60+	Judge	Lubbock County	4
01/15/2015	Dumas	Seanloui	Male	African-American	18-29	CEO	Unite Clothing	7
02/15/2010	Eggenberger	Florence	Female	Anglo	60+			6
11/29/2010	Elliott	John	Male	Anglo	60+	Banking	Southwest Bank	4
01/14/2010	Epps	Mike	Male	Anglo	50-59	CFO	American State Bank	5
11/02/2010	Finley	Kathleen	Female	Anglo	40-49	Captain	Lubbock Co. Sheriff's Office	4
10/27/2010	Ford	Laura	Female	Hispanic or Latino	30-39	Clinic Manager	Lubbock Regional MHMR	1
12/01/2010	Gerlach	Mary	Female	Anglo	40-49			3
10/29/2010	Gifford	Gretchen	Female	Anglo	18-29	Legal Secretary	Buerner, Dennis, & Franklin	4
11/08/2010	Green	Velda	Female	Anglo	50-59	Non-Profit Relations		5
04/19/2010	Griswold	Mary	Female	Anglo	50-59	Activities/Edcuation Director	Redr Frame & Art	4
01/15/2015	Guetersloh	Mary	Female	Anglo	60+		Self-Employed	7
03/05/2008	Hamer	Darla	Female	Anglo	40-49	Banker	Peoples Bank	6

Update Date	Last Name	First Name	Gender	Ethnicity	Age	Occupation	Business Name	District
09/11/2014	Harvey	Larry	Male	Anglo	50-59	Architect	Chapman Harvey Architects, Inc	4
08/23/2005	Harvill	Natalie	Female	Anglo	30-39	Structural Engineer	Parkhill, Smith & Cooper	5
01/14/2010	Henry	Alan	Male	Anglo	60+	Insurance Agent	Alan Henry Insurance	3
06/10/2009	Henson	Matthew	Male	Anglo	30-39	Self Employed	Matt Henson Inc.	5
11/11/2010	Herrera	Gilbert	Male	Hispanic or Latino	60+	Evangelist	Gilbert Herrera Evangelistic Association	4
11/15/2010	Jackson	Emma	Female	African-American	60+			2
02/22/2010	Jackson	Winnie	Male	Anglo	60+	Retired Minister		4
11/01/2010	Kinserlow	Ray	Male	Anglo	60+			4
12/08/2010	Madison	Harvey	Male	Anglo	60+	Photography	Madison Photography	4
08/22/2013	McCarty	Charlotte	Female	African-American	40-49	Self employed	Lil' Precious	6
10/27/2011	McDonald	Carroll	Male	Anglo	60+			1
10/27/2011	McDougal	Marc	Male	Anglo	40-49		McDougal Companies	4
12/24/2014	McDougal	Michael	Male	Anglo	40-49	CEO	McDougal Capital	3
02/26/2009	McKee	Todd	Male	Anglo				5
11/09/2010	Mitchell	Walter	Male	Anglo	30-39	Pastor	Westminister Presbyterian Church	4
11/30/2010	Morton	Philip	Male	Anglo	30-39	Associate Director	Texas Tech	5
10/27/2011	Musselman	Robert	Male	Anglo				6
01/10/2002	Noble	Brent	Male	Anglo			Service Title	4
01/15/2015	Osborne	John	Male	Anglo	40-49	President & CEO	LEDA / MLI	7
11/05/2010	Perry	Wilson	Male	African-American	50-59		City of Lubbock	1
11/01/2010	Pickett	Benjamin	Male	Anglo	40-49	Associate Minister	Monterey Church of Christ	4
09/09/2014	Pierce	Tim	Male	Anglo	50-59	Executive Director	South Plains A	5
12/01/2006	Podrebartz	Keith	Male	Anglo	30-39	Counselor	Texas Tech University	1
05/23/2013	Porter	Karen	Female	Anglo	40-49			2
08/11/2015	Putteet	Janis	Female	Anglo		Vice President	United Way - Lubbock	3
11/01/2010	Read	Alan	Male	Anglo	60+	Agent	AFLAC	5
09/09/2014	Riley	Nolan	Male	American Indian	30-39	Optometrist / Business Owner	8067931927	7
	Rios	Roy	Male	Hispanic or Latino			Women's Protective Services	2
04/29/2008	Schmedes	Gregg	Male	Anglo		Medical Student	Texas Tech	6
05/27/2010	Smith	David	Male	Anglo	30-39	Construction Director	Lee Lewis Construction	5
06/28/2012	Spitzer	Michelle	Female	Anglo	50-59	CFO	Sunwest Construction Inc.	4
04/01/2008	Stephens	Sherry	Female	Anglo	30-39	Administrative Assistant	High Plains Water District	5
05/17/2012	Stephenson	Pat	Male	Anglo	50-59	Service Manager	Bruce Thornton Air Conditioning	4
01/27/2011	Stevens	Mike	Male	Anglo				5
11/01/2010	Swoboda	Tami	Female	Anglo	40-49	Grants & Communications	Lubbock Area Foundation	3
08/08/2013	Walz	Donna	Female	Anglo				5
12/01/2006	Walz	John	Male	Anglo	60+	Attorney	Retired	5
09/09/2014	Wierzba	Susan	Female	Anglo	40-49	Partner/ Director	Commodity Export Corporation	5

Update Date	Last Name	First Name	Gender	Ethnicity	Age	Occupation	Business Name	District
10/06/2006	Wilkerson	David	Male	Anglo	40-49	Real Estate Developer	Wilkerson Properties	5
08/14/2014	Wilkes	Morris	Male	Anglo				6
12/02/2010	Williams	Shirley	Female	African-American	60+	Career Consultant	Workforce Solutions	2
02/24/2010	Woordward	Tracey	Female	Anglo	50-59	Registered Nurse	Covenant School of Nursing	4
11/20/2007	York	Martha	Female	Anglo		Real Estate Broker	The Real Estate Company	5
	Young	Andy	Male	Anglo				5

CENTRAL BUSINESS DISTRICT TAX INCREMENT FINANCING REINVESTMENT ZONE

	Lubbock Population	Lubbock Adult Population	All City Boards	This Board
ETHNICITY				
Anglo	55.0%	61.0%	78.6%	60.0% (3)
Hispanic	32.6%	27.6%	9.8%	0.0% (0)
African-American	8.7%	7.4%	8.3%	0.0% (0)
Other	3.7%	4.0%	3.3%	20.0% (1)
GENDER				
Male	48.5%	47.0%	72.6%	100.0% (5)
Female	51.5%	53.0%	27.4%	0.0% (0)
GEOGRAPHIC DISTRIBUTION				
District 1	16.1%	17.3%	8.3%	0.0% (0)
District 2	16.4%	15.2%	4.8%	0.0% (0)
District 3	16.3%	16.6%	12.5%	20.0% (1)
District 4	17.0%	16.7%	19.6%	0.0% (0)
District 5	16.7%	17.8%	34.0%	60.0% (3)
District 6	17.3%	16.4%	18.2%	0.0% (0)
Other/Unknown	0.0%	0.0%	2.6%	0.0% (0)

PURPOSE: To encourage development and redevelopment within the Central Business District. Board recommends projects to be financed by the district with the approval of the City Council. The board consists of nine members, including representatives of each of the taxing jurisdictions levying taxes in the area. Five members are appointed by the City Council.

Qualifications: Members must be at least 18 years of age, a resident of Lubbock County, or own real property in the zone.

APPOINTMENT INFORMATION:

Member Name & Demographic Facts	Attend	Eligible	Action
Patel, Henry (M,O,5)	100%	Y	Reappoint
Pope, Dan (M,A,3)	100%	Y	Reappoint
Taylor, Robert (M,A,5)	83%	Y	Reappoint
Vacant			Fill

APPOINTMENTS ADVISORY BOARD RECOMMENDATIONS:
To reappoint Henry Patel, Dan Pope, and Robert Taylor

CENTRAL BUSINESS TIF – CONTINUED:

To fill vacancy:

David Alderson[1] (M,A,5) Alderson Enterprises, LP

STAFF/BOARD RECOMMENDATIONS:

To reappoint Henry Patel, Dan Pope, and Robert Taylor

To fill vacancy:

David Alderson (M,A,5) Alderson Enterprises, LP

[1] Applicant is on the No Preference list

CITY OF LUBBOCK
AND VOLUNTEER CENTER
REQUEST FOR BOARD/COMMISSION/AGENCY SERVICE

Name:	Alderson (Last)	David (First)	Gregory (Middle)	(Nickname)
Home Address:	9201 Salisbury	City/Zip:	Lubbock/79424	
Home Telephone:	(806) 794-0564	Resident of Lubbock:	50Years	Registered Voter: Yes

Occupation:	Auto Dealer		
Business Name:	Alderson Enterprises, LP	City/Zip:	Lubbock/79424
Business Address	1210-19th Street	Fax Number:	(806) 771-2356
Business Telephone:	(806) 763-8041		

Demographics

Ethnic Background: Anglo Gender: Male Age: 50-59

Please list any experience (including involvement in other civic or community service organizations), education or interest that would qualify you to serve on a City board/commission/agency:

Chairman of LEDA for 6 years, on the LEDA Board for 8 years, Chairman of United Way Campaign 2012

Please list any prior service on a Board and/or Commission for the City of Lubbock:

see above

Please indicate your first, second, and third preference for below using the number beside such board/commission/agency. If you would like a brief description of the functions of the boards/commissions/agencies listed below, please call the City Secretary's Office at 775-2026. The designation "OC" indicates members of such board or commission are considered Officers of the City. Such boards and commission are authorized to make binding decisions on behalf of the City. If you have no preference, indicate this by placing a check (√) here: ☑ (Note: Outside Agencies listed on next page.)

BOARD PREFERENCES: 1 2 3 4 5 6

ADVISORY BOARDS AND COMMISSIONS

1	Airport Board	13	Keep Lubbock Beautiful Advisory Committee
32	Animal Services Advisory Board	53	Lake Alan Henry Board of Appeals(OC)
73	Annexation & Growth Advisory Committee	66	Law Enforcement Facilities Task Force
2	Appointments Advisory Board	17	Libraries Board(OC)
39	Audit Committee	41	Lubbock Water Advisory Commission
4	Board of Health	50	Model Codes & Construction Advisory Board
5	Building Board of Appeals(OC)	47	Museum & Art Standing Sub-Committee
68	Citizens Advisory Committee 2014	61	North Point Public Improvement District (PID)
14	Citizens Traffic Commission	67	Oil & Gas Citizen Advisory Committee
8	Community Development & Services Board	20	Park and Recreation Board
37	Cultural Arts Grants Review Standing Sub-Committee	21	Permit and License Appeal Board(OC)
44	Electric Utility Board-Charter(OC)	22	Planning and Zoning Commission(OC)
9	Firemen's/Policemen's Civil Service Commission(OC)	24	Public Transit Advisory Board
12	Joint Airport Zoning Board(OC)	69	Quincy Park Public Improvement District Advisory Board
45	Junked Vehicle Compliance Board(OC)	65	Storm Water Fee Study Committee

After completing both sides, please return this form to City Secretary's Office, P.O.Box 2000, Lubbock, TX 79457

OUTSIDE AGENCIES:

6 Canadian River Municipal Water Authority(OC)
33 Central Business District Tax Increment Financing(OC)
7 Civic Lubbock Inc.
10 Health/Educational Facilities Development Corp(OC)
11 Housing Authority
16 Housing Finance Corporation
15 LECD Board of Managers(OC)
60 Lubbock Business Park TIF Reinvestment Zone(OC)
43 Lubbock Economic Development Alliance, Inc
18 Market Lubbock Economic Development Corporation
31 National Windmill Project, Inc.
74 North & East Lubbock Community Development Corporation (NE
35 North Overton Tax Increment Finance District(OC)
25 Reese Redevelopment Authority(OC)
29 StarCare Board of Trustees(OC)
30 West Texas Municipal Power Board(OC)

Do you know of any reason that may cause you to have a conflict of interest as a result of your service on any of the boards/

/ commissions/agencies on which you have requested to serve? Yes ☐ No ☑

If yes, please explain:

PERSONAL AND PROFESSIONAL REFERENCES: (Please give name and phone number)

1.	Gilbreath, Jim	(806) 787-6051
2.	Seim, David	(806) 794-2265
3.	Pope, Dan	(806) 438-4922

The Volunteer Center refers potential board candidates to nonprofit organizations in the community. The Volunteer Center acts only as a referral agency and cannot place or appoint people to boards. Registering for the Board Bank does not obligate an individual to accept any board position, nor does a referral guarantee an appointment to a board. Acceptance of a nomination to a board is by mutual agreement of the individual and the agency.

AREAS OF INTEREST

1	Community Planning(1100)	13	Symphony(1729)	25	Alcohol Abuse(2903)
2	Crime(1106)	14	Health(1800)	26	Drug Abuse(2903)
3	Employment Job Training(1308)	15	Aging(1810)	27	Child Abuse(2906)
4	Education(1400)	16	Hospice/Terminally Ill(1818)	28	Housing(2910)
5	Child Care(1406)	17	Mental Health(1826)	29	Family Services(2911)
6	Illiteracy(1420)	18	Mental Retardation(1827)	30	Sexual Abuse(2920)
7	Emergency Assistance(1500)	19	AIDS(1846)	31	Women's Issues(2925)
8	Environment(1600)	20	Hearing Impaired(2109)	32	Youth/Teen(2926)
9	Art & Drama(1700)	21	Physically Handicapped(2109)	33	Spousal Abuse(2931)
10	Theater(1701)	22	Visually Impaired(2109)	34	Homelessness(2932)
11	Dance(1711)	23	Legal Assistance(2113)	35	Animal(3001)
12	Museum(1719)	24	Recreation(2600)	37	Other(9999)

Area Of Interest:

I agree to have my name entered in (check either or both):

☑ **The City of Lubbock Board/Commisson/Agency Database**

The Volunteer Center of Lubbock Agency Board Bank

I was referred by:

Submitted via the Web on 11/03/2014

Signature

After completing both sides, please return this form to City Secretary's Office, P.O.Box 2000, Lubbock, TX 79457

City of Lubbock
Board and Commision Recruiting Database

Updated: **10/27/2015**

Central Business District Tax Increment Financing

Date Updated	Last Name	First Name	Gender M/F	Ethnicity A,H,AA,O	Age	Occupation	Business	District
First Preference								
Second Preference								
06/25/2014	McDowell	C. Brett	M	A	30-39	Executive Vice President	Centennial Bank	4
Third Preference								
05/27/2015	Dickerson	Brent	M	A	30-39	Certified Financial Planner	Trinity Wealth Management	5
Fourth Preference								
Fifith Preference								
Sixth Preference								
09/29/2014	Cheatham	Scott	M	A	50-59	Account Executive	Control Technologies, Inc.	3

Committee # 33 Central Business District Tax Increment Financing — *Perm/Temp Board:* P

	Confidential	*Home*	*Business*			*Reappt Elig.*
Member			*Cardinal Sports Center*	*Curr:*	01/01/2015-01/01/2017	*Y*
Member	Y	*4004 110th Street*	*6524 Slide Road*	*2nd:*	01/01/2013-01/01/2015	
Cardinal		*Lubbock, TX 79423*	*Lubbock, TX 79424*	*1st:*	01/01/2011-01/01/2013	
Mr. Tony						
Email:	Y	*8067988220*	*8067656645*	*Fax:*	*8067633927*	
tcardinal@cardsports.net	Y	*8067906645*	*tcardinal@cardsports.net*			
Member			*PREM INDUSTRIES LLC*	*Curr:*	01/24/2014-01/01/2016	*Y*
Member	Y	*4803 102nd STREET*	*6021 AVE A.*	*2nd:*		
PATEL		*LUBBOCK, TX 79424*	*LUBBOCK, TX 79404*	*1st:*		
Mr. HENRY						
Email:	Y	*(806) 794-9227*	*(806) 745-6651*	*Fax:*	*(806) 745-2916*	
henry@premsales.net	Y	*(806) 438-6252*	*henry@premsales.net*			
Member			*Benchmark Business*	*Curr:*	01/01/2014-01/01/2016	*Y*
Member	N	*3211 21st St*	*Solutions*	*2nd:*	08/23/2012-01/01/2014	
Pope		*Lubbock, TX 79410*	*1607 Broadway*	*1st:*		
Mr. Daniel			*Lubbock, TX 79401*			
Email:	N	*8067939847*	*8067448744*	*Fax:*	*8067444707*	
dpope@benchmarkwtx.com			*dpope@benchmarkwtx.com*			
Chair				*Curr:*	01/01/2014-01/01/2016	*Y*
Member	Y	*4608 96th Street*		*2nd:*	01/01/2012-01/01/2014	
Taylor		*Lubbock, TX 79424*		*1st:*	01/01/2010-01/01/2012	
Mr. Robert						
Email:	N	*8067940308*		*Fax:*		
Member				*Curr:*	01/01/2015-01/01/2017	*Y*
Member	N	*Vacant*		*2nd:*		
Vacant		*Vacant, Vacant 79401*	*,*	*1st:*		
Mr. Vacant						
Email:	N	*0000000000*		*Fax:*		
thharris@mylubbock.us	N	*0000000000*				

LUBBOCK EMERGENCY COMMUNICATION DISTRICT
BOARD OF MANAGERS

	Lubbock Population	Lubbock Adult Population	All City Boards	This Board
ETHNICITY				
Anglo	55.0%	61.0%	78.6%	100.0% (2)
Hispanic	32.6%	27.6%	9.8%	0.0% (0)
African-American	8.7%	7.4%	8.3%	0.0% (0)
Other	3.7%	4.0%	3.3%	0.0% (0)
GENDER				
Male	48.5%	47.0%	72.6%	100.0% (2)
Female	51.5%	53.0%	27.4%	0.0% (0)
GEOGRAPHIC DISTRIBUTION				
District 1	16.1%	17.3%	8.3%	0.0% (0)
District 2	16.4%	15.2%	4.8%	0.0% (0)
District 3	16.3%	16.6%	12.5%	0.0% (0)
District 4	17.0%	16.7%	19.6%	0.0% (0)
District 5	16.7%	17.8%	34.0%	100.0% (2)
District 6	17.3%	16.4%	18.2%	0.0% (0)
Other/Unknown	0.0%	0.0%	2.6%	0.0% (0)

PURPOSE:
Advisory board oversees the district's emergency (911) phone number. The 911 system is designed to speed emergency response to citizens seeking police, fire, medical, rescue and other emergency services.

QUALIFICATIONS: Members are appointed by the governing body of the most populous municipality in the district.

APPOINTMENT INFORMATION:

Member Name & Demographic Facts	Attendance	Eligible	Action
Hailey, Steve (M,A,5)	100%	Y	Reappoint

APPOINTMENTS ADVISORY BOARD RECOMMENDATIONS:
To reappoint Steve Hailey

STAFF/BOARD RECOMMENDATIONS:
To reappoint Steve Hailey

City of Lubbock
Board and Commision Recruiting Database

Updated: 10/27/2015

LECD Board of Managers

Date Updated	Last Name	First Name	Gender M/F	Ethnicity A,H,AA,O	Age	Occupation	Business	District
First Preference								
06/29/2015	Bartee	Brandon	M	A	30-39	Director and General Counsel	Osteogenics Biomedical, Inc.	
05/27/2015	Dickerson	Brent	M	A	30-39	Certified Financial Planner	Trinity Wealth Management	5
11/29/2012	Ogutu	Moses	M	AA	50-59	Physical Therapist Asst.		5
01/10/2007	Oswalt	Lori	F	A	40-49	Program Director	Covenant	4
Second Preference								
09/11/2014	Isom	Travis	M	A	18-29	Manager	Isom Company	3
	Whittenburg	Hank	M	A	40-49	Owner	Whittenburg Plumbing	4
Third Preference								
12/01/2011	Frye	Kate	F	A	50-59			5
06/07/2010	Griffith	Richard	M	A	60+		SOS Waste Disposal	3
02/25/2010	Jones	Tommy	M	A	50-59	Sales	Firetrol Protection Systems	3
Fourth Preference								
Fifith Preference								
Sixth Preference								

Committee # 15 LECD Board of Managers — *Perm/Temp Board:* P

	Confidential	*Home*	*Business*			*Reappt Elig.*
Member				*Curr:*	01/01/2015-01/01/2017	*Y*
	N	*5002 100th Street*		*2nd:*	01/01/2013-01/01/2015	
Foster		*Lubbock, TX 79424*		*1st:*	01/27/2011-01/01/2013	
Mr. Richard						
Email:	Y	*8066986207*		*Fax:*		
fstrrchrd@yahoo.com						
Member				*Curr:*	01/01/2014-01/01/2016	*Y*
	Y	*7806 Quincy Avenue*		*2nd:*	01/01/2012-01/01/2014	
Hailey		*Lubbock, TX 79424*		*1st:*	01/01/2010-01/01/2012	
Mr. Steve						
Email:	Y	*(806) 798-1210*		*Fax:*		
chief800@aol.com	N	*(806) 445-6033*				

HOUSING FINANCE CORPORATION

	Lubbock Population	Lubbock Adult Population	All City Boards	This Board
ETHNICITY				
Anglo	55.0%	61.0%	78.6%	71.4% (5)
Hispanic	32.6%	27.6%	9.8%	14.3% (1)
African-American	8.7%	7.4%	8.3%	14.3% (1)
Other	3.7%	4.0%	3.3%	0.0% (0)
GENDER				
Male	48.5%	47.0%	72.6%	71.4% (5)
Female	51.5%	53.0%	27.4%	28.6% (2)
GEOGRAPHIC DISTRIBUTION				
District 1	16.1%	17.3%	8.3%	0.0% (0)
District 2	16.4%	15.2%	4.8%	0.0% (0)
District 3	16.3%	16.6%	12.5%	0.0% (0)
District 4	17.0%	16.7%	19.6%	57.1% (4)
District 5	16.7%	17.8%	34.0%	28.6% (2)
District 6	17.3%	16.4%	18.2%	14.3% (1)
Other/Unknown	0.0%	0.0%	2.6%	0.0% (0)

PURPOSE:

A legal entity which accomplishes public purposes of, and on behalf of, the City pursuant to the Texas Housing Finance Corporation Act by financing the cost of residential ownership and development that will provide decent, safe and sanitary housing for residents of the City at affordable prices.

APPOINTMENT INFORMATION:

Member Name & Demographic Facts	Requirement	Attend	Eligible	Action
Lopez, Debora (F,H,4)	Real Estate Agent	N/A	N/A	Replace

APPOINTMENTS ADVISORY BOARD RECOMMENDATIONS:

To replace Debora Lopez:

Vickie Al-Souki (Application Pending) West Texas Realtors

STAFF/BOARD RECOMMENDATIONS:

Vickie Al-Souki (Application Pending) West Texas Realtors

Doris Attebury (Application Pending) Real Estate Professional Consultants

LUBBOCK HOUSING FINANCE CORPORATION

3212 Avenue Q Lubbock, Texas 79411 Phone (806) 745-9559 Fax (806) 765-5828

October 29, 2015

Appointments Advisory Board
City of Lubbock
1625 13th Street
Lubbock, Texas 79401

RE: Lubbock Housing Finance Corporation Board Recommendation

Ladies and Gentlemen:

At the end of this year, one position on Lubbock Housing Finance Corporation's Board of Directors will become vacant. LHFC's by-laws state that it "shall attempt to ensure that each of the following groups has a minimum of one representative on the Board: mortgage lenders, home builders, **real estate sales** and apartment owners or managers." Debora Lopez Ruiz has served two six-year terms as our real estate sales representative, and is ineligible for reappointment at this time; therefore, we recommend the following for your consideration:

Vickie Noyola Al-Souki has been a Realtor in Lubbock for sixteen years and owns West Texas Realtors. She has served on several committees of the Lubbock Association of Realtors, and currently serves on the Finance and Socialization Committees. She is very active in her church and has volunteered for Meals on Wheels for 20 years. Ms. Noyola Al-Souki has worked to meet the housing needs of Lubbock citizens from all socio-economic backgrounds, and expressed her interest in serving on the LHFC board when our real estate sales representative position was vacant in late 2003. She was recommended (but not selected) then, and continues to be interested in serving.

Doris Attebury has been a Realtor in Lubbock for thirty-five years and currently works for Real Estate Professional Consultants. She has served on several committees of the Lubbock Association of Realtors, and currently serves on the Education Committee. She has been a member of the American Business Woman's Association for more than thirty years, and was a member of Altrusa. Ms. Attebury has worked with the East Lubbock Special Angels, and has indicated her interest in serving on the LHFC Board.

Equal Housing Lender

Carl Russell, Jr. President
Dwight I Overton Vice President
Steven D. Yandell Secretary
Thomas J. Couture Treasurer
Calvin O. Davis Director
Juanita Kiesling Director
Debora P. Ruiz Director
Shari D. Flynn Executive Director

As the Lubbock Housing Finance Corporation considers ways to meet Lubbock's affordable housing needs, the need for community-minded board members with extensive real estate sales experience is critical. Therefore, we appreciate your consideration of our recommendations – both of whom have expressed their interest in serving on the LHFC Board.

Please feel free to call if you have any questions or require additional information.

Sincerely,

Carl Russell

Carl Russell
President

cc: Mr. Thomas Harris, Deputy City Secretary

City of Lubbock
Board and Commision Recruiting Database

Updated: **10/27/2015**

Housing Finance Corporation

Date Updated	Last Name	First Name	Gender M/F	Ethnicity A,H,AA,O	Age	Occupation	Business	District
First Preference								
12/16/2013	Craft	Ty	M	A	30-39	Owner / Attorney Real Estate	Tigris Holdings, LLC	4
05/21/2014	Knowles	Renessa	F	A	40-49	Mortgage Banker	Peoples Bank	5
Second Preference								
Third Preference								
Fourth Preference								
Fifith Preference								
Sixth Preference								

Committee # 16 Housing Finance Corporation — Perm/Temp Board: P

	Confidential	Home	Business			Reappt Elig.
Member Lender **Couture** **Mr. Tom**	N	6116 Louisville Drive Lubbock, TX 79413	Texas Tech Federal Credit Union 4005 98th Street Lubbock, TX 79423	Curr: 2nd: 1st:	01/01/2012-01/01/2018	Y
Email: tcouture@texastechfcu.org	N	8067730496	Texas Tech Fed tcouture@texastechfcu.org	Fax:	(806) 767-0427	
Chair Representative **Davis** **Mr. Calvin**	N	5111 Itasca Street Lubbock, TX 79414	Small Business Administration 1205 Texas Avenue Lubbock, Tx 79401	Curr: 2nd: 1st:	01/01/2012-01/01/2018	Y
Email: calvin.davis@sba.gov	N	8067448138	8064727462 calvin.davis@sba.gov	Fax:	8064727489	
Member Manger **Kiesling** **Ms. Juanita**	N	5111 97th St Lubbock, TX 79424	WestMark, Realtors 4105 84th St Lubbock, TX 79423	Curr: 2nd: 1st:	01/01/2014-01/01/2020 12/31/1995-12/31/2001 12/31/1989-12/31/1995	Y
Email: nkiesling@westmarkcommercial.cor	Y Y	8067942618 8062393540	8067943300 nkiesling@westmarkcommercial.com	Fax:	8067945550	
Chair Agent **Lopez** **Ms. Debora**	Y	3210 109th Street, Unit B Lubbock, TX 79423	Mo VaDe Realty 3417 73rd Street, Suite L Lubbock, TX 79423	Curr: 2nd: 1st:	01/01/2010-01/01/2016 02/19/2004-01/01/2010	N
Email: debora@debralopez.com	Y N	8067479379 8065353016	8067957794 debora@debralopez.com	Fax:		
Member Representative **Overton** **Mr. Dwight**	N	4016 89th Street Lubbock, TX 79423		Curr: 2nd: 1st:	01/01/2012-01/01/2018 12/31/2002-01/01/2009 08/14/1997-12/31/2002	Y
Email: doverton@citybanktexas.com	N N	8067983165 8062246400		Fax:		
Member Builder **Russell** **Mr. Carl**	N	4429 79th Street Lubbock, TX 79424	Carl M Russell Land & Development, LLC 3403 73rd St, Ste 7 Lubbock, TX 79423	Curr: 2nd: 1st:	01/01/2012-01/01/2018 10/27/2011-01/01/2012	Y
Email: carlrusselljr@yahoo.com	N	8067954254	8067937477 carlrusselljr@yahoo.com	Fax:	8067937477	
Member Representative **Yandell** **Mr. Steve**	N	6410 Elkhart Avenue Lubbock, TX 79424	8067717717 6220 Milwaukee Avenue Lubbock, TX 79424	Curr: 2nd: 1st:	01/01/2015-01/01/2021 01/01/2009-01/01/2015	Y
Email: syandell@lonestarwtx.com	N	8067947052	8067717717 syandell@lonestarwtx.com	Fax:	(806) 771-7716	

CITY OF LUBBOCK
REGULAR CITY COUNCIL MEETING
November 5, 2015
3:30 P. M.

The City Council of the City of Lubbock, Texas met in regular session on the 5th of November, 2015, in City Council Chambers, City Hall, 1625 13th Street, Lubbock, Texas at 3:30 p. m.

3:30 P.M. CITY COUNCIL CONVENED
City Council Chambers, 1625 13th Street, Lubbock, Texas

Present: Mayor Glen C. Robertson; Mayor Pro Tem Jim Gerlt; Council Member Karen Gibson; Council Member Jeff Griffith; Council Member Victor Hernandez; Council Member Latrelle Joy; Council Member Floyd Price; City Manager James Loomis; City Secretary Rebecca Garza; City Attorney Chad Weaver

Note: Mayor Glen C. Robertson was present for Executive Session only.

Note: City Council addressed agenda items in the following order:

- *Executive Session; 2.1-2.3; Citizen Comments 3.1; 2.4; 4.1; 5.1-5.3; 5.5-5.18; 5.4; and 6.1-6.8.*
- *Items 6.7 and 6.8 were postponed to the November 19, 2015 Regular City Council Meeting.*

1. Executive Session

The meeting recessed at 3:30 p.m. and reconvened in Executive Session under the provisions of Section 551, Texas Government Code. The meeting was called back into a public session at 5:15 p.m.

1. 1. Hold an executive session in accordance with Texas Government Code, Section 551.074, to discuss personnel matters, regarding the duties, responsibilities, and/or appointments to the Planning and Zoning Commission.

1. 2. Hold an executive session in accordance with Texas Government Code, Section 551.071, with legal counsel for advice about pending or contemplated litigation or settlement agreement and on matters in which the duty of the attorney under the Texas Disciplinary Rules of Professional Conduct conflicts with Chapter 551.

1. 2. 1. R.E. Janes Gravel Company v. Zachary Covar, Executive Director of the Texas Commission on Environmental Quality; The Texas Commission on Environmental Quality; its Commissioners Bryan Shaw, Carlos Rubenstein, Toby Baker; and the City of Lubbock. Cause Number 14-15-00031-CV; 14th Court of Appeals, Houston, Texas.

1. 2. 2. Cause No. 2015-515,597 – Michele Lee, Individually and Stephen Lee, Individually and as representative of the Estate of Morgan Lee vs. The City of Lubbock, Texas.

1. 3. Hold an executive session in accordance with the Texas Government Code, Section 551.074, to discuss personnel matters.

1. 3. 1. City Attorney

1. 3. 2. City Manager

1. 3. 3. City Secretary

2. Proclamations and Presentations

2. 1. Invocation by Dr. Don Holladay, Agape United Methodist Church

Dr. Don Holladay, Agape United Methodist Church, led the invocation.

2. 2. Pledges of Allegiance

Pledges of Allegiance were given by those in Council Chambers to the United States and Texas flags.

2. 3. Presentation of a Special Recognition to Chandler Bownds in recognition of his achievements as a professional bull rider.

Council Member Karen Gibson presented a special recognition to Chandler Bownds for his achievements as a professional bull rider. Chandler and his parents appeared to accept the recognition and he thanked the Mayor and City Council.

2. 4. Presentation of a Special Recognition to Team Texas, a girls youth soccer team, as they prepare to compete in the ESPN Wide World of Sports Championships in Orlando, Florida.

Council Member Latrelle Joy presented a special recognition to Team Texas for their achievement in being invited to compete in the ESPN Wide World of Sports Championships in Orlando, Florida. Team members Brecklin Keneda, Lexi Moore, Mikayla Cardenas, and Addie Kinney, as well as Coach Larry Keneda appeared to accept the recognition and thanked the Mayor and City Council.

3. Citizen Comments - Pursuant to City Council Resolution 2014-R0320, any citizen wishing to appear before a regular meeting of the City Council shall: Notify the City Manager's office of that fact, completing the form available at the City Manager's office, or online at the following hyperlink: Public Comments Sign-Up Form and submit it no later than seventy-five (75) hours prior to the start of the meeting at which the citizen wishes to appear; or sign up to speak at the City Council meeting itself, completing the form provided at the meeting, with regard to any item posted on the City Council agenda.

3. 1. Student representatives from Talkington School will appear before the City Council to request the City of Lubbock declare Friday, November 12th "Margaret Talkington Day in Lubbock" in posthumous honor of Mrs. Talkington's 100th birthday."

Alyssa Pizana, Student Body President; Emily Wade, National Honor Society President; and Alicia Levine, Senior Class Representative, appeared before City Council to request the City of Lubbock declare Friday, November 12th "Margaret Talkington Day in Lubbock".

4. Minutes

4. 1. September 15, 2015 Special City Council Meeting (Electric Utility Board)
October 8, 2015 Regular City Council Meeting

Motion by Council Member Floyd Price, seconded by Council Member Karen Gibson to approve the September 15, 2015 Special City Council Meeting (Electric Utility Board) minutes and the October 8, 2015 Regular City Council Meeting minutes.

Vote: 5 - 0 Motion carried

Other: Mayor Glen C. Robertson (ABSENT)
Council Member Floyd Price (AWAY)

5. Consent Agenda - Items considered to be routine and enacted by one motion without separate discussion. If the City Council desires to discuss an item, the item is removed from the Consent Agenda and considered separately.

Motion by Council Member Karen Gibson, seconded by Council Member Latrelle Joy to approve items 5.1-5.3 and 5.5-5.18.

Vote: 5 - 0 Motion carried

Other: Mayor Glen C. Robertson (ABSENT)
Council Member Floyd Price (AWAY)

5. 1. Budget Amendment Ordinance 1st Reading - Finance: Ordinance No. 2015-O0114, Amendment 3, amending the FY 2015-16 budget for municipal purposes respecting the Fire Pay Plan; providing for filing; and providing for a savings clause.

5. 2. **Budget Amendment Ordinance 1st Reading - Finance:** Ordinance No. 2015-O0115, Amendment 4, amending the FY 2015-16 budget for municipal purposes respecting the Capital Program to amend Capital Improvement Project (CIP) 8599, Storm Water Utility Fee Restructure; and respecting the Storm Water Operating Budget to increase the Transfer to Storm Water Capital; providing for filing; and providing for a savings clause.

5. 3. **Budget Amendment Ordinance 1st Reading - Finance:** Ordinance No. 2015-O0116, Amendment 5, amending the FY 2015-16 budget for municipal purposes respecting the Capital Program to amend Capital Improvement Project (CIP) 92289, 98th Street - University Avenue to US 87; and CIP 92265, Erskine - MLK to East Loop 289; providing for filing; and providing for a savings clause.

5. 4. **Resolution - Accounting:** Resolution No. 2015-R0378 authorizing the Mayor to execute a Notice and Acknowledgment of Assignment and Sale with Banc of America Public Capital Corp (BAPCC) for rights, title and interest into and under Appendix No. 11076-28, Part 1 Equipment List in the amount of $4,815,696.44 and Part 2 Payment Schedule to the Master Lease Agreement to Huntington Public Capital Corporation (HPCC).

Motion by Council Member Floyd Price, seconded by Council Member Karen Gibson to approve Resolution No. 2015-R0378.

Vote: 5 - 0 Motion carried

Other: Mayor Glen C. Robertson (ABSENT)
Council Member Victor Hernandez (RECUSE)

5. 5. **Resolution - Human Resources:** Resolution No. 2015-R0364 authorizing the Mayor to approve purchase of specific stop loss insurance coverage from Blue Cross Blue Shield of Texas (BCBSTX) for the City's health program.

5. 6. **Resolution - Human Resources:** Resolution No. 2015-R0365 authorizing the Mayor to authorize and renew purchase of transplant insurance coverage from AIG Benefit Solutions.

5. 7. **Resolution - Water Utilities:** Resolution No. 2015-R0366 authorizing the Mayor to execute contract 12379 with First Choice Communications and Security Solutions for data system radio installation, RFP 15-12379-MA.

5. 8. **Resolution - Water Utilities:** Resolution No. 2015-R0367 authorizing the Mayor to execute contract 12483 with EMICC, Inc. for the purchase of two medium voltage motor controllers, RFP 15-12483-SS.

5. 9. **Ordinance Amendment 1st Reading - Public Works Traffic Engineering:** Ordinance No. 2015-O0117 amending Section 20.05.102 of the Code of Ordinances of the City of Lubbock, with regard to the establishment of speed limits.

5. 10. **Resolution - Public Works Traffic Engineering:** Resolution No. 2015-R0368 authorizing the Mayor to execute unit price contract 12492 with Trace Technologies LLC, for fiber optic installation services, ITB 15-12492-SS.

5. 11. **Ordinance 2nd Reading – Right-of-Way:** Ordinance No. 2015-O0109 abandoning and closing a public access, drainage and underground utility easement located in Tract E, Iola Business Park, and 20-foot wide underground utility easement located adjacent to Tract E and all blanket easements located in Section 36 Block AK in Tracts C and E, Iola Business Park.

5. 12. **Resolution - Right-of-Way:** Resolution No. 2015-R0369 authorizing the City Council to accept on behalf of the City of Lubbock an easement from Cruz Orozco and wife, Librada Orozco regarding the acquisition of right-of-way for the Northwest Water Reclamation Project, easement being out of Section 13, Block JS, Lubbock County, Texas.

5. 13. **Resolution - Facilities:** Resolution No. 2015-R0370 authorizing the Mayor to execute Change Order 4 to construction contract 12090 with Tommy Klein Construction, Inc. for the Street and Water Administration Renovations Project at the Municipal Hill.

5. 14. **Resolution - Facilities:** Resolution No. 2015-R0371 authorizing the Mayor to execute Change Order 1 to construction contract 12208 with Pharr & Company of Lubbock, Texas for the Lubbock Senior Center Renovations.

5. 15. **Resolution - GIS and Data Services:** Resolution No. 2015-R0372 authorizing the Mayor to execute Amendment 3 to Contract 10956 between the City of Lubbock and Tyler Technologies, Inc. for implementation of an on-line citizen portal and additional implementation services for other city departments.

5. 16. **Resolution - Fleet Services:** Resolution No.'s 2015-R0373, 2015-R0374, and 2015-R0375 authorizing the Mayor to execute contract 12448 with Phares Auto Glass, Inc., contract 12576 with B King Ventures LLC DBA Clear Vu Auto Glass and contract 12577 with Safelite Fulfillment Inc. for Vehicle Windshield and Window Services, ITB 15-12448-KK.

5. 17. **Resolution - Citibus:** Resolution No. 2015-R0376 authorizing the City Council to approve a consultant contract between the Lubbock Metropolitan Planning Organization (MPO) and Citibus.

5. 18. **Resolution - Vital Statistics:** Resolution No. 2015-R0377 authorizing the Mayor to execute contract 537-16-0020-00001 with the Department of State Health Services (DSHS) for on-line vital statistic services.

6. Regular Agenda

6. 1. **Public Hearing 5:30 p.m. - Finance:** Public hearing to receive input concerning the adoption of an ordinance to designate a Reinvestment Zone for an area located at 5801 Martin Luther King Boulevard, described as South Plains Industrial, Tract A, City of Lubbock, Lubbock County, Texas.

Public Hearing Only.

Cheryl Brock, Budget Director, gave a presentation and answered questions from City Council.

Mayor Pro Tem Jim Gerlt opened the public hearing at 5:36 p.m.

No one appeared to speak in favor or opposition.

Mayor Pro Tem Jim Gerlt closed the public hearing at 5:40 p.m.

6. 2. **Ordinance 1st Reading - Finance:** Ordinance No. 2015-O0118 designating a reinvestment zone within the City of Lubbock as authorized by Chapter 312, Tax Code; describing the boundaries of said zone; describing the eligibility of said zone for commercial-industrial tax abatement; providing a saving clause and providing for publication; said reinvestment zone to be located at South Plains Industrial, Tract A, City of Lubbock, Lubbock County, Texas.

Motion by Council Member Jeff Griffith, seconded by Council Member Karen Gibson to approve Ordinance No. 2015-O0118 with the following findings:

- "That the improvements are feasible and practical and would be a benefit to the land to be included in the zone and to the municipality after the tax abatement agreement expires, and
- That the area of the Reinvestment Zone will be reasonable likely as a result of the designation to contribute to the retention or expansion of primary employment and will contribute to the economic development of the City of Lubbock."

Vote: 6 - 0 Motion carried

Other: Mayor Glen C. Robertson (ABSENT)

6. 3. **Ordinance 2nd Reading - Planning:** Ordinance No. 2015-O0110, for Zone Case 2496-A, a request of Bret Ellis, for Verizon Wireless, for a zoning change from A-2 to A-2 Specific Use and all unconditionally permitted A-2 Uses to build a monopole for a telecommunication facility on a portion of Lot 1, Circuit Rider Addition, 1215 Slide Road.

Motion by Council Member Floyd Price, seconded by Council Member Karen Gibson to approve Ordinance No. 2015-O0110.

Vote: 6 - 0 Motion carried

Other: Mayor Glen C. Robertson (ABSENT)

6. 4. **Ordinance 2nd Reading – Planning:** Ordinance No. 2015-O0111, for Zone Case 1391-I, a request of Ryan Lewis, LLC, for City Bank, for a zoning change from C-2 to C-3, west of 369.89 feet of Lot 198, Live Oak Addition, 3331, 3333 and 3335 70th Street.

Motion by Council Member Floyd Price, seconded by Council Member Jeff Griffith to approve Ordinance No. 2015-O0111.

Vote: 5 - 0 Motion carried

Other: Mayor Glen C. Robertson (ABSENT)
Council Member Latrelle Joy (RECUSE)

6. 5. **Ordinance 2nd Reading – Planning:** Ordinance No. 2015-O0112, for Zone Case 3265, a request of Burl W. Masters, for Southwest Lubbock Land Development, for a zoning change from T to C-2A of unplatted land on 9.569 acres out of Section 1, Block AK, and from T to C-3 on 2.548 acres out of Section 1, Block AK and 3.744 acres out of Section 9, Block AK, south of FM 1585 and west of Frankford Avenue.

Motion by Council Member Jeff Griffith, seconded by Council Member Floyd Price to approve Ordinance No. 2015-O0112.

Vote: 6 - 0 Motion carried

Other: Mayor Glen C. Robertson (ABSENT)

6. 6. **Ordinance 2nd Reading - Councilwoman Karen Gibson:** Ordinance No. 2015-O0113 to allow golf carts to be used on residential streets to deliver packages during the holiday season.

Greg Stevens, Chief of Police, gave comments and answered questions from City Council.

Motion by Council Member Karen Gibson, seconded by Council Member Jeff Griffith to approve Ordinance No. 2015-O0113.

Vote: 5 - 1 Motion carried

NAY: Council Member Latrelle Joy
Other: Mayor Glen C. Robertson (ABSENT)

6. 7. **Board Appointments - City Secretary:** Consider two appointments to the Planning and Zoning Commission.

This item was postponed to the November 19, 2015 Regular City Council Meeting.

Motion by Council Member Karen Gibson, seconded by Council Member Floyd Price to postpone this item to the November 19, 2015 Regular City Council Meeting.

Vote: 6 - 0 Motion carried

Other: Mayor Glen C. Robertson (ABSENT)

6. 8. **Board Appointment - City Secretary:** Consider the appointment of the Chairperson and Vice Chairperson for the Lubbock Water Advisory Commission.

This item was postponed to the November 19, 2015 Regular City Council Meeting.

Motion by Council Member Karen Gibson, seconded by Council Member Jeff Griffith to postpone this item to the November 19, 2015 Regular City Council Meeting.

Vote: 6 - 0 Motion carried

Other: Mayor Glen C. Robertson (ABSENT)

6:01 P.M. CITY COUNCIL ADJOURNED

There being no further business to come before Council, Mayor Pro Tem Jim Gerlt adjourned the meeting.

The November 5, 2015 Regular City Council Meeting minutes were approved by the City Council on the 3rd day of December, 2015.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

Regular City Council Meeting **5. 1.**

Meeting Date: 12/03/2015

Information

Agenda Item

Budget Amendment Ordinance 2nd Reading - Finance: Consider Budget Ordinance 2015-O0119 Amendment 6 amending the FY 2015-16 budget for municipal purposes respecting the Grant Fund to accept and appropriate funding from the Texas Department of Aging and Disability Services (TDADS) pass-through Federal funds from the South Plains Association of Governments (SPAG) for the Area Agency on Aging (AAA) - Direct Purchase of Services grant; accept and appropriate funding from the Texas Department of State Health Services (DSHS) for the Community Prevention System (CPS) one-time discretionary Public Health Emergency Preparedness (PHEP) Grant; accept and appropriate funding from the United States Department of Justice (DOJ) for the Edward Byrne Justice Assistance Grant (JAG); providing for filing; and providing for a savings clause.

Item Summary

On November 19, 2015, the City Council approved the first reading of the ordinance.

I. Accept and appropriate $144,785 from TDADS pass-through Federal funding from SPAG for the AAA Direct Purchase of Services Grant and appropriate $38,599 of program revenue, for a total program budget of $193,831.

II. Accept and appropriate $40,698 from Texas DSHS for the CPS One-Time Discretionary PHEP Grant.

III. Accept and appropriate $139,342 from the DOJ for the Edward Byrne JAG.

Fiscal Impact

Included in Item Summary.

Staff/Board Recommending

Cheryl Brock, Executive Director of Budget

Attachments

Budget Amendment 6
Grant Detail Sheet - SPAG
Grant Detail Sheet - PHP Discretionary
Grant Detail Sheet - JAG

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FY 2015-16 BUDGET FOR MUNICIPAL PURPOSES RESPECTING THE GRANT FUND TO ACCEPT AND APPROPRIATE FUNDING FROM THE TEXAS DEPARTMENT OF AGING AND DISABILITY SERVICES (TDADS) PASS-THROUGH FEDERAL FUNDS FROM THE SOUTH PLAINS ASSOCIATION OF GOVERNMENTS (SPAG) FOR THE AREA AGENCY ON AGING (AAA) – DIRECT PURCHASE OF SERVICES GRANT; ACCEPT AND APPROPRIATE FUNDING FROM THE TEXAS DEPARTMENT OF STATE HEALTH SERVICES (DSHS) FOR THE COMMUNITY PREVENTION SYSTEM (CPS) ONE-TIME DISCRETIONARY PUBLIC HEALTH EMERGENCY PREPAREDNESS (PHEP) GRANT; ACCEPT AND APPROPRIATE FUNDING FROM THE UNITED STATES DEPARTMENT OF JUSTICE (DOJ) FOR THE EDWARD BYRNE JUSTICE ASSISTANCE GRANT (JAG); PROVIDING FOR FILING; AND PROVIDING FOR A SAVINGS CLAUSE.

WHEREAS, Section 102.010 of the Local Government Code of the State of Texas authorizes the City Council to make changes in the budget for municipal purposes; and

WHEREAS, in accordance with the City Budget Ordinance the City Council shall approve all transfers between funds and departments; and

WHEREAS, the City Council deems it advisable to change the FY 2015-16 Budget for municipal purposes and reallocate funds as follows; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

SECTION 1. THAT the City Council of the City of Lubbock hereby approves changes to the City of Lubbock Budget FY 2015-16 (Budget Amendment #6) for municipal purposes, as follows:

I. Accept and appropriate $144,785 from TDADS pass-through federal funding from SPAG for the AAA Direct Purchase of Services Grant and appropriate $38,599 of program revenue, for a total program budget of $193,831.

II. Accept and appropriate $40,698 from Texas DSHS for the CPS One-Time Discretionary PHEP Grant.

III. Accept and appropriate $139,342 from the DOJ for the Edward Byrne JAG.

SECTION 2. THAT a copy of the changes made to the City of Lubbock Budget pursuant to this Ordinance shall be filed with the City Secretary and County Clerk of Lubbock as required by law.

SECTION 3. THAT should any section, paragraph, sentence, clause, phrase or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

AND IT IS SO ORDERED

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza
City Secretary

APPROVED AS TO CONTENT:

Cheryl Brock

Cheryl Brock
Executive Director of Budget

APPROVED AS TO FORM:

Amy Sims
Assistant City Attorney

ccdocs/BudgetFY1516.Amend6.ord
November 4, 2015

City of Lubbock, TX
Grant Award
New Grant - Budget Detail
November 19, 2015

Administrative Information:

City Assigned Grant Number:	84011 & 84012
Grant Name:	Area Agency on Aging - Direct Purchase of Services
Grant Effective Date:	10/01/2015-09/30/2016
Grant Provider/Agency:	South Plains Association of Governments
Grant Award Amount:	$ 144,785
Program Income:	38,599
In-Kind City Grant Match:	10,447

Personnel Information:

# of part-time positions funded w/grant	8

Title of Position	Annual Salary	Annual Benefits	Grant	General Fund
PT Transportation Aide	$ 12,285	940	13,225	-
PT Transportation Aide	10,920	835	11,755	-
PT Assistant Center Supervisor	10,270	786	2,486	8,570
PT Assistant Center Supervisor	10,270	786	4,422	6,633
PT Assistant Center Supervisor	10,578	809	6,832	4,555
PT Assistant Center Supervisor	10,270	786	4,422	6,633
PT Assistant Center Supervisor	10,578	809	4,555	6,832
PT Assistant Center Supervisor	10,270	786	4,422	6,633
Total	$ 85,441	6,536	52,120	39,857

Budget Information:

Project Detail	**Cost**
Compensation	$ 52,120
Professional Services (Meals from Vendor)	141,711
Total Project Amount	$ 193,831

City of Lubbock, TX
Grant Award
New Grant - Budget Detail
November 19, 2015

Administrative Information:

City Assigned Grant Number:	TBD
Grant Name:	CPS- One Time Discretionary Unique
Grant Effective Date:	11/5/2015
Grant Provider/Agency:	Texas Department of State Health Services
Grant Award Amount:	$ 40,698
Amount City Grant Match:	4,070
Funding Source of Grant Match:	In-kind match

Budget Information:	**Cost**
Grant Appropriation Detail	
Supplies	
800 mHz radios	$ 11,100
Misc supplies (cases, conf phone, wireless router, etc)	11,048
Travel	
Health Director to attend two PHEP Quarterly meetings	1,300
Other	
Bus advertisement	10,050
Contractual	
Health Authority contract	7,200
Total Appropriation	$ 40,698

City of Lubbock, TX
Grant Award
New Grant - Budget Detail
November 19, 2015

Administrative Information

City Assigned Grant Number	86070
Grant Name	Justice Assistance Grant (JAG)
Grant Effective Date	10/1/2014–9/30/2018
Grant Provider/Agency	United States Department of Justice
Grant Award Amount	$ 139,342

Budget Information

Project Detail	**Cost**
COUNTY:	
Equipment and Training	$ 69,671
CITY:	
Cellphone Download System	22,000
Laptop Computers for Patrol Vehicles	47,671
Total Project Amount	$ 139,342

Regular City Council Meeting **5. 1. 1.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - Parks and Recreation: Consider a resolution authorizing the Mayor to execute a contract and all related documents with the South Plains Association of Governments (SPAG), related to funds passed through the U.S. Department of Health and Human Services to the Texas Department on Aging and Disability Services for an Area Agency on Aging (AAA) Direct Purchase of Services Program to provide meals and transportation services for the City of Lubbock's Senior Citizens Program.

Item Summary

The City has contracted with SPAG for the AAA Direct Purchase of Services Program Grant for the past 36 years to provide services for senior citizens through the city's five senior program sites. The City's Senior Program targets any citizen 60 years of age or older to provide a hot meal, transportation, and recreational and social activities.

The FY 2015-16 vendor agreement with SPAG provides reimbursement for meals and transportation service units. Meals are currently supplied by the Bridge of Lubbock at a cost of $4.25 per meal. Staff anticipates serving approximately 29,960 meals and approximately 6,289 units of transportation. The grant will reimburse approximately 17,377 eligible meal units at $6.98 per unit for a total of $121,292. The grant will also reimburse approximately 3,145 eligible transportation units at $7.47 per unit for a total of $23,493. The grant totals $144,785.

Monetary donations are accepted from those individuals who utilize meal and transportation services. The recommended donation is $3 per meal for those 60 years of age and over. Those under age 60 must pay $8 per meal as required by SPAG regulations. The recommended donation for transportation is $1 per one-way trip. The estimated program revenues for FY 2015-16 total $38,599.

Fiscal Impact

This contract will provide approximately $193,831 of meal service, transportation and administrative costs. The required match for the contract is $10,447. Of this, $5,459 will be from Program Volunteers In-Kind match, and $4,988 from the City's contribution of full-time, budgeted, salaried personnel costs.

Staff/Board Recommending

Scott Snider, Assistant City Manager

Attachments

Resolution & Agreement - SPAG

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, an Area Agency on Aging Direct Purchase of Services Program Grant Agreement from the State of Texas, acting by and through the Texas Department of Aging and Disability Services and the South Plains Association of Governments (SPAG), for funds passed through the U.S. Department of Health and Human Services to the State of Texas for said grant, and related documents. Said grant will be used to provide an integrated service delivery system to meet the needs of older individuals and their caregivers, and the grant funds will be used only for the purposes for which they are intended under the grant. Said Agreement is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council this _____ day of _____, 2015.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Bridget Faulkenberry, Parks and Recreation Director

APPROVED AS TO FORM:

_____
Laura Pratt, Assistant City Attorney

RES. SPAG Grant 15-16 11.12.15
11.12.15

The South Plains Association of Governments Area Agency on Aging
Direct Purchase of Service
Fiscal Year 2016 Vendor Application/Renewal Update

Please type or clearly print application information.

City of Lubbock
Vendor Name/Legal Entity

DBA (if applicable)

Physical Address: 2001 19th Street (Lubbock Senior Center), Parks Administration, 1611 10th Street, Lubbock, TX 79401	
Mailing Address (complete even if same as above): PO Box 2000, Lubbock, TX 79457	
Tax Identification Number (SSN or Federal ID): 17560005906	Fax Number (including area code): (806) 775-2686
Type of Provider (check one): ☐ Governmental Agency ☐ Private Non-Profit ☐ Private For Profit ■ City Government ☐ County Government ☐ Other:	
Authorizing Official: Glen C. Robertson	Title: Mayor
Email Address: grobertson@mylubbock.us	Telephone: (806) 775-2010
Billing Contact Person and billing address: Nancy Neill, City of Lubbock, PO Box 2000, 79456	Title: Indoor Recreation Coordinator
Email Address: nneill@mylubbock.us	Telephone: (806) 775-2685
Number of Years Organization has been in business: 36 Years	Is Organization Bonded? ***(Attach certificate of bonding insurance)*** ☐ Yes ■ No
Has anyone involved in the direct provision of client services been convicted of a felony (In-home Services only)? ***Not Applicable*** ▨ Yes ▨ No	If Yes, Explain: ***Not Applicable***
Does Organization have liability insurance? ***(Attach certificate of all insurances)*** ■ Yes ☐ No	**Attach a copy of all applicable State and Federal licenses and /or certifications for your business.**
Conflicts of Interest: Attach information of applicable names and relationship of any employee(s) or officers of your organization that may have a conflict of interest with the South Plains Association of Governments Area Agency on Aging staff person or Advisory Council member.	

Service and Bidding Information:

1; A. Proposed Service:

Congregate Meals

B. Service Area:

CITY OF LUBBOCK,

C. Proposed DADS A&I AAA cost per unit: $ 6.98

Whole cost per unit: $ 7.43

2. A. Proposed Service:

Home Delivered Meals

B. Service Area:

N/A

C. Proposed DADS A&I AAA cost per unit: $ -

Whole cost per unit: $ -

3. A. Proposed Service:

Transportation

B. Service Area:

CITY OF LUBBOCK

C. Proposed DADS A&I AAA cost per unit: $ 7.47

Whole cost per unit: $ 8.30

4. A. Proposed Service:

N/A

B. Service Area:

N/A

C. Proposed DADS A&I AAA cost per unit: $ -

Whole cost per unit: $ -

Signature:

I, Glen C. Robertson, certify that the information provided in this application is true and correct to the best of my knowledge.

Printed Name

Authorized Signature

Thursday, October 01, 2015

Date

Attest:	Approved as to Content:	Approved as to Form:
Rebecca Garza City Secretary	Bridget Faulkenberry Parks and Recreation Director	Laura Pratt Assistant City Attorney

City of Lubbock
TEXAS

CERTIFICATE OF SELF-INSURANCE

The undersigned officer of the City of Lubbock, Texas, a Texas home rule municipality, hereby certifies that the City of Lubbock has a $500,000.00 self-insured retention for Automobile and General Liability in accordance with the laws of the State of Texas. The City of Lubbock has a policy that covers Property/Bodily Injury over $500,000.00 per occurrence with One Beacon America Insurance Company under policy #791-000-230-0001 which expires on 10/01/16. The current net asset balance of the self-insurance fund is $6,885,448. The existing cash asset balance is $10,589,353 as of the date stated below.

By: L Morrison
Lainey Morrison
Risk Management Coordinator

Date: September 30, 2015

Will have new certificate upon completion by Risk Mgmt for FY 2015-16

City of Lubbock TEXAS
PARKS AND RECREATION

DATE October 1, 2016

TO South Plains Association of Government

FROM City of Lubbock – Senior Center Programs

SUBJECT FY 2015-16 Operating Hours and Holidays for SPAG Grant

Name of Sites	Number of Serving Days	Days and Hours of Operation
Lubbock Senior Center	252	M-F 8:00 am - 5:00 pm
Rawlings Community Center	252	M-F 8:30 am - 4:00 pm
Simmons Senior Center	252	M-F 8:30 am - 4:00 pm
Trejo Supercenter	252	M-F 8:30 am - 4:00 pm
Homestead Senior Program	252	M-F 10:00 am - 1:00 pm

Holidays Observed	Dates
Thanksgiving Day	November 26, 2015
Day After Thanksgiving	November 27, 2015
Christmas Eve	December 24, 2015
Christmas Day	December 25, 2015
New Year's Day	January 1, 2016
Martin Luther King, Jr. Day	January 18, 2016
Good Friday	March 25, 2016
Memorial Day	May 30, 2016
4th of July	July 4, 2016
Labor Day	September 5, 2016

SOUTH PLAINS ASSOCIATION OF GOVERNMENTS
AREA AGENCY ON AGING
VENDOR AGREEMENT

City of Lubbock, hereinafter referred to as Vendor, and South Plains Association of Governments Area Agency on Aging (AAA) do hereby agree to provide services effective beginning October 1, 2015, in accordance with the Older Americans Act of 1965 (OAA), as amended, regulations of the Department of Aging and Disability Services (DADS), the AAA Direct Purchase of Services program and the stated Scope of Services.

The AAA Direct Purchase of Services program is designed to promote the development of a comprehensive and coordinated service delivery system to meet the needs of older individuals (60 years of age or older) and their caregivers. This agreement provides a mechanism for the creation of an individualized network of community resources accessible to a program participant in compliance with the OAA and DADS AAA Access and Assistance guidelines.

The purpose of the system of Access and Assistance is to develop cooperative working relationships with service providers to build an integrated service delivery system that ensures broad access to and information about community services, maximizes the use of existing resources, avoids duplication of effort, identifies gaps in services, and facilitates the ability of people who need services to easily find the most appropriate Vendor.

1. SCOPE OF SERVICES

   A. The Vendor agrees to provide the following service(s) as identified below to program participants authorized by the AAA staff, in accordance with the vendor application, all required assurances, licenses, certifications and rate setting documents, as applicable.

   Service:
   CONGREGATE MEALS
   TRANSPORTATION

   Service Definition:
   CONGREGATE MEAL - A hot or other appropriate meal served to an eligible older individual which meets 33⅓ percent of the dietary reference intakes established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences and complies with the most recent Dietary Guidelines for Americans, published by the Secretary of Agriculture, and which is served in a congregate setting. The objective is to reduce food insecurity and promote socialization of older individuals. There are two types of congregate meals:
   - Standard meal - A regular meal from the standard menu that is served to the majority or all of the participants.
   - Therapeutic meal or liquid supplement - A special meal or liquid supplement that has been prescribed by a physician and is planned specifically for the participant by a dietitian (e.g., diabetic diet, renal diet, pureed diet, tube feeding).

   TRANSPORTATION - Taking an older individual from one location to another but does not include any other activity. There are two types of transportation services:
   - Demand/Response - transportation designed to carry older individuals from specific origin to specific destination upon request. Older individuals request the transportation service in advance of their need, usually twenty-four to forty-eight hours prior to the trip.

   Unit Definition:

CONGREGATE MEALS: One Meal
TRANSPORTATION – Demand/Response: One One-way Trip

Service Area (*To be filled in by provider. Please type or print neatly*):

CITY OF LUBBOCK

All Texas Administrative Code standards are located at the Texas Secretary of State website: www.sos.state.tx.us.

All Older Americans Act and other required rules and regulations are located at http://www.aoa.acl.gov/AoA_Programs/OAA/Introduction.aspx.

Targeting: AAA services are designed to identify eligible program participants, with an emphasis on high-risk program participants and to serve older individuals with greatest economic and social need, low-income minorities and those residing in rural areas, as required by the OAA.

B. Services & Reimbursement Methodology:

Service	Fixed Rate (include rate)	Variable Rate (identify range)	Cost Reimbursement
Congregate	6.98		
Transportation	7.47		

2. TERMS OF AGREEMENT

A. The Vendor agrees to:

1. provide services in accordance with current or revised DADS policies and standards and the OAA.
2. submit billings with appropriate documentation as required by the AAA by the close of business on the **2nd working day** of each month following the last day of the month in which services were provided.
   a. If the 2nd working day falls on a weekend or holiday, the information shall be delivered by the close of business on the following business day.
   b. The AAA cannot guarantee payment of a reimbursement request received for more than 45 calendar days of service delivery.
   c. No reimbursement for services provided will be made if vendor payment invoices are not submitted to the AAA within 45 days of service delivery.
3. encourage program participant contributions (program income) on a voluntary and confidential basis. Such contributions will be properly safeguarded and accurately accounted for as receipts and expenditures on Vendor's financial reports if contributions are not required to be forwarded to the AAA. Client contributions (program income) will be reported fully, as required, to the AAA. Vendor agrees to expend all program income to expand or enhance the program/service under which it is earned.
4. notify the AAA Director immediately if, for any reason, the Vendor becomes unable to provide the service(s).
5. maintain communication and correspondence concerning program participants' status.
6. establish a method to guarantee the confidentiality of all information relating to the program participant in accordance with applicable federal and state laws, rules, and regulations. This provision shall not be construed as limiting AAA or any federal or state authorized representative's right of access to program participant case records or other information relating to program participants served under this agreement.
7. keep financial and program supporting documents, statistical records, and any other records pertinent to the services for which a claim for reimbursement was submitted to the AAA. The records and documents will be kept for a minimum of five years after close of vendor's fiscal year.
8. make available at reasonable times and for required periods all fiscal and program participant records, books, and supporting documents pertaining to services provided under this agreement, for purposes of inspection, monitoring, auditing, or evaluations by AAA staff, the Comptroller General of the United States and the State of Texas, through any authorized representative(s).
9. if applicable, comply with the DADS process for Centers for Medicare and Medicaid Services (CMS) screening for excluded individuals and entities involved with the delivery of the Legal Assistance and Legal Awareness services.

B. The Vendor further agrees:

1. The agreement may be terminated for cause or without cause upon the giving of **30** days advance written notice.
2. The agreement does not guarantee a total level of reimbursement other than for individual units/services authorized; contingent upon receipt of funds.
3. Vendor is an independent provider, NOT an agent of the AAA. Thus, the Vendor indemnifies, saves and holds harmless the South Plains Association of Governments AAA against expense or liability of

any kind arising out of service delivery performed by the Vendor. Vendor must immediately notify the AAA if the Vendor becomes involved in or is threatened with litigation related to program participants receiving services funded by the AAA.

4. Employees of the Vendor will not solicit or accept gifts or favors of monetary value by or on behalf of program participants as a gift, reward or payment.

C. Through the Direct Purchase of Services program, the South Plains Association of Governments AAA agrees to:

1. review program participant intake and assessment forms completed by the Vendor, as applicable, to determine program participant eligibility. Service authorization is based on program participant need and the availability of funds.
2. provide timely written notification to Vendor of program participant's eligibility and authorization to receive services.
3. maintain communication and correspondence concerning the program participants' status.
4. provide timely technical assistance to Vendor as requested and as available.
5. conduct quality-assurance procedures, which may include on-site visits, to ensure quality services are being provided and if applicable, CMS exclusion reviews are conducted.
6. provide written policies, procedures, and standard documents concerning program participant authorization to release information (both a general and medical/health related release), client rights and responsibilities, contributions, and complaints/grievances and appeals to all program participants.
7. contingent upon the AAA's receipt of funds authorized for this purpose from DADS, reimburse the Vendor based on the agreed reimbursement methodology, approved rate(s), service(s) authorized, and in accordance with subsection (A)(2) of this document, within **45** days of the AAA's receipt of Vendor's invoice.

3. ASSURANCES

The Vendor shall comply with:

A. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d *et.seq.*)
B. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794)
C. Americans with Disabilities Act of 1990 (42 U.S.C. §12101 *et seq.*)
D. Age Discrimination in Employment Act of 1975 (42 U.S.C. §§6101-6107)
E. Title IX of the Education Amendments of 1972 (20 U.S.C. §§1681-1688)
F. Food Stamp Act of 1977 (7 U.S.C. §200 *et seq.*)
G. Drug Free Workplace Act of 1988
H. Texas Senate Bill 1 - 1991, as applicable
I. DADS administrative rules, as set forth in the Texas Administrative Code, to the extent applicable to this Agreement
J. Certification Regarding Debarment - 45CFR §92.35 Subawards to debarred and suspended parties; this document is required annually as long as this agreement is in effect
K. Centers for Medicare and Medicaid Services (CMS) State Medicaid Director Letter SMDL #09-001 regarding Individuals or Entities Excluded from Participation in Federal Health Care Programs
L. DADS Information Letter 11-07 – Obligation to Identify Individuals or Entities Excluded from Participation in Federal Health Care Programs

4. ATTACHMENTS
   A. Description of Assurance A – H listed in section 3 of this document.
   B. List of Focal Points in the AAA planning and service area.

5. SIGNATURES

For the faithful performance of the terms of this agreement, the parties affix their signatures and bind themselves effective October 1, 2015.

Authorized Vendor Signature

Print Name

Title

October 1, 2015
Date



Authorized Signature

South Plains Association of Governments
(Agency)

P.O. Box 3730 – Freedom Station
(Address)

Lubbock, Texas 79452
(City, State, Zip)

October 1, 2015
(Date)

Attest:	Approved as to Content:	Approved as to Form:
Rebecca Garza City Secretary	Bridget Faulkenberry Parks and Recreation Director	Laura Pratt Assistant City Attorney

ASSURANCES ATTACHMENT

A. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d *et.seq.*), which prohibits any person from being excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving Federal financial assistance.

B. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794), which states that employers may not refuse to hire or promote handicapped persons solely because of their disability.

C. Americans with Disabilities Act of 1990 (42 U.S.C. §12101 *et seq.*), which prohibits a covered entity from discriminating against a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

D. Age Discrimination in Employment Act of 1975 (42 U.S.C. §6101-6107), prohibits discrimination on the basis of age in programs and activities receiving federal financial assistance.

E. Title IX of the Education Amendments of 1972 (20 U.S.C. §§1681-1688), which prohibits the use of federal money to support sexually discriminatory practices in education programs such as sexual harassment and employment discrimination, and to provide individual citizens effective protection against those practices.

F. Food Stamp Act of 1977 (7 U.S.C. §200 *et seq.*), whose purpose is to strengthen the agricultural economy; to help to achieve a fuller and more effective use of food abundances; to provide for improved levels of nutrition among low-income households through a cooperative Federal-State program of food assistance to be operated through normal channels of trade; and for other purposes.

G. Drug Free Workplace Act of 1988, which requires that all organizations receiving federal grants, regardless of amount granted, maintain a drug-free workplace.

H. Texas Senate Bill 1 - 1991, as applicable, which refers to proper reporting of contributions as addressed in OAA §315 and TAC, Title 40, §85.201.

FOCAL POINTS FOR
THE SOUTH PLAINS ASSOCIATION OF GOVERNMENTS REGION
FY 2015-2016

CENTER:	**Bailey County Commissioners Court (A-020)**
DIRECTOR:	**Shelby Acosta**
BOOKKEEPER:	**Shelby Acosta**
ADDRESS:	300 South First Street Room 110
CITY:	Muleshoe, Texas 79347
PHONE:	**(806) 272-3647** **E-mail: bcaging@fivearea.com**
DAYS & HRS. OPEN:	Mon. - Fri. 8:30-12:00, 1:00-5:00 **Fax: (806) 272-4656**
SERVICES:	**TRANS.**
COUNTY:	Bailey

CENTER:	**Bailey County Senior Citizens Assoc., Inc. (A-007)**
DIRECTOR:	**Laverne Winn** H – (806)272-4491
ASSISTANT:	**Rhonda King**
ADDRESS:	319 S. Main St / PO Box 292
CITY:	Muleshoe, Texas 79347
PHONE:	**(806) 272-4969** **E-mail: seniors@fivearea.com**
DAYS & HRS. OPEN:	**Mon. – Fri.** 8:00 – 4:00 **Fax: (806) 272-4460**
SERVICES:	**CONG.**
COUNTY:	Bailey Miles 156.72

CENTER:	**Cochran Co. Senior Citizens Assoc., Inc. (A-045)**
DIRECTOR:	**Reynalda Alvarado**
BOOKKEEPER:	**Reynalda Alvarado**
ADDRESS:	120 W. Wilson
CITY:	Morton, Texas 79346
PHONE:	**(806) 266-5121** **E-mail: ccsci@windstream.net**
DAYS & HRS. OPEN:	Mon. – Fri. 8-4 **Fax #: 266-9027**
SERVICES:	**CONG., TRANS.**
COUNTY:	Cochran Miles 119.62

Updated 9-16-2014

CENTER:	**Crosby Co. Senior Citizens Assoc., Inc. (A-050)**
DIRECTOR:	**Lenette Fowler**
BOOKKEEPER:	**Lenette Fowler**
ADDRESS:	119 North Berkshire
CITY:	Crosbyton, Texas 79322
PHONE:	**(806) 675-2107**
Director Cell phone	**(806) 928-1586**
	E-mail: CrosbyCountySeniors@windstream.net
DAYS & HRS. OPEN:	Mon. – Fri. 8-3
SERVICES:	**CONG., H.D.**
COUNTY:	Crosby Miles 84

CENTER:	**Garza County Trailblazers, Inc. (A-070)**
DIRECTOR:	**Tonya Rudd**
BOOKKEEPER:	**Tonya Rudd**
ADDRESS:	205 E. 10th
CITY:	Post, Texas 79356
PHONE:	**(806) 495-2998 E-mail:garzatrailblazers@yahoo.com**
DAYS & HRS. OPEN:	Mon. – Fri. 8-1
SERVICES:	**CONG., H.D.**
COUNTY:	Garza miles 76.32

CENTER:	**Hale Center Senior Citizens Assoc., Inc. (A-075)**
DIRECTOR:	**Vickie Rosales**
BOOKKEEPER:	**Vickie Rosales**
ADDRESS:	P.O. Box 205 (416 West 2nd St.)
CITY:	Hale Center, Texas 79041
PHONE:	**(806) 839-2428 E-mail: hcsrcenter@sbcglobal.net**
DAYS & HRS. OPEN:	Mon. – Fri. 8-3
SERVICES:	**CONG., H.D., TRANS.**
COUNTY:	Hale Miles 75.36

CENTER:	**Hockley County Senior Citizens Assoc., Inc. (A-085)**
DIRECTOR:	**Susan Sprowls**
BOOKKEEPER:	**Olga Gonzales**
ADDRESS:	1202 Houston
CITY:	Levelland, Texas 79336
PHONE:	**(806) 894-2228 E-mail: hcsca@aol.com**
DAYS & HRS. OPEN:	Mon. – Fri. 8-4:30 (Smyer: Tues & Fri, 8-3)
SERVICES:	**CONG., H.D., TRANS.**
COUNTY:	Hockley

Updated 9-16-2014

CENTER:	**Lorenzo Senior Citizens Assoc., Inc.**	**(A-095)**
DIRECTOR:	**Christina Edwards**	
BOOKKEEPER:	**Christina Edwards**	
ADDRESS:	P.O. Box 571 (606 6th St.)	
CITY:	Lorenzo, Texas 79343	
PHONE:	**(806) 634-5957**	**E-mail: lorenzosca@windstream.net**
DAYS & HRS. OPEN:	Mon. – Fri. 8-2	
SERVICES:	**CONG., H.D.**	
COUNTY:	Crosby 49.94	

CENTER:	**Lubbock - City of Lubbock**	**(A-100)**
DIRECTOR:	**Johnny McLellan**, Supervisor: **775-2678** **Nancy Neill, 775-2685**	
ADDRESS:	P.O. Box 2000 (1010 9th St.)	
CITY:	Lubbock, Texas 79457	
PHONE:	**(806) 775-2678**	
	E-mail: jmclellan@mail.ci.lubbock.tx.us **nneill@mylubbock.us &** **pjbrown@mylubbock.us** **nancy.m.neill@gmail.com**	
DAYS & HRS. OPEN:	Mon. – Fri. 8-5	**Fax: 775-2686**
SERVICES:	**CONG., TRANS.**	
COUNTY:	Lubbock	

Mae Simmons – 767-2708, Traci Crawford (2004 Oak Avenue 79404),
Copper Rawlings – 767-2704, Herminia Martinez (213 40th Street 79404), (40th & Ave. B),
Maggie Trejo – 767-2705, Cecilia Gonzalez (3200 Amherst 79415),
Homestead - 687-7898, Jesse Madrid and (5401 56th Street 79414);
Lubbock Senior Center – 767-2710, Paula Brown (2001 19th Street, 79401) FAX 765-0820
Gloria Gutierrez Transportation Director

CENTER:	**Lynn County Pioneers**	**(A-110)**
DIRECTOR:	**Bianca Baker**	
BOOKKEEPER:	**Bianca Baker**	
ADDRESS:	P.O. Box 223 (1600 S. 3rd St.)	
CITY:	Tahoka, Texas 79373	
PHONE:	**(806) 561-5264**	**E-mail: lcp@door.net**
DAYS & HRS. OPEN:	Mon. – Fri. 9-3	**Fax: 561-5571**
SERVICES:	**CONG., H.D.**	(No Cong. in O'Donnell)
COUNTY:	Lynn Miles 54.52	

Updated 9-16-2014

CENTER:	**Senior Citizens Assoc. of S. Dickens County (A-130)**
DIRECTOR:	**Linda Alexander**
BOOKKEEPER:	**Jean Hoover**
ADDRESS:	210 Burlington
CITY:	Spur, Texas 79370
PHONE:	**(806) 271-4472** **E-mail: sscaosdc@caprock-spur.com**
DAYS & HRS. OPEN:	Mon. – Fri. 8-3
SERVICES:	**CONG., H.D.**
COUNTY:	Dickens 154.00

CENTER:	**Slaton Senior Citizens Assoc., Inc. (A-135)**
DIRECTOR:	**Charlotte O'Connell**
BOOKKEEPER:	**Charlotte O'Connell**
ADDRESS:	230 West Lynn
CITY:	Slaton, Texas 79364
PHONE:	**(806) 828-3784** **E-mail: coconnell@door.net**
DAYS & HRS. OPEN:	Mon. – Fri. 8-4 **slatonseniors@door.net**
SERVICES:	**CONG., H.D.**
COUNTY:	Lubbock 28.52

CENTER:	**Yoakum County Senior Citizens Assoc., Inc. (A-150)**
DIRECTOR:	**Pat Castillo**
BOOKKEEPER:	**Pat Castillo**
ADDRESS:	500 N. Ave. C
CITY:	Denver City, Texas 79323
PHONE:	**(806) 592-8000** **E-mail: Pat - ycsc60@windstream.net**
Fax:	**(806) 592-2835**
DAYS & HRS. OPEN:	Mon. – Fri. 9-2
SERVICES:	**CONG., H.D.**
COUNTY:	Yoakum 159.94

LEGEND

CONG. – Congregate Meals (on-site)
H.D. - Home Delivered Meals
TRAN. - Transportation Service

Updated 9-16-2014

Certification Regarding Debarment

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION FOR COVERED CONTRACTS AND GRANTS

Federal Executive Order 12549 requires the Texas Department of Aging and Disability Services (TDADS)) to screen each covered potential vendor/grantee to determine whether each has a right to obtain a contract/grant in accordance with federal regulations on debarment, suspension, ineligibility, and voluntary exclusion. Each covered vendor/grantee must also screen each of its covered sub vendors/providers.

In this certification "vendor/grantee" refers to both vendor/grantee and sub-vendor/sub-grantee: "contract/grant" refers to both contract/grant and subcontract/sub-grant.

By signing and submitting this certification the potential vendor/grantee accepts the following terms:

1. The certification herein below is a material representation of fact upon which reliance was placed when this contract/grant was entered into. If it is later determined that the potential vendor/grantee knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the Department of Health and Human Services, United States Department of Agriculture or other federal department or agency, or the Texas Department of Aging and Disability Services may pursue available remedies, including suspension and/or debarment.

2. The potential vendor/grantee shall provide immediate written notice to the person to whom this certification is submitted if at any time the potential vendor/grantee learns that the certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

3. The words "covered contract", "debarred", "suspended", "ineligible", "participant', "person", "principal", "proposal" and "voluntarily excluded", as used in this certification have meanings based upon materials in the Definitions and Coverage sections of federal rules implementing Executive Order 12549. Usage is as defined in the attachment.

4. The potential vendor/grantee agrees by submitting this certification that, should the proposed covered contract/grant be entered into, it shall not knowingly enter into any subcontract with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Department of Health and Human Services, United States Department of

Agriculture or other federal department or agency, and/or the Texas Department of Aging and Disability Services, as applicable.

Do you have or do you anticipate having sub vendors/sub-grantees under this proposed contract? Yes __X__ **No** _____

5. The potential vendor/grantee further agrees by submitting this certification that it will include this certification titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion for Covered Contracts and Grants" without modification, in all covered subcontracts and in solicitations for all covered subcontracts.

6. A vendor/grantee may rely upon a certification of a potential sub vendor/sub-grantee that is not debarred, suspended, ineligible, or voluntarily excluded from the covered contract/grant, unless the vendor/grantee knows that the certification is erroneous. A vendor/grantee must, at a minimum obtain certifications from its covered sub vendors/sub-grantees upon each subcontract's/sub-grant's initiation and upon each renewal.

7. Nothing contained in all the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification by this certification document. The knowledge and information of a vendor/grantee is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

8. Except for contracts/grants authorized under paragraph 4 of these terms, if a vendor/grantee in a covered contract/grant knowingly enters into a covered subcontract/subgrant with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in the transaction, in addition to other remedies available to the federal government, Department of Health and Human Services, United States Department of Agriculture, or other federal department or agency, as applicable, and/or the Texas Department of Aging and Disability Services may pursue available remedies, including suspension and/or debarment.

Indicate which statement applies to the covered potential vendor/grantee:

__X__ The potential vendor/grantee certifies by submission of this certification that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this contract/grant by any federal department or agency or by the State of Texas.

_____ The potential vendor/grantee is unable to certify one or more of the terms in this certification. In this instance, the potential vendor/grantee must attach an explanation for each of the above terms to which he/she is unable to make certification. Attach the explanation(s) to this certification.

NAME OF POTENTIAL VENDOR/GRANTEE **City of Lubbock**

VENDOR ID NO. /FEDERAL EMPLOYER'S ID NO. **1-75-6000590-6**

Signature of Authorized Representative

Laura Pratt
Printed/Typed Name of Authorized Representative

Assistant City Attorney
Title of Authorized Representative

October 1, 2015
Date

This certificate is for FY 2016, period beginning October 1, 2015 and ending September 30, 2016.

DEFINITIONS

Covered Contract/Grant and Subcontracts/Sub-grants.

(1) Any non-procurement transaction which involves federal funds (regardless of amount and including such arrangements as sub-grants) and is between the Texas Department of Aging and Disability Services or its agents/grantees and another entity.

(2) Any procurement contract for goods or services between a participant and a person, regardless of type, expected to equal or exceed the federal procurement small purchase threshold fixed at 10 U.S.C. 2304(g) and 41 U.S.C. 253(g) (currently $25,000) under a grant or sub-grant.

(3) Any procurement contract for goods or services between a participant and a person under a covered grant, sub-grant, contract or subcontract, regardless of amount, under which that person will have a critical influence on or substantive control over that covered transaction including:
   a. Principal investigators.
   b. Providers of audit services required by the Texas Department of Aging and Disability Services or federal funding source.
   c. Researchers.

DEBARMENT

An action taken by a debarring official in accordance with 45 CFR Part 76 (or comparable federal regulations) to exclude a person from participating in covered contracts/grants. A person so excluded is "debarred."

GRANT

An award of financial assistance, including cooperative agreements, in the form of money, or property in lieu of money, by the federal government to an eligible grantee.

INELIGIBLE

Excluded from participation in federal non-procurement programs pursuant to a determination of ineligibility under statutory, executive order, or regulatory authority, other an Executive Order 12549 and its agency implementing regulations: for example, excluded pursuant to the Davis-Bacon Act and its implementing regulations, the equal employment opportunity acts and executive orders, or the environmental protection acts and executive orders. A person is ineligible where the determination of ineligibility affects such person's eligibility to participate in more than one covered transaction.

PARTICIPANT

Any person who submits a proposal for, enters into, or reasonably may be expected to enter into a covered contract. This term also includes any person who acts on behalf of or is authorized to commit a participant in a covered contract/grant as an agent or representative of another participant.

PERSON

Any individual, corporation, partnership, association, unit of government, or legal entity, however organized, except: foreign governments or foreign governmental entities, public international organizations, foreign government owned (in whole or part) or controlled entities, and entities consisting wholly or partially of foreign governments or foreign governmental entities.

PRINCIPAL

Officer, director, owner, partner, key employee, or other person within a participant with primary management or supervisory responsibilities: or a person who has a critical influence on or substantive control over a covered contract/grant whether or not the person is employed by the participant. Persons who have a critical influence on or substantive control over a covered transaction are:

(1) Principal investigators.
(2) Providers of audit services required by the Texas Department of Aging and Disability Services or federal funding source.
(3) Researchers.

PROPOSAL

A solicited or unsolicited bid, application, request, invitation to consider or similar communication by or on behalf of a person seeking to receive a covered contract/grant.

SUSPENSION

An action taken by a suspending official in accordance with 45 CFR part 76 (or comparable federal regulations) that immediately excludes a person from participating in covered contracts/grants for a temporary period, pending completion of an investigation and such legal, debarment, or Program Fraud Civil Remedies Act proceedings as may ensue. A person so excluded is "suspended."

VOLUNTARY EXCLUSION OR VOLUNTARILY EXCLUDED

A status of nonparticipation or limited participation in covered transactions assumed by a person pursuant to the terms of a settlement.

10/13/15 2:20 PM
Provider Name: City of Lubbock
AAA Name: Area Agency on Aging of South Plains

Congregate Meals
BUDGET WORKSHEET CALCULATION OF THE PER MEAL UNIT RATE

1. Total Budgeted Expenses for Contract Year						1.	$ 222,529.15
2. Total Number of Anticipated Meals to be Provided by Funding Source							
DADS A&I AAA	17,377	Other Funds Eligible Meals	7,550	Other Sources 5	0		
Program Income	5,033	Other Funds - Non-Eligible Meals	0	Other Sources 6	0	2.	29,960
3. Whole Unit Rate (Line 1 divided by Line 2)						3.	$ 7.43

Reimbursement Calculation

		DADS A&I AAA
4. Projected NSIP per Meal Value		0.69
5. Rate Less NSIP per Meal Value		$ 6.74
6. Mandatory Local Match of 10%	$ 0.67	
** If Applicable, Match Reduction From the In-kind Match Certification form	$ (0.22)	
Required Cash Match		$ 0.45
7. Proposed Meal Rate (Line 3 minus Line 6)		$ 6.98

** If any portion of the required match is in-kind, you must complete an In-Kind Match Certification form.

By signing below, the provider acknowledges that all related records are subject to audit in accordance with contract requirements and all applicable federal and state laws.

City of Lubbock
Legal Name of Contracted Provider

Printed/Typed Name of Signer

Signature

October 1, 2015
Date

Area Agency on Aging of South Plains
Name of Area Agency on Aging

Tim C Pierce
Printed/Typed Name of Signer

Signature

June 30, 2015
Date

Attest:	Approved as to Content:	Approved as to Form:
Rebecca Garza City Secretary	Bridget Faulkenberry Parks and Recreation Director	Laura Pratt Assistant City Attorney

10/13/15 2:20 PM

Provider Name: City of Lubbock

AAA Name: Area Agency on Aging of South Plains

Congregate Meals

BUDGET WORKSHEET CERTIFICATION

AS SIGNER OF THIS BUDGET WORKSHEET, I HEREBY CERTIFY THAT:

- **I have read the note below and the instructions applicable to this budget worksheet.**
- **I have reviewed this budget worksheet after its preparation.**
- **To the best of my knowledge and belief, this budget worksheet is true, correct and complete, and was prepared in accordance with the instructions applicable to this budget worksheet.**
- **This budget worksheet was prepared from the books and records of the contracted provider.**
- **I acknowledge that all books and records related to this rate setting process are subject to audit in accordance with contract requirements and all applicable federal and state laws.**

Note: The person legally responsible for the conduct of the contracted provider must sign this Budget Worksheet Certification. If a sole proprietor, the owner must sign the Budget Worksheet Certification. If a partnership, a partner must sign the Budget Worksheet Certification. If a corporation, the person authorized by the Board of Directors Resolution must sign the Budget Worksheet Certification. Misrepresentation of information contained in the budget worksheet may result in adverse action, up to and including contract termination. Furthermore, falsification of information in the budget worksheet may result in a referral for prosecution.

City of Lubbock	
Name of Contracted Provider	Printed/Typed Name of Signer
October 1, 2015	
Date	Signature

Signer Authority: (check one)

- ☐ Sole Proprietor
- ☐ Partner
- ☐ Corporate Officer
- ☐ Association Officer
- ☐ Board Member
- ☑ Governmental Official

Attest:	Approved as to Content:	Approved as to Form:
Rebecca Garza City Secretary	Bridget Faulkenberry Parks and Recreation Director	Laura Pratt Assistant City Attorney

10/13/15 2:20 PM

AAA Name: Area Agency on Aging of South Plains

Congregate Meals

IN-KIND MATCH CERTIFICATION

Provider: City of Lubbock

In-kind Contribution(s): $5,459

For any item identified below, you must maintain support documentation.

ITEM	DATE OF RECEIPT	VALUE
RSVP Volunteers @ Lubbock Senior Center		
3 Volunteers X 1 hr/day X 251 days X $7.25/hour Min Wage		$5,459
	TOTAL	$5,459

Note: All contributions must meet the requirements of IRS Publication 561
http://www.irs.gov/pub/irs-pdf/p561.pdf

Examples of Documentation Include:

Rent:
1. Letter of Agreement with Owner
2. Adequate Valuation of Property on a Current Basis (this should be reviewed at least every two years and if senior center, based on property value and center participation)

Labor:
1. Minimum wage
2. Documented prevailing wage in the Area. For prevailing wage information visit the Texas Workforce Commission's website at http://www.tracer2.com/.

All in-kind labor must be required for the service to be provided. If you would not hire someone to perform the labor if it were not in-kind then you cannot count it.

Utilities:
1. Copy of Bill
2. Agreement of Amount Paid if Partial

City of Lubbock
Name of Contracted Provider

Printed/Typed Name of Signer

October 1, 2015
Date

Signature

Attest:	Approved as to Content:	Approved as to Form:
Rebecca Garza City Secretary	Bridget Faulkenberry Parks and Recreation Director	Laura Pratt Assistant City Attorney

10/13/15 2:21 PM
Provider Name: City of Lubbock
AAA Name: Area Agency on Aging of South Plains

Transportation
BUDGET WORKSHEET CALCULATION OF THE UNIT RATE

1.Total Budgeted Expenses for Contract Year — 1. $ 52,198.31

2.Total Number of Anticipated Units to be Provided

DADS A&I AAA - 10 % Match Required	3,145	Program Income	145	Other Sources 6	0	
DADS A&I AAA - 25 % Match Required	0	Local Funds - Eligible Trips	2,999	Other Sources 7	0	
DADS A&I AAA - Full Unit Rate	0	Other Funds - Non-Eligible Trips	0	Other Sources 8	0	2. 6,289

3. Cost per unit (Line 1 divided by Line 2) - Full Unit Rate — 3. $ 8.30

Reimbursement Calculation for Contracts Requiring Unit Rate Match Reduction

4. Mandatory Local Match of 10%	$ 0.83	
** If Applicable, Match Reduction From the In-kind Match Certification form	$ -	
Required Match		4. $ 0.83
5.Full Unit Rate Less Required Match (Line 3 minus Line 4		5. $ 7.47

4. Mandatory Local Match of 25%	$ 2.08	
** If Applicable, Match Reduction From the In-kind Match Certification form	$ -	
Required Match		4. $ 2.08
5.Full Unit Rate Less Required Match (Line 3 minus Line 4		5. $ 6.22

**If any portion of the required match is in-kind, you must complete an In-Kind Match Certification form.

Contract Reimbursed at Full Cost Per Unit Rate. Match Requirements Will Be Met Through Provision of Additional Units

$ 8.30 — Contractor Initial — AAA Initial

City of Lubbock Legal Name of Contracted Provider	Area Agency on Aging of South Plains Name of Area Agency on Aging
Signature	Signature
Printed/Typed Name of Signer	Tim C. Pierce Printed/Typed Name of Signer
10/01/15 Date	06/30/15 Date

Attest:	Approved as to Content:	Approved as to Form:
Rebecca Garza City Secretary	Bridget Faulkenberry Parks and Recreation Director	Laura Pratt Assistant City Attorney

10/13/15 3:13 PM
Provider Name: City of Lubbock
AAA Name: Area Agency on Aging of South Plains

Transportation

BUDGET WORKSHEET CERTIFICATION

AS SIGNER OF THIS BUDGET WORKSHEET, I HEREBY CERTIFY THAT:

- **I have read the note below and the instructions applicable to this budget worksheet.**
- **I have reviewed this budget worksheet after its preparation.**
- **To the best of my knowledge and belief, this budget worksheet is true, correct and complete, and was prepared in accordance with the instructions applicable to this budget worksheet.**
- **This budget worksheet was prepared from the books and records of the contracted provider.**
- **I acknowledge that all books and records related to this rate setting process are subject to audit in accordance with contract requirements and all applicable federal and state laws.**

Note: **The person legally responsible for the conduct of the contracted provider must sign this Budget Worksheet Certification. If a sole proprietor, the owner must sign the Budget Worksheet Certification. If a partnership, a partner must sign the Budget Worksheet Certification. If a corporation, the person authorized by the Board of Directors Resolution must sign the Budget Worksheet Certification. Misrepresentation of information contained in the budget worksheet may result in adverse action, up to and including contract termination. Furthermore, falsification of information in the budget worksheet may result in a referral for prosecution.**

City of Lubbock
Name of Contracted Provider

Printed/Typed Name of Signer

October 1, 2015
Date

Signature

Signer Authority: (check one)

- ☐ Sole Proprietor
- ☐ Partner
- ☐ Corporate Officer
- ☐ Association Officer
- ☐ Board Member
- ☑ Governmental Official

Attest:	Approved as to Content:	Approved as to Form:
Rebecca Garza City Secretary	Bridget Faulkenberry Parks and Recreation Director	Laura Pratt Assistant City Attorney

Regular City Council Meeting **5. 1. 2.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - Health Department: Consider a resolution authorizing and directing the Mayor to execute for and on behalf of the City of Lubbock Contract 2016-004025 and any associated documents with the State of Texas acting by and through its Department of State Health Services (DSHS).

Item Summary

This contract with the DSHS requires that the City of Lubbock shall administer programs and perform activities in support of the Public Health Emergency Preparedness Cooperative Agreement (PHEP) from the Centers for Disease Control and Prevention. The Statement of Work is attached.

The total amount of this contract is $40,698 provided in the State contract. The contract period is from November 5, 2015 until June 30, 2016.

Fiscal Impact

The total amount of this contract is $40,698 provided in the State contract. A 10% match is requried, which will be met by rented space used to store PHEP supplies.

Staff/Board Recommending

Scott Snider, Assistant City Manager

Attachments

Resolution - Health Department

Contract - Health Services

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, an interlocal agreement (**PHEP - Contract No. 2016-004025-00**) with the State of Texas' Department of State Health Services (DSHS) to obtain grant funding for services or goods to improve or strengthen the local public health Emergency preparedness (PHEP). Said interlocal agreement is attached hereto and incorporated in this Resolution as if fully set forth herein and shall be included in the minutes of the Council.

Passed by the City Council this _____ 2015.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Katherine Wells, MPH,
Director of Public Health

APPROVED AS TO FORM:

_____
John C. Grace, Assistant City Attorney

S:\cityatt\CCDOCS\RES.HealthDeptContractNo2016-004025-00_PHEP.doc

DEPARTMENT OF STATE HEALTH SERVICES
CONTRACT 2016-004025-00

This Contract is entered into by and between the Department of State Health Services (DSHS or the Department), an agency of the State of Texas, and City of Lubbock (Contractor), a Governmental, (collectively, the Parties) entity.

1. Purpose of the Contract: DSHS agrees to purchase, and Contractor agrees to provide, services or goods to the eligible populations.

2. Total Amount: The total amount of this Contract is $40,698.00.

3. Funding Obligation: This Contract is contingent upon the continued availability of funding. If funds become unavailable through lack of appropriations, budget cuts, transfer of funds between programs or health and human services agencies, amendment to the Appropriations Act, health and human services agency consolidation, or any other disruptions of current appropriated funding for this Contract, DSHS may restrict, reduce, or terminate funding under this Contract.

4. Term of the Contract: This Contract begins on 11/05/2015 and ends on 06/30/2016. DSHS has the option, in its sole discretion, to renew the Contract. DSHS is not responsible for payment under this Contract before both parties have signed the Contract or before the start date of the Contract, whichever is later.

5. Authority: As applicable, DSHS enters into this Contract under the authority of Texas Health and Safety Code Chapters 12 or 1001 or Texas Government Code Chapters 531, 771, 791 or 2155.

6. Program Name: CPS/OT-UNIQUE CPS – One Time Discretionary Unique Contracts

7. Statement of Work:

STATEMENT OF WORK:

A. The Contractor will complete one time funding activities during the term of this Contract that aligns with one or more of the 15 PHEP capabilities by performing activities that support the Public Health Emergency Preparedness Cooperative Agreement (Funding Opportunity Number CDC-RFA-TP12-120104CONT15) from the Centers for Disease Control and Prevention (CDC).
The total amount of this Contract will not exceed $40,698.00.

Contractor will perform the activities required under this Contract in the Service Area designated in the most recent version of Section 8. "Service Area" of this contract.

CDC's five-year PHEP – Hospital Preparedness Program (HPP) Cooperative Agreement seeks to align PHEP and HPP programs by advancing public health and healthcare preparedness.

B. The Contractor will address the following CDC PHEP Capabilities that are specific to the Funding Award.

1. Capability 1 – Community Preparedness is the ability of communities to prepare for, withstand, and recover – in both the short and long terms – from public health incidents.

2. Capability 2 – Community Recovery is the ability to collaborate with community partners, e.g., healthcare organizations, business, education, and emergency management) to plan and advocate for the rebuilding of public health, medical, and mental/behavioral health systems to at least a level of functioning comparable to pre-incident levels and improved levels where possible.

3. Capability 3 – Emergency Operations Center Coordination is ability to direct and support an event or incident with public health or medical implications by establishing a standardized, scalable system of oversight, organization, and supervision consistent with jurisdictional standards and practices with the National Incident Management System.

4. Capability 4 – Emergency Public Information and Warning is the ability to develop, coordinate, and disseminate information, alerts, warnings, and notifications to the public and incident management responders.

5. Capability 5 – Fatality Management is the ability coordinate with other organizations (e.g., law enforcement, healthcare, emergency management, and medical examiner/coroner) to ensure the proper recovery, handling, identification, transportation, tracking, storage, and disposal of human remains and personal effects; certify cause of death, and facilitate access to mental/behavioral health services to the family members, responders, and survivors of an incident.

6. Capability 6 – Information Sharing is the ability to conduct multijurisdictional, multidisciplinary exchange of health-related information and situational awareness data among federal, state, local, territorial, and tribal levels of government, and the private sector. This capability includes the routine sharing of information as well as issuing of public health alerts to federal, state, local, territorial, and tribal levels of government and the private sector in preparation for and in response to events or incidents of public health significance.

7. Capability 7 – Mass Care is the ability to coordinate with partner agencies to address the public health, medical, and mental/behavioral health needs of those impacted by an incident at a congregate location.

This capability includes the coordination of ongoing surveillance and assessment to ensure that local health needs to continue to me met as the incident evolves.

8. Capability 8 – Medical Countermeasure Dispensing is the ability to provide medical countermeasures (including vaccines, antiviral drugs, antibiotics, antitoxin, etc.) in support of treatment or prophylaxis (oral or vaccination) to the identified population in accordance with public health guidelines and/or recommendations.

9. Capability 9 – Medical Material Management and Distribution is the ability to acquire, maintain (e.g., cold chain storage or other storage protocol), transport distribute, and track medical material (e.g., pharmaceuticals, gloves, masks, and ventilators) during an incident and to recover and account for unused medical material, as necessary, after an incident.

10. Capability 10 – Medical Surge is the ability to provide adequate medical evaluation and care during events that exceed the limits of the normal medical infrastructure of an affected community. It encompasses the ability of the healthcare system to survive a hazard impact and maintain or rapidly recover operations that were compromised.

11. Capability 11 – Non-Pharmaceutical Interventions is the ability to recommend to the applicable lead agency (if not public health) and implement, if applicable, strategies for disease, injury, and exposure control. Strategies include the following: isolation and quarantine; restrictions on movement and travel advisory/warnings; social distancing; external decontamination; hygiene; and precautionary behaviors.

12. Capability 12 – Public Health Laboratory Testing is the ability to conduct rapid and conventional detection, characterization, confirmatory testing, data reporting, investigative support, and laboratory networking to address actual or potential exposure to all-hazards. Hazards include chemical, radiological, and biological, and biological agents in multiple matrices that may include clinical samples, food, and environmental samples (e.g., water, air, and soil). This capability supports routine surveillance, including pre-event incident and post-exposure activities.

13. Capability 13 – Public Health Surveillance and Epidemiological Investigations is the ability to create, maintain, support and strengthen routine surveillance and detection systems and epidemiological investigation processes, as well as to expand these systems and processes in response to incidents of public health significance.

14. Capability 14 – Responder Safety and Health describes the ability to protect public health agency staff responding to an incident and the ability to support the health and safety needs of hospital and medical facility personnel, if requested.

15. Capability 15 – Volunteer Management is the ability to coordinate the identification, recruitment, registration, credential verification, training and engagement of volunteers to support the jurisdictional public health agency's response to incidents of public health significance.

C. Contractor will not exceed the total amount of this Contract..

D. Contractor will comply with all applicable federal and state laws, rules, and regulations including, but not limited to, the following:
1. Public Law 107-188, Public Health Security and Bioterrorism Preparedness and Response Act of 2002;
2. Public Law 113-05, Pandemic and All-Hazards Preparedness Reauthorization Act; and
3. Texas Health and Safety Code Chapter 81.

E. The Parties have the authority under Texas Government Code Chapter 791 to enter into this Interlocal Cooperation Contract.

F. The following documents and resources are incorporated by reference and made a part of this Contract:

1. DSHS and CDC Public Health Emergency Preparedness Cooperative Agreement, Funding Opportunity Number: CDC-RFA-TP12-120102CONT14;
2. Public Health Preparedness Capabilities: National Standards for State and Local Planning, March 2011:
http://www.cdc.gov/phpr/capabilities/DSLR_capabilities_July.pdf;
3. Presidential Policy Directive 8/PPD-8, March 30, 2011:
http://www.hlswatch.com/wp-content/uploads/2011/04/PPD-8-Preparedness.pdf;
4. Homeland Security Exercise and Evaluation Plan (HSEEP) Documents:
https://hseep.dhs.gov/pages/1001_HSEEP7.aspx;
5. Ready or Not? Have a Plan; Surviving Disaster: How Texans Prepare (videos):
http://www.texasprepares.org/survivingdisaster.htm; and
6. Preparedness Program Guidance(s) as provided by DSHS and CDC.

G. Funds awarded for this Contract must be matched by costs or third-party contributions that are not paid by the Federal Government under another award, except where authorized by Federal statute to be used for cost sharing or matching. The non-federal contributions (match) may be provided directly or through donations from public or private entities and may be in cash or in-kind donations, fairly evaluated, including plant, equipment, or services. The costs that the Contractor incurs in fulfilling the matching or cost-sharing requirement are subject to the same requirements, including the cost principles, that are applicable to the use of Federal funds, including prior approval requirements and other rules for allowable costs as described in 45 CFR 74.23 and 45 CFR 92.24.

H. The Contractor is required to provide matching funds for this Contract not less than ten-percent of the allocation amount. Cash match is defined as an expenditure of cash by the contractor on allowable costs of this Contract that are borne by the contractor. In-kind match is defined as the dollar value of non-cash contributions by a third party given in goods, commodities, or services that are used in activities that benefit this Contract's project and that are contributed by non-federal third parties without charge to the contractor. The criteria for match must:

1. Be an allowable cost under the applicable federal cost principle;
2. Be necessary and reasonable for the efficient accomplishment of project or program objectives;
3. Be verifiable within the contractor's (or subcontractor's) records;
4. Be documented, including methods and sources, in the approved budget (applies only to cost reimbursement Contracts);
5. Not be included as contributions toward any other federally-assisted project or program (match can count only once);
6. Not be paid by the Federal Government under another award, except where authorized by Federal statute to be used for cost sharing or match;
7. conform to other provisions of governing circulars/statutes/regulations as applicable for the Contract;
8. Be adequately documented;
9. Must follow procedures for generally accepted accounting practices as well as meet audit requirements; and
10. Value the in-kind contributions reported and must be supported by documentation reflecting the use of goods and/or services during the Contract term.

I. In the event of a public health emergency involving a portion of the state, Contractor will mobilize and dispatch staff or equipment purchased with funds from the previous PHEP cooperative agreement and that are not performing critical duties in the jurisdiction served to the affected area of the state upon receipt of a written request from DSHS. This provision is not applicable if the Contractor is an institution of higher education or a poison control center.

J. Contractor will inform DSHS in writing if Contractor will not continue performance under this Contract within thirty days of receipt of an amended standard(s) or guideline(s). DSHS may terminate this Contract immediately or within a reasonable period of time as determined by DSHS.

K. Contractor will develop, implement and maintain a timekeeping system for accurately documenting staff time and salary expenditures for all staff funded through this Contract, including partial full-time employees and temporary staff.

L. DSHS reserves the right, where allowed by legal authority, to redirect funds in the event of financial shortfalls. DSHS will monitor Contractor's expenditures on a quarterly basis. If expenditures are below that projected in Contractor's total Contract amount, Contractor's budget may be subject to a decrease for the remainder of the Term of the Contract. If applicable, vacant positions existing after ninety days may result in a decrease in funds.

M. The Contractor will:
1. Submit programmatic reports as directed by DSHS in a format specified by DSHS. Contractor will provide DSHS other reports, including financial reports, and any other reports that DSHS determines necessary to accomplish the objectives of this contract and to monitor compliance; and

2. Submit reports as requested by DSHS to satisfy information-sharing Requirements set forth in Texas Government Code, Sections 421.071 and 421.072 (b) and (c).

If Contractor is legally prohibited from providing such reports, Contractor will immediately notify DSHS in writing.

N. In the event of a local, state, or federal emergency the Contractor has the authority to utilize approximately five percent of the Contractor's staff's time supporting this Contract for response efforts. DSHS will reimburse Contractor up to five percent of this Contract funded by CDC for personnel costs responding to an emergency event. Contractor will maintain records to document the time spent on response efforts for auditing purposes. Allowable activities also include participation of drills and exercises in the pre-event time period. Contractor will notify the Assigned Contract Manager in writing when this provision is implemented.

O. For the purposes of this Contract, the Contractor may not use funds for fundraising activities, lobbying, research, construction, major renovations, and reimbursement of pre-award costs, clinical care, purchase of vehicles of any kind, funding an award to another party or provider who is ineligible, backfilling costs for staff or the purchase of incentive items.

P. Contractor may transfer cumulative budget line items of 25% or less among direct cost categories, other than equipment and indirect without prior approval from DSHS or a written amendment.

PERFORMANCE MEASURES:

A. DSHS will monitor the Contractor's compliance with the requirements in Section 7 and this Contract and failure to meet these requirements may result in withholding a portion of the current PHEP base awards.

BILLING INSTRUCTIONS:

Contractor will request payment using the State of Texas Purchase Voucher (Form B-13) on a monthly basis and acceptable supporting documentation for reimbursement of the required services/deliverables. Additionally, the Contractor will submit the Financial Status Report (FSR-269A) and Match Reimbursement Certification (B-13A) on a quarterly basis. Vouchers, supporting documentation, Financial Status Reports, and Match Reimbursement Certification should be mailed or submitted by fax or email to the addresses/number below.

Claims Processing Unit, MC1940
Texas Department of State Health Services
1100 West 49th Street
PO Box 149347
Austin, TX 78714-9347
Fax: (512) 458-7442

B-13 invoices@dshs.state.tx.us & Php.vouchersupport@dshs.state.tx.us

Support Document: invoices@dshs.state.tx.us & Php.vouchersupport@dshs.state.tx.us

B-13A: invoices@dshs.state.tx.us & Php.vouchersupport@dshs.state.tx.us

FSR: invoices@dshs.state.tx.us & Php.vouchersupport@dshs.state.tx.us & FSRGrants@dshs.state.tx.us

8. Service Area

Lubbock County

This section intentionally left blank.

10. Procurement method:

Non-Competitive | Interagency/Interlocal

GST-2016-Solicitation-00044 | RLHS FY16 OT-Unique LHD NEW CONTRACT

11. Renewals:

Number of Renewals Remaining: 0 Date Renewals Expire: 06/30/2016

12. Payment Method:

Cost Reimbursement

13. Source of Funds:

93.069

14. DUNS Number:

058213893

15. Programmatic Reporting Requirements:

Report Name	Frequency	Period Begin	Period End	Due Date
Financial Status Report (FSR)	Quarterly	11-5-2015	12-31-2015	1-31-2016
Financial Status Report (FSR)	Quarterly	1-1-2016	3-31-2016	4-30-2016
Financial Status Report (FSR)	Quarterly	4-1-2016	6-30-2016	8-15-2016

Submission Instructions:

Contractors are required to provide specific information to have an acceptable e-signature. The name and title of the certifying official must be printed in the designated areas at the bottom of the FSR. The e-mail with the FSR attached must then be sent by the certifying official name as stated on that FSR. Anything else will not be accepted.

FSR: invoices@dshs.state.tx.us & Php.vouchersupport@dshs.state.tx.us & FSRGrants@dshs.state.tx.us

16. Special Provisions

SPECIAL PROVISIONS:

The Parties agree to the following changes to DSHS FY 2016 General Provisions (Core/Subrecipient).

A. General Provisions, Compliance and Reporting Article II, Applicable Laws and Regulations Regarding Funding Sources, Section 2.06, is amended by deleting Section 2.06 in its entirety and replacing it with the following:

When applicable, federal statutes, regulations and/or federal grant requirements applicable to funding sources and any updates to such will apply to this Contract. Contractor agrees to comply with applicable laws, executive orders, regulations and policies, as well as Office of Management and Budget (OMB) Circulars (as codified in Title 2, 200 of the Code of Federal Regulations (CFR) and 45 CFR 75) the Uniform Grant and Contract Management Act of 1981 (UGMA), Tex. Gov. Code Chapter 783, and Uniform Grant Management Standards (UGMS), as revised by federal circulars and incorporated in UGMS by the Comptroller of Public Accounts, Texas Procurement and Support Services Division. UGMA and UGMS can be located through web links on the DSHS website at http://www.dshs.state.tx.us/contracts/links.shtm. Contractor also shall comply with all applicable federal and state assurances contained in UGMS, Part III, State Uniform Administrative Requirements for Grants and Cooperative Agreements §__.14. If applicable, Contractor shall comply with the Federal awarding agency's Common Rule, and the U.S. Health and Human Services Grants Policy Statement, both of which may be located through web links on the DSHS website at http://www.dshs.state.tx.us/contracts/links.shtm. For contracts funded by block grants, Contractor shall comply with Tex. Gov. Code Chapter 2105.

B. General Provisions, Final Invoice/Billing Submission, Section 5.03 is modified to provide that Contractor will submit final close-out bill or revisions to previous reimbursement request(s) no later than August 15, 2016.

C. General Provisions, Compliance and Reporting, Article II, Section 2.08(a) is modified by deleting it in its entirety and replacing it with the following language.
a. The following sections or portions of sections of these General Provisions will not apply to interagency or interlocal contracts:
i. Hold Harmless and Indemnification, Section 14.17;
ii. Independent Contractor, Section 13.05 (delete the third sentence in its entirety; delete the word "employees" in the fourth sentence; the remainder of the section applies);
iii. Insurance, Section 14.22;
iv. Liability Coverage, Section 25.03;
v. Fidelity Bond, Section 25.02;
vi. Historically Underutilized Businesses, Section 13.02 (Contractor, however, will comply with HUB requirements of other statutes and rules specifically applicable to that entity);
vii. Debt to State and Corporate Status, Section 4.01;
viii. Application of Payment Due, Section 4.02; and
ix. Article XVI Claims against the Department (This Article is inapplicable to interagency contracts only).

D. General Provisions, Payment Methods and Restrictions, Article V, Section 5.01 is revised to include the following:

Contractor may request a one-time working capital advance not to exceed 12% of the total amount of the Contract funded by DSHS. All advances must be expended by the end of the contract term. Advances not

expended by the end of the contract term must be refunded to DSHS.
Contractors will repay all or part of advance funds at any time during the Contract's term. However, if the advance has not been repaid prior to the last three months of the Contract term, the contractor must deduct at least one-third of the remaining advance from each of the last three months' reimbursement requests. If the advance is not repaid prior to the last three months of the Contract term, DSHS will reduce the reimbursement request by one-third of the remaining balance of the advance.

E. General Provisions, Access and Inspection Article X, Section 10.01 is revised to include the following:

In addition to the site visits authorized by this Article of the General Provisions, Contractor will allow DSHS to conduct on-site quality assurance reviews of Contractor. Contractor will comply with all DSHS documentation requests and on-site visits. Contractor will make available for review all documents related to the Contract, upon request by the DSHS Program staff.

F. General Provisions, Program Equipment and Supplies Article XXII, Section 22.01, is revised as follows:
Contractor is required to initiate the purchase of approved equipment no later than June 30, 2016 as documented by issue of a purchase order or written order confirmation from the vendor on or before June 30, 2016. In addition, all equipment and supplies must be received no later than 45 calendar days following the end of the Contract term.

G. General Provisions, General Terms Article XIV, Amendment Section 14.12, is amended to include the following:

Contractor must submit all amendment and revision requests in writing to the Division Contract Management Unit at least 90 days prior to the end of the term of this Contract.

The final paragraph of Section 7.01 of the Fiscal Year 2016 Department of State Health Services Contract General Provisions, regarding incorporation of the HHS Data Use Agreement, is deleted.

17. Documents Forming Contract. The Contract consists of the following:

a. Contract (this document)	2016-004025-00
b. General Provisions	2016 General & Grant Subrecipient Additional Provisions (LHD)
c. Attachments	Budget
d. Declarations	Certification Regarding Lobbying, Fiscal Federal Funding Accountability and Transparency Act (FFATA) Certification
e. Exhibits	

Any changes made to the Contract, whether by edit or attachment, do not form part of the Contract unless expressly agreed to in writing by DSHS and Contractor and incorporated herein.

18. Conflicting Terms. In the event of conflicting terms among the documents forming this Contract, the order of control is first the Contract, then the General Provisions, then the Solicitation Document, if any, and then Contractor's response to the Solicitation Document, if any.

19. Payee. The Parties agree that the following payee is entitled to receive payment for services rendered by Contractor or goods received under this Contract:

Name:	City of Lubbock
Vendor Identification Number:	17560005906

20. Entire Agreement. The Parties acknowledge that this Contract is the entire agreement of the Parties and that there are no agreements or understandings, written or oral, between them with respect to the subject matter of this Contract, other than as set forth in this Contract.

I certify that I am authorized to sign this document and I have read and agree to all parts of the contract,

Department of State Health Services

By:
Signature of Authorized Official

Date

Name and Title
1100 West 49th Street
Address
Austin, TX 78756-4204
City, State, Zip

Telephone Number

E-mail Address

City of Lubbock

_____
Glen C. Robertson, Mayor

City of Lubbock, Texas
1625 13th Street
PO Box 2000
Lubbock, TX 79457-2000
(806) 775-2000

Attest:

_____
Rebecca Garza, City Secretary

Approved as to Content:

_____
Katherine Wells, Director of Public Health

Approved as to Form:

_____
John C. Grace, Asst. City Attorney

Budget Summary

Organization Name: City of Lubbock

Program ID: CPS/OT-UNIQUE

Contract Number: 2016-004025-00

Budget Categories

Budget Categories	DSHS Funds Requested	Cash Match	In Kind Match Contributions	Category Total
Personnel	$0.00	$0.00	$0.00	$0.00
Fringe Benefits	$0.00	$0.00	$0.00	$0.00
Travel	$1,300.00	$0.00	$0.00	$1,300.00
Equipment	$0.00	$0.00	$0.00	$0.00
Supplies	$22,148.00	$0.00	$0.00	$22,148.00
Contractual	$7,200.00	$0.00	$0.00	$7,200.00
Other	$10,050.00	$4,069.00	$0.00	$14,119.00
Total Direct Costs	$40,698.00	$4,069.00	$0.00	$44,767.00
Indirect Costs	$0.00	$0.00	$0.00	$0.00
Totals	$40,698.00	$4,069.00	$0.00	$44,767.00

Regular City Council Meeting **5. 1. 3.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - Police: Consider a resolution authorizing the Mayor to execute an agreement with the United States Department of Justice for an Edward Byrne Memorial Justice Assistance Grant to fund the Lubbock County Joint Enforcement Initiative Program.

Item Summary

Accept $139,342 from the DOJ for the Edward Byrne Memorial JAG to fund the Lubbock County Joint Enforcement Initiative Program. The City of Lubbock and Lubbock County are each eligible to receive funding and agree to share the grant equally, each receiving $69,671. The Lubbock Police Department (LPD) will manage the grant.

The LPD will use grant funds to purchase equipment such as the Cellphone Download System. With the current proliferation of digital communication, more and more evidence is being found stored on mobile devices. LPD currently has two systems for downloading information from mobile devices. Due to the sheer volume of evidence being recovered from mobile devices, the two current systems are in constant demand and recovery of crucial information is slowed. The purchase of two more systems will allow more expedient processing of evidence in criminal investigations. Grant funds were originally earmarked for the purchase of Laptop computers for patrol vehicles. However, with the recent decision by the Council to purchase an entire new system for patrol vehicles, this is no longer necessary. The DOJ has approved an expenditure change to allow the COL to use grant funds to purchase a larger server in order to accommodate the increased storage needs required by the new system. This purchase will be combined with a previous grant in order to fully fund the project.

Fiscal Impact

The City will provide to the County $69,671 from the $139,342 JAG award for the FY 2015-16 JAG Lubbock County Joint Law Enforcement Initiative Program.

Staff/Board Recommending

Greg Stevens, Chief of Police

Attachments

Resolution - JAG Award
Grant - DOJ
Budget Narrative - JAG
Grant Reward - Budget Detail - JAG

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute on behalf of the City of Lubbock a FY 15 Edward Byrne Memorial Justice Assistance Grant (JAG) Award Agreement and any associated documents with the United States Department of Justice, which Agreement and any associated documents are attached hereto and made a part hereof for all intents and purposes.

GLEN C. ROBERTSON, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Ned Barron for Greg Stevens

Greg Stevens, Chief of Police

APPROVED AS TO FORM:

Jeff Hartsell, Assistant City Attorney

vw:ccdocs/RES.FY 15 JAG Grant Award
November 11, 2015

Department of Justice

Office of Justice Programs

Bureau of Justice Assistance

Office of Justice Programs *Washington, D.C. 20531*

September 2, 2015

Mr. Roy E. Bassett
City of Lubbock
1625 13th St.
Lubbock, TX 79401-2726

Dear Mr. Bassett:

On behalf of Attorney General Loretta Lynch, it is my pleasure to inform you that the Office of Justice Programs has approved your application for funding under the FY 15 Edward Byrne Memorial Justice Assistance Grant (JAG) Program - Local Solicitation in the amount of $139,342 for City of Lubbock.

Enclosed you will find the Grant Award and Special Conditions documents. This award is subject to all administrative and financial requirements, including the timely submission of all financial and programmatic reports, resolution of all interim audit findings, and the maintenance of a minimum level of cash-on-hand. Should you not adhere to these requirements, you will be in violation of the terms of this agreement and the award will be subject to termination for cause or other administrative action as appropriate.

If you have questions regarding this award, please contact:

- Program Questions, Olga Santiago, Program Manager at (202) 532-0117; and
- Financial Questions, the Office of the Chief Financial Officer, Customer Service Center (CSC) at (800) 458-0786, or you may contact the CSC at ask.ocfo@usdoj.gov.

Congratulations, and we look forward to working with you.

Sincerely,

Denise O'Donnell
Director

Enclosures

OFFICE FOR CIVIL RIGHTS

Office of Justice Programs

Department of Justice

810 7th Street, NW
Washington, DC 20531

Tel: (202) 307-0690
TTY: (202) 307-2027
E-mail: askOCR@usdoj.gov
Website: www.ojp.usdoj.gov/ocr

September 2, 2015

Mr. Roy E. Bassett
City of Lubbock
1625 13th St.
Lubbock, TX 79401-2726

Dear Mr. Bassett,

Congratulations on your recent award. In establishing financial assistance programs, Congress linked the receipt of federal funding to compliance with federal civil rights laws. The Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) is responsible for ensuring that recipients of financial assistance from the OJP, the Office of Community Oriented Policing Services (COPS), and the Office on Violence Against Women (OVW) comply with the applicable federal civil rights laws. We at the OCR are available to help you and your organization meet the civil rights requirements that come with DOJ funding.

Ensuring Access to Federally Assisted Programs

Federal laws that apply to recipients of financial assistance from the DOJ prohibit discrimination on the basis of race, color, national origin, religion, sex, or disability in funded programs or activities, not only in employment but also in the delivery of services or benefits. A federal law also prohibits recipients from discriminating on the basis of age in the delivery of services or benefits.

In March of 2013, President Obama signed the Violence Against Women Reauthorization Act of 2013. The statute amends the Violence Against Women Act of 1994 (VAWA) by including a nondiscrimination grant condition that prohibits discrimination based on actual or perceived race, color, national origin, religion, sex, disability, sexual orientation, or gender identity. The new nondiscrimination grant condition applies to certain programs funded after October 1, 2013. The OCR and the OVW have developed answers to some frequently asked questions about this provision to assist recipients of VAWA funds to understand their obligations. The Frequently Asked Questions are available at http://ojp.gov/about/ocr/vawafaqs.htm.

Enforcing Civil Rights Laws

All recipients of federal financial assistance, regardless of the particular funding source, the amount of the grant award, or the number of employees in the workforce, are subject to prohibitions against unlawful discrimination. Accordingly, the OCR investigates recipients that are the subject of discrimination complaints from both individuals and groups. In addition, based on regulatory criteria, the OCR selects a number of recipients each year for compliance reviews, audits that require recipients to submit data showing that they are providing services equitably to all segments of their service population and that their employment practices meet equal opportunity standards.

Providing Services to Limited English Proficiency (LEP) Individuals

In accordance with DOJ guidance pertaining to Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, recipients of federal financial assistance must take reasonable steps to provide meaningful access to their programs and activities for persons with limited English proficiency (LEP). See U.S. Department of Justice, Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41,455 (2002). For more information on the civil rights responsibilities that recipients have in providing language services to LEP individuals, please see the website http://www.lep.gov.

Ensuring Equal Treatment for Faith-Based Organizations

The DOJ regulation, Equal Treatment for Faith-Based Organizations, 28 C.F.R. pt. 38, requires State Administering Agencies (SAAs) to treat faith-based organizations the same as any other applicant or recipient. The regulation prohibits SAAs from making awards or grant administration decisions on the basis of an organization's religious character or affiliation, religious name, or the religious composition of its board of directors.

The regulation also prohibits faith-based organizations from using financial assistance from the DOJ to fund inherently (or explicitly) religious activities. While faith-based organizations can engage in non-funded inherently religious activities, they must hold them separately from the program funded by the DOJ, and recipients cannot compel beneficiaries to participate in them. The Equal Treatment Regulation also makes clear that organizations participating in programs funded by the DOJ are not permitted to discriminate in the provision of services on the basis of a beneficiary's religion. For more information on the regulation, please see the OCR's website at http://www.ojp.usdoj.gov/about/ocr/equal_fbo.htm.

SAAs and faith-based organizations should also note that the Omnibus Crime Control and Safe Streets Act (Safe Streets Act) of 1968, as amended, 42 U.S.C. § 3789d(c); the Victims of Crime Act of 1984, as amended, 42 U.S.C. § 10604(c); the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. § 5672(b); and VAWA, Pub. L. No. 113-4, sec. 3(b)(4), 127 Stat. 54, 61-62 (to be codified at 42 U.S.C. § 13925(b)(13)) contain prohibitions against discrimination on the basis of religion in employment. Despite these nondiscrimination provisions, the DOJ has concluded that it may construe the Religious Freedom Restoration Act (RFRA) on a case-by-case basis to permit some faith-based organizations to receive DOJ funds while taking into account religion when hiring staff, even if the statute that authorizes the funding program generally forbids recipients from considering religion in employment decisions. Please consult with the OCR if you have any questions about the regulation or the application of RFRA to the statutes that prohibit discrimination in employment.

Using Arrest and Conviction Records in Making Employment Decisions

The OCR issued an advisory document for recipients on the proper use of arrest and conviction records in making hiring decisions. See Advisory for Recipients of Financial Assistance from the U.S. Department of Justice on the U.S. Equal Employment Opportunity Commission's Enforcement Guidance: Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964 (June 2013), available at http://www.ojp.usdoj.gov//about/ocr/pdfs/UseofConviction_Advisory.pdf. Recipients should be mindful that the misuse of arrest or conviction records to screen either applicants for employment or employees for retention or promotion may have a disparate impact based on race or national origin, resulting in unlawful employment discrimination. In light of the Advisory, recipients should consult local counsel in reviewing their employment practices. If warranted, recipients should also incorporate an analysis of the use of arrest and conviction records in their Equal Employment Opportunity Plans (EEOPs) (see below).

Complying with the Safe Streets Act

An organization that is a recipient of financial assistance subject to the nondiscrimination provisions of the Safe Streets Act, must meet two obligations: (1) complying with the federal regulation pertaining to the development of an EEOP (see 28 C.F.R. pt. 42, subpt. E) and (2) submitting to the OCR findings of discrimination (see 28 C.F.R. §§ 42.204(c), .205(c)(5)).

Meeting the EEOP Requirement

If your organization has less than fifty employees or receives an award of less than $25,000 or is a nonprofit organization, a medical institution, an educational institution, or an Indian tribe, then it is exempt from the EEOP requirement. To claim the exemption, your organization must complete and submit Section A of the Certification Form, which is available online at http://www.ojp.usdoj.gov/about/ocr/pdfs/cert.pdf.

If your organization is a government agency or private business and receives an award of $25,000 or more, but less than $500,000, and has fifty or more employees (counting both full- and part-time employees but excluding political appointees), then it has to prepare a Utilization Report (formerly called an EEOP Short Form), but it does not have to submit the report to the OCR for review. Instead, your organization has to maintain the Utilization Report on file and make it available for review on request. In addition, your organization has to complete Section B of the Certification Form and return it to the OCR. The Certification Form is available at http://www.ojp.usdoj.gov/about/ocr/pdfs/cert.pdf.

If your organization is a government agency or private business and has received an award for $500,000 or more and has fifty or more employees (counting both full- and part-time employees but excluding political appointees), then it has to prepare a Utilization Report (formerly called an EEOP Short Form) and submit it to the OCR for review within sixty days from the date of this letter. For assistance in developing a Utilization Report, please consult the OCR's website at http://www.ojp.usdoj.gov/about/ocr/eeop.htm. In addition, your organization has to complete Section C of the Certification Form and return it to the OCR. The Certification Form is available at http://www.ojp.usdoj.gov/about/ocr/pdfs/cert.pdf.

To comply with the EEOP requirements, you may request technical assistance from an EEOP specialist at the OCR by telephone at (202) 307-0690, by TTY at (202) 307-2027, or by e-mail at EEOsubmisson@usdoj.gov.

Meeting the Requirement to Submit Findings of Discrimination

If in the three years prior to the date of the grant award, your organization has received an adverse finding of discrimination based on race, color, national origin, religion, or sex, after a due-process hearing, from a state or federal court or from a state or federal administrative agency, your organization must send a copy of the finding to the OCR.

Ensuring the Compliance of Subrecipients

SAAs must have standard assurances to notify subrecipients of their civil rights obligations, written procedures to address discrimination complaints filed against subrecipients, methods to monitor subrecipients' compliance with civil rights requirements, and a program to train subrecipients on applicable civil rights laws. In addition, SAAs must submit to the OCR every three years written Methods of Administration (MOA) that summarize the policies and procedures that they have implemented to ensure the civil rights compliance of subrecipients. For more information on the MOA requirement, see http://www.ojp.usdoj.gov/funding/other_requirements.htm.

If the OCR can assist you in any way in fulfilling your organization's civil rights responsibilities as a recipient of federal financial assistance, please contact us.

Sincerely,

Michael L. Alston
Director

cc: Grant Manager
Financial Analyst

Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

Grant

PAGE 1 OF 9

1. RECIPIENT NAME AND ADDRESS (Including Zip Code) City of Lubbock 1625 13th St Lubbock, TX 79401-2726	4. AWARD NUMBER 2015-DJ-BX-0906 5. PROJECT PERIOD FROM 10/01/2014 TO 09/30/2018 BUDGET PERIOD FROM 10/01/2014 TO 09/30/2018 6. AWARD DATE 09/02/2015 — 7. ACTION: Initial
2a. GRANTEE IRS/VENDOR NO 756000593	8. SUPPLEMENT NUMBER 00
2b. GRANTEE DUNS NO 058213893	9. PREVIOUS AWARD AMOUNT $ 0
3. PROJECT TITLE FY 15 JAG Program	10. AMOUNT OF THIS AWARD $ 139,342 11. TOTAL AWARD $ 139,342

12. SPECIAL CONDITIONS

THE ABOVE GRANT PROJECT IS APPROVED SUBJECT TO SUCH CONDITIONS OR LIMITATIONS AS ARE SET FORTH ON THE ATTACHED PAGE(S).

13. STATUTORY AUTHORITY FOR GRANT

This project is supported under FY15(BJA - JAG) 42 USC 3750, et seq

14. CATALOG OF DOMESTIC FEDERAL ASSISTANCE (CFDA Number)

16.738 - Edward Byrne Memorial Justice Assistance Grant Program

15. METHOD OF PAYMENT

GPRS

[redacted] AGENCY APPROVAL [redacted]	[redacted] GRANTEE ACCEPTANCE [redacted]
16. TYPED NAME AND TITLE OF APPROVING OFFICIAL Denise O'Donnell Director	18. TYPED NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL Roy E. Bassett Captain
17. SIGNATURE OF APPROVING OFFICIAL	19. SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL — 19A. DATE: 09/24/15

[redacted] AGENCY USE ONLY [redacted]

20. ACCOUNTING CLASSIFICATION CODES

FISCAL YEAR	FUND CODE	BUD ACT	OFC	DIV REG	SUB	POMS	AMOUNT
X	B	DJ	80	00	00		139342

21. PDJUGT0874

OJP FORM 4000/2 (REV. 5-87) PREVIOUS EDITIONS ARE OBSOLETE.

OJP FORM 4000/2 (REV. 4-88)

PROJECT NUMBER 2015-DJ-BX-0906 AWARD DATE 09/02/2015

SPECIAL CONDITIONS

1. Applicability of Part 200 Uniform Requirements

   The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by the Department of Justice (DOJ) in 2 C.F.R. Part 2800 (the "Part 200 Uniform Requirements") apply to this 2015 award from the Office of Justice Programs (OJP). For this 2015 award, the Part 200 Uniform Requirements, which were first adopted by DOJ on December 26, 2014, supersede, among other things, the provisions of 28 C.F.R. Parts 66 and 70, as well as those of 2 C.F.R. Parts 215, 220, 225, and 230.

   If this 2015 award supplements funds previously awarded by OJP under the same award number, the Part 200 Uniform Requirements apply with respect to all award funds (whether derived from the initial award or a supplemental award) that are obligated on or after the acceptance date of this 2015 award.

   Potential availability of grace period for procurement standards: Under the Part 200 Uniform Requirements, a time-limited grace period may be available under certain circumstances to allow for transition from policies and procedures that complied with previous standards for procurements under federal awards to policies and procedures that comply with the new standards (that is, to those at 2 C.F.R. 200.317 through 200.326).

   For more information on the Part 200 Uniform Requirements, including information regarding the potentially-available grace period described above, see the Office of Justice Programs (OJP) website at http://ojp.gov/funding/Part200UniformRequirements.htm.

   In the event that an award-related question arises from documents or other materials prepared or distributed by OJP that may appear to conflict with, or differ in some way from, the provisions of the Part 200 Uniform Requirements, the recipient is to contact OJP promptly for clarification.

2. The recipient agrees to comply with the Department of Justice Grants Financial Guide as posted on the OJP website (currently, the "2015 DOJ Grants Financial Guide").

3. The recipient acknowledges that failure to submit an acceptable Equal Employment Opportunity Plan (if recipient is required to submit one pursuant to 28 C.F.R. Section 42.302) that is approved by the Office for Civil Rights is a violation of the Standard Assurances executed by the recipient, and may result in suspension of funding until such time as the recipient is in compliance, or termination of the award.

4. The recipient understands and agrees that OJP may withhold award funds, or may impose other related requirements, if the recipient does not satisfactorily and promptly address outstanding issues from audits required by the Part 200 Uniform Requirements (or by the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.

5. Recipient understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government, without the express prior written approval of OJP.

6. The recipient and any subrecipients must promptly refer to the DOJ OIG any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has -- (1) submitted a claim for award funds that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving award funds. Potential fraud, waste, abuse, or misconduct should be reported to the OIG by - mail: Office of the Inspector General U.S. Department of Justice Investigations Division 950 Pennsylvania Avenue, N.W. Room 4706 Washington, DC 20530 e-mail: oig.hotline@usdoj.gov hotline: (contact information in English and Spanish): (800) 869-4499 or hotline fax: (202) 616-9881 Additional information is available from the DOJ OIG website at www.usdoj.gov/oig



PROJECT NUMBER 2015-DJ-BX-0906 AWARD DATE 09/02/2015

SPECIAL CONDITIONS

7. Restrictions and certifications regarding non-disclosure agreements and related matters

No recipient or subrecipient under this award, or entity that receives a contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

1. In accepting this award, the recipient --

a. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

b. certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the agency making this award, and will resume (or permit resumption of)such obligations only if expressly authorized to do so by that agency.

2. If the recipient does or is authorized to make subawards or contracts under this award --

a. it represents that --

(1) it has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward, contract, or subcontract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

(2) it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and

b. it certifies that, if it learns or is notified that any subrecipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

8. Recipient understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of any contract or subaward to either the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries, without the express prior written approval of OJP.

9. The recipient agrees to comply with any additional requirements that may be imposed during the grant performance period if the agency determines that the recipient is a high-risk grantee. Cf. 28 C.F.R. parts 66, 70.



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SPECIAL CONDITIONS

10. The recipient agrees to comply with applicable requirements regarding registration with the System for Award Management (SAM) (or with a successor government-wide system officially designated by OMB and OJP). The recipient also agrees to comply with applicable restrictions on subawards to first-tier subrecipients that do not acquire and provide a Data Universal Numbering System (DUNS) number. The details of recipient obligations are posted on the Office of Justice Programs web site at http://www.ojp.gov/funding/sam.htm (Award condition: Registration with the System for Award Management and Universal Identifier Requirements), and are incorporated by reference here. This special condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

11. Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), the Department encourages recipients and sub recipients to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this grant, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

12. The recipient agrees to comply with all applicable laws, regulations, policies, and guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences, meetings, trainings, and other events, including the provision of food and/or beverages at such events, and costs of attendance at such events. Information on rules applicable to this award appears in the DOJ Grants Financial Guide (currently, as section 3.10 of "Postaward Requirements" in the "2015 DOJ Grants Financial Guide").

13. The recipient understands and agrees that any training or training materials developed or delivered with funding provided under this award must adhere to the OJP Training Guiding Principles for Grantees and Subgrantees, available at http://www.ojp.usdoj.gov/funding/ojptrainingguidingprinciples.htm.

14. The recipient agrees that if it currently has an open award of federal funds or if it receives an award of federal funds other than this OJP award, and those award funds have been, are being, or are to be used, in whole or in part, for one or more of the identical cost items for which funds are being provided under this OJP award, the recipient will promptly notify, in writing, the grant manager for this OJP award, and, if so requested by OJP, seek a budget-modification or change-of-project-scope grant adjustment notice (GAN) to eliminate any inappropriate duplication of funding.

15. The recipient understands and agrees that award funds may not be used to discriminate against or denigrate the religious or moral beliefs of students who participate in programs for which financial assistance is provided from those funds, or of the parents or legal guardians of such students.

16. The recipient understands and agrees that - (a) No award funds may be used to maintain or establish a computer network unless such network blocks the viewing, downloading, and exchanging of pornography, and (b) Nothing in subsection (a) limits the use of funds necessary for any Federal, State, tribal, or local law enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities.

17. A recipient that is eligible under the Part 200 Uniform Requirements to use the "de minimis" indirect cost rate described in 2 C.F.R. 200.414(f), and that elects to use the "de minimis" indirect cost rate, must advise OJP in writing of both its eligibility and its election, and must comply with all associated requirements in the Part 200 Uniform Requirements. The "de minimis" rate may be applied only to modified total direct costs (MTDC).

18. The recipient must collect, maintain, and provide to OJP, data that measure the performance and effectiveness of activities under this award, in the manner, and within the timeframes, specified in the program solicitation, or as otherwise specified by OJP. Data collection supports compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act, and other applicable laws.

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SPECIAL CONDITIONS

19. The recipient agrees to comply with OJP grant monitoring guidelines, protocols, and procedures, and to cooperate with BJA and OCFO on all grant monitoring requests, including requests related to desk reviews, enhanced programmatic desk reviews, and/or site visits. The recipient agrees to provide to BJA and OCFO all documentation necessary to complete monitoring tasks, including documentation related to any subawards made under this award. Further, the recipient agrees to abide by reasonable deadlines set by BJA and OCFO for providing the requested documents. Failure to cooperate with BJA's/OCFO's grant monitoring activities may result in sanctions affecting the recipient's DOJ awards, including, but not limited to: withholdings and/or other restrictions on the recipient's access to grant funds; referral to the Office of the Inspector General for audit review; designation of the recipient as a DOJ High Risk grantee; or termination of an award(s).

20. The recipient agrees to comply with applicable requirements to report first-tier subawards of $25,000 or more and, in certain circumstances, to report the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients of award funds. Such data will be submitted to the FFATA Subaward Reporting System (FSRS). The details of recipient obligations, which derive from the Federal Funding Accountability and Transparency Act of 2006 (FFATA), are posted on the Office of Justice Programs web site at http://www.ojp.gov/funding/ffata.htm (Award condition: Reporting Subawards and Executive Compensation), and are incorporated by reference here. This condition, and its reporting requirement, does not apply to grant awards made to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

21. The recipient understands and agrees that it has a responsibility to monitor its subrecipients' compliance with applicable federal civil rights laws. The recipient agrees to submit written Methods of Administration (MOA) for ensuring subrecipients' compliance to the OJP's Office for Civil Rights at CivilRightsMOA@usdoj.gov within 90 days of receiving the grant award, and to make supporting documentation available for review upon request by OJP or any other authorized persons. The required elements of the MOA are set forth at http://www.ojp.usdoj.gov/funding/other_requirements.htm, under the heading, "Civil Rights Compliance Specific to State Administering Agencies."

22. In order to promote information sharing and enable interoperability among disparate systems across the justice and public safety community, OJP requires the grantee to comply with DOJ's Global Justice Information Sharing Initiative (DOJ's Global) guidelines and recommendations for this particular grant. Grantee shall conform to the Global Standards Package (GSP) and all constituent elements, where applicable, as described at: http://www.it.ojp.gov/gsp_grantcondition. Grantee shall document planned approaches to information sharing and describe compliance to the GSP and appropriate privacy policy that protects shared information, or provide detailed justification for why an alternative approach is recommended.

23. To avoid duplicating existing networks or IT systems in any initiatives funded by BJA for law enforcement information sharing systems which involve interstate connectivity between jurisdictions, such systems shall employ, to the extent possible, existing networks as the communication backbone to achieve interstate connectivity, unless the grantee can demonstrate to the satisfaction of BJA that this requirement would not be cost effective or would impair the functionality of an existing or proposed IT system.

24. The recipient agrees that any information technology system funded or supported by OJP funds will comply with 28 C.F.R. Part 23, Criminal Intelligence Systems Operating Policies, if OJP determines this regulation to be applicable. Should OJP determine 28 C.F.R. Part 23 to be applicable, OJP may, at its discretion, perform audits of the system, as per the regulation. Should any violation of 28 C.F.R. Part 23 occur, the recipient may be fined as per 42 U.S.C. 3789g(c)-(d). Recipient may not satisfy such a fine with federal funds.

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SPECIAL CONDITIONS

25. The grantee agrees to comply with the applicable requirements of 28 C.F.R. Part 38, the Department of Justice regulation governing "Equal Treatment for Faith Based Organizations" (the "Equal Treatment Regulation"). The Equal Treatment Regulation provides in part that Department of Justice grant awards of direct funding may not be used to fund any inherently religious activities, such as worship, religious instruction, or proselytization. Recipients of direct grants may still engage in inherently religious activities, but such activities must be separate in time or place from the Department of Justice funded program, and participation in such activites by individuals receiving services from the grantee or a sub-grantee must be voluntary. The Equal Treatment Regulation also makes clear that organizations participating in programs directly funded by the Department of Justice are not permitted to discriminate in the provision of services on the basis of a beneficiary's religion. Notwithstanding any other special condition of this award, faith-based organizations may, in some circumstances, consider religion as a basis for employment. See http://www.ojp.gov/about/ocr/equal_fbo.htm.

26. Grantee agrees to comply with the requirements of 28 C.F.R. Part 46 and all Office of Justice Programs policies and procedures regarding the protection of human research subjects, including obtainment of Institutional Review Board approval, if appropriate, and subject informed consent.

27. Grantee agrees to comply with all confidentiality requirements of 42 U.S.C. section 3789g and 28 C.F.R. Part 22 that are applicable to collection, use, and revelation of data or information. Grantee further agrees, as a condition of grant approval, to submit a Privacy Certificate that is in accord with requirements of 28 C.F.R. Part 22 and, in particular, section 22.23.

28. Award recipients must verify Point of Contact(POC), Financial Point of Contact (FPOC), and Authorized Representative contact information in GMS, including telephone number and e-mail address. If any information is incorrect or has changed, a Grant Adjustment Notice (GAN) must be submitted via the Grants Management System (GMS) to document changes.

29. The grantee agrees that within 120 days of award acceptance, each current member of a law enforcement task force funded with these funds who is a task force commander, agency executive, task force officer, or other task force member of equivalent rank, will complete required online (internet-based) task force training. Additionally, all future task force members are required to complete this training once during the life of this award, or once every four years if multiple awards include this requirement. The training is provided free of charge online through BJA's Center for Task Force Integrity and Leadership (www.ctfli.org). This training addresses task force effectiveness as well as other key issues including privacy and civil liberties/rights, task force performance measurement, personnel selection, and task force oversight and accountability. When BJA funding supports a task force, a task force personnel roster should be compiled and maintained, along with course completion certificates, by the grant recipient. Additional information is available regarding this required training and access methods via BJA's web site and the Center for Task Force Integrity and Leadership (www.ctfli.org).

30. The recipient agrees to participate in BJA-sponsored training events, technical assistance events, or conferences held by BJA or its designees, upon BJA's request.

31. All procurement (contract) transactions under this award must be conducted in a manner that is consistent with applicable Federal and State law, and with Federal procurement standards specified in regulations governing Federal awards to non-Federal entities. Procurement (contract) transactions should be competitively awarded unless circumstances preclude competition. Noncompetitive (e.g., sole source) procurements by the award recipient in excess of the Simplified Acquisition Threshold (currently $150,000) set out in the Federal Acquisition Regulation must receive prior approval from the awarding agency, and must otherwise comply with rules governing such procurements found in the current edition of the OJP Financial Guide.

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PROJECT NUMBER 2015-DJ-BX-0906 AWARD DATE 09/02/2015

SPECIAL CONDITIONS

32. Approval of this award does not indicate approval of any consultant rate in excess of $650 per day. A detailed justification must be submitted to and approved by the Office of Justice Programs (OJP) program office prior to obligation or expenditure of such funds.

33. Program income (as defined in the Part 200 Uniform Requirements) must be used in accordance with the provisions of the Part 200 Uniform Requirements. Program income earnings and expenditures both must be reported on the quarterly Federal Financial Report, SF 425.

34. Award recipients must submit quarterly a Federal Financial Report (SF-425) and annual performance reports through GMS (https://grants.ojp.usdoj.gov). Consistent with the Department's responsibilities under the Government Performance and Results Act (GPRA), P.L. 103-62, applicants who receive funding under this solicitation must provide data that measure the results of their work. Therefore, quarterly performance metrics reports must be submitted through BJA's Performance Measurement Tool (PMT) website (www.bjaperformancetools.org). For more detailed information on reporting and other JAG requirements, refer to the JAG reporting requirements webpage. Failure to submit required JAG reports by established deadlines may result in the freezing of grant funds and future High Risk designation.

35. The recipient agrees that funds received under this award will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for law enforcement activities.

36. The recipient agrees to monitor subawards under this JAG award in accordance with all applicable statutes, regulations, OMB circulars, and guidelines, including the OJP Financial Guide, and to include the applicable conditions of this award in any subaward. The recipient is responsible for oversight of subrecipient spending and monitoring of specific outcomes and benefits attributable to use of JAG funds by subrecipients. The recipient agrees to submit, upon request, documentation of its policies and procedures for monitoring of subawards under this award.

37. The recipient agrees to submit a signed certification that that all law enforcement agencies receiving vests purchased with JAG funds have a written "mandatory wear" policy in effect. Fiscal agents and state agencies must keep signed certifications on file for any subrecipients planning to utilize JAG funds for ballistic-resistant and stab-resistant body armor purchases. This policy must be in place for at least all uniformed officers before any JAG funding can be used by the agency for body armor. There are no requirements regarding the nature of the policy other than it being a mandatory wear policy for all uniformed officers while on duty.

38. Ballistic-resistant and stab-resistant body armor purchased with JAG funds may be purchased at any threat level, make or model, from any distributor or manufacturer, as long as the vests have been tested and found to comply with applicable National Institute of Justice ballistic or stab standards and are listed on the NIJ Compliant Body Armor Model List (http://nij.gov). In addition, ballistic-resistant and stab-resistant body armor purchased must be American-made. The latest NIJ standard information can be found here: http://www.nij.gov/topics/technology/body-armor/safety-initiative.htm.

39. JAG funds may be used to purchase vests for an agency, but they may not be used as the 50% match for purposes of the Bulletproof Vest Partnership (BVP) program.

40. The recipient is required to establish a trust fund account. (The trust fund may or may not be an interest-bearing account.) The fund, including any interest, may not be used to pay debts or expenses incurred by other activities beyond the scope of the Edward Byrne Memorial Justice Assistance Grant Program (JAG). The recipient also agrees to obligate the grant funds in the trust fund (including any interest earned) during the period of the grant and expend within 90 days thereafter. Any unobligated or unexpended funds, including interest earned, must be returned to the Office of Justice Programs at the time of closeout.



PROJECT NUMBER 2015-DJ-BX-0906 AWARD DATE 09/02/2015

SPECIAL CONDITIONS

41. The grantee agrees to assist BJA in complying with the National Environmental Policy Act (NEPA), the National Historic Preservation Act, and other related federal environmental impact analyses requirements in the use of these grant funds, either directly by the grantee or by a subgrantee. Accordingly, the grantee agrees to first determine if any of the following activities will be funded by the grant, prior to obligating funds for any of these purposes. If it is determined that any of the following activities will be funded by the grant, the grantee agrees to contact BJA.

    The grantee understands that this special condition applies to its following new activities whether or not they are being specifically funded with these grant funds. That is, as long as the activity is being conducted by the grantee, a subgrantee, or any third party and the activity needs to be undertaken in order to use these grant funds, this special condition must first be met. The activities covered by this special condition are:
    a. New construction;
    b. Minor renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;
    c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;
    d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and
    e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

    The grantee understands and agrees that complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. The grantee further understands and agrees to the requirements for implementation of a Mitigation Plan, as detailed at http://www.ojp.usdoj.gov/BJA/resource/nepa.html, for programs relating to methamphetamine laboratory operations.

    Application of This Special Condition to Grantee's Existing Programs or Activities: For any of the grantee's or its subgrantees' existing programs or activities that will be funded by these grant funds, the grantee, upon specific request from BJA, agrees to cooperate with BJA in any preparation by BJA of a national or program environmental assessment of that funded program or activity.

42. BJA strongly encourages the recipient to submit annual (or more frequent) JAG success stories. To submit a success story, sign in to your My BJA account at https://www.bja.gov/Login.aspx to access the Success Story Submission form. If you do not yet have a My BJA account, please register at https://www.bja.gov/profile.aspx. Once you register, one of the available areas on your My BJA page will be "My Success Stories". Within this box, you will see an option to add a Success Story. Once reviewed and approved by BJA, all success stories will appear on the new BJA Success Story web page at https://www.bja.gov/SuccessStoryList.aspx.

43. Recipient understands and agrees that award funds may not be used for items that are listed on the Prohibited Expenditure List at the time of purchase or acquisition, including as the list may be amended from time to time. The Prohibited Expenditure list may be accessed here: https://www.bja.gov/funding/JAGControlledPurchaseList.pdf.

44. Recipient understands and agrees that award funds may not be used for items that are listed on the Controlled Expenditure List at the time of purchase or acquisition, including as the list may be amended from time to time, without explicit written prior approval from BJA. The Controlled Expenditure List, and instructions on how to request approval for purchase or acquisitions may be accessed here: https://www.bja.gov/funding/JAGControlledPurchaseList.pdf

INITIAL HERE

Department of Justice Office of Justice Programs **Bureau of Justice Assistance**	**AWARD CONTINUATION SHEET** **Grant**	PAGE 9 OF 9

PROJECT NUMBER 2015-DJ-BX-0906 AWARD DATE 09/02/2015

SPECIAL CONDITIONS

45. Recipient understands and agrees that the purchase or acquisition of any item on the Controlled Expenditure List at the time of purchase or acquisition, including as the list may be amended from time to time, with award funds by an agency will trigger a requirement that the agency collect and retain (for at least 3 years) certain information about the use of 1) any federally-acquired Controlled Equipment in the agency's inventory, and 2) any other controlled equipment in the same category as the federally-acquired controlled equipment in the agency's inventory, regardless of source; and make that information available to BJA upon request. Details about what information must be collected and retained may be accessed here: https://www.whitehouse.gov/sites/default/files/docs/le_equipment_wg_final_report_final.pdf

46. Recipient understands and agrees that, notwithstanding 2 CFR § 200.313, no equipment listed on the Controlled Expenditure List that is purchased under this award may be transferred or sold to a third party, except as described below:

a. Agencies may transfer or sell any controlled equipment, except riot helmets and riot shields, to a Law Enforcement Agency (LEA) after obtaining prior written approval from BJA. As a condition of that approval, the acquiring LEA will be required to submit information and certifications to BJA as if it was requesting approval to use award fund for the initial purchase of items on the Controlled Expenditure List.
b. Agencies may not transfer or sell any riot helmets or riot shields purchased under this award.
c. Agencies may not transfer or sell any Controlled Equipment purchased under this award to non-LEAs, with the exception of fixed wing aircraft, rotary wing aircraft, and command and control vehicles. Before any such transfer or sale is finalized, the agency must obtain prior written approval from BJA. All law enforcement-related and other sensitive or potentially dangerous components, and all law enforcement insignias and identifying markings must be removed prior to transfer or sale.

Recipient further understands and agrees to notify BJA prior to the disposal of any items on the Controlled Expenditure List purchased under this award, and to abide by any applicable laws and regulations in such disposal.

47. Recipient understands and agrees that failure to comply with conditions related to Prohibited or Controlled Expenditures may result in a prohibition from further Controlled Expenditure approval under this or other federal awards.

48. Recipient may not expend, or drawdown funds until the Bureau of Justice Assistance, Office of Justice Programs has reviewed and approved the Budget Narrative portion of the application and has issued a Grant Adjustment Notice (GAN) informing the recipient of the approval.

49. Recipient may not expend or drawdown funds until the Bureau of Justice Assistance, Office of Justice Programs has reviewed and approved the Program Narrative portion of the application and has issued a Grant Adjustment Notice (GAN) informing the recipient of the approval.

50. Within 90 days of this award, the recipient shall submit to the Office of Justice Programs a finalized Memorandum of Understanding (MOU) that reflects the goals and objectives of the project and lists the identities, roles, and contributions of the participating agencies. The MOU must be signed by the Chief Executive Officer of each collaborating agency. The grantee also agrees to notify the Bureau of Justice Assistance of any change in the status or duties of the collaborating agency partners or individuals.



Department of Justice

Office of Justice Programs

Bureau of Justice Assistance

Washington, D.C. 20531

Memorandum To: Official Grant File

From: Orbin Terry, NEPA Coordinator

Subject: Incorporates NEPA Compliance in Further Developmental Stages for City of Lubbock

The Edward Byrne Memorial Justice Assistance Grant Program (JAG) allows states and local governments to support a broad range of activities to prevent and control crime and to improve the criminal justice system, some of which could have environmental impacts. All recipients of JAG funding must assist BJA in complying with NEPA and other related federal environmental impact analyses requirements in the use of grant funds, whether the funds are used directly by the grantee or by a subgrantee or third party. Accordingly, prior to obligating funds for any of the specified activities, the grantee must first determine if any of the specified activities will be funded by the grant.

The specified activities requiring environmental analysis are:
a. New construction;
b. Any renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;
c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;
d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and
e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

Complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. Further, for programs relating to methamphetamine laboratory operations, the preparation of a detailed Mitigation Plan will be required. For more information about Mitigation Plan requirements, please see http://www.ojp.usdoj.gov/BJA/resource/nepa.html.

Please be sure to carefully review the grant conditions on your award document, as it may contain more specific information about environmental compliance.

Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

GRANT MANAGER'S MEMORANDUM, PT. I: PROJECT SUMMARY

Grant

PROJECT NUMBER	PAGE 1 OF 1
2015-DJ-BX-0906	

This project is supported under FY15(BJA - JAG) 42 USC 3750, et seq

1. STAFF CONTACT (Name & telephone number)	2. PROJECT DIRECTOR (Name, address & telephone number)
Olga Santiago (202) 532-0117	Roy Bassett Captain 916 Texas Avenue Lubbock, TX 79401-2726 (806) 775-2692

3a. TITLE OF THE PROGRAM	3b. POMS CODE (SEE INSTRUCTIONS ON REVERSE)
BJA FY 15 Edward Byrne Memorial Justice Assistance Grant (JAG) Program - Local Solicitation	

4. TITLE OF PROJECT

FY 15 JAG Program

5. NAME & ADDRESS OF GRANTEE	6. NAME & ADRESS OF SUBGRANTEE
City of Lubbock 1625 13th St Lubbock, TX 79401-2726	

7. PROGRAM PERIOD	8. BUDGET PERIOD
FROM: 10/01/2014 TO: 09/30/2018	FROM: 10/01/2014 TO: 09/30/2018

9. AMOUNT OF AWARD	10. DATE OF AWARD
$ 139,342	09/02/2015

11. SECOND YEAR'S BUDGET	12. SECOND YEAR'S BUDGET AMOUNT

13. THIRD YEAR'S BUDGET PERIOD	14. THIRD YEAR'S BUDGET AMOUNT

15. SUMMARY DESCRIPTION OF PROJECT (See instruction on reverse)

The Edward Byrne Memorial Justice Assistance Grant Program (JAG) allows states and units of local government, including tribes, to support a broad range of activities to prevent and control crime based on their own state and local needs and conditions. Grant funds can be used for state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and information systems for criminal justice, including for any one or more of the following program areas: 1) law enforcement programs, 2) prosecution and court programs, 3) prevention and education programs, 4) corrections and community corrections programs, 5) drug treatment and enforcement programs, 6) planning, evaluation, and technology improvement programs; and 7) crime victim and witness programs (other than compensation).

The goals of this project are to provide law enforcement services to the citizens of Lubbock through the acquisition of new technology equipment by the Lubbock Police Department and through the continued upgrade of the technology, communication, and law enforcement capacity of the Lubbock County District

OJP FORM 4000/2 (REV. 4-88)

Attorney's Office and Sheriff's Office.

NCA/NCF

FY2015 JAG LUBBOCK COUNTY JOINT ENFORCEMENT INITIATIVE

Budget Narrative

Grant #: FY2015 JAG

TOTAL AWARD AMOUNT: $139,342.00
City Of Lubbock Amount: $ 69,671.00
County of Lubbock Amount: $ 69,671.00
LOCAL MATCH: $0.00

City of Lubbock

1. **Equipment:**

   a. **Cellphone Download System** **$ 22,000.00**

   With the current proliferation of digital communication, more and more evidence is being found stored on mobile devices. The Lubbock Police Department currently has two systems for downloading information from mobile devices. Due to the sheer volume of evidence being recovered from mobile devices, the two current systems are in constant demand and recovery of crucial information is slowed. The purchase of two more systems will allow more expedient processing of evidence in criminal investigations. The City of Lubbock anticipates using $22,000.00 of this money on this purchase.

   b. **Laptop Computers for Patrol Vehicles** **$47,671.00**

   The available technology for patrol vehicles is constantly changing and improving. The Lubbock Police Department is in the process of evaluating tablet computers that will maximize cost efficiency while simultaneously enhancing the patrol officer's ability to work. The purchase of tablet computers for in car operations will create a more usable work space and upgrade capabilities for officers. The City of Lubbock anticipates using the remainder of the available grant award on these purchases and will used budgeted funds to pay for any overage to complete this project.

Lubbock County

1. **Equipment and Training:**

   a. The Lubbock County District Attorney's Office will purchase equipment for digital evidence collection and digital video processing. This will consist of computers, monitors, servers, and associated equipment for evidence collection, courtroom trial

presentation of said evidence, upgrades to the Crash Data Retrieval System and new hardware and software for the collection and processing of digital evidence. This purchase will allow them to modernize their digital evidence collection and courtroom recall capabilities, thereby allowing better deliverables on quality evidence collection and prosecutions for Lubbock County.

$ 20,901.30

b. The Lubbock County Sheriff's Office will purchase a wireless system for the Bomb Squad Robot and training for the Cyber Crimes Division. This purchase will allow them to utilize the latest technology for operating the robot during the hazardous task of locating, examining, and disarming explosive devices. Cyber Crimes is one of the fastest growing areas of criminal activity. This training will keep these detectives up to date on the latest trends in that area and the best ways to discover and combat them.

$ 48,769.70

FY2015 JAG LUBBOCK COUNTY JOINT ENFORCEMENT INITIATIVE

Budget Narrative

Grant #: FY2015 JAG

TOTAL AWARD AMOUNT: $139,342.00
City Of Lubbock Amount: $ 69,671.00
County of Lubbock Amount: $ 69,671.00
LOCAL MATCH: $0.00

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$ 48,769.70

City of Lubbock, TX
Grant Award
New Grant - Budget Detail
November 19, 2015

Administrative Information

City Assigned Grant Number	86070
Grant Name	Justice Assistance Grant (JAG)
Grant Effective Date	10/1/2014–9/30/2018
Grant Provider/Agency	United States Department of Justice
Grant Award Amount	$ 139,342

Budget Information

Project Detail	**Cost**
COUNTY:	
Equipment and Training	$ 69,671
CITY:	
Cellphone Download System	22,000
Laptop Computers for Patrol Vehicles	47,671
Total Project Amount	$ 139,342

Regular City Council Meeting **5. 2.**

Meeting Date: 12/03/2015

Information

Agenda Item

Budget Amendment Ordinance 2nd Reading - Finance: Consider Budget Ordinance 2015-O0120 Amendment 8 amending the FY 2015-16 budget for municipal purposes respecting the Capital Program to amend Capital Improvement Project (CIP) 8543, Lake Alan Henry Repairs/Maintenance, and CIP 92255, BCWF Supply Line/Pumping System; providing for filing; and providing for a savings clause.

Item Summary

On November 19, 2015, the City Council approved the first reading of the ordinance.

I. Amend Capital Improvement Project 8543, Lake Alan Henry Repairs/Maintenance, by decreasing the appropriation by $2,500,000, from $7,505,889 to $5,005,889 and decreasing the 2012 TWW Certificates of Obligation by $2,500,000, from $3,000,000 to $500,000; and amend Capital Improvement Project 92255, BCWF Supply Line/Pumping System, by increasing the appropriation by $2,500,000, from $39,500,000 to $42,000,000 and increasing the 2012 TWW Certificates of Obligation by $2,500,000, from $8,576,155 to $11,076,155. The bids on the project for Bailey County Supply Line/Pumping System came in higher than anticipated and additional funding will be required to complete the project.

Fiscal Impact

Included in Item Summary.

Staff/Board Recommending

Cheryl Brock, Executive Director of Budget

Attachments

Budget Amendment 8

CIP Detail

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FY 2015-16 BUDGET FOR MUNICIPAL PURPOSES RESPECTING THE CAPITAL PROGRAM TO AMEND CAPITAL IMPROVEMENT PROJECT (CIP) 8543, LAKE ALAN HENRY REPAIRS/MAINTENANCE, AND CIP 92255, BCWF SUPPLY LINE/PUMPING SYSTEM; PROVIDING FOR FILING; AND PROVIDING FOR A SAVINGS CLAUSE.

WHEREAS, Section 102.010 of the Local Government Code of the State of Texas authorizes the City Council to make changes in the budget for municipal purposes; and

WHEREAS, in accordance with the City Budget Ordinance the City Council shall approve all transfers between funds and departments; and

WHEREAS, the City Council deems it advisable to change the FY 2015-16 Budget for municipal purposes and reallocate funds as follows; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

SECTION 1. THAT the City Council of the City of Lubbock hereby approves changes to the City of Lubbock Budget FY 2015-16 (Budget Amendment #8) for municipal purposes, as follows:

I. Amend Capital Improvement Project 8543, Lake Alan Henry Repairs/Maintenance, by decreasing the appropriation by $2,500,000, from $7,505,889 to $5,005,889 and decreasing the 2012 TWW Certificates of Obligation by $2,500,000, from $3,000,000 to $500,000; and amend Capital Improvement Project 92255, BCWF Supply Line/Pumping System, by increasing the appropriation by $2,500,000, from $$39,500,000 to $42,000,000 and increasing the 2012 TWW Certificates of Obligation by $2,500,000, from $8,576,155 to $11,076,155.

SECTION 2. THAT a copy of the changes made to the City of Lubbock Budget pursuant to this Ordinance shall be filed with the City Secretary and County Clerk of Lubbock as required by law.

SECTION 3. THAT should any section, paragraph, sentence, clause, phrase or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

AND IT IS SO ORDERED

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza
City Secretary

APPROVED AS TO CONTENT:

Cheryl Brock

Cheryl Brock
Executive Director of Budget

APPROVED AS TO FORM:

Amy Sims
Assistant City Attorney

ccdocs/BudgetFY1516 Amend8.ord
November 6, 2015

Capital Project
Project Cost Detail
Budget Amendments
November 19, 2015

Capital Project Number:	8543
Capital Project Name:	Lake Alan Henry Repairs/Maintenance
Capital Project Number:	92255
Capital Project Name:	BCWF Supply Line/Pumping System

	Current	Amendment	Total
CIP 8543	$ 7,505,889	(2,500,000)	$ 5,005,889
CIP 92255	39,500,000	2,500,000	42,000,000
Total	$ 47,005,889	-	$ 47,005,889

Regular City Council Meeting **5. 3.**

Meeting Date: 12/03/2015

Information

Agenda Item

Budget Amendment Ordinance 1st Reading - Finance: Consider Budget Ordinance Amendment 7 amending the FY 2015-16 budget for municipal purposes respecting the Cemetery Fund to modify the fee schedules for revenue derived from Lot Sales and Grave Services; providing for filing; and providing for a savings clause.

Item Summary

I. Amend the fee schedule for Lot Sales to include Section 7 of the City of Lubbock Cemetery grounds with a fee of $800 per burial plot.

II. Amend the fee schedule for Lot Sales to include a fee of $150 for County Adult and Infant Cremains.

III. Amend the fee schedule for Grave Services to include a fee of $250 for County Adult and Infant Cremains.

Fiscal Impact

Included in Item Summary.

Staff/Board Recommending

Cheryl Brock, Executive Director of Budget

Attachments

Ordinance - Budget Amendment 7

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FY 2015-16 BUDGET FOR MUNICIPAL PURPOSES RESPECTING THE CEMETERY FUND TO MODIFY THE FEE SCHEDULES FOR REVENUE DERIVED FROM LOT SALES AND GRAVE SERVICES; PROVIDING FOR FILING; AND PROVIDING FOR A SAVINGS CLAUSE.

WHEREAS, Section 102.010 of the Local Government Code of the State of Texas authorizes the City Council to make changes in the budget for municipal purposes; and

WHEREAS, in accordance with the City Budget Ordinance the City Council shall approve all transfers between funds and departments; and

WHEREAS, the City Council deems it advisable to change the FY 2015-16 Budget for municipal purposes and reallocate funds as follows; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

SECTION 1. THAT the City Council of the City of Lubbock hereby approves changes to the City of Lubbock Budget FY 2015-16 (Budget Amendment #7) for municipal purposes, as follows:

I. Amend the fee schedule for Lot Sales to include Section 7 of the City of Lubbock Cemetery grounds with a fee of $800 per burial plot.

II. Amend the fee schedule for Lot Sales to include a fee of $150 for County Adult and Infant Cremains.

III. Amend the fee schedule for Grave Services to include a fee of $250 for County Adult and Infant Cremains.

SECTION 2. THAT a copy of the changes made to the City of Lubbock Budget pursuant to this Ordinance shall be filed with the City Secretary and County Clerk of Lubbock as required by law.

SECTION 3. THAT should any section, paragraph, sentence, clause, phrase or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

AND IT IS SO ORDERED

Passed by the City Council on first reading on_____.

Passed by the City Council on second reading on_____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza
City Secretary

APPROVED AS TO CONTENT:

_____
Cheryl Brock
Executive Director of Budget

APPROVED AS TO FORM:

_____
Amy Sims
Assistant City Attorney

ccdocs/BudgetFY1516 Amend7.ord
November 19, 2015

Regular City Council Meeting **5. 4.**

Meeting Date: 12/03/2015

Information

Agenda Item

Budget Amendment Ordinance 1st Reading - Finance: Consider Budget Ordinance Amendment 9 amending the FY 2015-16 budget for municipal purposes respecting the Capital Program to amend Capital Improvement Project 92254, North Overton TIF Public Improvements; providing for filing; and providing for a savings clause.

Item Summary

I. Amend Capital Improvement Project 92254, North Overton TIF Public Improvements, by increasing the appropriation by $1,500,000, from $747,031 to $2,247,031. The funding will be 10-Year TIF Revenue Certificates of Obligation.

Fiscal Impact

Included in Item Summary.

Staff/Board Recommending

Cheryl Brock, Executive Director of Budget

Attachments

Ordinance - Budget Amendment 9

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FY 2015-16 BUDGET FOR MUNICIPAL PURPOSES RESPECTING THE CAPITAL PROGRAM TO AMEND CAPITAL IMPROVEMENT PROJECT (CIP) 92254, NORTH OVERTON TIF PUBLIC IMPROVEMENTS; PROVIDING FOR FILING; AND PROVIDING FOR A SAVINGS CLAUSE.

WHEREAS, Section 102.010 of the Local Government Code of the State of Texas authorizes the City Council to make changes in the budget for municipal purposes; and

WHEREAS, in accordance with the City Budget Ordinance the City Council shall approve all transfers between funds and departments; and

WHEREAS, the City Council deems it advisable to change the FY 2015-16 Budget for municipal purposes and reallocate funds as follows; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

SECTION 1. THAT the City Council of the City of Lubbock hereby approves changes to the City of Lubbock Budget FY 2015-16 (Budget Amendment #9) for municipal purposes, as follows:

I. Amend Capital Improvement Project 92254, North Overton TIF Public Improvements, by increasing the appropriation by $1,500,000, from $747,031 to $2,247,031. The funding will be 10-Year TIF Revenue Certificates of Obligation.

SECTION 2. THAT a copy of the changes made to the City of Lubbock Budget pursuant to this Ordinance shall be filed with the City Secretary and County Clerk of Lubbock as required by law.

SECTION 3. THAT should any section, paragraph, sentence, clause, phrase or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

AND IT IS SO ORDERED

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza
City Secretary

APPROVED AS TO CONTENT:

_____
Cheryl Brock
Executive Director of Budget

APPROVED AS TO FORM:

_____
Amy Sims
Assistant City Attorney

ccdocs/BudgetFY1516.Amend9.ord
November 19, 2015

Regular City Council Meeting **5. 5.**

Meeting Date: 12/03/2015

Information

Agenda Item

Budget Amendment Ordinance 1st Reading - Finance: Consider Budget Ordinance Amendment 10 amending the FY 2015-16 budget for municipal purposes respecting the Electric Utility Capital Program to amend Capital Improvement Project (CIP) 92373, Dispatch Control Room Upgrade/Remodel; CIP 92319, Transmission Loop; providing for filing; and providing for a savings clause.

Item Summary

I. Amend Capital Improvement Project 92373, Dispatch Control Room Upgrade/Remodel, by increasing the appropriation by $1,563,662, from $500,000 to $2,063,662, and increasing the FY 2014 LP&L Revenue Bonds by $1,563,662, from $0.00 to $1,563,662. The funding source will be FY 2014 LP&L Revenue Bonds that will be moved from Capital Improvement Project 92319, Transmission Loop.

II. Amend Capital Improvement Project 92319, Transmission Loop, by decreasing the appropriation by $1,563,662, from $7,300,000 to $5,736,338, and decreasing the FY 2014 LP&L Revenue Bonds by $1,563,662, from $6,300,000 to 4,736,338.

Fiscal Impact

Included in Item Summary.

Staff/Board Recommending

Cheryl Brock, Executive Director of Budget

Attachments

Ordinance - Budget Amendment 10

Resolution - LP&L

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FY 2015-16 BUDGET FOR MUNICIPAL PURPOSES RESPECTING THE ELECTRIC UTILITY CAPITAL PROGRAM TO AMEND CAPITAL IMPROVEMENT PROJECT (CIP) 92373, DISPATCH CONTROL ROOM UPGRADE/REMODEL; CIP 92319, TRANSMISSION LOOP; PROVIDING FOR FILING; AND PROVIDING FOR A SAVINGS CLAUSE.

WHEREAS, Section 102.010 of the Local Government Code of the State of Texas authorizes the City Council to make changes in the budget for municipal purposes; and

WHEREAS, in accordance with the City Budget Ordinance the City Council shall approve all transfers between funds and departments; and

WHEREAS, the City Council deems it advisable to change the FY 2015-16 Budget for municipal purposes and reallocate funds as follows; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

SECTION 1. THAT the City Council of the City of Lubbock hereby approves changes to the City of Lubbock Budget FY 2015-16 (Budget Amendment #10) for municipal purposes, as follows:

I. Amend Capital Improvement Project 92373, Dispatch Control Room Upgrade/Remodel, by increasing the appropriation by $1,563,662, from $500,000 to $2,063,662, and increasing the FY 2014 LP&L Revenue Bonds by $1,563,662, from $0.00 to $1,563,662. The funding source will be FY 2014 LP&L Revenue Bonds that will be moved from Capital Improvement Project 92319, Transmission Loop.

II. Amend Capital Improvement Project 92319, Transmission Loop, by decreasing the appropriation by $1,563,662, from $7,300,000 to $5,736,338, and decreasing the FY 2014 LP&L Revenue Bonds by $1,563,662, from $6,300,000 to 4,736,338.

SECTION 2. THAT a copy of the changes made to the City of Lubbock Budget pursuant to this Ordinance shall be filed with the City Secretary and County Clerk of Lubbock as required by law.

SECTION 3. THAT should any section, paragraph, sentence, clause, phrase or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

AND IT IS SO ORDERED

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza
City Secretary

APPROVED AS TO CONTENT:

_____
Cheryl Brock
Executive Director of Budget

APPROVED AS TO FORM:

_____
Amy Sims
Assistant City Attorney

ccdocs/BudgetFY1516.Amend10.ord
November 19, 2015

RESOLUTION

WHEREAS, the City of Lubbock has a responsibility to its citizens to carefully budget and account for the financing and funding of Lubbock Power & Light, prudently manage Lubbock Power & Light's municipal finances, and plan for the adequate funding of services by Lubbock Power & Light;

WHEREAS, the purpose of the budget for Lubbock Power & Light is to achieve the goals outlined above and to achieve a long-term stable and positive financial position of Lubbock Power & Light by exercising integrity, prudence, responsible stewardship, and planning accountability;

WHEREAS, the Electric Utility Board is charged with approving an annual budget and submitting a budget and any amendments thereto for Lubbock Power & Light to the City Council for adoption pursuant to Division 12, Section 2.03.415(a) of the Code of Ordinances of the City of Lubbock; NOW THEREFORE:

BE IT RESOLVED BY THE ELECTRIC UTILITY BOARD OF THE CITY OF LUBBOCK:

THAT the Electric Utility Board hereby approves the amendment to the City of Lubbock's Budget for Lubbock Power & Light, and requests that the City Council so amend the City of Lubbock's Budget for Lubbock Power & Light, for fiscal year 2015-2016, as follows:

Amend Capital Improvement Project 92373 – "Dispatch Control Room Upgrade", by increasing the appropriation and funding in the amount of $1,563,662, from $500,000 to $2,063,662.

Amend Capital Improvement Project 92319 - "Transmission Loop", by decreasing the appropriation and funding in the amount of $1,563,662, from $7,300,000 to $5,736,338.

Passed by the Electric Utility Board this 18th day of November, 2015.

Greg Taylor, Chairman

ATTEST:

James Conwright, Board Secretary

APPROVED AS TO CONTENT:

David McCalla, Director of Electric Utilities

APPROVED AS TO FORM:



Richard Casner, LP&L General Counsel

Regular City Council Meeting **5. 6.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - Finance: Consider a resolution authorizing the Mayor to execute contract 12506, a Master Lease Agreement, between the City of Lubbock and Banc of America Public Capital Corp (BAPCC), RFP 15-12506-MA.

Item Summary

On September 30, 2015, the City's Master Lease Agreement expired. The City seeks to establish a new Master Lease Agreement to provide funding to finance its vehicle and equipment needs. Under the Master Lease Agreement, the City plans to acquire vehicles and equipment for various departments.

These purchases will be made by the City throughout the year. The City will then be reimbursed by BAPCC at the end of the fiscal year for the purchases in exchange for an equal level principal payments plus interest due to BAPPC.

The terms of the agreement will be for one year with the option of two, one year extensions under the same terms and conditions.

The evaluation committee rated the proposals on the following areas:

Cost of Financing	30%
Requested Services	30%
Technology and Reporting	10%
Assignment Requirements	10%
Administrative Requirements	10%
Prepayment Options	5%
Prior Experience	5%

Two proposals were received from the following firms and were ranked as follows:

Company	**Points**
Banc of America Public Capital Corp.	166
USBancorp	107

City Staff recommends City Council approve an agreement with Banc of America Public Capital Corp.

Fiscal Impact

Approximately $12-$15 million in principal is submitted each year on the Master Lease. Payments will vary depending on the interest rates and term at the time on issuance.

Staff/Board Recommending

Linda Cuellar, Interim Finance Director

Attachments

Resolution - Banc of America Master Lease

Banc of America - Master Lease

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Contract No. 12506 for Master Municipal Lease Agreement, by and between the City of Lubbock and Banc of America Public Capital Corp of Scottsdale, Arizona, and related documents. Said Contract is attached hereto and incorporated in this Resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council this _____ day of _____, 2015.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Linda Cuellar, Acting Executive Director of Finance

APPROVED AS TO FORM:

_____
Amy L. Sims, Deputy City Attorney

RES.Contract-Bank of America
11-05-15

MASTER LEASE AGREEMENT

THIS MASTER LEASE AGREEMENT is made, as of December 3, 2015, between Banc of America Public Capital Corp ("Lessor") and the City of Lubbock, Texas ("City or Lessee").

The City desires to enter into arrangements for the lease purchase of various equipment. Lessor desires to provide for the financing of such equipment by leasing such equipment to the City and the City desires to lease such equipment from the Lessor. The City and the Lessor, for the consideration specified, agree as follows:

I – DEFINITIONS

1.1 Acquisition Period: means the period commencing upon execution of this Agreement and continuing through September 30, 2016 unless the Acquisition Period is extended as provided in Section 3.2. All Appendices received by the Lessor during the Acquisition Period shall be governed by the terms and conditions of this Agreement.

1.2 Agreement: means this Agreement as the same may be amended and supplemented from time to time in accordance with its terms.

1.3 Appendix: means each Equipment List and Payment Schedule submitted by the Lessee substantially in the form attached hereto.

1.4 Code: means the Internal Revenue Code of 1986, as amended.

1.5 Contract Documents: consist of this Agreement, Exhibit A (Statement of Essential Use), Exhibit B (Statement of Insurance Coverages), Exhibit C (Certificate of Counsel), Exhibit "D" (Form Appendix) and each Appendix consisting of Part 1 (Equipment List) and Part 2 (Payment Schedule), and Request for Proposal 15-12056-MA. Where the terms and provisions of the Agreement vary from the terms and provisions of the other Contract Documents, the terms and provisions of the Agreement shall prevail over the other Contract Documents.

1.6 Equipment: means the items of new or reconditioned personal property leased to Lessee for a term not exceeding the useful life of the item pursuant to this Agreement and listed in an applicable Appendix as acceptable by the Lessor.

1.7 Financing Request Date: means the date on which an Appendix is mailed via overnight delivery to the Lessor.

1.8 Index: The average weighted life interest rate swap index based on a three, five, seven or ten year term. Interest will be calculated on the basis of a year with 360 days consisting of twelve 30-day months. The rate of interest to be charged for each equipment purchase, or groups of equipment purchases, will be determined and fixed as of the Financing Request Date based on the schedule provided in section 4.1.

1.9 Lease Payment: means a payment made by the City to the Lessor as specified herein.

1.10 Lessor Payment Date: means each date on which a payment is made by the Lessor pursuant to Section 4.2.

1.11 Payment Schedule: means the document substantially in the form of Part 2 of the Appendix establishing the repayment schedule for an Appendix.

1.12 Term or Term of this Agreement: means the period beginning with the execution of the Agreement by both parties and ending on the date when the final Lease Payment has been paid.

II – GENERAL

2.1 The purpose of this Agreement is to provide for the terms of the lease of the Equipment by the Lessor to the City. Payment obligations of the City with respect to Equipment acquired under this Agreement begin when the City executes an Appendix, as set forth on Exhibit "D" attached hereto.

2.2 The obligation of the Lessee to make Lease Payments under this Agreement is subject to annual appropriation by the City Council. **NEITHER THE CITY'S FULL FAITH AND CREDIT NOR ITS TAXING POWER IS PLEDGED BY VIRTUE OF THIS AGREEMENT. THIS OBLIGATION SHALL NOT CONSTITUTE DEBT OF THE CITY WITHIN THE MEANING OF THE CONSTITUTION AND LAWS OF THE STATE OF TEXAS.**

2.3 The Lessor agrees to lease to the City the Equipment described in the Part 1 of each properly executed Appendix (Equipment List) for the consideration indicated in Part 2 of the Appendix (Payment Schedule) and the City agrees to lease such Equipment from the Lessor. The City shall be entitled to retain possession of the Equipment as long as the City is not in default under this Agreement and an event of non-appropriation has not occurred.

2.4 No Equipment items shall be acquired on behalf of Lessee under this Agreement by the Lessor or will be paid for by Lessor, until the Lessor has been provided an Appendix signed by the City.

2.5 Lessee agrees to comply with all applicable laws and regulations including anti-money laundering laws.

III – TERM

3.1 The term of each Appendix entered into pursuant to this Agreement shall be for a period of three (3), five (5), seven (7) or ten (10) years, as determined by the City and the Lessor, and as shown in each applicable Appendix, beginning on the applicable Lessor Payment Date of the applicable Appendix and will be terminated, except as otherwise provided in this Agreement, on the last payment date described in Part 2 of the applicable Appendix.

3.2 The term of the Acquisition Period may be extended for two additional periods of twelve (12) months each beyond the initial term of the Acquisition Period. Such extension or extensions will be upon mutual agreement of the City and the Lessor, and will be accomplished by a document extending the Acquisition Period, duly executed by the City and Lessor prior to September 30, 2016, and if mutually agreed to further extend the Acquisition Period one additional annual period, on or before September 30, 2017. The term of the final acquisition period will expire on September 30, 2018.

IV – PAYMENT

4.1 Amount and Times of Payment by Lessee: The total purchase price for Equipment indicated in each Appendix shall be reimbursed to the City by the Lessor and the City shall pay the Lessor the Lease Payments in the amounts and on the dates indicated in each Appendix. The interest component of the initial Lease Payment with respect to each Appendix shall include accrued interest from the date the Lessor reimburses the City for the Equipment. All interest payments including payments for partial months and accrued interest shall be calculated on the basis of a year with 360 days consisting of twelve 30-day months. A fixed rate of interest will be established by executing of an Appendix as set forth on the Appendix, Part 2. Using the terms of the Appendix, the rate will be determined by multiplying 0.65% times the applicable Index published in the week of the Financing Request Date for the term based on the following schedule:

3 Year Lease Term Rate = 2 Year Federal Reserve H-15 Swap Rate x 65% plus 59.8 bps
5 Year Lease Term Rate = 3 Year Federal Reserve H-15 Swap Rate x 65% plus 70.5 bps
7 Year Lease Term Rate = 4 Year Federal Reserve H-15 Swap Rate x 65% plus 82.9 bps
10 Year Lease Term Rate = 6 Year Federal Reserve H-15 Swap Rate x 65% plus 97.5 bps

The net effective interest rate may not exceed the net effective interest rate of which public securities may be issued in accordance with Chapter 1204 of the Texas Government Code. In the event the net effective interest rate does so exceed such rate, the net effective interest rate in such instance, for all purposes hereof, shall be the net effective interest rate at which public securities may be issued in accordance with Chapter 1204 of the Texas Government Code. Invoices shall be submitted by the Lessor directly to the City at the City's address shown on the Appendix not less than 15 days before the due date of each Lease Payment. All invoices shall show the Appendix number and the federal employer identification number of the Lessor. Subject to Section 4.3, all Lease Payments will be made upon the City's receipt of an accurate invoice meeting the requirements of this Agreement. If paid by wire transfer, the date of the City's wire transfer shall be deemed to be the date of payment by the City to the Lessor. Subject to Section 4.3 and Section 19, there will be no abatement or reduction of Lease Payments by the Lessee for any reason, including but not limited to, any defense, recoupment, set off, counterclaim, or any claim arising out of or related to any defects, damages, malfunctions, breakdowns or unsuitability of the Equipment.

4.2 Amount and Times of Payment by Lessor: Payment by Lessor must be made to the City by the Financing Request Date of an Appendix, as evidenced in writing and receipt of the documents described in Section 5.5(a). The amount of payment will be stated in the Appendix covering such Equipment. The date of the Lessor's wire transfer shall be deemed to be the Lessor Payment Date.

4.3 Appropriation of Payments: Notwithstanding any provision in this Agreement to the contrary, all funds for payment by the Lessee under this Agreement, including all Lease Payments, are subject to the availability of an annual appropriation for this purpose by the City Council of the Lessee. While recognizing that it is not empowered to make any binding commitment beyond the current fiscal year of the Lessee, it is the current intention of the Lessee to make sufficient annual appropriations during the Term of this Agreement to pay all Lease Payments and other amounts required to be paid by the Lessee under this Agreement. Failure to make any payments hereunder as a result of non-appropriation shall not be deemed to be an Event of Default, but such failure shall entitle the Lessor to exercise the remedies set forth in Section 4.6.

4.4 Events of Default by Lessee: Any of the following events shall constitute an Event of Default by the Lessee under this Agreement, provided that no such default shall constitute an Event of Default unless it is not cured within thirty (30) days after the receipt by the Lessee of written notice, as provided herein, thereof from the Lessor to the Lessee:

(a) The nonpayment of any Lease Payment required hereunder, or the default by the Lessee in the performance of any of the obligations, covenants, terms and provisions contained or referred to in this Agreement; provided, however, that failure to make any payments as a result of non-appropriation by the City Council shall not constitute an Event of Default but shall entitle the Lessor to exercise the remedies set forth in Section 4.6.

(b) Any warranty, representation, or statement of Lessee contained in this Agreement proves to have been false in any material respect when made or furnished.

(c) Loss, theft, substantial damage, destruction, except as provided in Section 5.7, sale or encumbrance, subject to Section 5.4 and Section 7.1, of or to any of the Equipment, or the making on any levy, seizure or attachment thereof or thereon provided that the Lessee is not taking reasonable steps to replace, repair, or remove any encumbrances from such Equipment.

(d) Proceedings under any bankruptcy, insolvency, reorganization or similar legislation shall be instituted by or against the Lessee, or a receiver, custodian or similar officer shall be appointed for the Lessee or any of its property.

4.5 Events of Default by Lessor: Any of the following events shall constitute an Event of Default by Lessor under this Agreement:

(a) Late payment by Lessor for Equipment following timely notification and documentation from the City with respect to such Equipment as per Section 4.2.

(b) Lessor's failure to observe any of the covenants and requirements of this Agreement.

(c) Any warranty, representation, or statement of Lessor contained in this Agreement proves to have been false in any material respect when made or furnished.

4.6 Remedies of Lessor: Upon the occurrence of an Event of Default or event of non-appropriation by the Lessee, then Lessor may, as its option, take any one or more of the following actions with respect to the Appendix wherein such Event of Default or non-appropriation has occurred:

(a) Declare the entire amount of unpaid Lease Payments due under the Appendix wherein such Event of Default or non-appropriation has occurred to be immediately due and payable, without further notice;

(b) Repossess any equipment under the Appendix wherein such Event of Default or non-appropriation has occurred or sell or lease the Equipment in a commercially reasonable manner, and in accordance with Chapter 9 of the Texas Business and Commerce Code, through public or private transaction after giving Lessee reasonable prior written notice with or without having the Equipment at any such sale or leasing. Lessor may purchase all or part of the Equipment at any such sale or leasing. The proceeds of any sale or leasing will be applied to the payment of the unpaid balance of Lessee's obligations under this Agreement and Lessor shall have no further rights or recourse under this Agreement against Lessee with respect to such repossessed Equipment except to recover any amounts then appropriated and unexpended by Lessee to make Lease Payments under this Agreement. To the extent the proceeds of any such sale or leasing exceed the amount required to pay the unpaid balance of Lessee's obligations under this Agreement, such excess shall be paid to Lessee; or

(c) Terminate this Agreement as to and only as to the Appendix wherein the Event of Default or non-appropriation has occurred.

(d) Terminate the Lessor's obligation to fund any future Appendix under this Agreement.

Lessor's attempt to exercise any of the remedies herein entitles Lessee to prepay all amounts due under the Appendix wherein such Event of Default or non-appropriation has occurred, without notice to Lessor, as provided in Section 7.1 and Section 7.2 herein, notwithstanding any provisions to the contrary contained herein.

4.7 Remedies of Lessee: Upon the occurrence of an Event of Default by Lessor, the Lessee may, at its option, take any one or more of the following actions:

(a) Institute any or all remedies available to Lessee as allowed by law, contract, equity, or otherwise.

(b) Terminate this Agreement as to all or any part of the Equipment, provided that the Lessee prepays its obligations in accordance with Section 7.1 with respect to any Equipment for which this Agreement will be terminated.

V – RESPONSIBILITIES OF LESSEE

5.1 Care and Use of Equipment: The Lessee shall use the Equipment or cause the Equipment to be used in a proper manner, in compliance with all applicable laws and regulations, and at its sole cost and expense, service, repair and maintain the Equipment so as to keep the Equipment in good condition, repair, appearance and working order for the purposes intended, ordinary wear and tear excepted, and shall replace any material part of the Equipment as may from time to time become worn out, lost, stolen, destroyed, damaged or unfit for use. Any and all additions to or replacements of the Equipment and all parts thereof shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

5.2 Inspection: Subject to security regulations, laws, policies, and ordinances and other applicable laws, regulations, ordinances and policies, Lessee will allow Lessor, with reasonable prior notice to Lessee, to enter premises where the Equipment is located during normal business hours for the purposes of inspecting the Equipment and observing whether Lessee is in compliance with its responsibilities under this Agreement.

5.3 Taxes and Licenses: It is the Lessee's good faith belief that the items acquired by it pursuant to this Agreement should be exempt from the payment of Federal excise taxes and from all State and Local taxes imposed by the State of Texas or its political subdivisions.

5.4 Assignment or Delegation of Lessee: Lessee may not assign all or any part of its rights and obligations under this Agreement or in the Equipment to another party.

5.5 Delivery of Related Documents:

(a) For each item of Equipment, Lessee shall execute or deliver, as appropriate, the following documents:

(i) An Appendix in substantially the form attached.

(ii) To the extent required and as prepared by Lessor, financing statements or other documents to evidence Lessor's security interest provided that such statements shall not impose liabilities and/or responsibilities inconsistent with this Agreement.

(iii) A copy of IRS form 8038-G; original to Internal Revenue Service.

(iv) Certificates in substantially the form of Exhibit A relating to the essentiality of the Equipment and Exhibit B relating to insurance coverage.

(v) For any Appendix where the principal amount to be financed exceeds $5,000,000, an opinion of nationally recognized bond counsel to the effect that the interest component of the Lease Payments is excluded from the gross income of the Lessor under the Code.

(b) For each item of Equipment, Lessee shall provide upon written request of the Lessor, the City's maintenance contract of the Equipment, if applicable.

(c) Upon the execution of this Agreement by Lessee, Lessee will provide a Certification of Counsel in the form attached hereto as Exhibit C.

5.6 Liability and Property Insurance: During the term of this Agreement, the Lessee agrees to provide the following insurance coverages under Lessee's self-insurance program or through its purchased commercial

property insurance policies:

(a) Insurance or self-insurance in the amount of the full replacement cost of the Equipment against the risk of any direct physical loss of or damage to the Equipment.

(b) Comprehensive general liability insurance or self-insurance against liability for death or bodily injury and for damage to property, arising out of the ownership, maintenance or use of the Equipment, which insurance coverage shall not be circumscribed by any endorsements limiting the breadth of coverage (limited only as may be provided in the standard form for such coverage at the time in use in Texas). The proceeds of such insurance coverage shall be applied to satisfaction of the liability.

Lessee shall furnish to the Lessor evidence of the above coverages prior or contemporaneous to execution of the Contract Documents.

Lessee's failure to maintain insurance or self-insurance is an immediate event of default, and Lessor has the right to obtain the insurance and be reimbursed for its cost by the Lessee to the Lessor.

5.7 Damage to or Destruction of Equipment: If after delivery of any Equipment to Lessee all or any material part of the Equipment is lost, stolen, destroyed or damaged beyond repair, Lessee shall as soon as practicable after such event either: (a) replace the same at Lessee's sole cost and expense with Equipment of equal or greater value to the Equipment immediately prior to the time of the loss occurrence, such replacement Equipment to be subject to Lessor's reasonable approval, whereupon such replacement Equipment shall be substituted in this Agreement and other related documents by appropriate endorsement or amendment; or (b) pay the applicable prepayment price (as set forth in Section 7.2 hereof) of the Appendix to which such Equipment belongs. Lessee shall notify Lessor of which course of action it will take within thirty (30) days after the loss occurrence. In the event Lessor shall replace or repair the Equipment, as described above, it shall be deemed that no Event of Default hereunder has occurred. Upon payment of the prepayment price as set forth in Section 7.1 hereof with respect to any Appendix, this Agreement shall terminate with respect to the relative Equipment and Lessee thereupon shall become entitled to such Equipment on an **AS IS, WHERE IS** basis and Lessor makes no warranties or representations of any type as to the Equipment, except that such Equipment shall not be subject to any lien or encumbrance created by or arising through Lessor.

5.8 Risk of Loss: Unless Section 6.9 of this Agreement is applicable, all risk of loss to the Equipment arising out of the ownership, possession or use of the Equipment shall be borne by Lessee.

5.9 Application of Funds: All funds authorized or appropriated for payments under this Agreement shall be applied by the City to such payment requirements to the extent required by this Agreement.

VI – EQUIPMENT

6.1 Title: Title to Equipment listed in an Appendix shall pass to the Lessee upon acceptance thereof. Title will revert to Lessor upon the occurrence of the Event of Default, and expiration of the notice and cure period, under Section 4.4, or upon non-appropriation of payments due regarding such Equipment listed in the applicable Appendix under this Agreement.

6.2 Security Interest: The Lessee grants to Lessor and Lessor retains a purchase money security interest in the Equipment. Lessee will not change or remove any insignia or lettering, which Lessor may place on the Equipment to indicate its interest therein until all Lease Payments are made. Until all Lease Payments are made or prepayment is complete, Lessee shall keep the Equipment free from any lien, encumbrance or legal process, which would conflict with this security interest.

6.3 Filing: Subject to the provisions of Section 5.5.a.ii, Lessee authorizes Lessor to make Lessor's security interest a matter of public record by filings of any standard documents necessary for that purpose. Lessee agrees to sign or

execute such documents, if required, to evidence its consent to the filing. Lessee will provide sixty (60) days written notice to Lessor that Equipment is being relocated to insure that Lessor may perfect additional filings as necessary.

6.4 Personal Property: The Equipment shall remain the personal property as defined in V.T.C.A, Local Government Code, Subchapter A of Chapter 271, as amended, of the Lessee and shall not be deemed to have become real property regardless of the manner in which it is affixed to real property.

6.5 Alternations, Additions, Attachments: Lessor hereby agrees to allow the Lessee to add and attach to the Equipment such additional equipment, facilities or fixtures as the Lessee may subsequently acquire (exclusive of repair, service replacement parts, which do not constitute new equipment, but shall become part of the Equipment) notwithstanding the form of financing that the Lessee might use, which additional equipment, facilities or fixtures shall not be a part of or subject to this Agreement, unless by express written amendment.

6.6 Removal of Alterations, Additions, Attachments: In the event title to the Equipment reverts to Lessor, Lessee, at its own expense, will remove all alterations, additions and attachments and repair the Equipment as necessary so as to return the Equipment to the condition in which it was furnished, reasonable wear and tear excepted. Lessee will not be responsible for any maintenance repairs if the Equipment has been under a continuous maintenance agreement since it was put into service and accepted by the City.

6.7 Return of Equipment: In the event title to the Equipment reverts to Lessor, as specified herein, for the Equipment listed in any Appendix, Lessee shall deliver possession of the Equipment to Lessor at the premises of Lessee in the condition in which the Equipment is required to be maintained according to this Agreement.

6.8 Quiet Enjoyment: The Lessee shall be entitled to possess and use the Equipment during the term of this Agreement without interruption by the Lessor, provided that the Lessee has duly performed its obligations under this Agreement. Any Equipment acquired under terms of this Agreement may be operated at any time at the convenience of the Lessee (exclusive of time required for preventive maintenance, remedial maintenance and/or approved engineering changes). There shall be no restrictions as to consecutive hours, length of personnel shifts, etc., unless such restrictions are specifically incorporated in an Appendix. Lessee may make Equipment available to other users, provided that such use is supervised by the City, such Equipment is used by other governmental units, and Lessor has consented in writing to such use by a substitute user, such consent to not be unreasonably withheld.

6.9 Liability of Lessor: Notwithstanding Section 11.2 of this Agreement, in the event that the Lessor is required to perform work at the Lessee's location and such work is performed by Lessor, its agents, employees, contractors or assigns the Lessor shall (1) maintain such bodily injury and property damage liability insurance as necessary to protect itself from claims arising out of performance of this Agreement, and (2) indemnify and hold harmless the City, its elected and appointed officers, officials, agents, employees and designated representatives from and against any and all claims, suits, actions, liabilities, and costs of any kind, including attorney's fees for bodily injury and damage to real or personal property arising from or related to intentional or grossly negligent acts or omissions of the Lessor, its agents, officers, employees, contractors or assigns.

VII – PREPAYMENT

7.1 Prepayment: Lessee shall have the right, exercisable as of any date following the first half of the term of the Appendix, to prepay the principal amount outstanding under such Appendix in whole or in part, plus accrued but unpaid interest to the prepayment date.

Lessee's right hereunder shall be exercised by:

(a) Lessee advising Lessor, at least thirty (30) days in advance in writing, of its intention to prepay its obligations under any Appendix, the principal amount, the Equipment to which the prepayment is applicable, and the effective date of that payment (Prepayment Date); and

(b) Lessee paying Lessor the outstanding principal balance as of the Prepayment Date together with accrued but unpaid interest from the most recent Payment Date to and including the Prepayment Date.

7.2 Lessee's Rights on Prepayment or Payment in Full: Upon (1) Lessee's exercise of its right of prepayment in accordance with the preceding subsection; or (2) Lessee's having satisfied all of its monetary obligations hereunder, Lessor shall deliver to Lessee, at its expense, all documents necessary to evidence the termination of Lessor's interest of any kind in the Equipment or portion of the Equipment to which the prepayment or payment applies and to confirm such Equipment is free and clear of any claim or lien arising through Lessor.

VIII – ASSIGNMENT BY LESSOR

8.1 Right of Assignment: This Agreement shall be binding upon and inure to benefit of the Lessor and Lessee. This Agreement, Lessor's rights hereunder, or the obligation hereby described is not assignable by Lessor without the prior written consent of the Lessee, and such consent shall not be unreasonably withheld or delayed. Should assignment be granted by the Lessee, all payments shall continue to be made to the Lessor on the originally agreed upon payment dates.

IX – WARRANTIES AND REPRESENTATIONS

9.1 Warranties and Representations of Lessee: The Lessee represents and warrants to the Lessor that Lessee is duly organized and validly existing and has the power and authority to enter into this Agreement and to carry out the terms hereof including authority expressly conferred by V.T.C.A., Local Government Code, Subchapter A of Chapter 271. The Lessee's obligations to make Lease Payments hereunder, as described in Section 2.2, are subject to annual appropriation of sufficient funds each year by the City Council.

The Lessee represents and agrees that it will not submit any Appendix that requests a payment period longer than the useful life of the Equipment to be leased.

The Lessee shall not use, permit the use of, or omit to use the Equipment acquired under this Agreement in a manner which if made or omitted, respectively, would cause the interest portion of a Lease Payment to become includable in the gross income, as defined in section 61 of the Code, of the Lessor for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the Lessee receives a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any Lease Payment, the Lessee shall comply with covenants, representations and warranties contained herein.

Except as permitted by section 141 of the Code and the Regulations and rulings thereunder, the Lessee shall at all times exclusively operate and possess all Equipment the acquisition of which is to be financed directly or indirectly under this Agreement, and not use or permit the use of such Equipment in any activity carried on by any person or entity (including the United States or any agency, department and instrumentality thereof) other than a state or local government.

The Lessee shall timely file the information required by section 149(e) of the Code with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary may prescribe.

9.2 Warranties and Representations of Lessor: Lessor represents and warrants to Lessee that:

(a) Lessor is a corporation or other entity in good standing under the applicable laws of the State of Texas and has the power and authority to enter into this Agreement and to carry out the terms hereof.

(b) Contract Documents executed by Lessor have been duly authorized, approved, executed and delivered by its authorized representatives and constitute legal, valid and binding obligations of Lessor enforceable

against Lessor in accordance with their respective terms.

X – MISCELLANEOUS PROVISIONS

10.1 Waiver: No delay or omission by Lessor or Lessee in exercising any right in any of the Contract Documents shall operate as a waiver of that or any other right and no single or partial exercise of any right shall preclude Lessor or Lessee from any further exercise of any right or remedy. Lessor or Lessee may itself cure any Event of Default of the defaulting party without waiving the Event of Default and such cure shall not constitute a waiver of any prior or subsequent Event of Default of the defaulting party.

10.2 Headings: All section headings contained herein are for convenience of reference only and are not intended to limit the scope of any provisions of this Agreement.

10.3 Severability: In the event any portion of this Agreement shall be finally determined by any court of competent jurisdiction to be invalid or unenforceable, such provision shall be stricken and this Agreement, as modified, shall continue in full force and effect.

10.4 Implementation: This Agreement shall be implemented by its execution or execution of Appendices hereto. For purposes of construing a transaction as an integrated contract and for the purposes of the provisions of Section 8, the following shall be considered a single transaction or legal binding agreement:

(a) This Agreement, which provides basic terms and conditions; and

(b) An executed Appendix, which provides for the description of the Equipment to be purchased, the payments from Lessee to Lessor for the purchase of such Equipment and prepayment amounts.

10.5 Amendment: Neither this Agreement nor any of the other Contract Documents may be amended unless in writing, signed by the parties hereto, and approved as to form by the City Attorney.

10.6 Contractual Records: All contractual books, records and other documents related to matters under this Agreement shall be maintained and made available by Lessor to Lessee and its designated agents for a period of five (5) years after final payment for purposes of audit and examination.

10.7 No Waiver: Nothing contained in this Agreement shall be deemed or be construed to be an express or implied waiver of the sovereign immunity of the City of Lubbock or its officials, officers and employees, or a pledge of the full faith and credit of the City.

10.8 Entire Agreement: This Agreement, the Contract Documents identified in Section 1.4, and the Appendices as may be hereafter executed, constitute the entire Agreement between the parties hereto. All prior negotiations, representations and additional or inconsistent oral or written statements are superseded, null and void.

10.9 Counterparts: This Agreement may be executed in several counterparts each of which shall be an original and all of which together shall constitute but one and the same instrument.

XI – DISCLAIMER OF WARRANTIES

11.1 LESSOR MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, RELATING TO THE EQUIPMENT; AND LESSOR HAS EXPRESSLY MADE NO WARRANTY AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE EQUIPMENT.

11.2 Lessor shall not be liable to Lessee for any liabilities, loss or damage caused, directly or indirectly, by the

Equipment or by any inadequacies thereof or deficiency therein, by any incident whatsoever in connection therewith or in any way related to or arising out of the Equipment. The Lessee shall be entitled to the benefit of any applicable manufacturer's, dealer's or any other party's warranties. Lessor agrees to execute and deliver such instruments as may be necessary or advisable, in the reasonable opinion of the Lessee, to enable it to enforce such warranties and obtain the warranties and service furnished for the Equipment by the manufacturer.

XII – NOTICES

All notices made or required to be given pursuant to this Agreement shall be in writing and shall be deemed duly served if and when mailed, unless otherwise specified, certified mail, postage prepaid, return receipt requested, to the other party at its address set forth below or at such address as such party shall hereafter designate in writing.

If to the Lessor, address to:

Banc of America Public Capital Corp
555 California Street, 4th Floor
San Francisco, CA 94104
Attention: Contract Administration
Mail Code: CA5-705-04-01

If to the Lessee, address to: City of Lubbock
1625 13th Street
Lubbock, Texas 79401
ATTN: Finance Department

XIII – EMPLOYMENT DISCRIMINATION BY LESSOR PROHIBITED

During the performance of this Agreement, the Lessor agrees as follows:

A. The Lessor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, sexual orientation, or national origin. The Lessor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

B. The Lessor, in all solicitations or advertisements for employees placed by or on behalf of the Lessor, will state that such Lessor is an Equal Opportunity Employer.

C. Notices, advertisements and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

D. The Lessor will comply with the provisions of the Americans with Disabilities Act of 1990 which prohibits discrimination against individuals with disabilities in employment and mandates their full participation in both publicly and privately provided services and activities.

XIV – INDEMNIFICATION

The Lessor covenants to save, defend, hold harmless, and indemnify the City, and all of its elected officials, officers, departments, agencies, agents, and employees (collectively the "City") from and against any and all claims, losses, damages, injuries, fines, penalties, costs (including court costs and attorney's fees), charges, liabilities, or exposure, however caused, resulting from, arising out of, related to or in any way connected with the Lessor's intentional or grossly negligent acts or omissions in the performance or nonperformance of its duties and obligations provided or required for by this Agreement and/o r Contract Documents. This indemnification shall survive the termination of the Agreement.

XV – ETHICS IN PUBLIC CONTRACTING

The Agreement incorporates by reference local, state and federal law related to ethics, conflicts of interest, or bribery, including by way of illustration and not limitation, the Texas Local Government Code, Texas Government Code and Texas Penal Code.

The Lessor certifies that its offer is made without collusion or fraud and that is has not offered or received any kickbacks or inducements from any other offeror or subcontractor and that it has not conferred on any public employee having official responsibility for this purchase or activity any payment, loan, subscription, advance, deposit of money, services, present or promised, unless consideration of substantially equal or greater value was exchanged.

XVI – APPLICABLE LAW

This Agreement and the obligations hereunder shall be governed in all respects by the laws of the State of Texas and the venue for any litigation with respect thereto, this Agreement and the Contract Documents, being performable at least in part in Lubbock County, Texas, shall exclusively lie in Lubbock County, Texas. The Lessor shall comply with applicable federal, state and local laws, regulations and ordinances.

XVII - RELATION TO CITY

The Lessor shall be considered as an independent contractor of the City and neither the Lessor nor its employees will, under any circumstances, be considered servants or agents of the City. The City will not be legally responsible for any negligence or other wrongdoing of any kind, or type, of the Lessor, its servants, employees, agents, or contractors. The City will not withhold payments to the Lessor for any federal or state unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to the Lessor. Further, the City will not provide to the Lessor any insurance coverage or other benefits, including Worker's Compensation, normally provided by the City for its employees.

XVIII – ARBITRATION

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

XIX – RIGHT TO AUDIT

At any time during the term of the contract, or thereafter, the City, or a duly authorized audit representative of the City or the State of Texas, at its expense and at reasonable times, reserves the right to audit Contractor's records and books relevant to all services provided to the City under this Contract. In the event such an audit by the City reveals any errors or overpayments by the City, Contractor shall refund the City the full amount of such overpayments within thirty (30) days of such audit findings, or the city, at its option, reserves the right to deduct such amounts owing the City from any payments due Contractor.

XX – CONFIDENTIALITY AND RETURN OF RECORDS

The Lessor agrees that all findings, memoranda, correspondence, documents or records of any type, whether written or oral, and all documents generated by the Lessor as a result of the City's request for services under this Agreement (the

"Records"), ma y be confidential, and neither the Records nor their contents shall be released, nor their contents disclosed, to any person other than the City or its designee, except as may be required by law, rule or regulation applicable to the Lessor or its successors or assigns. To the extent permitted by law, rule or regulations applicable to the Lessor or its successor or assigns, the Lessor agrees that all oral or written inquiries from any person or entity regarding the status of any Record generated as a result of the existence of this Agreement shall be referred to the City or designee for response. At the City's request, the Lessor shall deliver all Records to the City, including "hard copies" of computer records.

The Lessor agrees to include the provisions of this section as part of any Contract or Agreement the Lessor enters into with subcontractors or other third parties for work related to work pursuant to this Agreement.

No termination of this Agreement shall have the effect of rescinding, terminating or otherwise invalidating this section.

XXI - REQUIREMENTS CONTRACT (ESTIMATED QUANTITIES)

The Lessor understands and agrees that the City is under no obligation under this Agreement to request financing from the Lessor if it deems that financing is not required or that other financing, including but not limited to other lease-purchase agreements, is more advantageous to the City. Lessor understands and agrees that the City is under no obligation to the Lessor to request financing for any amount as a result of having had any normal or otherwise measurable requirement in the past.

XXII - EVENT OF TAXABILITY

In the event of a Determination of Taxability, the interest rate shall automatically increase to the interest rate representing the equivalent yield to the Lessor under the respective Appendix assuming the interest component of the Lease Payments is included in the gross income of the Lessor under the Code ("Taxable Rate") retroactive to the date of the occurrence of the Determination of Taxability and the Lessee will pay such additional amount as will result in the Lessor receiving the interest component of the Lease Payments at the Taxable Rate; provided, further, that such interest rate as increased by the terms hereof, respectively, shall never exceed the then maximum interest rate allowed for similar governmental obligations pursuant to Chapter 1204, Texas Government Code, as amended, or other applicable laws in effect as of the date of such appendix or as of the date of any increase to such interest rate, respectively.

"Determination of Taxability" means one of the following determinations made in regard to section 103 of the Code to the effect that by reason of any action or inaction by the Lessee or any violation by the Lessee of any of its covenants or representations in this Agreement or any misrepresentation in any certificate furnished in connection with any Appendix hereunder, the interest payable under such Appendix is includable in the gross income of the Lessor: (i) a final determination, decision or decree by the Commissioner or any District Director of Internal Revenue, or by any court of competent jurisdiction, which is not subject to further review, or (ii) an opinion of a nationally recognized bond counsel furnished by the Lessor to the Lessee.

WITNESS these signatures:

LESSEE:

CITY OF LUBBOCK, TEXAS (Lessee):

By: Glen C. Robertson

TITLE: Mayor

ATTEST:

Rebecca Garza, City Secretary

COMPLETE ADDRESS:

P.O. Box 2000
Lubbock, Texas 79457
Phone: (806) 775-2183
Fax: (806) 775-3273

APPROVED AS TO CONTENT:

Linda Cuellar, Acting Director of Finance

APPROVED AS TO FORM:

Amy Sims, Deputy City Attorney

LESSOR:

BANC OF AMERICA PUBLIC CAPITAL CORP (Lessor):

By: Terri J. Proston

TITLE: Authorized Agent

ATTEST:

Authorized Officer

COMPLETE ADDRESS:

555 California Street, 4th Floor
San Francisco, CA 94104
Phone: (415) 765-1897
Fax: (415) 343-0531

EXHIBIT A

APPENDIX NUMBER _____

ESSENTIAL USE CERTIFICATE

TO: (Lessor)

Reference is made to the City of Lubbock Master Lease Agreement, dated December 3, 2015, (the "Agreement") between Banc of America Public Capital Corp and the City of Lubbock, Texas (the "City"). This confirms that the items described in Appendix _____ to the Agreement (Equipment) are essential to the functions of the City and the services provided to the citizens of the City.

Further, the City has an immediate need for, and expects to make immediate use of, substantially all of the Equipment, which need is not temporary or expected to diminish in the foreseeable future. The Equipment will be used by the City only for the purpose of performing one or more of our governmental or proprietary functions consistent with the permissible scope of the City's authority.

CITY OF LUBBOCK, TEXAS

By:_____

_____

(Title)

Date: _____

EXHIBIT B

APPENDIX NUMBER _____

INSURANCE COVERAGES

TO: (Lessor)

Pursuant to Section 5.6 of the Master Lease Agreement, dated December 3, 2015 (the "Agreement") between Banc of America Public Capital Corp and the City of Lubbock, Texas (City), the City is insured through commercial property insurance policies or through self-insurance for all risk, physical damage and public liability with respect to the Equipment (as defined in the Agreement) and will provide proof of such coverage if coverage is provided through policies other than self-insurance.

CITY OF LUBBOCK, TEXAS

By:_____

_____

(Title)

Date: _____

EXHIBIT C

CERTIFICATE OF COUNSEL

I am City Attorney for the City of Lubbock, Texas and, in that capacity, I have examined the Master Lease Agreement, dated December 3, 2015, (the "Agreement") between the City of Lubbock (the "City") and Banc of America Public Capital Corp (the "Lessor").

1. As a result of my examination of the Agreement, I have advised the City as follows:

   (a) The City is a political subdivision of the State of Texas and is authorized by resolution of the City Council to enter into the transactions contemplated by the Agreement and, to extent funds are appropriated for the Agreement, as provided therein, to carry out the City's obligations under the Agreement.

   (b) The obligation of the City to make payments under the Agreement is enforceable only if and to the extent that funds for such purpose are appropriated by the City Council of the City.

   (c) The Agreement is a legal, valid and binding obligation of the City, enforceable against the City according to its terms.

2. I express no opinion as to any of the following matters:

   (a) The title of any party to, the accuracy or adequacy of the description of, the priority of any security interest or lien in, or whether the property described in the Appendices constitutes, Equipment, as defined in the Agreement.

   (b) The laws of any jurisdiction that may be applicable to the Agreement other than those of the State of Texas.

3. For the purposes of this Certificate, I have assumed that all signatures by parties other than those by or on behalf of the City are genuine; all documents that have been submitted to me as originals are authentic; and all documents submitted to me as certified, conformed or photostatic copies conform to authentic, original documents.

_____

City Attorney

EXHIBIT D
MASTER LEASE AGREEMENT

APPENDIX NUMBER _____
PART 1

EQUIPMENT LIST

The undersigned, under the Master Lease Agreement, dated December 3, 2015 (the "Agreement"), between Banc of America Public Capital Corp (Lessor), and the City of Lubbock, Texas (City), negotiated for the purpose of acquiring the Equipment in this Appendix and any other Appendices to the Agreement, hereby certifies that all the Equipment described below has been installed and is operational to the satisfaction of the City.

ITEM DESCRIPTION	QUANTITY	UNIT PRICE	TOTAL COST	TERM
(i) GRAND TOTAL ALL ITEMS LISTED ON APPENDIX _____				

Installation address: _____

and other official City buildings within the City of Lubbock, Texas

Relocation:

The City may relocate equipment within the City of Lubbock, Texas. All expenses associated with relocation will be borne by the City. These expenses include but are not limited to installation, de-installation, casualty insurance and shipment.

LESSEE:

CITY OF LUBBOCK, TEXAS

By:_____

Name:_____

Title:_____

Financing Request Date: _____

LESSOR:

BANC OF AMERICA PUBLIC CAPITAL CORP

By:_____

Name:_____

Title:_____

Date of Approval:_____

Address for Invoices: _____

_____

_____

EXHIBIT D
MASTER LEASE AGREEMENT

APPENDIX NUMBER _____
PART 2

PAYMENT SCHEDULE

The principal amount to be financed for the Equipment shown on Appendix ____ - Part 1 is $_____. The amount of interest to be paid for the Equipment shown on Appendix ____ - Part 1 is $ _____. The rental payments the Equipment shown on Appendix ____ - Part 1 will be due in accord with the following payment schedule:

DATE	PRINCIPAL	INTEREST	TOTAL
(b) TOTAL			

The interest on this Appendix will accrue from the Lessor Payment Date of _____ at a rate per annum of for the term of _____ months. Interest will be calculated on the basis of a 360-day year with twelve 30-day months and is based on the rate structure provided in Section 4.1 of the Master Lease Agreement dated December 3, 2015. Interest will never exceed the maximum lawful rate of interest applicable.

LESSEE:

CITY OF LUBBOCK, TEXAS

By:_____

Name:_____

LESSOR:

BANC OF AMERICA PUBLIC CAPITAL CORP

By:_____

Name:_____

Regular City Council Meeting **5. 7.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - Finance: Consider a resolution authorizing the Mayor to execute an Industrial Tax Abatement Agreement with United Supermarkets, L.L.C. and Safeway, Inc.

Item Summary

The City of Lubbock received an application for industrial tax abatement from United Supermarkets, L.L.C. (United) for the expansion of the Llano Distribution Center at 5801 Martin Luther King Boulevard. The expansion includes the addition of 200,000 square feet to the distribution facility and the acquisition of additional personal property.

The facility is not located in an enterprise zone so a reinvestment zone is required in order for the City Council to consider tax abatement for the facility. The reinvestment zone was created by the 2nd reading of the Ordinance on the November 19, 2015, City Council meeting.

The project meets the Industrial Tax Abatement Policy and Guidelines minimum investment for an existing company of $500,000 in real property improvements. The total planned investment in the expansion of the facility is $26 million, with an additional 22.7 million in new personal property that includes $1.2 million for eligible equipment and other personal property, and $21.5 million in additional inventory and other equipment that is not eligible for tax abatement. The expansion will create 190 new jobs, with an estimated annual payroll of $7.2 million.

The City Council approved the Notice of Intent to the other taxing jurisdictions at the November 19, 2015 City Council meeting.

Staff is recommending a ten-year declining scale tax abatement.

Fiscal Impact

The estimated total amount of the City tax abatement will be $788,619 over the term of the abatement.

Staff/Board Recommending

Cheryl Brock, Executive Director of Budget

Attachments

Resolution-Contract

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock BE and is hereby authorized and directed to execute for and on behalf of the City of Lubbock a Tax Abatement Agreement with United Supermarkets, L.L.C. and Safeway, Inc. and all related documents. Said Agreement is attached hereto and incorporated in this Resolution as if fully set forth herein and shall be included in the minutes of the Council.

Passed by the City Council on _____, 2015.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Cheryl Brock,
Executive Director of Budget

APPROVED AS TO FORM:

_____
Linda L. Chamales,
Economic Development Attorney

LC: cityatt / Linda / Res-Tax Abatement United
November 19, 2015

AGREEMENT

STATE OF TEXAS §

COUNTY OF LUBBOCK §

This Agreement ("Agreement") is by and between the City of Lubbock, Texas, a home rule municipality of the State of Texas (hereinafter called "City"), United Supermarkets, L.L.C. (hereinafter called "United"), and Safeway, Inc. (hereinafter called "Safeway") ;

WITNESSETH:

WHEREAS, City received from United on the 12th day of August, 2015, an application for tax abatement for improvements to real property owned by Safeway and for tangible personal property (equipment) improvements to be owned by United located at 5801 MLK Blvd., Lubbock, Lubbock County, Texas which is further described and illustrated in the map in Exhibit "A" attached hereto and incorporated herein as fully set forth herein; and

WHEREAS, upon review of the above application it was determined that the facility and real property is located in the Reinvestment Zone designated by the City in Ordinance No. 2015-O0118 covering the above described property; and

WHEREAS, the Guidelines and Criteria Governing Tax Abatement For Industrial Projects in the City of Lubbock was adopted by Resolution No. 2015-R0347 of the City Council of the City of Lubbock. A copy of the Guidelines and Criteria Governing Tax Abatement for Industrial Projects in the City of Lubbock is attached as Exhibit "B" and incorporated herein as if fully set forth; and

WHEREAS, the City complied with all the requirements set forth in V.T.C.A., Tax Code, Section 312.201 and with all the criteria and guidelines as set forth in the Guidelines and Criteria Governing Tax Abatement for Industrial Projects in the City of Lubbock; and

WHEREAS, the City passed Ordinance No. 2015-O0118 creating a reinvestment zone for commercial and industrial tax abatement, said zone including the area which is described in the attached Exhibit "A"; and

WHEREAS, the application received by City from United is an application for the expansion of an existing facility, more specifically, building improvements to the existing facility and the addition of tangible personal property (equipment); and

WHEREAS, V.A.T.C., Tax Code, Sec. 312.002 specifically states that such a

purpose is to be included in the guidelines for tax abatement and to be eligible for such treatment; and

WHEREAS, Section IV of the Guidelines and Criteria governing Tax Abatement for Industrial Projects in the City of Lubbock recognizes expansion of an existing facility and addition of personal property as being eligible for tax abatement status; and

WHEREAS, the City Council does hereby find that all of the Guidelines and Criteria Governing Tax Abatement, as adopted by Resolution No. 2015-R0347 have been, or will be, met by United; and

WHEREAS, the location of the facility and surrounding real property, which are to be the subject matter of this Agreement, are attached hereto as Exhibit "A" and made a part of this Agreement for all purposes; and

NOW THEREFORE, for and in consideration of the premises and of the mutual terms, covenants and conditions herein contained the City, Safeway and United do hereby agree as follows:

SECTION 1. Recitals. The representations, covenants, and recitations set forth in the foregoing recitals are material to this Agreement and are hereby incorporated into and made a part of this Agreement as though they were fully set forth in this Section 1. Exhibits A, B, and C attached hereto are hereby incorporated into this Agreement as if fully set forth.

SECTION 2. Term. This Agreement shall commence January 1 of the tax year after the required improvements (both real property improvements and personal property acquisition as described in the foregoing recitals) are at least 90 percent complete and shall expire and be of no further force and effect ten (10) years after such date, unless earlier terminated as provided elsewhere herein.

SECTION 3. Base Year. The base year applicable to real and personal property, which is the subject of this Agreement, shall be 2015, and the assessed value of the real and personal property shall be the assessed value applicable to such property for said year.

SECTION 4. Base Year Taxes. The taxes upon the real and personal property shall be paid in accordance with the assessed value of such property for the base year. Base year taxes upon the real property are thus not abated.

SECTION 5. Abatement of Increase in Base Year Tax. In accordance with V.T.C.A., Tax Code, Section 312.204, real property taxes applicable to the real property subject to this Agreement shall be abated only to the extent said value for any given year within the term of this Agreement exceeds the base year taxes set forth above.

SECTION 6. Property Ineligible for Tax Abatement. The property described and set forth in Section IV(6) of the Guidelines and Criteria Governing Tax Abatement for Industrial Projects in the City of Lubbock (Exhibit “B”) is incorporated by reference herein

as if fully set out in this Agreement and fully describes the property ineligible for tax abatement.

SECTION 7. Exemption from Tax. The City covenants and agrees to exempt from taxation, in accordance with the appropriate Sections above, the following properties:

(a) All proposed new improvements to be placed upon the property at 5801 MLK Boulevard, which is further described as South Plains Industrial Tract A, City of Lubbock, Lubbock County, Texas, and more particularly in Exhibit "A".

(b) All eligible tangible personal property, owned by United, placed in or upon the real property set forth in Exhibit "A". Any equipment or personal property owned by United or Safeway prior to the execution of the contract, or already located in the existing facility, shall not be considered "eligible tangible personal property" under this Agreement.

(c) It is further understood that all items affixed to the new improvements placed upon the real property identified above and in Exhibit "A", including machinery and equipment shall be considered part of the real property improvement and taxes thereon shall be abated in accordance with the provisions of subparagraph (a) above set forth.

SECTION 8. Economic Qualifications. United agrees to expend funds necessary to qualify for tax abatement contemplated in this Agreement by expanding the existing facility owned by Safeway, as set forth in Section IV(3)(b) of the Guidelines and Criteria Governing Tax Abatement for Industrial Projects in the City of Lubbock (Exhibit "B") on the property described in Exhibit "A". A description of the kind, number and location of all proposed improvements is set forth in United's application which is attached hereto as Exhibit "C" and incorporated herein as if fully set forth.

SECTION 9. Value of Improvements. In accordance with V.A.T.C., Tax Code, Section 312.204(a), which requires the owner of the property to make specific improvements or repairs to the property in order to be eligible for tax abatement, United will expend twenty-six million dollars for the expansion of an existing facility owned by Safeway and $1.2 million dollars on eligible new equipment and machinery to be located within the reinvestment zone created by Ordinance No. 2015-O0118. Safeway hereby agrees to allow United to make the improvements to the property described in Exhibit "A."

United agrees that if the initial tax appraisal on this property does not reflect an increase in value equal to or exceeding twenty-seven million two hundred thousand dollars ($27,200,000) for the real property improvements and tangible personal property described in this Agreement, Company will provide invoices and proof of payment for the investment in the expansion of the facility and the machinery and equipment located in the facility.

SECTION 10. Job Creation. United agrees to create 135 new jobs by December 31, 2016 and retain those jobs for the term of this Agreement.

SECTION 11. City Access to Property. United and Safeway covenant and agree that City shall have access to the property, which is the subject matter of this Agreement, upon reasonable notice, during normal business hours, and subject to United's reasonable security, safety and operational standards, and that municipal employees shall be able to inspect the property and documents necessary to insure compliance with the terms and conditions of United's application for tax abatement, attached as Exhibit "C" to this Agreement.

SECTION 12. Portion of Tax Abated. City agrees, during the term of this Agreement, to abate taxes on eligible property described in Section 7 of this Agreement according to the following schedule.

Year 1:	100%
Year 2:	90%
Year 3:	80%
Year 4:	70%
Year 5:	60%
Year 6:	50%
Year 7:	40%
Year 8:	30%
Year 9:	20%
Year 10:	10%

SECTION 13. Type of Improvements. United proposes to modify Safeway's existing facility as described in Exhibit "C". United further states that the proposed improvements to the property above mentioned commenced on September 1, 2015, and shall be completed by August 1, 2016. United may request an extension of the above date from City in the event circumstances beyond the control of United necessitate additional time for completion of such improvements and such consent shall not unreasonably be withheld. United shall provide proof of completion within ten days of completion of improvements described in Exhibit "C".

SECTION 14. Limitation on Use. During the term of this Agreement, United and Safeway agree to limit the use of the property set forth in Exhibit "A" to commercial and/or industrial uses as those terms are defined in the zoning ordinances of the City of Lubbock and to limit the uses of the property to uses consistent with the general purpose of encouraging development of the enterprise zone during the term of this Agreement.

SECTION 15. Recapture. United and Safeway agree to be bound by and comply with all the terms and provisions for recapture of abated taxes under this Agreement in the event of default by United or Safeway after notice and opportunity to cure pursuant to law and as set forth in Guidelines and Criteria for Tax Abatement in Exhibit "B."

SECTION 16. Certification. United agrees to certify annually in writing to the City that the owner is in compliance with the terms of the Agreement.

SECTION 17. Compliance. The City may cancel or modify this Agreement if United or Safeway is in default under the terms of this Agreement. The City shall notify United and Safeway of any default by written notice specifying the basis for declaration of default, and with opportunity to cure, as required by and in compliance with Sections IX and X of the Guidelines and Criteria Governing Tax Abatement for Industrial Projects in the City of Lubbock, attached hereto as Exhibit "B."

SECTION 18. Notices. Notices required to be given by this Agreement shall be in writing, mailed, certified mail return receipt requested, to the following addresses (unless changed by a party on written notice to the other parties to this Agreement):

CITY OF LUBBOCK	UNITED SUPERMARKETS, L.L.C.
City Manager	Chris St. Clair, Exec. Vice President
P.O. Box 2000	P.O. Box 6840
Lubbock, Texas 79457	Lubbock, Texas 79424

SAFEWAY, INC.
Bradley R. Beckstrom, Vice. Pres.
250 East Parkcenter Blvd.
Boise, Idaho 83706

SECTION 19. Assignment. This Agreement may be assigned only upon written approval by the City of Lubbock.

SECTION 20. Representations. City represents that (a) the real property described in Exhibit "A" is located in the Reinvestment Zone designated by the City in Ordinance No. 2015-O0118; and (b) the City complied with all the requirements set forth in V.T.C.A., Tax Code, Section 312.201 and with all the criteria and guidelines as set forth in the Guidelines and Criteria Governing Tax Abatement for Industrial Projects in the City of Lubbock.

SECTION 21. Miscellaneous.

(a) In the event any provision of this Agreement is held to be invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect any other provisions of this Agreement.

(b) Any amendment to this Agreement shall be of no effect unless in writing and signed by all parties hereto.

(c) This Agreement may be executed in counterparts, each of which shall constitute an original, but all of which together shall constitute one (1) and the same instrument. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto except having additional signature pages executed by any other party.

SECTION 22. Effective Date. Notwithstanding anything contained herein to the contrary, this Agreement shall not be effective until such time as it has been finally passed and approved by the City Council of the City.

(Signatures on the following page)

EXECUTED on _____, 2015.

UNITED SUPERMARKETS, L.L.C.

_____
Chris St. Clair, Executive Vice President

SAFEWAY, INC.

_____
Bradley R. Beckstrom,
Vice President, Legal Department

CITY OF LUBBOCK
A Municipal Corporation

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Cheryl Brock

Cheryl Brock,
Executive Director of Budget

APPROVED AS TO FORM:

Linda L. Chamales

Linda L. Chamales, Economic
Development Attorney

Lc cityatt/Linda/ Tax Abatement Agmt – United 2015
November 5, 2015

EXECUTED on _____, 2015.

UNITED SUPERMARKETS, L.L.C.

Chris St. Clair, Executive Vice President

CITY OF LUBBOCK
A Municipal Corporation

GLEN C. ROBERTSON, MAYOR

ATTEST:

Rebecca Garza, City Secretary

SAFEWAY, INC.

Bradley R. Beckstrom,
Vice President, Legal Department

APPROVED AS TO CONTENT:

Cheryl Brock,
Executive Director of Budget

APPROVED AS TO FORM:

Linda L. Chamales, Economic
Development Attorney

Lc: cityatt/Linda/Tax Abatement Agmt – United 2015
November 5, 2015

EXECUTED on _____, 2015.

UNITED SUPERMARKETS, L.L.C.

_____
Chris St. Clair, Executive Vice President

SAFEWAY, INC.

_____
Bradley R. Beckstrom,
Vice President, Legal Department

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Development Attorney

Lc: cityatt/Linda/Tax Abatement Agmt – United 2015
November 5, 2015

EXHIBIT A

Legal Description – Property

Tract “A”, South Plains Industrial, an addition to the City of Lubbock, Lubbock County, Texas, according to the map, plat and /or dedication deed thereof, recorded in volume 6479, Page 84 of the Official Real Property Records, and re-filed in Volume 6486, Page 174 of the Official Real Property Records of Lubbock County, (page 2 of Exhibit A is a map)

EXHIBIT A

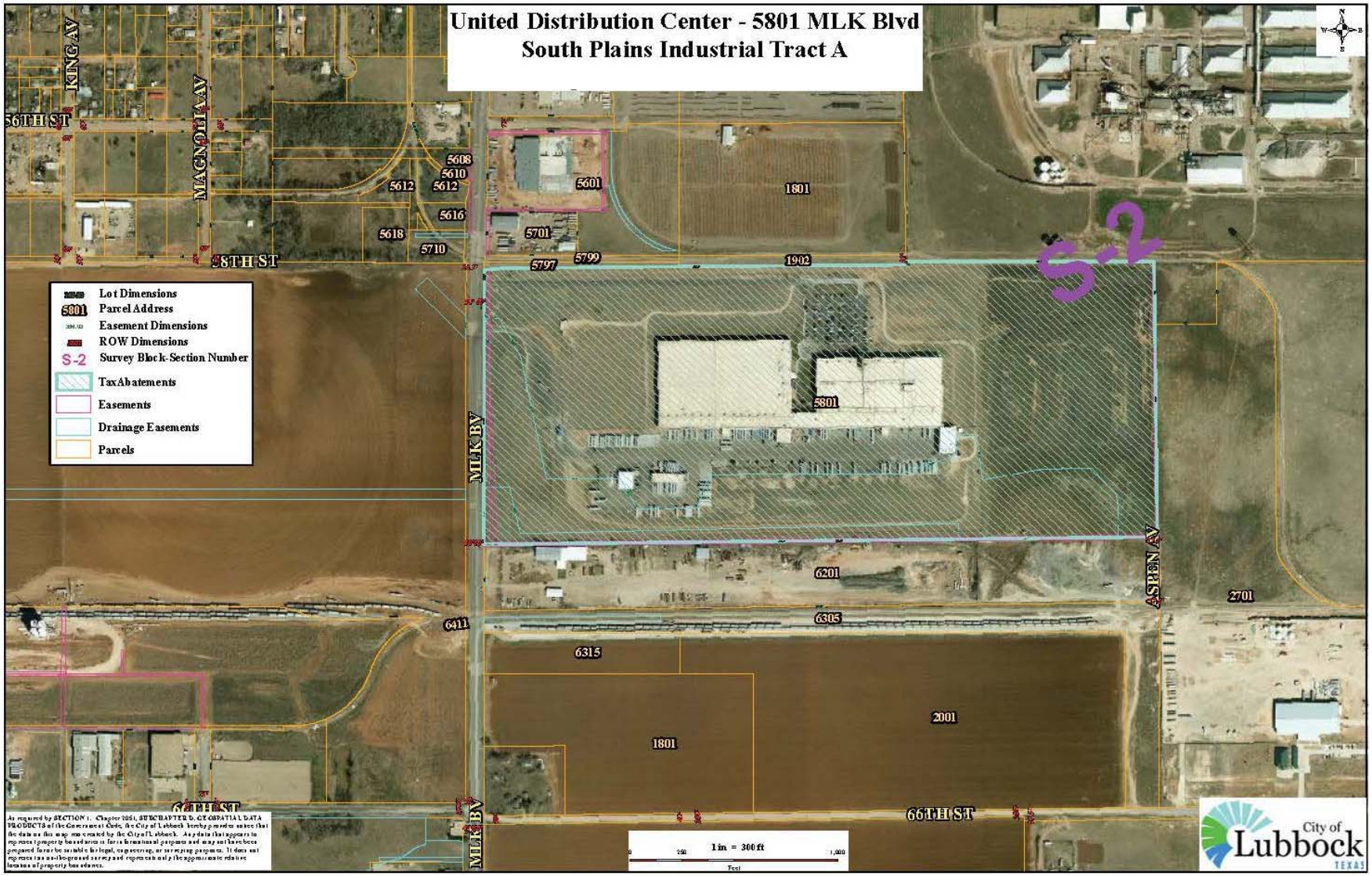

United Distribution Center - 5801 MLK Blvd
South Plains Industrial Tract A
KING AV
MAGNOLIA AV
56TH ST
58TH ST
66TH ST
MLK BV
ASPEN AV
5608
5610
5612
5612
5616
5618
5710
5601
5701
5797
5799
1801
1902
5801
6201
6305
6315
6411
2001
2701
S-2
Lot Dimensions
Parcel Address
Easement Dimensions
ROW Dimensions
S-2 Survey Block-Section Number
TaxAbatements
Easements
Drainage Easements
Parcels
1 in = 300 ft
City of Lubbock
TEXAS

EXHIBIT B

Guidelines and Criteria Governing Tax Abatement
For Industrial Projects in the City of Lubbock

Resolution No. 2015-R0347

Exhibit B

Item No. 6.3

October 22, 2015

RESOLUTION

WHEREAS, in November of 2013, the City of Lubbock approved uniform guidelines and criteria for tax abatement for industrial projects within the City of Lubbock; and

WHEREAS, state law requires that the guidelines and criteria approved must be re-adopted every two years, and the City of Lubbock desires to approve new guidelines for industrial tax abatement; **NOW THEREFORE:**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the City Council of the City of Lubbock hereby approves and adopts "Guidelines and Criteria Governing Tax Abatement for Industrial Projects in the City of Lubbock", which guidelines and criteria are attached as Exhibit "A" and are made a part hereof for all intents and purposes. These guidelines shall become effective upon expiration of the previously approved guidelines.

Passed by the City Council on October 22, 2015.

GLEN C. ROBERTSON, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Cheryl Brock, Executive Director of Budget

APPROVED AS TO FORM:

Linda Chamales,
Economic Development Attorney

Lc: city att/Linda/Resolutions/Res-Tax AbatementIndustrialGuidelines-2015
October 1, 2015

Exhibit B

Exhibit "A"
City of Lubbock, TX
Guidelines and Criteria Governing Tax Abatement For Industrial Projects In The City of Lubbock

SECTION I. General Purpose:

The City of Lubbock (City) is committed to the promotion of high quality development in all parts of the City of Lubbock, Texas; and to an ongoing improvement in the quality of life for the citizens residing within the City. The City recognizes that these objectives are generally served by enhancement and expansion of the local economy. The City will, on a case by case basis, give consideration to providing tax abatement, as authorized by V.T.C.A., Tax Code, Chapter 312, as stimulation for economic development within the City. It is the policy of the City that said consideration will be provided in accordance with the guidelines and criteria herein set forth and in conformity with the Tax Code.

Nothing contained herein shall imply, suggest or be understood to mean that the City is under any obligation to provide tax abatement to any applicant and attention is called to V.T.C.A., Tax Code, Section 312.002(d). With the above rights reserved all applications for tax abatement will be considered on a case by case basis.

SECTION II. Definitions:

As used within these guidelines and criteria, the following words or phrases shall have the following meaning:

1. **Abatement of Taxes**: To exempt from ad valorem taxation all or part of the value of certain Improvements placed on land located in a Reinvestment Zone designated for economic development purposes as of the date specified in the Tax Abatement Agreement for a period of time not to exceed ten (10) years.

2. **Abatement Agreement:** (1) A contract between a property owner and the City for the abatement of taxes on qualified property located within a Reinvestment Zone or a designated Enterprise Zone; or, (2) a contract for the abatement of taxes between the City and a certified air carrier who owns or leases Real Property located within the Reinvestment Zone or Personal Property or both as authorized by V.T.C.A., Tax Code, Section 312.204(e)

3. **Advanced Technologies:** advanced manufacturing which requires higher skills and results in higher wages and investment.

4. **Base Year Value**: The assessed value of property eligible for tax abatement as of January 1 preceding the execution of an Abatement Agreement as herein defined.

5. **Distribution Center Facility**: A building or structure including Tangible Personal Property used or to be used primarily to receive, store, service or distribute goods or materials.

6. **Expansion of Existing Facilities or Structures**: The addition of buildings, structures, machinery or equipment to a Facility.

7. **Existing Facility or Structure**: A facility as of the date of execution of the Tax Abatement Agreement, located in or on Real Property eligible for tax abatement.

8. **Facility**: The improvements made to Real Property eligible for tax abatement and including the building or structure erected on such Real Property and/or any Tangible Personal Property to be located in or on such property.

9. **Information and Data Center**: Facility used to house computer systems and associated components, such as telecommunications and storage systems. The main purpose of the facility is running applications that handle the core business and operational data of organizations, off-site backups and other informational operations.

10. **Improvements to Real Property or Improvements**: Shall mean the construction, addition to, structural upgrading of, replacement of, or completion of any facility located upon, or to be located upon, Real Property, as herein defined, or any Tangible Personal Property placed in or on said Real Property.

11. **Manufacturing Facility**: A Facility which is or will be used for the primary purpose of the production of goods or materials or the processing or change of goods or materials to a finished product.

12. **Medical Services**: Facilities such as hospitals, specialty hospitals and other like facilities that are classified under North American Industrial Classification System Code 622.

13. **Modernization/Renovation of Existing Facilities**: The replacement or upgrading of existing facilities.

14. **New Facility**: The construction of a Facility on previously undeveloped Real Property eligible for tax abatement.

15. **New Permanent Job**: A new employment position created by a business that has provided employment to an employee of at least 1,820 hours annually and intended to be an employment position that exists during the life of the abatement.

16. **Other Basic Industry**: A Facility other than a distribution center facility, a research facility, a regional service facility or a manufacturing facility which produces goods or services or which creates new or expanded job opportunities and services a market of which 50% of revenues come from outside of Lubbock County, Texas.

17. **Owner:** The record title owner of Real Property or the legal owner of Tangible Personal Property. In the case of land leased from the City or buildings leased from a private party or tax exempt property, the lessee shall be deemed the owner of such leased property together with all improvements and Tangible Personal Property located thereon.

18. **Productive Life**: The number of years a Facility is expected to be in service.

19. **Real Property**: Land on which improvements are to be made or fixtures placed.

20. **Regional Services Facility**: A Facility, the primary purpose of which is to service or repair goods or materials and which creates job opportunities within the affected jurisdictions.

21. **Reinvestment Zone**: Real Property designated as a Reinvestment Zone under the provisions of V.T.C.A., Tax Code, Section 312.202.

22. **Research Facility**: A Facility used or to be used primarily for research or experimentation to improve or develop new goods and/or services or to improve or develop the production process for such goods and/or services.

23. **Tangible Personal Property**: Any Personal Property, not otherwise defined herein and which is necessary for the proper operation of any type of Facility.

SECTION III. Intent of Criteria and Guidelines:

The Intent of the criteria and guidelines, as herein set forth, is to establish the minimum standards which an applicant for tax abatement must meet in order to be considered for such status by the City.

SECTION IV. Criteria and Guidelines for Tax Abatement:

Any type of Facility will be eligible for tax abatement consideration provided such Facility meets the following guidelines and criteria:

1. To qualify for Tax Abatement, the company must meet **both** of the following criteria:
    a) The modernization or expansion of an existing facility of any type as herein defined **or** construction of a new facility of any type as herein defined.
    b) Producer, manufacturer or distributor of goods and services of which 50 percent or more are distributed outside of Lubbock County.
2. In addition to the aforementioned, the City will consider abatement only if the company meets **one of the following criteria:**
    a) One of the following target industries:
        i) Advanced Technologies and Manufacturing
        ii) Value-added Agricultural Production including Food Processing and Machinery
        iii) Research and Development
        iv) Medical Services (as defined in Section II Definitions)
        v) Warehouse/Distribution
        vi) Corporate Headquarters of a Regional/National Service Center
        vii) Information and Data Centers
    b) The project is not included as a target industry, but has the potential of generating additional, significant economic development opportunities to Lubbock.
3. The company must meet one of the following criteria:
    a) The project will add at least $1 million in Real Property improvements, **or** $2 million in new Personal Property, **or** 25 new permanent jobs if the facility is a **new company to Lubbock.**
    b) The project will add at least $500,000 in Real Property improvements, **or** $1 million in new Personal Property, **or** 15 new permanent jobs if the facility is **an existing company**.
4. New or existing facilities of any type herein defined, located in a designated Enterprise Zone, Reinvestment Zone, or upon Real Property eligible for such status will be eligible for

consideration for tax abatement status provided that all other criteria and guidelines are satisfied.

5. Improvements to Real Property are eligible for tax abatement status.

6. The following types of Property shall be ineligible for tax abatement status and shall be fully taxed:

   a) Real Property;

   b) inventories or supplies;

   c) tools;

   d) furnishings and other forms of movable personal property;

   e) vehicles;

   f) aircraft;

   g) housing (single family and multi-family);

   h) boats;

   i) hotel accommodations;

   j) motel accommodations;

   k) retail businesses;

   l) property owned by the State of Texas or any State agency; and,

   m) property owned or leased by a member of the City Council who did not have an active tax abatement in place before becoming a member of the governing body.

7. In order for a Facility to qualify for abatement, the following conditions must apply:

   a) The owner or leaseholder of Real Property must make eligible improvements to the real property; and,

   b) In the case of lessees, the leaseholder must have a lease commitment of at least five (5) years.

8. In Reinvestment Zones, the amount and term of abatement shall be determined on a case by case basis, however, in no event shall taxes be abated for a term in excess of ten (10) years. The amount of the taxable value of improvements to be abated and the term of the abatement shall be determined by the City in all cases where the property for which tax abatement is applied for is within the City limits of the City. A Reinvestment Zone that is a State Enterprise Zone is designated for the same period as a State Enterprise Zone as provided by Chapter 2303, Government Code. The authority of all other taxing units shall be as set forth in V.T.C.A., Tax Code, Section 312.206.

In Enterprise Zones, the governing body of each taxing jurisdiction may execute a written agreement with the owner of the property. The agreement may, but is not required to, contain terms that are identical to those contained in the agreement with the municipality, county, or both, whichever applies, and the only terms for the agreement that may vary are the portion of the property that is to be exempt from taxation under the agreement and the duration of the agreement.

9. No property shall be eligible for tax abatement unless such property is located in a Reinvestment Zone in accordance with V.T.C.A., Tax Code, Section 312.202 or a designated Enterprise Zone as provided by V.T.C.A Gov. Code, Chapter 2303, and the tax abatement application is filed with the City before construction begins.

10. Notwithstanding any of the requirements set forth in Section IV(3), the Lubbock City Council upon the affirmative vote of a three-fourths (3/4) of its members may vary any of the above requirements when variation is demonstrated by the applicant for tax abatement that variation is in the best interest of the City to do so and will enhance the economic development of the City. By way of example only and not by limitation the Lubbock City Council may consider the following or similar terms in determining whether a variance shall be granted:

    a) That the increase in productivity of the Facility will be substantial and hence directly benefit the economy.

    b) That the increase of goods or services produced by the Facility will be substantial and directly benefit the economy.

    c) That the employment maintained at the Facility will be increased.

    d) That the waiver of the requirement will contribute and provide for the retention of existing jobs within the City.

    e) Any other evidence tending to show a direct economic benefit to the City.

11. Taxability:

    a) The portion of the value of improvements to be abated shall be abated in accordance with the terms and provisions of a Tax Abatement Agreement executed between the City and the owner of the Real Property and/or Tangible Personal Property, (which agreement shall be) in accord with the provisions of V.T.C.A., Tax Code, Section 312.205.

    b) All ineligible property, if otherwise taxable as herein described, shall be fully taxed.

12. The Lubbock City Council shall have total discretion as to whether tax abatement is to be granted. Such discretion, as herein retained, shall be exercised on a case by case basis. The adoption of these guidelines and criteria by the Lubbock City Council does not:

    a) Limit the discretion of the Lubbock City Council to decide whether to enter into a specific Tax Abatement Agreement;

    b) Limit the discretion of the Lubbock City Council to delegate to its employees the authority to determine whether or not the Lubbock City Council should consider a particular application or request for tax abatement; or,

c) Create any property, contract, or other legal right in any person to have the Lubbock City Council consider or grant a specific application or request for tax abatement.

13. The burden to demonstrate that an application for tax abatement should be granted shall be upon the applicant. The City shall have full authority to request any additional information from the applicant that the Lubbock City Council deems necessary to assist it in considering such application.

SECTION V. Criteria and Guidelines for Creation of Reinvestment Zone:

1. No Property shall be eligible for tax abatement unless such property is located in a Reinvestment Zone designated as such in accordance with V.T.C.A., Tax Code, Section 312.202. To be designated as a Reinvestment Zone an area must meet one of the following:

   a) Substantially arrest or impair the sound growth of the municipality or county creating the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:

      1. a substantial number of substandard, slum, deteriorated, or deteriorating structures;
      2. the predominance of defective or inadequate sidewalks or streets;
      3. faulty size, adequacy, accessibility or usefulness of lots;
      4. unsanitary or unsafe conditions;
      5. the deterioration of site or other improvements;
      6. tax or special assessment delinquency exceeding the fair value of the land;
      7. defective or unusual conditions of title;
      8. conditions that endanger life or property by fire or other cause; or,
      9. any combination of these factors;

   b) Be predominantly open and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality;

   c) Be in a federally assisted new community located in a home rule municipality or in an area immediately adjacent to a federally assisted new community located in a home rule municipality;

   d) Be located entirely in an area that meets the requirements for federal assistance under Section 119 of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5318);

   e) Encompass signs, billboards, or other outdoor advertising structures designated by the governing body of the municipality for relocation, reconstruction, or removal for the

purpose of enhancing the physical environment of the municipality, which the legislature declares to be a public purpose; or,

f) Be reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the municipality.

2. For purposes of this Section, federally assisted new community is a federally assisted area:

   a) That has received or will receive assistance in the form of loan guarantees under Title X of the National Housing Act (12 U.S.C., Section 1749aa et seq); and,

   b) A portion of which has received grants under Section 107 (a)(1) of the Housing and Community Development Act of 1974, as amended.

3. The Lubbock City Council, as required by Section 312.201, shall hold a public hearing on the designation of an area within its jurisdiction as a Reinvestment Zone. The burden shall be on the owner of the property sought to be included in the zone or applicant for the creation of the Reinvestment Zone to establish the following:

   a) That the requirements of Subsection 1 of this Section have been met.

   b) That the improvements sought are feasible and practical.

4. No later than the seventh day before the date set for the above public hearing notice of such hearing shall be:

   a) Published in a newspaper having general circulation in the City.

   b) Delivered in writing to the presiding officer of the governing body of each taxing unit that includes in its boundaries Real Property that is to be included in the Reinvestment Zone.

5. At the public hearing above described in Section 3 above, any interested person is entitled to speak and present evidence for or against the designation of such Reinvestment Zone.

6. At the conclusion of the hearing described in Section 3 above, the Lubbock City Council shall enter its findings as follows:

   a) That the applicant or owner has or has not met his burden as hereinabove set forth, and/or,

   b) That the improvements sought are or are not feasible and practical.

   c) That the proposed improvements sought will or will not be a benefit to the land to be included in the Reinvestment Zone and to the City after the expiration of an agreement entered into under V.T.C.A., Tax Code, Section 312.204.

7. An application for the creation of a Reinvestment Zone shall not be granted unless the City enters affirmative findings to Subsections a, b, and c of Section 6 above set forth.

8. At the conclusion of the public hearing herein required and upon the affirmative finding of the Lubbock City Council as required by Section 7 above set forth, the governing body may designate a Reinvestment Zone in accordance with the provisions of V.T.C.A., Tax Code, Sections 312.201.

9. The designation of a Reinvestment Zone expires five years after the date of the designation and may be renewed for periods not to exceed five years, except that a Reinvestment Zone that is a State Enterprise Zone is designated for the same period as a State Enterprise Zone as provided by Chapter 2303, Government Code. The expiration of the designation does not affect an existing Tax Abatement Agreement made in accordance with V.T.C.A., Tax Code, Section 312.201 through Section 312.209.

10. Designation of an area as an Enterprise Zone under the Texas Enterprise Zone Act, Chapter 2303, Subchapter C, Texas Government Code, constitutes designation of the area as a Reinvestment Zone under Subchapter B of the Property Redevelopment and Tax Abatement Act without further hearing or other procedural requirements other than those provided by the Texas Enterprise Zone Act, Chapter 2303, Subchapter C, Texas Government Code.

SECTION VI. Tax Abatement Agreement:

1. After the creation of a Reinvestment Zone as hereinabove authorized a Tax Abatement Agreement may be executed between the owner and City. A Tax Abatement Agreement shall:

   a) Establish and set forth the Base Year assessed value of the property for which tax abatement is sought.

   b) Provide that the taxes paid on the base year assessed value shall not be abated as a result of the execution of said Tax Abatement Agreement.

   c) Provide that ineligible property as subscribed in Section IV(6) hereinabove shall be fully taxed.

   d) Provide for the exemption of improvements in each year covered by the agreement only to the extent the value of such improvements for each such year exceeds the value for the year in which the agreement is executed.

   e) Fully describe and list the kind, number and location of all proposed improvements to be made in or on the Real Property.

   f) Set forth the estimated value of all improvements to be made in or on the Real Property.

   g) Clearly provide that tax abatement shall be granted only to the extent:

      1. The improvements to Real Property increase the value of the Real Property for the year in which the Tax Abatement Agreement is executed; and,

      2. That the Tangible Personal Property improvements to Real Property were not located on the Real Property prior to the execution of the Tax Abatement Agreement.

h) Provide for the portion of the value of the improvements to Real Property of improvements to be abated. This determination is to be made consistent with the provisions of Section IV(6) of these guidelines and criteria as hereinabove set forth.

i) Provide for the commencement date and the termination date. In no event shall the commencement date occur prior to 90 percent completion of the project (both Real and Personal Property). In no event shall the termination date exceed a period of ten years from the commencement date.

j) Describe the type and proposed use of the improvements to Real Property or improvements including:

1. The type of facility.

2. Whether the improvements are for a new facility, modernization of a facility, or expansion of a facility.

3. The nature of the construction, proposed time table of completion, a map or drawings of the improvements above mentioned.

4. The amount of investment and the commitment for the creation of new jobs.

5. A list containing the kind, number and location of all proposed improvements.

6. Any other information required by the City.

k) Provide a legal description of the Real Property upon which improvements are to be made.

l) Provide access to and authorize inspection of the Real Property or improvements by employees of the City, who have executed a Tax Abatement Agreement with owner to insure improvements are made according to the specifications and conditions of the Tax Abatement Agreement.

m) Provide for the limitation of the uses of the Real Property or improvements consistent with the general purpose of encouraging development or redevelopment of the zone during the period covered by the Tax Abatement Agreement.

n) Provide the contractual obligations in the event of default by owner, violation of the terms or conditions by owner, recapturing property tax revenue in the event owner defaults or otherwise fails to make improvements as provided in said Tax Abatement Agreement, and any other provision as may be required or authorized by State Law.

o) Contain each term agreed to by the owner of the property.

p) Require the owner of the property to certify annually to the Lubbock City Council that the owner is in compliance with each applicable term of the agreement.

q) Provide that the Lubbock City Council may cancel or modify the agreement if the property owner fails to comply with the agreement.

2. Not later than the seventh day before the City enters into an agreement for tax abatement under V.T.C.A., Tax Code, Section 312.204, the Lubbock City Council or a designated

officer or employee thereof shall deliver to the presiding officer of the governing body of each of the taxing units in which the property to be subject to the agreement is located, a written notice that the City intends to enter into the agreement as required by V.T.C.A Tax Code, Section 312.2041. The notice must include a copy of the proposed Tax Abatement Agreement.

3. A notice, as above described in Section 2, is presumed delivered when placed in the mail, postage paid and properly addressed to the appropriate presiding officer. A notice properly addressed and sent by registered or certified mail for which a return receipt is received by the sender is considered to have been delivered to the addressee.

4. Failure to deliver the notice does not affect the validity of the agreement.

SECTION VII. Application:

1. Any present owner of taxable property located within an affected jurisdiction may apply for tax abatement by filing an application with the City of Lubbock. The application has to be filed with the City prior to the construction start.

2. The application shall consist of a completed application form accompanied by:

   a) A general description of the improvements to be undertaken.

   b) A descriptive list of the improvements for which tax abatement is requested.

   c) A list of the kind, number and location of all proposed improvements of the Real Property Facility or Existing Facility.

   d) A map indicating the approximate location of improvements on the Real Property Facility or Existing Facility together with the location of any or all Existing Facilities located on the Real Property or Facility.

   e) A list of any and all Tangible Personal Property presently existing on the Real Property or located in an existing facility.

   f) A legal description of property.

   g) Address of property.

   h) A proposed time schedule for undertaking and completing the proposed improvements.

   i) A general description stating whether the proposed improvements are in connection with:

      1. the modernization of a facility (of any type herein defined); or,

      2. construction of a new facility (of any type herein defined); or,

      3. expansion of a facility (of any type herein defined); or,

      4. any combination of the above.

j) A statement of the additional value to the Real Property or Facility as a result of the proposed improvements.

k) A statement of the assessed value of the Real Property, Facility or Existing Facility for the Base Year.

l) Information concerning the number of new jobs that will be created or information concerning the number of existing jobs to be retained as result of the improvements undertaken.

m) A statement certifying that the business, or a branch, division, or department of the business, does not and will not knowingly employ an undocumented worker.

n) Any other information which the City of Lubbock deems appropriate for evaluating the financial capacity of the applicant and compatibility of the proposed improvements with these guidelines and criteria.

o) Information that is provided to the City in connection with an application or request for tax abatement and which describes the specific processes or business activity to be conducted or the equipment or other property to be located on the property for which tax abatement is sought is confidential and not subject to public disclosure until the Tax Abatement Agreement is executed. Information in the custody of the City after the agreement is executed is not confidential. (V.T.C.A., Tax Code, Section 312.003).

p) The City shall determine if the property described in said application is within a designated Reinvestment Zone. If the City determines that the property described is not within a current Reinvestment Zone then they shall so notify the applicant and said application shall then be considered both as an application for the creation of a Reinvestment Zone and a request for tax abatement to be effective after the zone is created.

SECTION VIII. Investment/Jobs Documentation

1. The investment commitment in the Tax Abatement Agreement will be verified as follows:

   a. The City will request the value of the Real and Personal Property from the Lubbock Central Appraisal Value, and if the value minus the base year, meets the agreement commitment, it will service as verification that the investment met the requirement in the agreement; or

   b. If the Lubbock Central Appraisal District value, minus the base year value, does not meet the investment commitment in the agreement, the Company will provide invoices documenting the actual investment to verify the investment met the investment commitment in the agreement.

2. Confirmation of the job creation requirement:

   a. The company will provide the City with a copy of the State Employment report filed with the State of Texas for the quarter ending after the date in the agreement that the jobs are required to be created.

3. Job creation will be audited annually to assure retention of jobs. Each year during the City audit of Tax Abatement Agreements, the company will provide the City with the 4th quarter employment report filed with the State of Texas to confirm job retention. If the employment in the 4th quarter report does not meet the requirement for retention of the created jobs, the City may request the quarterly reports for the 1st, 2nd, and 3rd quarters of that audit year to determine compliance. The City may request and the company shall promptly provide any additional information that the City deems necessary to confirm that the company is in compliance with the terms of the Tax Abatement Agreement.

SECTION IX. Default Options

1. In the event that the applicant, owner or lessee has entered into a Tax Abatement Agreement to make improvements as defined in Section IV(2) above, but fails to undertake or complete such improvements; fails to create all or a portion of the new jobs provided by the Tax Abatement Agreement; or is in default of any of the terms or conditions contained in the Tax Abatement Agreement; then in such event the City shall give the applicant or owner sixty (60) days notice of such failure. The applicant or owner shall demonstrate to the satisfaction of the City above mentioned that the applicant or owner has commenced to cure such failure within the sixty (60) days above mentioned. In the event the applicant or owner fails to demonstrate that he is taking affirmative action to cure his failure, the City shall have three options:

   (a) The City may renegotiate the Tax Abatement Agreement with the applicant or owner in which case the current Guidelines and Criteria Governing Tax Abatement for Industrial Projects in the City of Lubbock shall apply to the new Agreement; or

   (b) The City may determine that good cause exists to cancel the Tax Abatement Agreement and all abatement of taxes shall terminate immediately; or

   (c) The City may terminate the Tax Abatement Agreement and recapture taxes abated under Section X, Recapture.

2. In any of the three options in Paragraph 1 above, the City shall determine whether default has occurred by the applicant or owner in the terms and conditions of the Tax Abatement Agreement and shall so notify all other affected jurisdictions.

SECTION X. Recapture

1. In the event that any type of facility is completed and begins producing goods or services, but subsequently discontinues producing goods or services for any reason, excepting fire, explosion or other casualty or accident or natural disaster or other event beyond the reasonable control of applicant or owner for a period of 180 days during the term of a Tax Abatement Agreement, then in such event the Tax Abatement Agreement shall terminate and all abatement of taxes shall likewise terminate. Taxes abated during the calendar year in which termination takes place shall be payable to the City by no later than January 31st of the following year. Taxes abated in years prior to the year of termination shall be payable to the City within sixty (60) days of the date of termination. The burden shall be upon the applicant or owner to prove to the satisfaction of the City that the discontinuance of producing goods or services was as a result of fire, explosion, or other casualty or accident or natural disaster or

other event beyond the control of applicant or owner. In the event that applicant or owner meets this burden and the City is satisfied that the discontinuance of the production of goods or services was the result of events beyond the control of the applicant or owner, then such applicant or owner shall have a period of one year in which to resume the production of goods and services. In the event that the applicant or owner fails to resume the production of goods or services within one year, then the Tax Abatement Agreement shall terminate and the abatement of all taxes shall likewise terminate. Taxes abated during the calendar year in which termination takes place shall be payable to the City by no later than January 31st of the following year. Taxes abated in years prior to the year of termination shall be payable to the City within sixty (60) days of the date of termination. The one year time period, hereinabove mentioned, shall commence upon written notification from the City to the applicant or owner.

2. In the event that the applicant or owner has entered into a Tax Abatement Agreement to make improvements to a facility of any type described in Section 1 above, but fails to undertake or complete such improvements or fails to create all or a portion of the number of new jobs provided by the Tax Abatement Agreement, then in such event the City shall give the applicant or owner sixty (60) days notice of such failure. The applicant or owner shall demonstrate to the satisfaction of the City, above mentioned, that the applicant or owner has commenced to cure such failure within the sixty (60) days above mentioned. In the event that the applicant or owner fails to demonstrate that he is taking affirmative action to cure his failure, then in such event the Tax Abatement Agreement shall terminate and all abatement of taxes shall likewise terminate. Taxes abated during the calendar year in which termination takes place shall be payable to the City by no later than January 31st of the following year. Taxes abated in years prior to the year of termination shall be payable to the City within sixty (60) days of the date of termination.

3. In the event that the City determines that the applicant or owner is in default of any of the terms or conditions contained in the Tax Abatement Agreement, then in such event the City, shall give the applicant or owner sixty (60) days written notice to cure such default. In the event such default is not cured to the satisfaction of the City within the sixty (60) days notice period, then the Tax Abatement Agreement shall terminate and all abatement of taxes shall likewise terminate. Taxes abated during the calendar year in which termination takes place shall be payable to the City by no later than January 31st of the following year. Taxes abated in years prior to the year of termination shall be payable to the City within sixty (60) days of the date of termination.

4. In the event that the applicant or owner allows ad valorem taxes on property ineligible for tax abatement owed to the City, to become delinquent and fails to timely and properly follow the legal procedures for their protest or contest, then in such even the Tax Abatement Agreement shall terminate and all abatement of taxes shall likewise terminate. Taxes abated during the calendar year in which termination, under this Section, takes place shall be payable to the City by no later than January 31st of the following year. Taxes abated in years prior to the year of termination shall be payable to the City within sixty (60) days of the date of termination.

5. In the event that the applicant or owner, who has executed a Tax Abatement Agreement with the City, relocates the business for which tax abatement has been granted, to a location outside of the designated Reinvestment Zone, then in such event, the Tax Abatement Agreement shall terminate after sixty (60) days written notice by the City to the applicant or owner. Taxes abated during the calendar year in which termination, under this Section takes place shall be payable to the City by no later than January 31st of the following year. Taxes abated in years prior to the year of termination shall be payable to the City within sixty (60) days of the date of termination.

6. The date of termination as that term is used in this Section IX shall, in every instance, be the 60th day after the day the City sends notice of default, in the mail to the address shown in the Tax Abatement Agreement to the applicant or owner. Should the default be cured by the applicant or owner within the sixty (60) day notice period, the applicant or owner shall be responsible for so advising the City and obtaining a release from the notice of default from the City, failing in which, the abatement remains terminated and the abated taxes must be paid.

7. In every case of termination set forth in Paragraphs 1, 2, 3, 4, and 5 above, the City shall determine whether default has occurred by the applicant or owner in the terms and conditions of the Tax Abatement Agreement and shall so notify all other affected jurisdictions.

8. In the event that a Tax Abatement Agreement is terminated for any reason whatsoever and taxes are not paid within the time period herein specified, then in such event, the provisions of V.T.C.A., Tax Code, Section 33.01 will apply.

SECTION XI. Miscellaneous:

1. Any notice required to be given by these criteria or guidelines shall be given in the following manner:

   a) To the applicant or owner: written notice shall be sent to the address appearing on the Tax Abatement Agreement.

   b) To the City: written notice shall be sent to the address appearing on the Tax Abatement Agreement.

2. The Chief Appraiser of the Lubbock Central Appraisal District shall annually assess the Real and Personal Property comprising the Reinvestment Zone. Each year, the applicant or owner receiving tax abatement shall furnish the Chief Appraiser with such information as may be necessary for the abatement. Once value has been established, the Chief Appraiser shall notify the City which levies taxes of the amount of assessment.

3. Upon the completion of improvements made to any type of Facility as set forth in Section VIII(1) of these criteria and guidelines a designated employee or employees of the City having executed a Tax Abatement Agreement with applicant or owner shall have access to the Facility to insure compliance with the Tax Abatement Agreement.

4. A Tax Abatement Agreement may be assigned to a new owner but only after written consent has been obtained from the City.

5. These guidelines and criteria adopted by the City Council are effective for two years from the date adopted and shall remain in force for two years. At the end of the two year period these guidelines and criteria may be readopted, modified, amended or rewritten as the conditions may warrant.

6. Each affected jurisdiction shall determine whether or not said affected jurisdiction elects to become eligible to participate in tax abatement. In the event the affected jurisdiction elects by resolution to become eligible to participate in tax abatement, then such affected jurisdiction shall adopt guidelines and criteria by separate resolution forwarding a copy of both resolutions to all other affected jurisdictions.

7. These guidelines only apply to the City of Lubbock and any company wishing to apply for tax abatement from other taxing jurisdictions will need to contact the applicable taxing jurisdiction for their criteria and guidelines and requirements for applying for tax abatement.

8. In the event of a conflict between these guidelines and criteria and V.T.C.A., Tax Code, Chapter 312, then in such event the Tax Code shall prevail and these guidelines and criteria interpreted accordingly.

9. The guidelines and criteria once adopted by the City may be amended or repealed by a vote of three-fourths (3/4) of the members of the Lubbock City Council during the two-year term in which these guidelines and criteria are effective.

EXHIBIT C

United's Application for Tax Abatement

City of Lubbock
Application for Industrial Tax Abatement

This application should be filed prior to the beginning of construction or the purchase of equipment. If applying for a tax abatement in a jurisdiction other than City of Lubbock, a separate application must be completed for all other taxing jurisdictions. This application will become part of the Tax Abatement Agreement and any knowingly false representations will be grounds for the voiding of the agreement. An original copy of this request should be submitted to Mrs. Cheryl Brock, Capital Program Manager, Finance Department, City of Lubbock, 1625 13th Street, 2nd Floor, Lubbock, TX 79401.

Part I - Applicant Information

Application Date 8/10/2015

Company Name: United Supermarkets LLC

Physical Address: 7830 Orlando Ave, Lubbock, TX 79423

Telephone: 806-791-0220

Current Number of Employees: 15,000

Annual Sales: $2 billion

Employees in City Limits: 3,500

Mailing Address: P.O. Box 6840, Lubbock, TX 79423

Years in Lubbock: 50+

☒ Corporation ☐ Partnership ☐ Proprietorship

Attachment 1: Attach a description of the Applicant Company, including a brief history, corporate structure, business plan, and annual statement, if available.

Part II - Project Information

Location Address: 5801 MLK Blvd Zipcode: 79404

School District: Lubbock

Legal Description: South Plains Industrial Tr A

Attachment 2: Attach site map showing project location and showing proposed construction if applicable

Project Description: ☐ New Construction ☒ Expansion ☐ Modernization

Attachment 3: Attach statement fully explaining project, describe existing site and improvements, describe all proposed improvements and provide list of improvements and equipment for which abatement is requested, and list of any tangible personal property presently existing on the Real Property if it is an existing facility.

Is the site located in an Enterprise Zone? ☐ Yes ☒ No

Section A – Facility Information

Type of Facility/abatement:

☐ Advanced Technologies and Manufacturing
☐ Research and Development
☐ Medical Services
☐ Corporate Headquarters – Regional/National Service Center
☐ The project is not included as a target industry, but has the potential of generating additional, significant economic development opportunities to Lubbock
☒ Warehouse/Distribution
☐ Value-added Agriculture Production
☐ Information and Data Centers

Describe product or service to be provided: Deliver groceries to Company owned stores in Texas and New Mexico

Is the company a producer, manufacturer, or distributor of goods and services of which 50 percent or more are distributed outside Lubbock. ☒ Yes ☐ No

Attachment 4: Provide documentation demonstrating that the facility will distribute or manufacture goods and services of which 50 percent or more are distributed outside of Lubbock County,

Is the company applying for tax abatement ☐ New Company to Lubbock ☒ Existing Company

The project meets one of the criteria in the Guidelines and Criteria Governing Tax Abatement for Industrial Projects, Section IV. 3. ☒ Yes ☐ No

Section B – Base Year Value
Attach a statement of the assessed value of the Real Property, Facility, or existing facility for the base year from the Lubbock Central Appraisal District.
Attachment 5 – Lubbock Central Appraisal District Assessed Value

Section C - Variance
Is the applicant seeking a variance? ☐ Yes ☒ No
If "yes," attach letter requesting and justifying the variance, with supplemental information.

PART III - ECONOMIC INFORMATION
Construction Estimate:

Start Date: 09/01/2015 Contract Amount: $26,000,000

Completion Date: 08/01/2016 Peak Construction Jobs: 35

Modernization:

Estimated current economic life of structure 30 years

Added economic life from modernization 30 years

Permanent Job Creation/Retention:

Current employment: 711 Jobs to be Retained: 711

Jobs created at opening: 135 By year 20 16

If existing facility, what is the current plant payroll: $ $23,000,000

Estimated amount of new payroll: $ 5,100,000

Estimated Appraised Value On Site	Land	Improvements	Personal Property
Value on January 1 preceding abatement	492,000	26,359,000	35,000,000
Estimated value of new abatable improvements	NA	26,000,000	8,000,000
Estimated value of properties not subject to abatement			
Estimated value of property after improvements	492,000	52,359,000	43,000,000

Do you certify that this business (including any branch, division, or department of this business) does not currently, and will not knowingly in the future, employ an undocumented worker? ☒ Yes ☐ No

Company Representative to be Contacted:

[signature]
Name

V.P.
Title

1801 MLK
Address

Lbb, TX 79404
Address

SMULLINS@UNITEDTEXAS.COM
e-mail

Authorized Company Official:

[signature]
Authorized Signature

Chris St. Clair - EVP
Name & Title

806-438-7402
Phone Number

cstclair@unitedtexas.com
e-mail

Attachment #1



The United Family® at a Glance

Now in its 99th year of operation, United Supermarkets, LLC, d.b.a. The United Family®, is a Texas-based grocery chain with stores in 34 markets across North and West Texas and New Mexico. It is a self-distributing company with its headquarters in Lubbock and distribution centers in Lubbock and Roanoke, United currently operates 66 locations under five unique brands: United Supermarkets, Market Street, Amigos, Albertsons Market and United Express. Known for its community involvement, The United Family considers it a privilege to be able to give back to the communities it serves, not only through charitable giving but also through its UCrew team member volunteer program.

- Representing the core concept of the company's stores, United Supermarkets® offers Guests trusted quality, competitive prices and genuine Texas hospitality with the best meat and produce in town – in stores that are easy and fun to shop. There are 37 United Supermarkets locations throughout North and West Texas.
- Market Street® is a unique and inspiring shopping experience – the place to go for people who care about food, who want a healthier lifestyle, and who are open to fresh new food ideas. It's the place "where every day meets gourmet" – where guests can bring many shopping lists to one store. The 15 Market Street locations can be found in Abilene, Allen, Amarillo, Colleyville, Coppell, Flower Mound, Frisco, Lubbock (3), McKinney, Midland Plano and Wichita Falls with an additional Market Street slated for in Odessa in late 2015.
- Amigos® offers a unique blend of traditional and cultural favorites for Hispanic shoppers, as well as anyone who loves authentic Mexican flavors and unbeatable values. Amigos stores are located in Hereford, Plainview, Lubbock and Amarillo.
- Ten Albertsons Market® stores are the newest banners of The United Family. West Texas stores are located in Midland (2), Odessa (2) and San Angelo (1). The 5 New Mexico markets include Alamogordo (1), Carlsbad (1), Clovis (1), Hobbs (1) and Roswell (1). Albertsons Market stores reflect a long history and tradition of excellence established by Joe Albertson in 1939 making them a perfect fit for The United Family.
- United Express combines fresh prepared foods with traditional on-the-go items in a convenience store with a unique flair. There are 32 United Express fuel and convenience locations (one under construction) across North and West Texas, including 10 standalone convenience stores, many with drive-up windows. All but one of the United Express locations is located adjacent to a United Family supermarket.

The United Family also includes three subsidiary operations:

- R.C. Taylor Distributing is a leading regional distributor of products and supplies for convenience stores, grocery chains, independent grocers, concession stands and specialty stores in Texas and New Mexico from a 100,000 square foot warehouse facility in Lubbock. It began doing business in 1949 and joined The United Family in 2007.
- A Lubbock fixture since 1955, Praters Foods became a part of The United Family in August 2009. What began as a food company specializing in holiday meals has grown today to include specialty cooked meats, unique side dishes, fresh tortillas and much more. Praters products can be found in all United Family stores and in other supermarkets throughout the country, in both private label and Praters packaging.
- Llano Logistics, Inc. is one of the newest members of The United Family, having been acquired by the company from Exel, Inc. in May 2013. Llano operates United's two distribution centers, a 500,000 square-foot facility in Lubbock and a 200,000 square-foot facility in Roanoke.

More than one million Guests shop our stores every week, and The United Family still embodies the philosophy of its founder – quality, value, Guest service and community involvement. We believe our growth and success are tied to our unwavering commitment to service – to our Guests, Team Members and communities. This philosophy is summed up in our Mission Statement, *"Ultimate Service. Superior Performance. Positive Impact."*

The United Family traces its roots to 1916, when H.D. Snell opened his first United Cash Store in Sayre, Okla. In 1948, the Texas stores became a separate company when H.D. "Jack" Snell, Jr., purchased the Vernon and Wellington grocery stores from his father and, one year later, built a third store in Childress. An innovative visionary, Jack Snell introduced United to Lubbock in the 1950s, Wichita Falls in the 1960s and Amarillo in the 1970s. Until late 2013, the company was still led by the

Snell family, with Robert Snell serving as chairman of the board, and Gantt and Matt Burnstead – great-grandsons of H.D. Snell – serving as co-presidents.

In September 2013, the company announced that it had agreed to be acquired by Albertson's LLC. The acquisition became official in late December 2013, and The United Family is now a wholly-owned subsidiary of Albertson's LLC.

The United spirit flourishes in the attitudes and enthusiasm of our more than 15,000 Team Members, who keep alive H.D. Snell's principles of unparalleled Guest service, honest pricing, quality and freshness, outstanding selection, uncompromising integrity and community involvement.

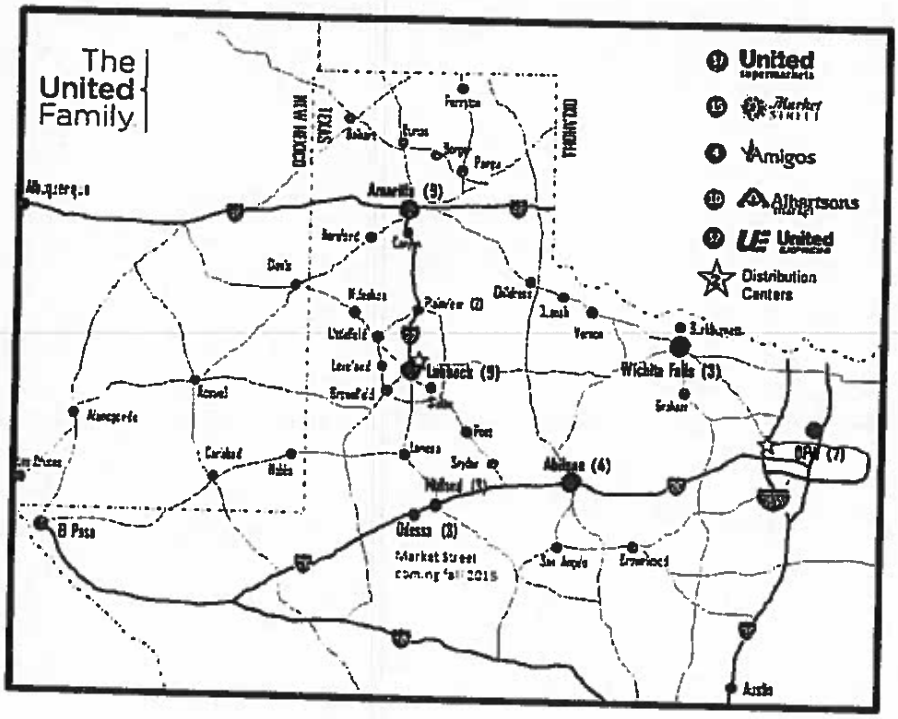
Since its founding The United Family has adhered to its founder's philosophy of growing and expanding into markets in order to "build up" communities – one of the greatest privileges we enjoy is to be able to give back to the communities we serve. The United Family was named the inaugural winner of the *Supermarket News* "Community Service Award" in 2003 for its UCrew community volunteer teams. UCrew organizes volunteer Team Members to provide community service in every United neighborhood, and UCrew volunteers contributed more than 50,000 hours of community service during the first 10 years of the program.

In 2001, The United Family was named winner of the Better Business Bureau's "National Torch Award for Marketplace Ethics," joining previous winners IBM, Sony Corporation and Dollar General Stores in being recognized for ethical treatment of Guests, employees and communities. The company has been on the *Dallas Morning News'* "Top 100 Places to Work in DFW" list and on *Texas Monthly's* "Best Companies to Work for in Texas" list three times.

The United Family was named the 2009 "Family Business of the Year" by the Institute for Family Business at Baylor University, and was named the 2010 "Deli Operator of the Year" by *InStore Buyer Magazine*.

In 2012, The United Family™ was presented with a LEADER Award for Excellence by the Shopper Technology Institute for its marketing efforts, including the launch of customized websites and iPhone apps, as well as for its Smart Rewards program for Market Street guests in the Dallas-Fort Worth Metroplex. The company also was named by *Modern Baking* as one of the "Top 50 In-Store Bakeries" in 2012.

Current Store Locations



66 Stores in 34 Communities

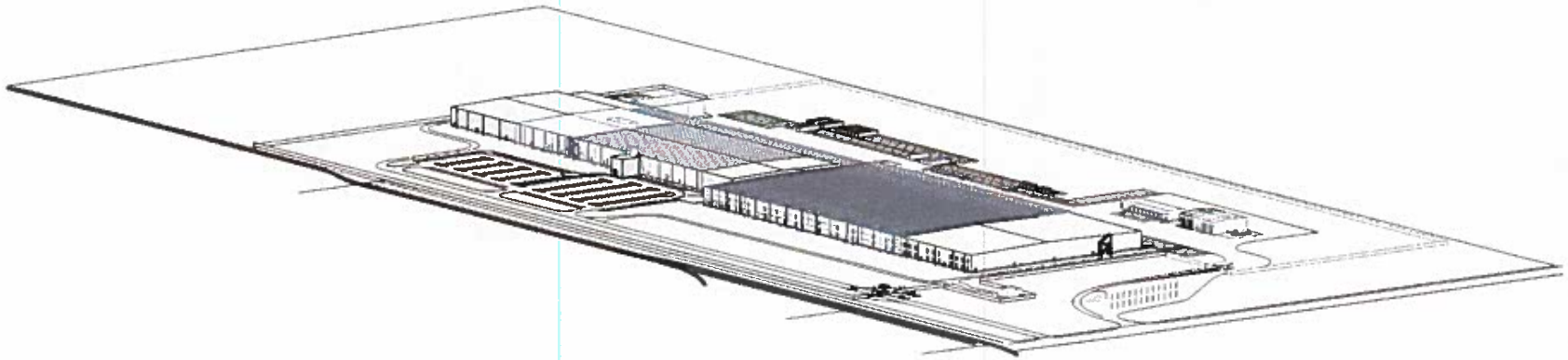
7830 Orlando Ave. • Lubbock, TX 79423 • 806.791.0220 • www.unitedtexas.com

Attachment 2

United supermarkets

5801 MARTIN L. KING BLVD. LUBBOCK, TEXAS 79404

NEW DRY & LOW TEMP WAREHOUSE EXPANSION & INTERIOR REMODELS



Legal Description:

ASSESSOR'S PARCEL # R135727
SOUTH PLAINS INDUSTRIAL TR A

Vicinity Map:





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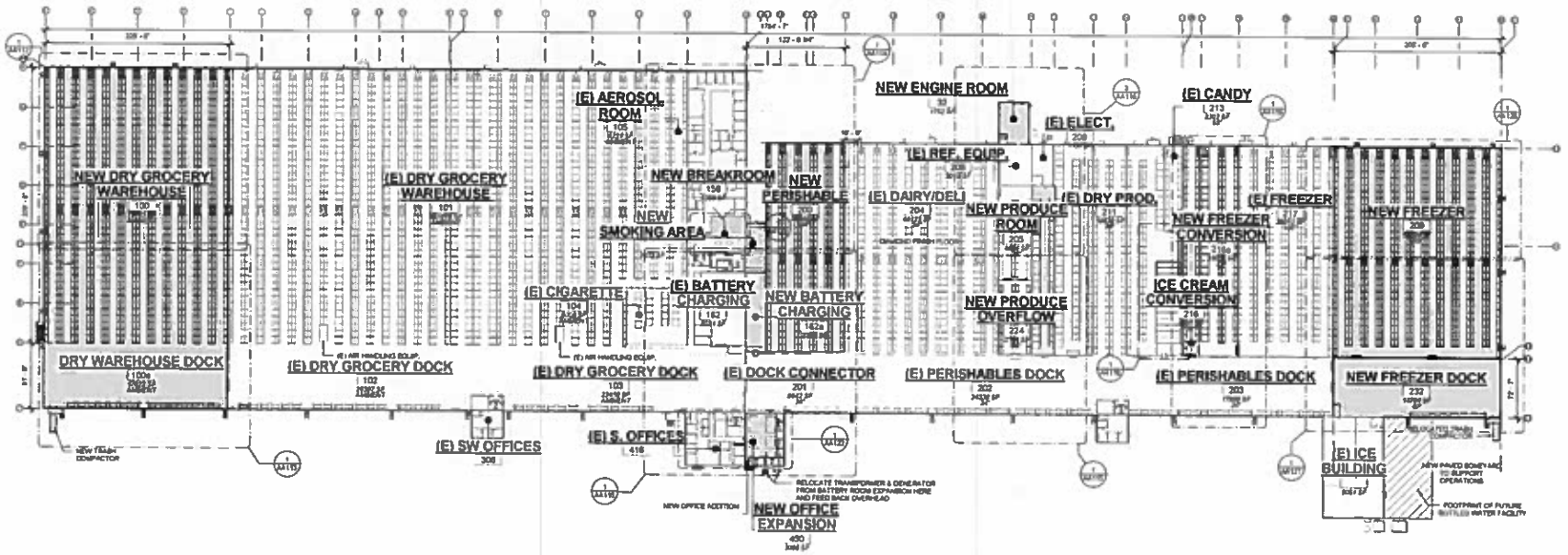
CLIENT / SHEET DESCRIPTION:
United Supermarkets
9801 Martin Luther King Blvd
Lubbock, Texas 79404
Dist. Center Expansion(s) & Repurpose
COVER SHEET

DRAWN BY: MRM
DATE: 04/30/15
SCALE @ 24"x36": 1" = 60'-0"
SHEET: G-001
REV.
JOB NUMBER: 150290

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A-902
Dist. Center Expansion(s) & Repurpose
PERSPECTIVES
United Supermarkets
supermarkets
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ATTACHMENT # 2



AREA KEY

1 Overall First Floor - New
1/64" = 1'-0"

#	Item	Created	Response	Drawing
CN1				
CN2				
CN3				
CN4				
CN5				
TC1				

#	Item	Created	Response	Drawing
DD1				
DD2				
DD3				

#	Item	Created	Response	Drawing
OP1	EXPAND CHECKING FROM 8# (2) DAYS & REPURPOSE EXISTING MECHANICS BAY TO TRASH BAY	6/1/2015		
OP2	REPAIR TRUCK AND TRAILER STAGING AREA WITH NEW ASPHALT AND CONCRETE AREA	6/1/2015		
OP3	LANDING PADS	6/1/2015		
OP4	NEW PAVEMENT AS REQUIRED TO ACCESS NEW DOCK DOORS	6/1/2015		
OP5	ADDITIONAL PAVED (ASPHALT OR CONCRETE) CURVED TRUCK PARKING	6/1/2015		
OP6	REDUCE FG IN NEW BAY 2	6/24/2015		
OP7	NEW EMPLOYEE & VISITOR ENTRANCE	7/1/2015		
VE1				
VE2				
VE3				

CLIENT APPROVAL SIGNATURE AND DATE:

* CN# = OUTSTANDING NEEDED ITEMS FOR CLIENT COMMENT/RESPONSE; TC# = TEAM COORDINATION ITEM; DD# = DEVIATIONS (TRACK 0-30, 30-60, 60-80); OP# = OPTIONS, VE# = VALUE ENGINEERING (REMOVE CN#, OP# AND VE# WHEN ITEM IS CONCLUDED WITH OWNER, KEEP DD# UNTIL 0-30%, 30-60% OR 60-90% PHASE IS CONCLUDED)

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Nampa, ID 83687
(208) 465-4200 m
(208) 466-4272 m
It's the least factor

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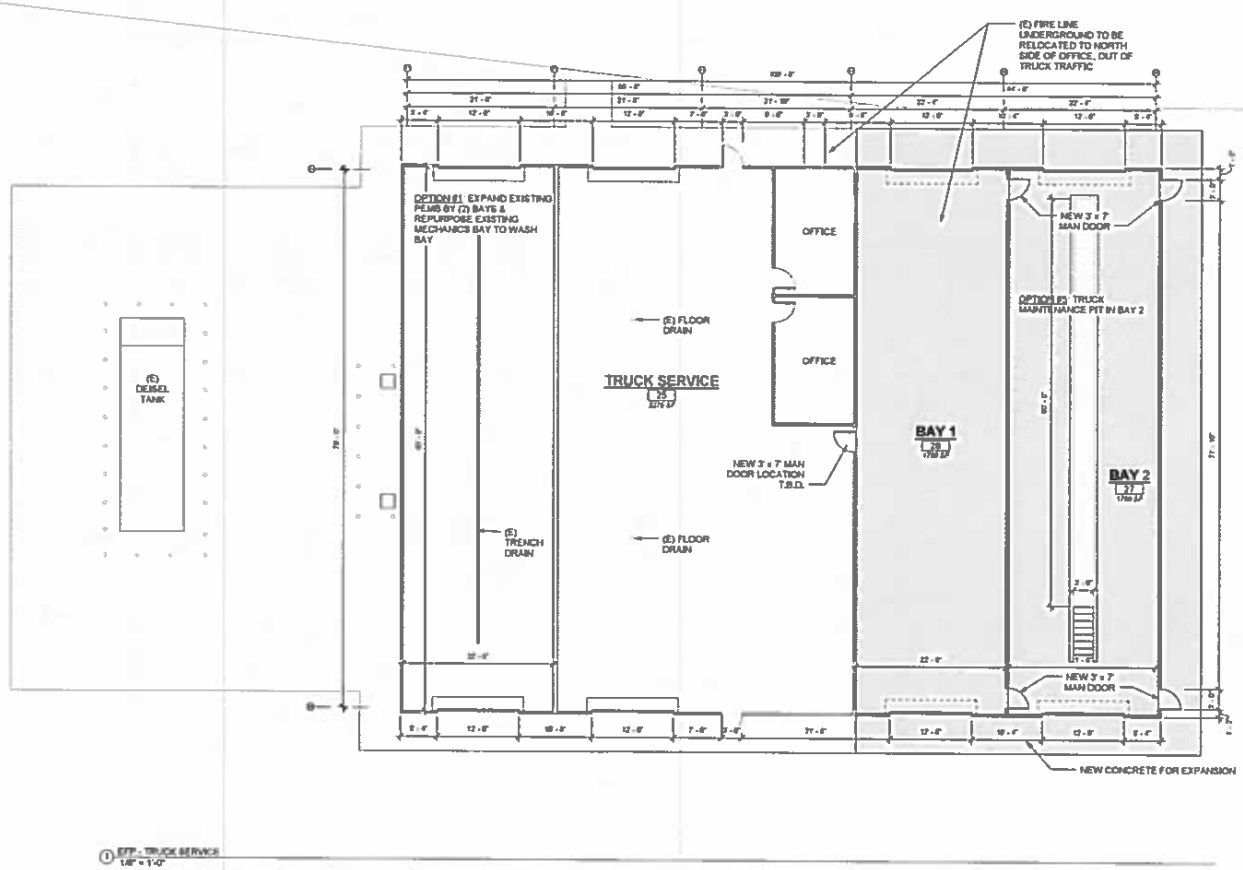
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CLIENT / SHEET DESCRIPTION:
United Supermarkets
8901 Martin Luther King Blvd
Lubbock, Texas 79403
Dist. Center Expansion(s) & Repurpose
OVERALL FIRST FLOOR - NEW

NO.	DESCRIPTION	DATE
A	Permit Review Docs	04/06/15
B	Pricing Documents	05/15/15
C	Bidding Documents	06/24/15
D	Permit Documents	07/31/15
E	Pricing Documents	08/31/15
F	Permit Documents	09/30/15

DRAWN BY: MR/MJ/LE
SHEET: AA111
DATE: 04/06/15
SCALE @ 24"x36": 1/64" = 1'-0"
JOB NUMBER: 152290

ATTACHMENT #2



① EXP - TRUCK SERVICE
1/8" = 1'-0"

HANSEN-RICE, INC.
1717 E Clarendon Drive
Tempe, AZ 85287
(602) 445-6200 ph
(602) 445-6277 fx
www.hansen-rice.com

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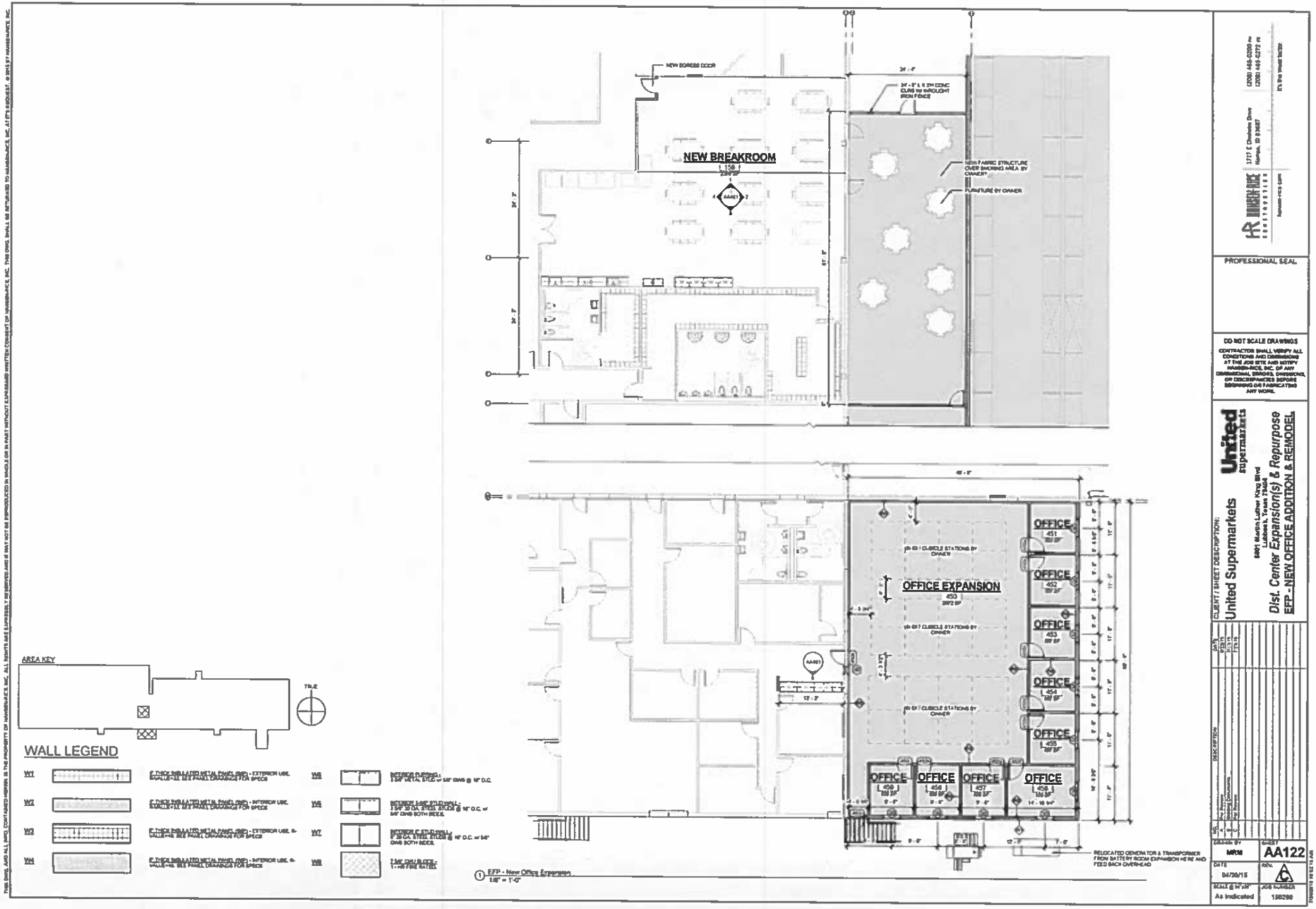
CLIENT / SHEET DESCRIPTION:
United Supermarkets
5501 Martin Luther King Blvd
Lubbock, Texas 79404

Dist. Center Expansion(s) & Repurpose
TRUCK SERVICE

DRAWN BY	SHEET
BAB	AA115
DATE	
04/30/15	
SCALE @ 24"x36"	JOB NUMBER
1/8" = 1'-0"	130280

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ATTACHMENT #2



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Nampa, ID 83687
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It's the Small Things
hansen-rice.com

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CLIENT / SHEET DESCRIPTION:
United Supermarkets
8401 Martin Luther King Blvd
Lubbock, Texas 79465
Dist. Center Expansion(s) & Repurpose
EFP - NEW OFFICE ADDITION & REMODEL

NO	DATE	DESCRIPTION
1	4/23/15	Per Review
2	5/1/15	Pricing Documents
3	7/7/15	Per Review
4		
5		

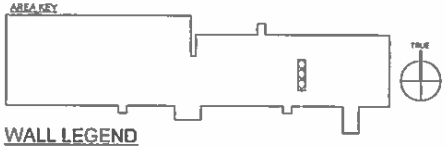
DRAWN BY: MR/SE
SHEET: AA122
DATE: 04/30/15
REV:
SCALE @ 24"x36": As indicated
JOB NUMBER: 150208

ATTACHMENT # 2

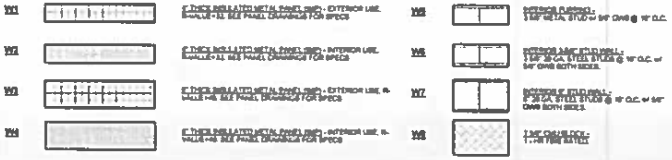
NOTE:
-RACKING IS ONLY A GRAPHIC REPRESENTATION.
NEW RACKING SOLUTION TO BE DETERMINED.

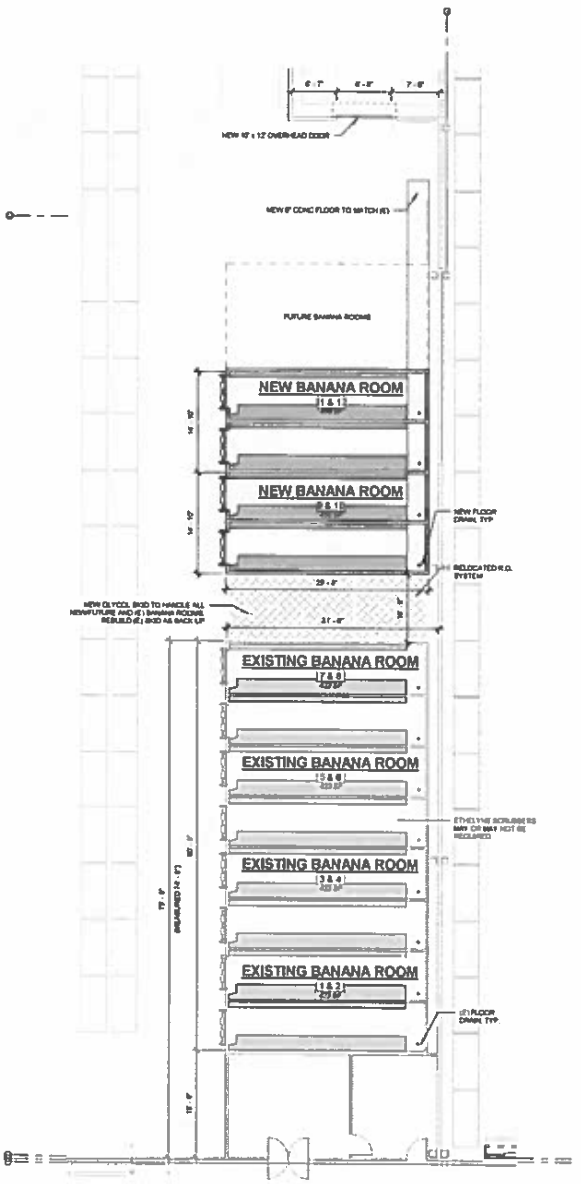
-SEE STRUCTURAL FOR DETAILS RE: OPENINGS TO BE CUT

AREA KEY



WALL LEGEND





1 EFP - New Banana Rooms
1/8" = 1'-0"

HANSEN INC
1777 S Chadwick Drive
Rexburg, ID 83467
(208) 356-0200 ph
(208) 356-0279 fx
It's the Heart Matter

PROFESSIONAL SEAL

DO NOT SCALE DRAWINGS

CONTRACTOR SHALL VERIFY ALL CONDITIONS AND DIMENSIONS AT THE JOB SITE AND NOTIFY HANSEN-INCS, INC. OF ANY DIMENSIONAL ERRORS, OMISSIONS, OR DISCREPANCIES BEFORE BEGINNING ANY FABRICATING ANY WORK.

CLIENT / SHEET DESCRIPTION:
United Supermarkets
9901 Marlon Luther King Blvd
Lubbock, Texas 79465

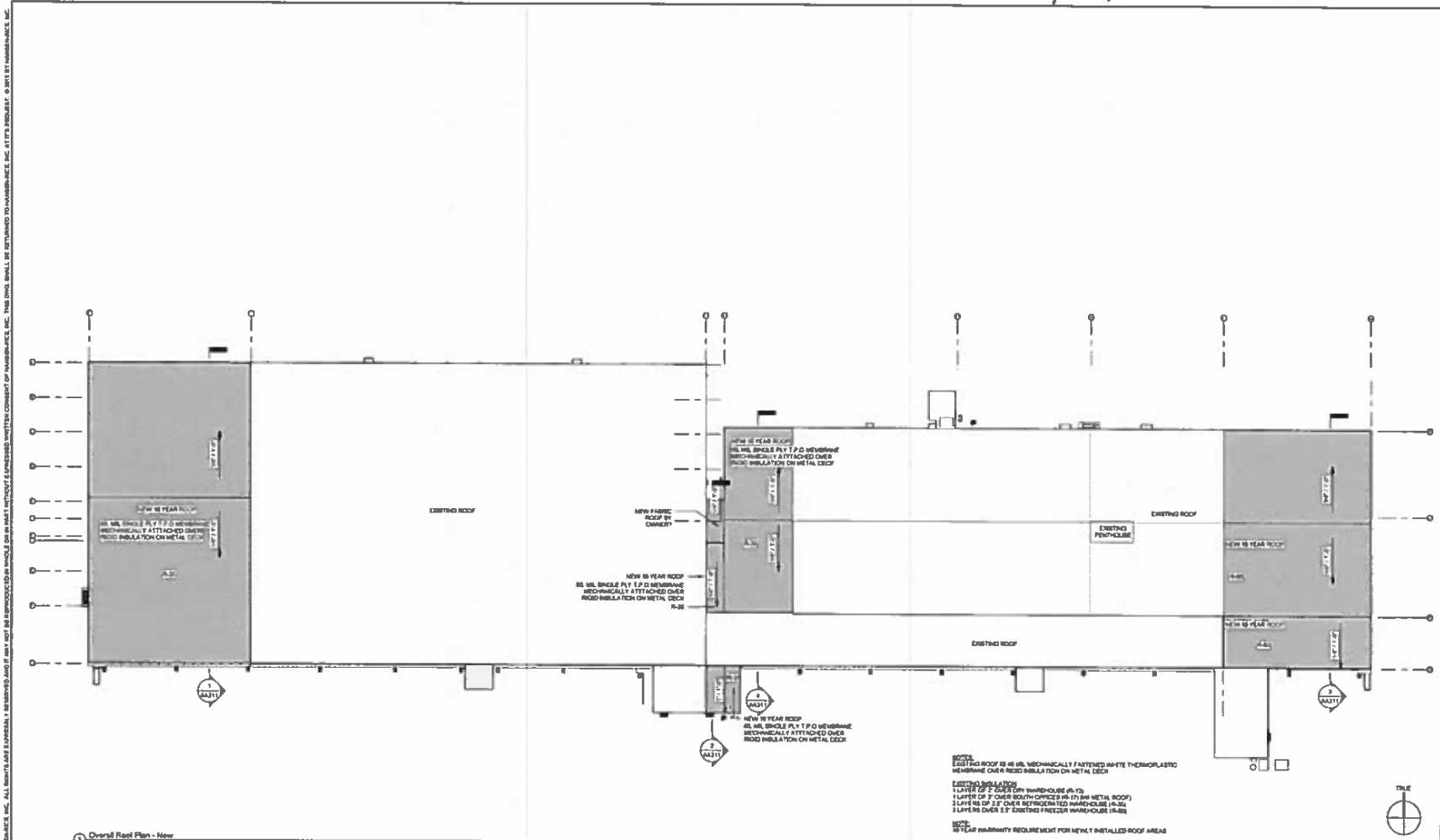
Dist. Center Expansion(s) & Repurpose
EFP - NEW BANANA ROOMS

DESCRIPTION	DATE
Permit Documents	7/31/15
Permit Documents	8/7/15

Drawn By: MRM
Sheet: AA118
Date: 8/7/2015
Rev.
Scale @ 24"x36": As Indicated
Job Number: 150290

THIS DWG. AND ALL DATA CONTAINED HEREIN, IS THE PROPERTY OF HANSEN-INCS, INC. ALL RIGHTS ARE EXPRESSLY RESERVED AND IT MAY NOT BE REPRODUCED IN WHOLE OR IN PART WITHOUT EXPRESSED WRITTEN CONSENT OF HANSEN-INCS, INC. THIS DWG. SHALL BE RETURNED TO HANSEN-INCS, INC. AT ITS REQUEST. © 2015 BY HANSEN-INCS, INC.

ATTACHMENT # 2



1 Overall Roof Plan - New
1/64" = 1'-0"

THIS DWG, AND ALL INFO. CONTAINED HEREIN, IS THE PROPERTY OF HANSEN-RICE, INC. ALL RIGHTS ARE RESERVED AND IT MAY NOT BE REPRODUCED IN WHOLE OR IN PART WITHOUT EXPRESSED WRITTEN CONSENT OF HANSEN-RICE, INC. THIS DWG. SHALL BE RETURNED TO HANSEN-RICE, INC. AT IT'S REQUEST. © 2015 BY HANSEN-RICE, INC.

HANSEN-RICE
ARCHITECTURE
1717 E Chisholm Drive
Nampa, ID 83687
(208) 465-0200 ph
(208) 466-0272 fx
It's the little things

PROFESSIONAL SEAL

DO NOT SCALE DRAWINGS
CONTRACTOR SHALL VERIFY ALL CONDITIONS AND DIMENSIONS AT THE JOB SITE AND NOTIFY HANSEN-RICE, INC. OF ANY DIMENSIONAL ERRORS, OMISSIONS, OR DISCREPANCIES BEFORE BEGINNING OR FABRICATING ANY WORK.

CLIENT / SHEET DESCRIPTION:
United Supermarkets
8901 Martin Luther King Blvd
Lubbock, Texas 79465
Dist. Center Expansion(s) & Repurpose
ROOF PLAN - OVERALL

NO.	DESCRIPTION	DATE
A	Bidding Documents	7/13/15
B	Site Review	7/29/15

DRAWN BY: MRM
SHEET: AA131
DATE: 04/28/15
REV.
SCALE @ 24"x36": 1/64" = 1'-0"
JOB NUMBER: 150290

Attachment 3:

Project consists of the addition of 200,000 square feet to Llano Distrubution Center. Construction costs expected to be $26.0M, with additional capital outlay of $22.7M for other personal property. The expansion will create 190 new positions to be based in Lubbock, Texas. This will generate additional payroll of $7.2M annually.

Attachment 3

MHE Purchases:

	Qty	Cost	Total Cost	Annual Depreciation	Life
Tractors	24	$ 140,000	$ 3,360,000	840,000	4
Trailers	47	$ 67,000	$ 3,149,000	393,625	8
				$ 1,233,625	
Forklift	10	$ 38,970	$ 389,700	48,713	8
Loader	3	$ 36,805	$ 110,415	13,802	8
Battery	26	$ 6,820	$ 177,314	35,463	5
Pallet jack	35	$ 8,782	$ 307,381	38,423	8
Battery	70	$ 2,598	$ 181,860	36,372	5
		Total MHE	**$ 7,675,670**	**$ 172,772**	
		Projected Additional Inventory:	**$ 15,000,000**		
			$ 22,675,670		

Lubbock warehouse purchase:

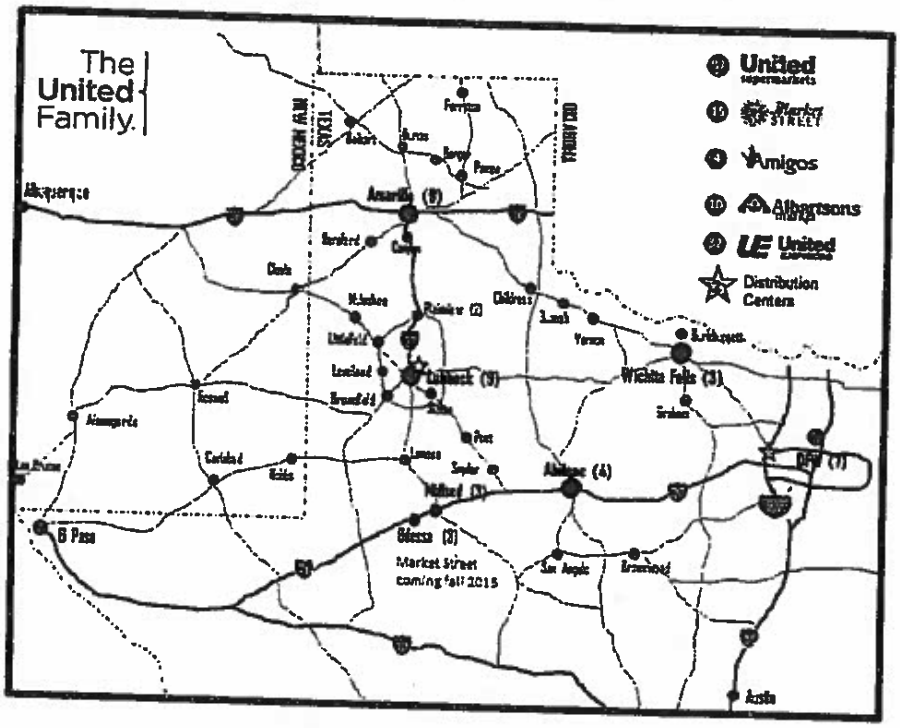
Building	1	$ 46,000,000	$ 46,000,000	**$ 4,600,000**	10

Lubbock Building Expansion Costs:

	Sq. Ft.	$ Per Ft	Total Cost	Annual Depreciation	Life
Freezer	48384	$ 140	$ 6,773,760	677,376	10
Cooler	43985	$ 110	$ 4,838,328	483,833	10
Ambiant	102816	$ 90	$ 9,253,440	925,344	10
				$ 2,086,553	
	Qty	**Price**	**Total Cost**	**Annual Depreciation**	**Life**
Racking	910	$ 2,400	$ 2,184,000	218,400	10
Banana Rooms	4	$ 200,000	$ 800,000	80,000	10
Concrete and Parking			$ 2,000,000	200,000	10
Systems and Equipment			$ 124,700	24,940	5
				$ 523,340	
			Total Building Expansion Annual Depreciation	**$ 2,609,893**	

Attachment #4

Current Store Locations



66 Stores in 34 Communities

7830 Orlando Ave. • Lubbock, TX 79423 • 806.791.0220 • www.unitedtexas.com

Attachment #3

LUBBOCK CENTRAL APPRAISAL DISTRICT
PO BOX 10568 - 2109 AVENUE Q
LUBBOCK, TEXAS 79408-3568

2014 TAX STATEMENT

(806) 782-5000 EXT: 6
www.lubbockcad.org
PRINT DATE: 10/14/201
PAYABLE UPON RECEIPT

PLEASE RETAIN THIS PORTION FOR YOUR RECORDS

VALUATION BREAKDOWN

LAND-HS	LAND-NHS	AG-NAT	AG-USE	IMPV-HS	IMPV-NHS/PERS PROP	APPRAISED
0	492,680	0	0	0	26,359,381	26,852,381

ASSESSMENT RATIO 100%

JURISDICTION	HOMESTEAD CAP	TOTAL ASSESSED	EXEMPTIONS	TAXABLE VALUE	TAX RATE	TAX AMOUNT BEFORE PENALTY		TAX AMOUNT
City Of Lubbock		26,852,381	0	26,852,381	0.5224000	140,278.73		140,278.73
Lubbock County		26,852,381	0	26,852,381	0.3413580	91,662.68		91,662.68
Lubb Cnty Hospital		26,852,381	0	26,852,381	0.1168000	31,363.56		31,363.56
Lubbock ISD		26,852,381	0	26,852,381	1.2350000	331,626.65		331,626.65
Hi Plains Water		26,852,381	0	26,852,381	0.0080260	2,155.17		2,155.17

EXEMPTION CODES:

** CITY TAXES REDUCED BY ADDITIONAL SALES TAX: 35,438.78
** COUNTY TAXES REDUCED BY ADDITIONAL SALES TAX: 37,778.59

TOTAL DUE 597,084.79

TIM RADLOFF

QUICKREF: R155727

DESCRIPTION OF PROPERTY:
OWNER ID: 00087241
OWNER % : 100.00
Legal: SOUTH PLAINS INDUSTRIAL TR A
Situs: 5801 MLK BLVD LUBBOCK
DBA: LLANO

REC'D BY AD
JAN 16 2015
INITIALS

NAPLES LUBBOCK VENTURE LLC
% UNITED SUPERMARKETS LLC
PO BOX 6840
LUBBOCK TX 79493-6840

DC 342000
TQ

PAYMENT SCHEDULE

IF TAXES ARE PAID IN		LESS (-) DISCOUNT OR PLUS (+) PENALTY / INTEREST	TOTAL TAX DUE
OCT 2014		.00	597,084.79
NOV 2014		.00	597,084.79
DEC 2014		.00	597,084.79
JAN 2015		.00	597,084.79
FEB 2015	7%	41,795.94	638,880.73
MAR 2015	9%	53,737.63	650,822.42
APR 2015	11%	65,679.32	662,764.11
MAY 2015	13%	77,621.02	674,705.81
JUN 2015	15%	89,562.74	686,647.53
JUL 2015	18%+20%	248,387.27	845,472.06

CEILING ON OVER 65 OR DISABLED HOMESTEAD	
CITY	
COUNTY	
SCHOOL	

FOR TOTAL TAX DUE REFER TO THE PAYMENT SCHEDULE ABOVE

IF YOU ARE 65 YEARS OF AGE OR OLDER OR ARE DISABLED AND THE PROPERTY DESCRIBED IN THIS DOCUMENT IS YOUR HOMESTEAD, YOU SHOULD CONTACT THE APPRAISAL DISTRICT REGARDING ANY ENTITLEMENT YOU MAY HAVE TO A POSTPONEMENT IN THE PAYMENT OF THESE TAXES.

IF YOU HAVE QUESTIONS PLEASE CALL (806) 782-5000. TAXES BECOME DELINQUENT ON FEBRUARY 1, 2015. AFTER JUNE AN ADDITIONAL PENALTY OF 20% WILL BE IMPOSED ON THE AMOUNT OF TAXES, PENALTY AND INTEREST DUE. AFTER JULY AN ADDITIONAL 1% INTEREST PER MONTH WILL BE APPLIED.

MAKE CHECKS PAYABLE TO:
LUBBOCK CENTRAL APPRAISAL DISTRICT
PO BOX 10568 - 2109 AVENUE Q
LUBBOCK, TEXAS 79408-3568
(806) 782-5000 EXT: 6
www.lubbockcad.org

2014 TAX STATEMENT
PAYABLE UPON RECEIPT

PRINT DATE: 10/14/201
PLEASE RETURN THIS PORTION

QUICKREF: R155727

DESCRIPTION OF PROPERTY:
OWNER ID: 00087241
OWNER % : 100.00
Legal: SOUTH PLAINS INDUSTRIAL TR A
Situs: 5801 MLK BLVD LUBBOCK
DBA: LLANO

Quickref: R155727 OWNER ID: 00087241
20689 1 AV 0.381 **AUTO**5-DIGIT 79408 2 FT 65

NAPLES LUBBOCK VENTURE LLC
% UNITED SUPERMARKETS LLC
PO BOX 6840
LUBBOCK TX 79493-6840

TO RECEIVE A RECEIPT CHECK BOX ☐

TAX DUE
597,084.79

20140000R155727301420140 000059708479



Lubbock Central Appraisal District



2015 Certified Values

Home
General Information
News
FAQ
Forms
Searches
QuickRef ID Search
Owner Search
Address Search
Advanced Search
Neighborhood Search
Property Data
Detail Sheet
Datasheet
Bills
Other
2015 Tax Rates
Property Tax Basics
Property Taxpayer Remedies
Property Tax Assistance Division
Installment Payments
Appraisal Notice Information
Payment Information
Public Information Request
Online Protest Instructions
Property Tax Calendar
Appraisal Protests and Appeals
Employment
GIS Maps
Data Downloads
Esp. Property Taxpayer Remedies
Esp. Appraisal Protest and Appeal
Esp. Property Tax Basics
Freeport Worksheet
Property Tax Binding Arbitration

Property Detail Sheet (R155727)

History | Plat Map | GIS Map | Datasheet
Bills | Pay Taxes | Protest

Owner Information

Owner ID:	**O0239025**
Owner Name:	**SAFEWAY INC**
Owner Address:	**PO BOX 20 BOISE,ID 83726**
Property Address:	**5801 MLK BLVD LUBBOCK, TX 79404**

Parcel Information

Legal Description:	**SOUTH PLAINS INDUSTRIAL TR A**
Neighborhood:	**0209(0209 - City Of Lubbock)**
Acreage:	
Cross Reference:	**R804590-00010-00000-000**
Undivided Interest:	
Exemption Codes:	
Entity Codes:	**CLB (City Of Lubbock) GLB (Lubbock County) HSP (Lubb Cnty Hospital) SLB (Lubbock ISD) WHP (Hi Plains Water)**
Deed Type:	**Warranty Deed**
Deed Book:	
Deed Page:	**2015-19730**
Map Page:	**675**
Links:	

Values Breakdown	2015 Value
Land HS:	**$0.0 +**
Land NHS:	**$492,980 +**
Improvement HS:	**$0.0 +**
Improvement NHS:	**$26,526,020 +**
Ag Market:	**$0.0**
Ag Use:	**$0.0 +**
Timber Market:	**$0**
Timber Use:	**$0 +**
Assessed:	**$27,019,000 =**

Improvements

ID	Type	SPTB	Segs	Value
Imp1	C (Commercial)	F1 (F1 - Real Commercial)	5	$ 13,345,217
Imp2	C (Commercial)	F1 (F1 - Real Commercial)	1	$ 11,966,126
Imp3	C (Commercial)	F1 (F1 - Real Commercial)	1	$ 189,000
Imp4	C (Commercial)	F1 (F1 - Real Commercial)	1	$ 409,429
Imp5	C (Commercial)	F1 (F1 - Real Commercial)	1	$ 45,547
Imp6	C (Commercial)	F1 (F1 - Real Commercial)	1	$ 45,766
Imp7	C (Commercial)	F1 (F1 - Real Commercial)	1	$ 538,813

City of Lubbock

Memo

To: United Supermarkets, LLC Tax Abatement File

From: Cheryl Brock

cc:

Date: 11/4/15

Re: Tax Abatement requirement for more than 50% of products distributed outside of Lubbock County.

United Supermarkets, L.L.C. provided the Fiscal Policy department with a breakdown of their sales by area in order to satisfy the requirement in the Industrial tax abatement guidelines Section IV 1(b) that more than 50% of their products be distributed outside of Lubbock County. Both Linda Chamales and I reviewed the information and certify that based on the sales data provided to us, the company does ship more than 50% of their product outside of Lubbock County. The data was considered proprietary by United Supermarkets, L.L.C., so the detailed information was returned to the company after review and certification.

The breakdown of sales is as follows:

18.34 % of sales – Lubbock County

81.7% of sales outside of Lubbock County

Cheryl Brock, Executive Director of Budget

Linda Chamales, Economic Development Attorney

Regular City Council Meeting **5. 8.**

Meeting Date: 12/03/2015

Information

Agenda Item

Ordinance 1st Reading - Public Works Traffic Engineering: Consider an ordinance amending Section 20.05.103 of the Code of Ordinances of the City of Lubbock, with regard to the establishment of school zones.

Item Summary

Section 20.05.103 of the Code of Ordinances is being revised to add one flashing school zone and one sign assembly school zone. The flashing school zone is located on Fulton Avenue near 101st Street for Lubbock-Cooper West Elementary School. The sign assembly school zone is located on Norfolk Avenue near 133rd Street for Lubbock-Cooper Central Elementary School.

At the request of Lubbock-Cooper Independent School District, Traffic Engineering conducted pedestrian counts at L-C West and L-C Central Elementary Schools. The counts revealed that the number of students crossing the street met the criteria to install a school zone.

Fiscal Impact

Equipment and materials for building the new flashing school zone total approximately $30,000. Materials for the sign assembly school zone costs approximately $2,000. $2,000,000 is appropriated in Capital Improvement Project 92172, Traffic Signals/Controllers, with $32,000 available for this purpose.

Staff/Board Recommending

L. Wood Franklin, P.E., Director of Public Works

Attachments

Ordinance - 2015 Speed Zone

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 20.05.103 OF THE CODE OF ORDINANCES OF THE CITY OF LUBBOCK, TEXAS, WITH REGARD TO THE ESTABLISHMENT OF SCHOOL ZONES AND SPEED LIMITS; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY; AND PROVIDING FOR PUBLICATION.

WHEREAS, the City Council of the City of Lubbock deems it to be in the best interests of the health, safety and welfare of the citizens of the City of Lubbock to make the following amendment to Section 20.05.103 of the Code of Ordinances of the City of Lubbock, Texas; NOW THEREFORE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK;

SECTION 1. THAT Section 20.05.103, Code of Ordinances of the City of Lubbock, Texas, is hereby amended to read as follows:

Sec. 20.05.103 School Zone Designations and Reduced Speed Limits.

A reduced school speed zone as indicated herein shall be in effect when the designated school speed limit beacon is flashing during school hours or the reduced speed limit sign assembly is present upon the streets or highways or portions thereof within the city limits shall be as follows:

Item	Street Name (TxDOT Name)	Travel Direct.	School Zone Speed Limit Description	School Zone Type	Speed	School Name
1	11th Place	East/ West	Beginning at a point 95 feet East of Liberty Avenue extending to a point 230 feet East of LaSalle Avenue	Flashing Beacon	20	FISD Northridge Elementary
2	19th Street (US 62 / SH 114)	East/ West	Beginning at a point 145 feet West of Avenue U extending to a point 100 feet East of Avenue T	Flashing Beacon	20	Lubbock High School
3	East 24th Street	East/ West	Beginning at a point 32 feet East of Oak Avenue extending to a point 677 feet West of Oak Avenue	Flashing Beacon	20	LISD Project Intercept
4	30th Street	East/ West	Beginning at a point 214 feet East of Avenue N extending to a point 158 feet West of Avenue N	Flashing Beacon	20	Bean Elementary
5	34th Street	East/ West	Beginning at a point 194 feet East of Avenue N extending to a point 251 feet West of Avenue N	Flashing Beacon	20	Bean Elementary
6	34th Street	East/ West	Beginning at a point 12 feet East of the North leg of Avenue X extending to a point 100 feet West of the South leg of Avenue X	Flashing Beacon	20	Brown Elementary

Item	Street Name (TxDOT Name)	Travel Direct.	School Zone Speed Limit Description	School Zone Type	Speed	School Name
7	34th Street	East/ West	Beginning at a point 214 feet East of Toledo Avenue extending to a point 200 feet West of Vicksburg Avenue	Flashing Beacon	20	Coronado High School
8	43rd Street	East/ West	Beginning at a point 160 feet East of Milwaukee Avenue extending to a point 600 feet East of Milwaukee Avenue	Flashing Beacon	20	FISD Westwind Elementary
9	50th Street	East/ West	Beginning at a point 320 feet West of Avenue P extending to a point 308 feet East of Avenue P	Flashing Beacon	20	Hodges Elementary
10	50th Street	East/ West	Beginning at a point 146 feet East of Gary Avenue extending to a point 219 feet West of Gary Avenue	Flashing Beacon	20	Monterey High School
11	58th Street	East/ West	Beginning at a point 198 feet East of Avenue U extending to a point 136 feet West of Avenue V	Flashing Beacon	20	Bayless Elementary
12	58th Street	East/ West	Beginning at a point 169 feet East of Canton Avenue and extending to a point 158 feet West of Elgin Avenue	Flashing Beacon	20	Parsons Elementary
13	58th Street	East/ West	Beginning at a point 85 feet West of 55th Drive extending to a point 209 feet East of Wayne Avenue	Flashing Beacon	20	Williams Elementary
14	73rd Street	East/ West	Beginning 200 feet East of Ironton Avenue extending to a point 200 feet West of Ironton Avenue	Flashing Beacon	20	Heritage Middle School
15	78th Street	East/ West	Beginning at a point 188 feet West of Flint Avenue extending to a point 200 feet East of Elgin Avenue	Flashing Beacon	20	Waters Elementary
16	79th Street	East/ West	Beginning at a point 221 feet West of Hope Avenue extending to a point 165 feet East of Hope Avenue	Flashing Beacon	20	FISD Crestview Elementary
17	108th Street	East/ West	Beginning at a point 350 feet West of Gary Avenue extending to a point 350 feet East of Gary Avenue	Flashing Beacon	20	Lubbock-Cooper North Elementary
18	Avenue L	North/ South	Beginning at a point 15 feet South of 29th Street extending to a point 50 feet North of 30th St	Flashing Beacon	20	Bean Elementary

Item	Street Name (TxDOT Name)	Travel Direct.	School Zone Speed Limit Description	School Zone Type	Speed	School Name
19	Avenue P	North/ South	Beginning at a point 211 feet South of 1st Street extending to a point 218 feet North of 1st Street	Flashing Beacon	20	Guadalupe Elementary
20	Avenue P	North/ South	Beginning at a point 218 feet North of 79th Street extending to a point 58 feet North of 81st Street	Flashing Beacon	20	Roberts Elementary
21	Avenue Q (US 84)	North/ South	Beginning at a point 210 feet North of 32nd Street extending to a point 135 feet South of 32nd Street	Flashing Beacon	30	O.L. Slaton Middle School
22	Avenue T	North/ South	Beginning at a point 26 feet North of 20th Street extending to a point 40 feet South of 22nd Street	Flashing Beacon	20	Dupree Elementary
23	Avenue U	North/ South	Beginning at a point 214 feet South of 2nd Street extending to a point 162 feet North of 2nd Street	Flashing Beacon	20	Jackson Elementary
24	Avenue U	North/ South	Beginning at a point 90 feet North of 58th Street extending to a point 125 feet South of 53rd Street	Flashing Beacon	20	Atkins Middle School
25	Avenue U	North/ South	Beginning at a point 115 feet South of 58th Street extending to a point 74 feet North of 62nd Street	Flashing Beacon	20	Bayless Elementary
26	Boston Avenue	North/ South	Beginning at a point 161 feet North of 1st Street and extending to a point 135 feet North of 2nd Street	Flashing Beacon	20	McWhorter Elementary
27	Broadway	East/ West	Beginning at a point 261 feet West of Avenue U and extending to a point 211 feet East of Avenue U	Flashing Beacon	20	Ramirez Charter School
28	Chicago Avenue	North/ South	Beginning at a point 16 feet North of 16th Street extending to a point 16 feet South of 13th Street	Flashing Beacon	20	Hardwick Elementary
29	Chicago Avenue	North/ South	Beginning at a point 93 feet North of 32nd Street and extending to a point 10 feet South of 29th Drive	Flashing Beacon	20	Bowie Elementary
30	Chicago Avenue	North/ South	Beginning at a point 145 feet South of 48th Street extending to a point 143 feet North of 46th Street	Flashing Beacon	20	Wester Elementary
31	Chicago Avenue	North/ South	Beginning at a point 56 feet South of 87th Street extending to a point 59 feet North of 89th Street	Flashing Beacon	20	Smith Elementary

Item	Street Name (TxDOT Name)	Travel Direct.	School Zone Speed Limit Description	School Zone Type	Speed	School Name
32	Elgin Avenue	North/ South	Beginning at a point 150 feet North of 41st Street extending to a point 155 feet South of 42nd Street	Flashing Beacon	20	Wheelock Elementary
33	Elgin Avenue	North/ South	Beginning at a point 260 feet North of 58th Street extending to a point 156 feet South of 42nd Street	Flashing Beacon	20	Parsons Elementary
34	Elgin Avenue	North/ South	Beginning at a point 103 feet South of 78th Street extending to a point 40 feet of 75th Street	Flashing Beacon	20	Waters Elementary
35	Erskine Street	East/ West	Beginning at a point 19 feet West of North Hartford Avenue extending to a point 134 feet East of North Gary Avenue	Flashing Beacon	20	Wolffarth Elementary
36	Flint Avenue	North/ South	Beginning at a point 135 feet South of 39th Street extending to a point 134 feet North of 43rd Street	Flashing Beacon	20	Wheelock Elementary
37	Fulton Avenue	North/ South	Beginning at a point 112 feet South of 100th Street extending to a point 295 feet South of 101st Street	Flashing Beacon	20	Lubbock-Cooper West Elementary
38	Joliet Drive	North/ South	Beginning at a point 106 feet West of Louisville Drive extending to a point 68 feet Southwest of 68th Street	Flashing Beacon	20	Miller Elementary
39	Dr. M. L. King, Jr., Boulevard *	North/ South	Beginning at a point 106 feet South of East Erskine Street extending to a point 213 feet South of East Emory Street	Flashing Beacon	20	Estacado High School
40	Dr. M. L. King, Jr., Boulevard *	North/ South	Beginning at a point 220 feet South of East 29th Street extending to a point 230 feet North of East 29th Street	Flashing Beacon	20	Ervin Elementary
41	Memphis Avenue	North/ South	Beginning at a point 135 feet North of 31st Street extending to a point 122 feet South of 28th Street	Flashing Beacon	20	Overton Elementary
42	Memphis Avenue	North/ South	Beginning at a point 132 feet South of 46th Street extending to a point 242 feet North of 44th Street	Flashing Beacon	20	Maedgen Elementary
43	Memphis Avenue	North/ South	Beginning at a point 145 feet South of 60th Street extending to a point 160 feet North of 58th Street	Flashing Beacon	20	Haynes Elementary

Item	Street Name (TxDOT Name)	Travel Direct.	School Zone Speed Limit Description	School Zone Type	Speed	School Name
44	Memphis Avenue	North/ South	Beginning at a point 115 feet North of 86th Street extending to a point 230 feet South of 86th Street	Flashing Beacon	20	Honey Elementary
45	Norfolk Avenue	North/ South	Beginning at a point 595 feet South of 130th Street extending to a point 200 feet South of 133rd Street	Sign Assembly	20	Lubbock-Cooper Central Elementary
46	Parkway Drive (US 82)	East/ West	Beginning at a point 560 feet southwest of Zenith Ave extending 600 feet to a point 115 feet southwest of Walnut Avenue	Flashing Beacon	30	Alderson Elementary
47	Quaker Avenue	North/ South	Beginning at a point 213 feet North of 31st Street extending to a point 137 feet South of 31st Street	Flashing Beacon	20	Smylie Wilson Middle School
48	Teak Avenue	North/ South	Beginning at a point 200 feet North of East 29th Street extending to a point 250 feet South of East 29th Street	Flashing Beacon	20	Ervin Elementary
49	Toledo Avenue	North/ South	Beginning at a point 153 feet Northwest of 13th Street extending to a point 163 feet Southeast of 15th Street	Flashing Beacon	20	Rush Elementary
50	North University Avenue	North/ South	Beginning at a point 212 feet South of Auburn Street extending to a point 156 feet North of Baylor Street	Flashing Beacon	20	Cavazos Middle School
51	North Utica Avenue	North/ South	Beginning at a point 220 feet North of Kemper Street extending to a point 195 feet South of Kemper Street	Flashing Beacon	20	Centennial Elementary
52	Utica Avenue	North/ South	Beginning at a point 94 feet North of 45th Street extending to a point 200 feet South of 48th Street	Flashing Beacon	20	Stewart Elementary
53	Utica Avenue	North/ South	Beginning at a point 163 feet North of 56th Street extending to a point 30 feet North of 59th Street	Flashing Beacon	20	Williams Elementary

SECTION 2. THAT should any paragraph, section, sentence, phrase, clause or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

SECTION 3. THAT, in accordance with Chapter 545 of the Transportation Code, signs be attached to existing school crossing zone signs informing drivers that the use of hand-held wireless communication devices is prohibitted , subject to a fine not to exceed two hundred dollars ($200.00).

SECTION 4. THAT violation of any provision of this Ordinance shall be a misdemeanor punishable by a fine not to exceed two hundred dollars ($200.00).

SECTION 5. THAT the City Secretary is hereby authorized and directed to cause publication of the descriptive caption of this Ordinance as an alternative method of publication as provided by law.

AND SO IT IS ORDERED.

Passed by the City Council on first reading this _____ day of _____, 2015.

Passed by the City Council on second reading this _____ day of _____, 2015.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
L. Wood Franklin, P.E., Director of Public Works

APPROVED AS TO FORM:

_____
John C. Grace, Assistant City Attorney

S:\cityatt\CCDOCS\ORD-2015(dec)SchoolZone_Speed.doc

Regular City Council Meeting **5. 9.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - Public Works Traffic Engineering: Consider a resolution authorizing the City Council to accept, for and on behalf of the City of Lubbock, the donation of parking signs from Vintage Town Assembly, Incorporated.

Item Summary

Vintage Town Assembly installed signs to specify parking restrictions during the development of the neighborhood. The narrow streets in Vintage Town community promote traffic calming measures, yet also require that one side of the street prohibit curb side parking. Vintage Town Assembly currently owns the sign assemblies installed in City right-of-way that designate restricted parking. To enforce the parking restrictions, the City of Lubbock must own sign assemblies.

The City of Lubbock and Vintage Town Assembly desire that the parking designations be enforced. Therefore, Vintage will donate all parking sign assemblies to the City of Lubbock.

Fiscal Impact

Fiscal impact will be future costs as parking signs and pole assemblies need to be replaced or repaired, and will be funded from Traffic Operation's operating budget.

Staff/Board Recommending

L. Wood Franklin, P.E., Director of Public Works

Attachments

Resolution - Vintage Parking Sign Donation

Vintage Donation Documentation

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the City Council of the City of Lubbock hereby accepts for and on behalf of the City of Lubbock, a **Parking Sign Donation** and related documents between the City of Lubbock and Vintage Town Assembly, Inc. by which the Vintage Town Assembly, Inc. donates, conveys, assigns, gives, and transfers to the City of Lubbock approximately **128** (more or less) "no parking" or restricted parking signs, together with poles and attachment hardware, previously owned, installed, maintained or placed by the **Vintage Town Assembly, Inc.** and located in and around the Vintage Township subdivision, with the understanding and agreement that the City of Lubbock will assume responsibility for the placement, maintenance, installation and/or removal of said signs and that the City of Lubbock will undertake enforcement of parking regulations in and around the Vintage Township subdivision, pursuant to state law and the City of Lubbock Code of Ordinances. Said Donation is attached hereto and incorporated in this Resolution as if fully set forth herein and shall be included in the minutes of the Council. The City Manager is hereby authorized and directed to take whatever action is necessary to effectuate the purposes of this resolution.

Passed by the City Council this _____ day of _____ 2015.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
L. Wood Franklin, P.E., Director of Public Works

APPROVED AS TO FORM:

_____
John C. Grace
Assistant City Attorney

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PARKING SIGN DONATION

THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS
COUNTY OF LUBBOCK §

THAT the **Vintage Town Assembly, Inc.**, for and in consideration of the public good and other good and valuable consideration, does hereby donate, convey, assign, give and transfer to the City of Lubbock approximately **128** (more or less) "no parking" or restricted parking signs, together with poles and attachment hardware, owned, installed, maintained or placed by the **Vintage Town Assembly, Inc.** and located in and around the Vintage Township subdivision, with the understanding and agreement that the City of Lubbock will assume responsibility for the placement, maintenance, installation and/or removal of said signs and that the City of Lubbock will undertake enforcement of parking regulations in and around the Vintage Township subdivision, pursuant to state law and the City of Lubbock Code of Ordinances.

EXECUTED this 24 day of September 2015.

Vintage Town Assembly, Inc.

By: _____
John Russell,
Its President and Duly Authorized Officer

THE STATE OF TEXAS §
§
COUNTY OF LUBBOCK §

BEFORE ME, the undersigned authority, a Notary Public in and for said County, Texas, on this day personally appeared **Don Russell**, in his capacity as President of **Vintage Town Assembly, Inc.**, who is known to me to be the person whose name is subscribed to the foregoing document and acknowledged to me that he executed the same for the purposes and consideration therein expressed and as the act and deed of said **Vintage Town Assembly, Inc.**

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 24 day of Sept, 2015.

KAREN MICHELE STRANGE
Notary Public, State of Texas
My Commission Expires
March 10, 2019

_____
Notary Public in and for the State of Texas
My Commission Expires: 03-10-2019

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RESOLUTION

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF VILLAGE TOWN ASSEMBLY, INC.:

THAT the President of Vintage Town Assembly, Inc. be and is hereby authorized and directed to execute for and on behalf of the corporation, a Parking Sign Donation instrument in favor of the City of Lubbock, Texas, and related documents.

Passed by the Board of Directors this September 15, 2015.

John Russell, President
Vintage Town Assembly, Inc.

ATTEST:

Secretary, Vintage Town Assembly, Inc.

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Regular City Council Meeting **5. 10.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - Utility and Street Maintenance: Consider a resolution authorizing the Mayor to execute contract 12566 with MUDco, Inc. to purchase concrete and related materials to maintain the City public right-of-way structures, ITB 16-12566-SS.

Item Summary

The contract establishes annual pricing for the purchase of concrete and related materials used by Public Works Operations to maintain and repair paved streets, alleys, walks, drives and drainage structures. Repairs can vary from small spot repairs on curb and gutter to total removal and reconstruction of a public street.

One bid was received and opened on November 4, 2015 from MUDco, Inc, of Wolfforth, Texas for a unit price bid amount of $523,000. The contract is awarded by the unit price. The total amount of the award is estimated based on expected quantities and actual expenditures may be more or less depending on actual quantities. The price per unit will not change.

Based on the unit bid price, Staff recommends that the contract be awarded to MUDco, Inc, of Wolfforth, Texas for $523,000.

Fiscal Impact

The funding is available in the Public Works and Water Distribution and Maintenance adopted 2015-16 operating budgets.

Staff/Board Recommending

L Wood Franklin, P.E., Director of Public Works

Attachments

Resolution & Contract - MUDco, Inc

Bid Tabulation

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT City of Lubbock Invitation to Bid No. ITB 16-12566-SS / Contract 12566 is awarded to MUDCo, Inc, of Wolfforth, Texas, for Concrete Materials (Annual Pricing), and further THAT the Mayor of the City of Lubbock is authorized and directed to execute, for and on behalf of the City of Lubbock, a contract for said activities with MUDCo, Inc., consistent with the terms of the bid submittal attached hereto and incorporated herein, in a form acceptable to the City Attorney, and related documents.

Passed by the City Council on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
L. Wood Franklin, P.E., Director of Public Works

APPROVED AS TO FORM:

_____
John C. Grace, Assistant City Attorney

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Contract 12566

City of Lubbock, TX
Contract for Services
Concrete Materials – Annual Pricing

THIS CONTRACT made and entered into this **3rd** day of **December, 2015**, by and between the City of Lubbock ("City"), and **MUDco, Inc.**, ("Contractor").

WITNESSETH:

WHEREAS, the City of Lubbock duly advertised for bids for Concrete Materials – Annual Pricing and bids were received and duly opened as required by law; and

WHEREAS, after careful consideration of the bid submitted by Contractor, the City authorized the execution, in the name of the City of Lubbock a contract with said Contractor covering the purchase and delivery of the said Concrete Materials.

NOW, THEREFORE, in consideration of the mutual agreement contained herein, as well as the financial consideration hereinafter referred to, the parties hereby covenant and agree as follows:

1. In accordance with City's specifications and Contractor's bid, copies of which are attached hereto and made part hereof, Contractor will deliver to the City, Concrete Materials – Annual Pricing and more specifically referred to as Items 6 through 11and Items 14, 16 and 19 on the bid form submitted by the Contractor or in the specifications attached hereto.
2. The City promises and agrees to employ, and does employ, the Contractor to cause to be done the work provided for in this Contract and to complete and finish the same according to the attached specifications, offer, and terms and conditions contained herein.
3. The Contractor shall perform the work according to the procedures outlined in the Bid Form and Specifications attached hereto. The contract shall be for a term of one year, with the option of two, one year extensions, said date of term beginning upon formal approval. The rates may be adjusted upward or downward at this time at a percentage not to exceed the effective change in the Consumer Price Index (CPI) or Product Price Index (PPI), whichever is most appropriate for the specific contract for the previous 12-months. At the City's discretion, the effective change rate shall be based on either the local or national index average rate for all items. If agreement cannot be reached, the contract is terminated at the end of the current contract period. All stated annual quantities are approximations of usage during the time period to be covered by pricing established by this bid. Actual usage may be more or less. Order quantities will be determined by actual need. The City does not guarantee any specific amount of compensation, volume, minimum or maximum amount of services under this contract.
4. This contract shall remain in effect until the expiration date, performance of services ordered, or termination of by either party with a 30 day written notice. Such written notice must state the reason for cancellation. The City of Lubbock reserves the right to award the canceled contract to the next lowest and best bidder as it deems to be in the best interest of the city.
5. Contractor shall at all times be an independent contractor and not an agent or representative of City with regard to performance of the Services. Contractor shall not represent that it is, or hold itself out as, an agent or representative of City. In no event shall Contractor be authorized to enter into any agreement or undertaking for or on behalf of City.

6. The contractor shall obtain and maintain in full force and effect during the term of the contract, commercial general liability coverage with insurance carriers admitted to do business in the State of Texas. The insurance companies must carry a Best's Rating of A- VII or better. The policies will be written on an occurrence basis, subject to the following minimum limits of liability:

TYPE	AMOUNT
General Liability	
Commercial General Liability	
General Aggregate	1,000,000
Products-Comp/Op AGG	
Contractual Liability	
Personal & Adv. Injury	
Automotive Liability	
Combined Single Limit	
Any Auto	1,000,000
Workers Compensation	Statutory Amounts

The City of Lubbock shall be named as additional insured on a primary and Non-Contributory basis on General Liability, with a waiver of subrogation in favor of the City of Lubbock on all coverages. All copies of the Certificates of Insurance shall reference the project name or bid number for which the insurance is being supplied. **Copies of all endorsements are required.**

The contractor will provide a Certificate of Insurance to the City as evidence of coverage. The certificate will provide 30 days notice of cancellation, and under the cancellation section, the wording "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" will be crossed out. A copy of the additional insured endorsement attached to the policy will be included with the certificate.

The contractor shall also maintain workers compensation insurance in the statutory amount.

If at any time during the life of the contract or any extension, the contractor fails to maintain the required insurance in full force and effect, all work under the contract shall be discontinued immediately. Any failure to maintain the required insurance may be sufficient cause for the City to terminate the contract.

7. Neither the City nor the Contractor shall assign, transfer or encumber any rights, duties or interests accruing from this Contract without the written consent of the other. The Contractor shall not assign or sublet the contract, or any portion of the contract, without written consent from the Director of Purchasing and Contract Management. Should consent be given, the Contractor shall insure the Subcontractor or shall provide proof on insurance from the Subcontractor that complies with all contract Insurance requirements

8. The City reserves the right to exercise any right or remedy available to it by law, contract, equity, or otherwise, including without limitation, the right to seek any and all forms of relief in a court of competent jurisdiction. Further, the City shall not be subject to any arbitration process prior to exercising its unrestricted right to seek judicial remedy. The remedies set forth herein are cumulative and not exclusive, and may be exercised concurrently. To the extent of

any conflict between this provision and another provision in, or related to, this document, this provision shall control.

9. At any time during the term of the contract, or thereafter, the City, or a duly authorized audit representative of the City or the State of Texas, at its expense and at reasonable times, reserves the right to audit Contractor's records and books relevant to all services provided to the City under this Contract. In the event such an audit by the City reveals any errors or overpayments by the City, Contractor shall refund the City the full amount of such overpayments within 30 days of such audit findings, or the City, at its option, reserves the right to deduct such amounts owing the City from any payments due Contractor.
10. All funds for payment by the City under this contract are subject to the availability of an annual appropriation for this purpose by the City. In the event of non-appropriation of funds by the City Council of the City of Lubbock for the goods or services provided under the contract, the City will terminate the contract, without termination charge or other liability, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the goods or services covered by this contract is spent, whichever event occurs first. If at any time funds are not appropriated for the continuance of this contract, cancellation shall be accepted by the Seller on 30 days prior written notice, but failure to give such notice shall be of no effect and the City shall not be obligated under this contract beyond the date of termination.
11. This Contract consists of the following documents set forth herein; Invitation to Bid No. 16-12566-SS, and the Bid Form.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed the day and year first above written. Executed in triplicate.

CITY OF LUBBOCK

_____
Glen C. Robertson, Mayor

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
L. Wood Franklin, P.E.,
Director of Public Works

APPROVED AS TO FORM:

_____
John Grace, Assistant City Attorney

CONTRACTOR

BY _____
Authorized Representative

Kristi Egenbacher
Print Name

PO Box 1453
Address

Wolfforth TX 79382
City, State, Zip Code

BID FORM
Concrete Materials – Annual Pricing
City of Lubbock, TX
ITB No. 16-12566-SS

In compliance with the **Invitation to Bid 16-12566-SS**, the undersigned Bidder having examined the Invitation to Bid and Specifications, and being familiar with the conditions to be met, hereby submits the following Bid for furnishing the material, equipment, labor and everything necessary for providing the items listed below and agrees to deliver said items at the locations and for the prices set forth on this form. A bid will be subject to being considered irregular and may be rejected if it shows omissions, **alterations of form**, conditional alternate bids, additions or alternates in lieu of the items specified, if the unit prices are obviously unbalanced (either in excess of or below reasonably expected values), or irregularities of any kind. The Invitation to Bid **16-12566-SS** is by reference incorporated in this contract. The Bid Form **must be completed** in blue or black ink or by typewriter.

ITEM	QTY (+/-)	UNIT OF MEASURE	DESCRIPTION	UNIT PRICE* BID	EXTENDED COST	Delivery Days ARO**
A minimum of four yards per load. Any order with more than one stop will be charged an additional $50.00 per location change. Location change being that the driver having to get out and clean and lift chute to move to a new location.						
~~1.~~	~~200~~	~~LF~~	½" x 4 ½" Expansion Joint Material	$	$	
~~2.~~	~~200~~	~~LF~~	½" x 3 ½" Expansion Joint Material	$	$	
~~3.~~	~~250~~	~~LF~~	½" x 5 ½" Expansion Joint Material	$	$	
~~4.~~	~~100~~	~~LF~~	30" Curb and Gutter Expansion Joint Material	$	$	
~~5.~~	~~200~~	~~LF~~	24" Curb and Gutter Expansion Joint Material	$	$	
⑥	300	CY	Class A Concrete (3,000 psi/28 day)	$ 105.00	$ 31,500.00	
⑦	500	CY	Class A Concrete with Fiber Reinforcement	$ 111.00	$ 55,500.00	
⑧	400	CY	Class B Concrete (3,000 psi/7 day)	$ 111.00	$ 44,400.00	
⑨	700	CY	Class B Concrete with Fiber Reinforcement	$ 116.00	$ 81,200.00	
⑩	200	CY	Class C Concrete (3,600 psi/28 day)	$ 111.00	$ 22,200.00	
⑪	200	CY	Class C Concrete with Fiber Reinforcement	$ 111.00	$ 23,200.00	
~~12.~~	~~200~~	~~CY~~	Class E Concrete (3,000 psi/24 hrs)	$	$	
~~13.~~	~~200~~	~~CY~~	Class E Concrete with Fiber Reinforcement	$	$	
⑭	1,500	CY	Ground Stabilizer (2 stack) (no flyash)	$ 85.00	$ 127,500.00	
~~15~~	~~1,500~~	~~CY~~	Type I-II or a Type I-II Blend Bulk Cement	$	$	
⑯	500	Tons	Type I-II or a Type I-II blend Bulk Cement	$ 275.00	$ 137,500.00	
~~17~~	~~300~~	~~CY~~	H.E. 1% added to concrete (per Manufacturer's recommendation)	$	$	
~~18~~	~~300~~	~~CY~~	H.E. 2% added to concrete (per Manufacturer's recommendation)	$	$	
			Total Cost (Items 1-18)		$ 523,000.00	

19.	Is there an additional Demurrage charge after the first hour on location?	Yes or No	$ 75.00 / PER HOUR

*PRICE: F.O.B. Destination, Freight Pre-Paid and Allowed **Days After Receipt of Order (ARO)

Unless otherwise specified herein, the City may award the bid either item-by–item or on an all-or-none basis for any item or group of items shown on the bid.

The City of Lubbock is seeking a contract for Concrete Materials with one or more contractors. In order to assure adequate coverage, the City may make multiple awards, selecting multiple vendors to provide the products desired, if multiple awards are in the best interest of the City. A decision to make a multiple award of this Bid, however, is an option reserved by the City, based on the needs of the City.

PAYMENT TERMS AND DISCOUNTS - Bidder offers a prompt payment discount of ___0___%, net __ calendar days. Discounts will not be considered in determining low bid. Unless otherwise indicated on the Bid Form, payment terms will be NET THIRTY DAYS. The City will pay the successful bidder within thirty days after the receipt of a correct invoice or after the date of acceptance, whichever event occurs later. Discounts for prompt payment requiring payment by the City within a stipulated number of days will be interpreted as applying within the stipulated number of calendar days after the date of receipt by the City of a correct invoice or after the date of acceptance that meets contract requirements, whichever event occurs later. Discounts for payment in less than ten days will not be considered.

MOST FAVOURED PRICING: The Bidder certifies that the price quoted is not in excess of the lowest price charged anyone else, including its most favoured customer, for like quality and quantity of the products/services; does not include an element of profit on the sale in excess of that normally obtained by the Bidder on the sale of products/services of like quality and quantity; and does not include any provision for discounts to selling agents. If at any time during the contract period, the supplier should sell or offer for sale to any other customer, an equal or less quantity of similar contract products of like or better quality, at a lower net price(s) than provided herein, supplier agrees to notify the City and sell same product(s) at the lower price(s) on all deliveries made during the period in which such lower price(s) is effective.

INTERLOCAL PURCHASING (optional): The City desires to make available to other local governmental entities of the State of Texas, by mutual agreement with the successful bidder, and properly authorized interlocal purchasing agreements as provided for by the Interlocal Cooperation Act (Chapter 791, Government Code), the right to purchase the same services, at the prices quoted, for the period of this contract. Each bidder shall indicate on the Bid Form in the space provided below if he/she will honor Political Subdivision orders in addition to orders from the City of Lubbock. Should these other governmental entities decide to participate in this contract, would you (the bidder) agree that all terms, conditions, specifications, and pricing would apply?

Other governmental entities that might have interests in this contract are Frenship Independent School District, Lubbock Housing Authority, Lubbock County, Lubbock County Hospital District, Lubbock Independent School District, South Plains Association of Governments, City of Texarkana, Texas Tech University, West Texas Municipal Power Agency, Lynn County, and City of Wolfforth.

YES ✓ NO _____

- If you (the bidder) checked YES, the following will apply:
- Governmental entities utilizing Interlocal Agreements for Cooperative Purchasing with the City of Lubbock will be eligible, but not obligated, to purchase materials/services under the contract(s) awarded as a result of this solicitation. All purchases by governmental entities other than the City of Lubbock will be billed directly to that governmental entity and paid by that governmental entity. City of Lubbock will not be responsible for another governmental entity's debts. Each governmental entity will order their own materials/service as needed.

THIS BID IS SUBMITTED BY MUDCO Inc. a corporation organized under the laws of the State of TEXAS, or a partnership consisting of _____ or individual trading as _____ of the City of _____

Firm: MUDCO Inc

Address: PO BOX 1453 Wolfforth Tx 79382 (mailing)

physical address: 404 E. LEHIGH ST.

City: LUBBOCK State: TX Zip 79403

Bidder acknowledges receipt of the following addenda:

Addenda No. _____ Date _____
Addenda No. _____ Date _____
Addenda No. _____ Date _____
Addenda No. _____ Date _____

M/WBE Firm:	X	Woman		Black American		Native American
		Hispanic American		Asian Pacific America		Other (Specify)

By _____ Date: 11/04/2015
Authorized Representative - must sign by hand

Officer Name and Title: KRISTI EGENBACHER - PRESIDENT
Please Print

Business Telephone Number 806-781-9500 FAX: 806 785-0300

E-mail Address: kristi@mudcoconcrete.com

FOR CITY USE ONLY

Bid Form Item Number(s) Awarded to Above Named Firm/Individual: _____

Date of Award by City Council *(for bids over $25,000)*: _____ Date P.O./Contract Issued: _____

RETURN COMPLETED & SIGNED BID FORM ALONG WITH CITY OF LUBBOCK SPECIFICATIONS.

LABEL THE OUTSIDE OF YOUR SEALED BID WITH THE ITB NUMBER, THE CLOSING DATE AND TIME, AND YOUR COMPANY NAME AND ADDRESS.

City of Lubbock, TX
Street Department
Bid Tabulation Concrete Materials
December 3, 2015

ITB 16-12566-SS
Concrete Materials - Annual Pricing

Item	Qty	U/M	Description/Vendor	Location	Unit Price	Extended Cost
6	300	CY	Class A Concrete (3,000 psi/28 day)			
			MUDco	Lubbock,TX	$ 105	31,500
7	500	CY	Class A Concrete with Fiber Reinforcement			
			MUDco	Lubbock,TX	111	55,500
8	400	CY	Class B Concrete (3,000 psi/7day)			
			MUDco	Lubbock,TX	111	44,400
9	700	CY	Class B Concrete with Fiber Reinforcement			
			MUDco	Lubbock,TX	116	81,200
10	200	CY	Class C Concrete (3,600 psi/28 day)			
			MUDco	Lubbock,TX	111	22,200
11	200	CY	Class C Concrete with Fiber Reinforcement			
			MUDco	Lubbock,TX	116	23,200
14	1,500	CY	Ground Stabilizer (2 Stack)(No Flyash)			
			MUDco	Lubbock,TX	85	127,500
16	500	Tons	Type I-II or a Type I-II Blend Bulk Cement			
			MUDco	Lubbock,TX	275	137,500
19			Demurrage Charge			
			MUDCo	Lubbock,TX		75 per hr
			No Bids Line Items 1-5, 12-13, 15 & 17-18			
			MUDco - Items 6-11, 14 & 16	**Lubbock, TX**	**$ 523,000**	

Regular City Council Meeting **5. 11.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - Right-of-Way: Consider a resolution authorizing the City Council to accept on behalf of the City of Lubbock an easement from Raymond D. Stevens regarding the acquisition of right-of-way for the Northwest Water Reclamation Project, easement being out of Section 14, Block A, Lubbock County, Texas.

Item Summary

Over the past several decades, the City of Lubbock has experienced significant growth in the northwest region of the existing sewer collection system that resulted in insufficient conveyance and treatment capacity within the Northwest Sewer Shed. To alleviate the capacity problems and facilitate future growth in the area, the 2009 Wastewater Master Plan recommended commissioning a new Northwest Water Reclamation Plant and associated conveyance systems. The City of Lubbock is acquiring right-of-way for construction of a large diameter sanitary sewer main, large diameter water main, and effluent main associated with the proposed Northwest Water Reclamation Plant located at North Slide Road and State Highway 84.

The purchase price is $500.00 plus closing cost with West Texas Title Company.

Fiscal Impact

$94,300,000 is appropriated in Capital Improvement Project 92221, Northwest Water Reclamation Project, with $500 available for this purpose.

Staff/Board Recommending

L. Wood Franklin, P.E Director of Public Works

Attachments

Resolution-Easement-Northwest Water Reclamation-Raymond Stevens - Parcel 25

Budget Detail

CIP Detail

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the City Council hereby accepts on behalf of the City of Lubbock an Easement as described on Exhibit "A" attached hereto and incorporated herein by reference, located in Section 14, Block A, Lubbock, Lubbock County, Texas, for the Northwest Water Reclamation Project, and related documents. Said Easement is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

THAT the consideration for the Easement shall be $500.00 and that closing costs shall also be paid in connection with the purchase of the property, said payments approved herein.

Passed by the City Council on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
L. Wood Franklin, P.E., Director of Public Works

_____
Dave Booher, Right-of-Way Agent

APPROVED AS TO FORM:

_____
Chad Weaver, City Attorney

RES.Easement-Parcel 25
11.16.15

EASEMENT

STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS, THAT:
COUNTY OF LUBBOCK §

GRANTOR, RAYMOND D. STEVENS, a single man, with street address of 4921 CR 6300, Lubbock, Texas 79415, for a valuable consideration, to it paid by The City of Lubbock, Texas (the "Grantee") with offices at 1625 13th Street, Lubbock, Texas 79401, the receipt and sufficiency of which are hereby acknowledged, has granted and does by these presents grant unto Grantee the following described perpetual exclusive easement, servitude and right-of-way, as described herein (hereinafter called the "Easement") through, over, under, upon, across and within the lands, described in Exhibit A (hereinafter called the "Lands" or "Easement Lands") situated in Lubbock County, Texas.

Pipelines and Equipment

Grantor hereby grants to Grantee a perpetual exclusive Easement together with the right to install, survey, construct, reconstruct, install, operate, inspect, maintain, alter, relocate, replace, repair, and remove (hereinafter called "Permitted Uses") pipelines, conduits, drain (blow-off) valves, valve boxes, meters, meter boxes, vents, manholes, manhole covers, corrosion monitoring test stations, pipeline markers, fence gates, impressed current deep well anode stations with power supplies, flow meters, system communication lines and splice boxes, roadways, and all other equipment and facilities related thereto, or any part thereof (hereinafter collectively called the "Pipeline System"), for and/or related to the transportation of water, waste water and effluent through, under, upon, over, across and within the Lands. Such perpetual exclusive Easement shall be as described herein and on Exhibit A attached hereto and incorporated herein, and hereby made a part hereof by reference to describe the Easement and the Lands.

For Ten Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, this Easement is specifically made by Grantor and accepted by Grantee subject to the following terms, covenants, obligations and conditions:

1. Grantee may use and occupy the Easement for purposes incidental and/or related to the Permitted Uses, including but not limited to: (a) the right to perform all Permitted Uses related to the Pipeline System; (b) the right (for men, material, and equipment) of unimpaired ingress and egress and regress, entry and access in, to, through, on, over, under and across said Easement granted herein, with the right to ingress and egress and regress to and from and access on and along said Easement, for any and all purposes necessary and or incident to the Permitted Uses; and (c) the right to locate the Pipeline System through, over, under, upon, across and within the Easement for the purpose of water/waste water/effluent transportation.

2. Grantee covenants and agrees that its use of the Easement and its operations conducted thereon shall, to the best of Grantee's ability, at all times comply with all applicable local, state and federal laws, orders, rules, regulations, standards, licensing, permitting and other legal requirements including, without limitation, all environmental laws, orders, rules, regulations, standards, licensing and permitting (the "Legal Requirements"). Grantee agrees to construct the Pipeline System in a prudent manner and with due care for Grantor's property, business and operations. In the event it is discovered that Grantee is in violation of any portion of the Legal Requirements, Grantee agrees to commence, upon receipt of written notice of such violation, the process of curing such violation so that Grantee will be in compliance with this subparagraph.

3. The Easement granted herein shall be for the transportation of water, waste water, and/or effluent regardless of source, and shall continue in full force and effect unless Grantee should abandon the Pipeline System as identified herein. The rights granted to Grantee herein may be abandoned solely by a formal resolution of its governing body that authorizes the abandonment of the Pipeline System. Any such abandonment will not be effective until it is evidenced by notice in writing, signed by the Grantee's official representative, and filed of record in the county where the Lands are located.

4. The Easement Term is hereby defined as the period of time beginning with the granting of the Easement and continuing until such time that the Easement is abandoned by Grantee.

5. Grantor and Grantee agree that during Permitted Uses related to the Pipeline System, any and all trees, dirt, raw materials, timber, spoil piles, excess dirt, wood, bushes, shrubs and brush, and other debris materials resulting from site preparation cleared from the Easement shall, be removed by Grantee from Lands and from Grantor's property.

6. Grantee shall keep the Easement in good order, condition and repair following any work related to Permitted Uses on the Pipeline System. Notwithstanding anything contained herein to the contrary, although the Grantee may reconstruct any roadway crossed by Grantee in exercising its rights hereunder, Grantee assumes no maintenance for any road reconstructed as a result of Grantee's use of the Easement and Grantee expressly waives same, which waiver is acknowledged by Grantor.

7. Grantee shall be responsible for obtaining all permits necessary to construct and operate the Pipeline System on the Easement. Without limiting the foregoing, and to the extent required, Grantee will secure and maintain any and all environmental permits required by the Texas Commission on Environmental Quality covering the Easement.

8. During construction of the Pipeline System, Grantee shall provide reasonable access to Grantor's property. Within the Easement, Grantee shall have the right to cut fences and install gates to enable Permitted Uses for the Pipeline System.

9. This grant of Easement shall not preclude the right of Grantor to cultivate, use, and enjoy the Lands for any purposes which will not constitute an interference with the Easement, rights and privileges herein granted to Grantee, or endanger any of Grantee's property at the sole discretion of the Grantee.

10. Grantee shall exercise due care and diligence in the use of the rights and privileges herein granted to it. In case of abandonment of said Easement as provided in 3 above, the title and interest herein granted shall end, cease, and terminate, and title to the Easement, pipeline, equipment and facilities shall revert to the then owner of the Lands.

11. Grantor warrants and represents that the title to the Lands described herein are vested in the Grantor, free and clear of any liens and/or encumbrances. Grantor shall provide to Grantee an executed release from any lien holder, tenant, lessee, or other party having an interest in the Lands.

12. Grantor shall procure and have recorded without cost to Grantee all assurances of title and affidavits which the Grantor may be advised by Grantee are necessary and proper to show in Grantor title sufficient to grant the above easement free and clear of encumbrances other than those encumbrances expressly defined herein. Abstracts or certificates of title or title insurance may be procured by the Grantee at its expense. The expense of recording this Easement shall be borne by Grantor. Grantee agrees to cooperate and aid Grantor, if necessary, to obtain any curative documents needed.

13. Grantee shall have the right to use Grantor's property located immediately adjacent to the Easement for the following:

A. detouring around natural impediments within the Easement; or

B. the construction, maintenance, repair and removal of the Pipeline System within the Easement.

14. "Grantee" when used in this instrument, shall include The City of Lubbock's officers, agents, servants, employees, representatives, contractors, independent contractors, subcontractors, and/or their equipment or vehicles.

15. Words of any gender used in this agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.

16. It is understood and agreed that this Easement is not a conveyance of the fee estate for any of the Lands covered hereunder, but is only an easement through, over, under, upon, across and within the Lands.

17. The provisions of this Easement shall be binding upon and inure to the benefit of the successors and assigns of the respective parties hereto.

18. This Easement contains the final and complete expression of the parties with respect to any matter mentioned herein. No prior agreement or understanding pertaining to any such matter shall be effective. This Easement may be modified in writing only, signed by the parties in interest at the time of the modification.

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

20. Any notices or demands provided to be given herein by the parties shall be in writing and mailed by certified or registered mail to the other party at the address set forth above. Any notice or demand shall be deemed to have been received the earlier of five (5) days after the date of mailing or the date of actual delivery as shown by the addressee's certification or registry receipt.

21. Neither party shall be liable to the other party or any of such party's affiliates in any action or claim, including without any limitation, any action or claim for loss of profit, loss of product, loss of use, or for indirect, consequential, punitive, exemplary, special or other similar types of damages, regardless of how caused and regardless of the underlying theory of recovery, and even if caused by the sole or concurrent negligence of the responsible party.

A. To the extent that Grantor owns any portion of any mineral estate, leasehold estate and/or royalty interest of any kind or character under the Lands defined herein, Grantor surrenders and releases its surface drilling rights and all other rights of surface use of the Easement and Lands incident to the production of oil, gas, hydrocarbons, minerals, wind energy, and water production subject to the following exception and limitation:

i) Grantor reserves and excepts from this release and retains for itself, its successors and its successors-in-interest, all rights to explore for, to drill and produce oil, gas and other hydrocarbons underlying or situated beneath the Easement and Lands by any means whatsoever, including wells directionally drilled from surface location on nearby lands so long as no surface operations are performed on the Easement and so long as such operations will not interfere with or endanger the operations or integrity of the Pipeline System and Permitted Uses.

ii) Grantor shall include the surface use restrictions and covenants provided herein in any subsequent lease or conveyance of the oil, gas and/or mineral estate, wind rights or interests and water rights or interests.

22. Grantee shall have the right to approve the location and means of future third-party pipelines which will cross Grantee's pipeline system and come within the Easement. Grantee will not withhold reasonable crossing requests, but will act in a manner to protect the Grantee's Pipeline System and Grantee's Easement.

23. *Nothing contained herein shall be construed as a waiver by the Grantee of immunity of any kind or type, including without limitation, waiver of immunity from liability and immunity from suit, and the Grantee shall retain all such immunities, except as may be otherwise waived pursuant to applicable laws of the United States or State of Texas.*

TO HAVE AND TO HOLD said Easement unto Grantee, its successors and assigns for so long as the same shall be used for the purposes aforesaid subject to the terms and conditions hereof.

[*Signatures of the Parties on Next Page*]

EXECUTED this 10th day of November, 2015 ("Effective Date").

GRANTOR:

RAYMOND D. STEVENS

GRANTEE:

The City of Lubbock

By: _____

Name: _____

Title: _____

ATTEST:

_____
Rebecca Garza, City Secretary

[Acknowledgements *of the Parties on Next Page]*

APPROVED AS TO CONTENT:

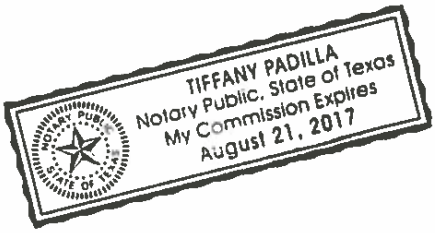
_____
WADE FRANKLIN, P.E.
Director of P.W.

APPROVED AS TO FORM:

_____
Ryan J. Bigbee, Attorney

STATE OF TEXAS §
§
COUNTY OF LUBBOCK §

This instrument was acknowledged before me on November 10, 2015, by RAYMOND D. STEVENS.



Notary Public, State of Texas
Printed Name of Notary
My commission expires: 8/21/17

STATE OF TEXAS §
COUNTY OF LUBBOCK §

This instrument was acknowledged before me on _____, 2015, by GLEN ROBERTSON on behalf of the City of Lubbock, a Texas Home Rule Corporation on behalf of said Texas Home Rule Corporation.

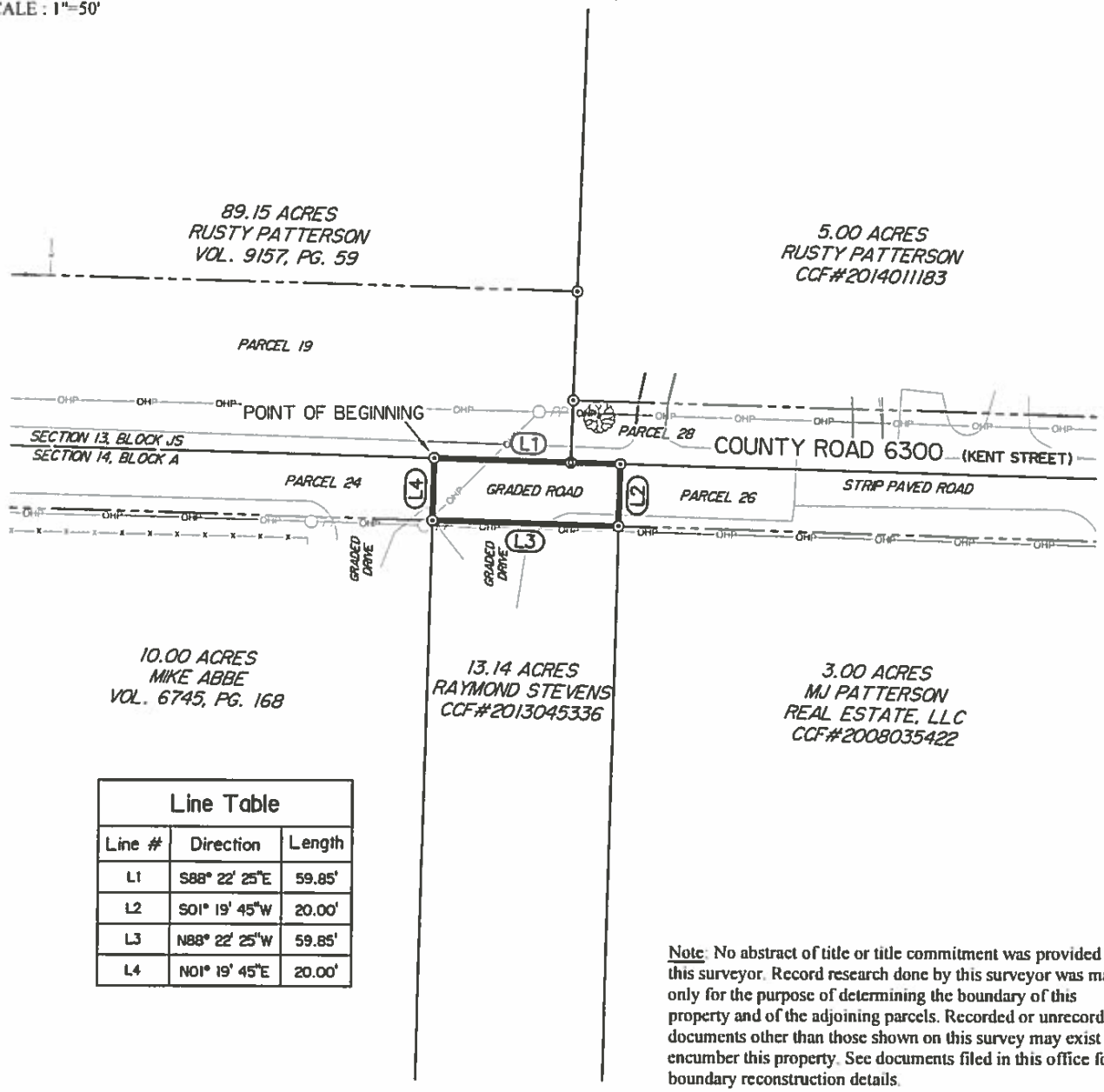
_____
Notary Public, State of _____

_____
Printed Name of Notary
My commission expires: _____

Exhibit A
Legal Description of the Perpetual Exclusive Easement

NORTHWEST WATER RECLAMATION PROJECT
Parcel No. 25 - Permanent Easement
PERIMETER SURVEY OF A 0.028 ACRE TRACT LOCATED IN
SECTION 14, BLOCK A
LUBBOCK COUNTY, TEXAS

SCALE : 1"=50'



Line Table		
Line #	Direction	Length
L1	S88° 22' 25"E	59.85'
L2	S01° 19' 45"W	20.00'
L3	N88° 22' 25"W	59.85'
L4	N01° 19' 45"E	20.00'

Note: No abstract of title or title commitment was provided to this surveyor. Record research done by this surveyor was made only for the purpose of determining the boundary of this property and of the adjoining parcels. Recorded or unrecorded documents other than those shown on this survey may exist and encumber this property. See documents filed in this office for boundary reconstruction details.

Bearings are relative to the Texas Coordinate System of 1983, North Central Zone, NAD 83 (2011), Epoch 2010.0
Distances are surface, U.S. Survey feet.
Combined Scale Factor: 1.0002452

NOTES:
HEAVY LINES INDICATE PLAT LIMITS.
⊙ - SET 1/2" IRON ROD WITH CAP
● - FOUND 1/2" IRON ROD WITH CAP

A legal description of even survey date herewith accompanies this plat of survey.

Surveyed on the ground.
November 12, 2014

John E. Allen
Registered Professional
Land Surveyor No. 5895
State of Texas

STATE OF TEXAS
REGISTERED
JOHN E. ALLEN
5895
PROFESSIONAL
LAND SURVEYOR

Sheet 1 of 2

HUGO REED AND ASSOCIATES, INC.
LAND SURVEYORS
CIVIL ENGINEERS
TEXAS LICENSED SURVEYING FIRM 100676-00
TEXAS REGISTERED ENGINEERING FIRM F-760
1601 AVENUE N
LUBBOCK, TEXAS 79401
PHONE: 806 / 763-5642
FAX: 806 / 763-3891

Copyright 2014, Hugo Reed and Associates, Inc. for the sole use of Title Co. for GF # and any other identifiers as indicated in the certificate shown hereon.

NORTHWEST WATER RECLAMATION PROJECT
Parcel No. 25 - Permanent Easement
PERIMETER SURVEY OF A 0.028 ACRE TRACT LOCATED IN

SECTION 14, BLOCK A

LUBBOCK COUNTY, TEXAS

METES AND BOUNDS DESCRIPTION of a 0.028 acre parcel located in Section 14, Block A, Lubbock County, Texas, being the North 20.00 feet of a 13.14 acre tract described in County Clerk File Number (CCFN) 2013045336, Official Public Records, Lubbock County, Texas (OPRLCT), being further described as follows:

BEGINNING at the 1/2" iron rod with cap set in the North line of said Section 14, Block A, and in the South line of Section 13, Block JS, Lubbock County, Texas, and in the South line of a 89.15 acre tract described in Volume 9157, Page 59, OPRLCT, and at the Northeast corner of a 10.00 acre tract described in Volume 6745, Page 168, Real Property Records, Lubbock County, Texas, and at the Northwest corner of said 13.14 acre tract, which bears S. 88°22'25" E. a distance of 1890.58 feet from a 3/4" iron pipe found at the Northwest corner of said Section 14, Block A, for the Northwest corner of this parcel;

THENCE S. 88°22'25" E. along the common line of said Section 14, Block A, and said Section 13, Block JS, and along the South line of said 89.15 acre tract and along the North line of said 13.14 acre tract at 43.88 feet pass a 1/2" iron rod with cap found at the Southeast corner of said 89.15 acre tract and at the Southwest corner of a 5.00 acre tract described in CCFN 2014011183, OPRLCT, continuing for a total distance of 59.85 feet to a 1/2" iron rod with cap set at the Northeast corner of said 13.14 acre tract and at the Northwest corner of a 3.00 acre tract described in CCFN 2008035422, OPRLCT, for the Northeast corner of this parcel;

THENCE S. 01°19'45" W. along the common line of said 13.14 acre tract and said 3.00 acre tract a distance of 20.00 feet to a 1/2" iron rod with cap set, for the Southeast corner of this parcel;

THENCE N. 88°22'25" W. a distance of 59.85 feet to a 1/2" iron rod with cap set in the East line of said 10.00 acre tract and in the West line of said 13.14 acre tract, for the Southwest corner of this parcel;

THENCE N. 01°19'45" E. along the common line of said 10.00 acre tract and said 13.14 acre tract a distance of 20.00 feet to the Point of Beginning.

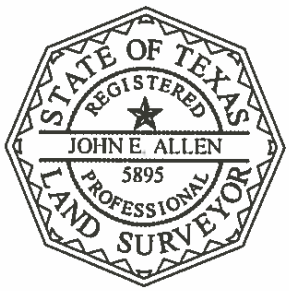
Bearings relative to Grid North, NAD 83 (2011), Texas Coordinate System, North-Central Zone. Distances are Surface, U. S. Survey Feet. Combined Scale Factor: 1.0002452

A plat of even survey date herewith accompanies this legal description.

Surveyed on the ground
November 12, 2014

John E. Allen

John E. Allen
Registered Professional
Land Surveyor No. 5895
State of Texas



HUGO REED AND ASSOCIATES, INC.
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City of Lubbock
Capital Project
Project Cost Detail
December 3, 2015

Capital Project Number:	92221
Capital Project Name:	Northwest Water Reclamation Plant

		Budget
Encumbered/Expended		
Feasibilty Study - APAI	$	1,603,816
Surveying for Land Acquisition - Hugo Reed		6,152
Bid Cost		14,127
BNSF Railroad		5,500
Appraisal		16,128
Flow metering		17,850
Staff time		71,245
Professional Services Contract for Final Design - APAI		8,841,689
Easement Acquisition		128,773
Land Acquisition		1,166,743
Construction Contract for NWWRP Potable Water Pipeline		1,245,847
Construction Contract for NWWRP, Eagle Contracting		53,685,000
Construction Phase Services Contract with Alan Plummer		4,293,311
Agenda Item December 3, 2015		
Raymond D. Stevens - Section 14 Block A		500
Roy Hernandez and Yvonne Torres- Section 13 Block JS		600
Encumbered/Expended To Date		71,097,281
Estimated Cost for Remaining Appropriation		
Construction		23,202,719
Remaining Appropriation		23,202,719
Total Appropriation to Date	$	94,300,000

Project Name **Northwest Water Reclamation Plant** *Project Number* **92221**

Managing Department **Public Works Engineering**

Project Manager **Wood Franklin**

Project Classification **New Facility**

Project Status **Approved**



Project Scope

Design and construction of a new Northwest Water Reclamation Plant. The reclamation plant will handle wastewater flow from Northwest Lubbock. The new plant will handle 5 million gallons of wastewater a day with the ability to expand to 15 million gallons. The new plant will produce stream quality effluent that may be discharged into the North Fork of the Double Mountain Fork of the Brazos River for potential reuse.

Project Justification

The project includes the preliminary engineering, design, and construction of a proposed northwest water reclamation plant as recommended by the Sewer Collection System Master Plan.

Project History

$2.0 million was appropriated in FY 2009-10 Budget Amendment No. 6, Ord. No. 2009-O0108, December 2, 2009.
$3.0 million was appropriated in the FY 2010-11 Budget, Ord. No. 2010-O0070, September 16, 2010.
$18.5 million was appropriated in the FY 2012-13 Budget, Ord. No. 2012-O0100, September 13, 2012.
Reduced by $700,000 in FY 2012-13 Budget Amendment No. 14, Ord. No. 2013-O0009, February 14, 2013.
$53.0 million was appropriated in the FY 2014-15 Budget, Ord. No. 2014-O0122, September 11, 2014.

			Unappropriated Planning Years					
Appropriation Detail	Appropriation to Date	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	Total Project Amount
Construction	70,800,000	18,500,000	0	0	0	0	0	89,300,000
Design and Engineering	5,000,000	0	0	0	0	0	0	5,000,000
Total Project Appropriation	75,800,000	18,500,000	0	0	0	0	0	94,300,000

			Unappropriated Planning Years					
Funding Detail	Funding to Date	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	Total Funding
2005 Wastewater Revenue CO's	139,641	0	0	0	0	0	0	139,641
FY 2008 Wastewater Revenue CO's	2,257,726	0	0	0	0	0	0	2,257,726
FY 2010 Wastewater Revenue CO's	1,860,359	0	0	0	0	0	0	1,860,359
FY 2011 Wastewater Revenue CO's	5,089,098	0	0	0	0	0	0	5,089,098
FY 2013 Wastewater Revenue CO's	18,500,000	0	0	0	0	0	0	18,500,000
FY 2015 Wastewater Revenue CO's	47,953,176	0	0	0	0	0	0	47,953,176
FY 2016 Wastewater Revenue CO's	0	18,500,000	0	0	0	0	0	18,500,000
Total Funding Sources	75,800,000	18,500,000	0	0	0	0	0	94,300,000

Regular City Council Meeting **5. 12.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - Right-of-Way: Consider a resolution authorizing the City Council to accept on behalf of the City of Lubbock an easement from Roy R. Hernandez and Yvonne M. Torres regarding the acquisition of right-of-way for the Northwest Water Reclamation Project, easement being out of Section 13, Block JS, Lubbock County, Texas.

Item Summary

Over the past several decades, the City of Lubbock has experienced significant growth in the northwest region of the existing sewer collection system that resulted in insufficient conveyance and treatment capacity within the Northwest Sewer Shed. To alleviate the capacity problems and facilitate future growth in the area, the 2009 Wastewater Master Plan recommended commissioning a new Northwest Water Reclamation Plant and associated conveyance systems. The City of Lubbock is acquiring right-of-way for construction of a large diameter sanitary sewer main, large diameter water main, and effluent main associated with the proposed Northwest Water Reclamation Plant located at North Slide Road and State Highway 84.

The purchase price is $600.00 plus closing cost with West Texas Title Company.

Fiscal Impact

$94,300,000 is appropriated in Capital Improvement Project 92221, Northwest Water Reclamation Project, with $600 available for this purpose.

Staff/Board Recommending

L. Wood Franklin, P.E Director of Public Works

Attachments

Resolution & Easement - Hernandez

Budget Detail

CIP Detail

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the City Council hereby accepts on behalf of the City of Lubbock an Easement as described on Exhibit "A" attached hereto and incorporated herein by reference, located in Section 13, Block JS, Lubbock, Lubbock County, Texas, for the Northwest Water Reclamation Project, and related documents. Said Easement is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

THAT the consideration for the Easement shall be $600.00 and that closing costs shall also be paid in connection with the purchase of the property, said payments approved herein.

Passed by the City Council on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
L. Wood Franklin, P.E., Director of Public Works

_____
Dave Booher, Right-of-Way Agent

APPROVED AS TO FORM:

_____
Chad Weaver, City Attorney

RES.Easement-Parcel 36
11.16.15

EASEMENT

STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS, THAT:
COUNTY OF LUBBOCK §

GRANTOR, ROY R. HERNANDEZ, a single man and YVONNE M. TORRES, a single woman, with street address of 4420 CR 6300, Lubbock, Texas 79415, for a valuable consideration, to it paid by The City of Lubbock, Texas (the "Grantee") with offices at 1625 13th Street, Lubbock, Texas 79401, the receipt and sufficiency of which are hereby acknowledged, has granted and does by these presents grant unto Grantee the following described perpetual exclusive easement, servitude and right-of-way, as described herein (hereinafter called the "Easement") through, over, under, upon, across and within the lands, described in Exhibit A (hereinafter called the "Lands" or "Easement Lands") situated in Lubbock County, Texas.

Pipelines and Equipment

Grantor hereby grants to Grantee a perpetual exclusive Easement together with the right to install, survey, construct, reconstruct, install, operate, inspect, maintain, alter, relocate, replace, repair, and remove (hereinafter called "Permitted Uses") pipelines, conduits, drain (blow-off) valves, valve boxes, meters, meter boxes, vents, manholes, manhole covers, corrosion monitoring test stations, pipeline markers, fence gates, impressed current deep well anode stations with power supplies, flow meters, system communication lines and splice boxes, roadways, and all other equipment and facilities related thereto, or any part thereof (hereinafter collectively called the "Pipeline System"), for and/or related to the transportation of water, waste water and effluent through, under, upon, over, across and within the Lands. Such perpetual exclusive Easement shall be as described herein and on Exhibit A attached hereto and incorporated herein, and hereby made a part hereof by reference to describe the Easement and the Lands.

For Ten Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, this Easement is specifically made by Grantor and accepted by Grantee subject to the following terms, covenants, obligations and conditions:

1. Grantee may use and occupy the Easement for purposes incidental and/or related to the Permitted Uses, including but not limited to: (a) the right to perform all Permitted Uses related to the Pipeline System; (b) the right (for men, material, and equipment) of unimpaired ingress and egress and regress, entry and access in, to, through, on, over, under and across said Easement granted herein, with the right to ingress and egress and regress to and from and access on and along said Easement, for any and all purposes necessary and or incident to the Permitted Uses; and (c) the right to locate the Pipeline System through, over, under, upon, across and within the Easement for the purpose of water/waste water/effluent transportation.

2. Grantee covenants and agrees that its use of the Easement and its operations conducted thereon shall, to the best of Grantee's ability, at all times comply with all applicable local, state and federal laws, orders, rules, regulations, standards, licensing, permitting and other legal requirements including, without limitation, all environmental laws, orders, rules, regulations, standards, licensing and permitting (the "Legal Requirements"). Grantee agrees to construct the Pipeline System in a prudent manner and with due care for Grantor's property, business and operations. In the event it is discovered that Grantee is in violation of any portion of the Legal Requirements, Grantee agrees to commence, upon receipt of written notice of such violation, the process of curing such violation so that Grantee will be in compliance with this subparagraph.

3. The Easement granted herein shall be for the transportation of water, waste water, and/or effluent regardless of source, and shall continue in full force and effect unless Grantee should abandon the Pipeline System as identified herein. The rights granted to Grantee herein may be abandoned solely by a formal resolution of its governing body that authorizes the abandonment of the Pipeline System. Any such abandonment will not be effective until it is evidenced by notice in writing, signed by the Grantee's official representative, and filed of record in the county where the Lands are located.

4. The Easement Term is hereby defined as the period of time beginning with the granting of the Easement and continuing until such time that the Easement is abandoned by Grantee.

5. Grantor and Grantee agree that during Permitted Uses related to the Pipeline System, any and all trees, dirt, raw materials, timber, spoil piles, excess dirt, wood, bushes, shrubs and brush, and other debris materials resulting from site preparation cleared from the Easement shall, be removed by Grantee from Lands and from Grantor's property.

6. Grantee shall keep the Easement in good order, condition and repair following any work related to Permitted Uses on the Pipeline System. Notwithstanding anything contained herein to the contrary, although the Grantee may reconstruct any roadway crossed by Grantee in exercising its rights hereunder, Grantee assumes no maintenance for any road reconstructed as a result of Grantee's use of the Easement and Grantee expressly waives same, which waiver is acknowledged by Grantor.

7. Grantee shall be responsible for obtaining all permits necessary to construct and operate the Pipeline System on the Easement. Without limiting the foregoing, and to the extent required, Grantee will secure and maintain any and all environmental permits required by the Texas Commission on Environmental Quality covering the Easement.

8. During construction of the Pipeline System, Grantee shall provide reasonable access to Grantor's property. Within the Easement, Grantee shall have the right to cut fences and install gates to enable Permitted Uses for the Pipeline System.

9. This grant of Easement shall not preclude the right of Grantor to cultivate, use, and enjoy the Lands for any purposes which will not constitute an interference with the Easement, rights and privileges herein granted to Grantee, or endanger any of Grantee's property at the sole discretion of the Grantee.

10. Grantee shall exercise due care and diligence in the use of the rights and privileges herein granted to it. In case of abandonment of said Easement as provided in 3 above, the title and interest herein granted shall end, cease, and terminate, and title to the Easement, pipeline, equipment and facilities shall revert to the then owner of the Lands.

11. Grantor warrants and represents that the title to the Lands described herein are vested in the Grantor, free and clear of any liens and/or encumbrances. Grantor shall provide to Grantee an executed release from any lien holder, tenant, lessee, or other party having an interest in the Lands.

12. Grantor shall procure and have recorded without cost to Grantee all assurances of title and affidavits which the Grantor may be advised by Grantee are necessary and proper to show in Grantor title sufficient to grant the above easement free and clear of encumbrances other than those encumbrances expressly defined herein. Abstracts or certificates of title or title insurance may be procured by the Grantee at its expense. The expense of recording this Easement shall be borne by Grantor. Grantee agrees to cooperate and aid Grantor, if necessary, to obtain any curative documents needed.

13. Grantee shall have the right to use Grantor's property located immediately adjacent to the Easement for the following:

A. detouring around natural impediments within the Easement; or

B. the construction, maintenance, repair and removal of the Pipeline System within the Easement.

14. "Grantee" when used in this instrument, shall include The City of Lubbock's officers, agents, servants, employees, representatives, contractors, independent contractors, subcontractors, and/or their equipment or vehicles.

15. Words of any gender used in this agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.

16. It is understood and agreed that this Easement is not a conveyance of the fee estate for any of the Lands covered hereunder, but is only an easement through, over, under, upon, across and within the Lands.

17. The provisions of this Easement shall be binding upon and inure to the benefit of the successors and assigns of the respective parties hereto.

18. This Easement contains the final and complete expression of the parties with respect to any matter mentioned herein. No prior agreement or understanding pertaining to any such matter shall be effective. This Easement may be modified in writing only, signed by the parties in interest at the time of the modification.

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

20. Any notices or demands provided to be given herein by the parties shall be in writing and mailed by certified or registered mail to the other party at the address set forth above. Any notice or demand shall be deemed to have been received the earlier of five (5) days after the date of mailing or the date of actual delivery as shown by the addressee's certification or registry receipt.

21. Neither party shall be liable to the other party or any of such party's affiliates in any action or claim, including without any limitation, any action or claim for loss of profit, loss of product, loss of use, or for indirect, consequential, punitive, exemplary, special or other similar types of damages, regardless of how caused and regardless of the underlying theory of recovery, and even if caused by the sole or concurrent negligence of the responsible party.

A. To the extent that Grantor owns any portion of any mineral estate, leasehold estate and/or royalty interest of any kind or character under the Lands defined herein, Grantor surrenders and releases its surface drilling rights and all other rights of surface use of the Easement and Lands incident to the production of oil, gas, hydrocarbons, minerals, wind energy, and water production subject to the following exception and limitation:

i) Grantor reserves and excepts from this release and retains for itself, its successors and its successors-in-interest, all rights to explore for, to drill and produce oil, gas and other hydrocarbons underlying or situated beneath the Easement and Lands by any means whatsoever, including wells directionally drilled from surface location on nearby lands so long as no surface operations are performed on the Easement and so long as such operations will not interfere with or endanger the operations or integrity of the Pipeline System and Permitted Uses.

ii) Grantor shall include the surface use restrictions and covenants provided herein in any subsequent lease or conveyance of the oil, gas and/or mineral estate, wind rights or interests and water rights or interests.

22. Grantee shall have the right to approve the location and means of future third-party pipelines which will cross Grantee's pipeline system and come within the Easement. Grantee will not withhold reasonable crossing requests, but will act in a manner to protect the Grantee's Pipeline System and Grantee's Easement.

23. *Nothing contained herein shall be construed as a waiver by the Grantee of immunity of any kind or type, including without limitation, waiver of immunity from liability and immunity from suit, and the Grantee shall retain all such immunities, except as may be otherwise waived pursuant to applicable laws of the United States or State of Texas.*

TO HAVE AND TO HOLD said Easement unto Grantee, its successors and assigns for so long as the same shall be used for the purposes aforesaid subject to the terms and conditions hereof.

[*Signatures of the Parties on Next Page*]

EXECUTED this 9th day of November, 2015 ("Effective Date").

GRANTOR:

ROY R. HERNANDEZ

YVONNE M. TORRES

GRANTEE:

The City of Lubbock

By: _____

Name: _____

Title: _____

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Director of P.W.

APPROVED AS TO FORM:

_____
Ryan J. Bigbee, Attorney

[Acknowledgements *of the Parties on Next Page]*

STATE OF TEXAS §
§
COUNTY OF LUBBOCK §

This instrument was acknowledged before me on November 9, 2015, by ROY R. HERNANDEZ and YVONNE M. TORRES.



Notary Public, State of Texas

Printed Name of Notary
My commission expires: _____

STATE OF TEXAS §
COUNTY OF LUBBOCK §

This instrument was acknowledged before me on _____, 2015, by GLEN ROBERTSON on behalf of the City of Lubbock, a Texas Home Rule Corporation on behalf of said Texas Home Rule Corporation.

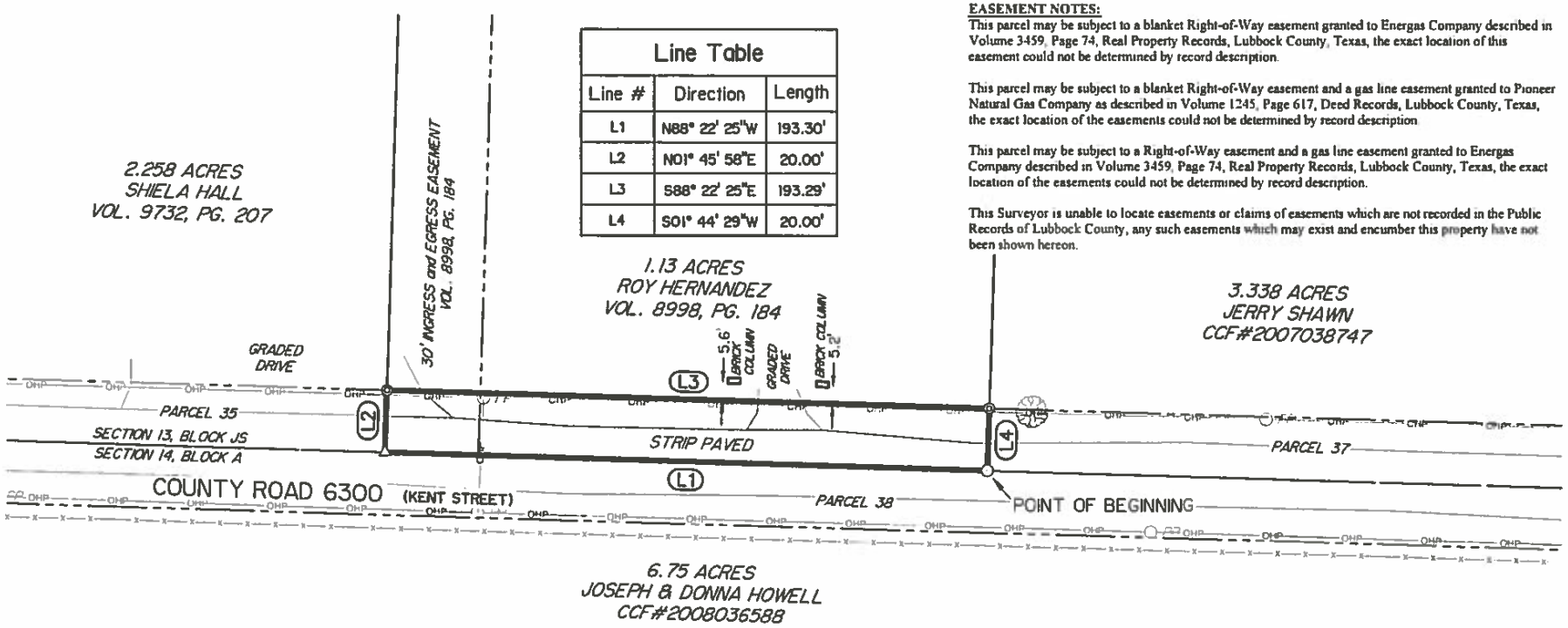
Notary Public, State of _____

Printed Name of Notary
My commission expires: _____

Exhibit A
Legal Description of the Perpetual Exclusive Easement

NORTHWEST WATER RECLAMATION PROJECT
Parcel No. 36 - Permanent Easement
PERIMETER SURVEY OF A 0.089 ACRE TRACT LOCATED IN
SECTION 13, BLOCK JS
LUBBOCK COUNTY, TEXAS

SCALE : 1"=50'



Line Table		
Line #	Direction	Length
L1	N88° 22' 25"W	193.30'
L2	N01° 45' 58"E	20.00'
L3	S88° 22' 25"E	193.29'
L4	S01° 44' 29"W	20.00'

EASEMENT NOTES:
This parcel may be subject to a blanket Right-of-Way easement granted to Energas Company described in Volume 3459, Page 74, Real Property Records, Lubbock County, Texas, the exact location of this easement could not be determined by record description.

This parcel may be subject to a blanket Right-of-Way easement and a gas line easement granted to Pioneer Natural Gas Company as described in Volume 1245, Page 617, Deed Records, Lubbock County, Texas, the exact location of the easements could not be determined by record description.

This parcel may be subject to a Right-of-Way easement and a gas line easement granted to Energas Company described in Volume 3459, Page 74, Real Property Records, Lubbock County, Texas, the exact location of the easements could not be determined by record description.

This Surveyor is unable to locate easements or claims of easements which are not recorded in the Public Records of Lubbock County, any such easements which may exist and encumber this property have not been shown hereon.

Bearings are relative to the Texas Coordinate System of 1983, North Central Zone, NAD 83 (2011), Epoch 2010.0
Distances are surface, U.S. Survey feet.
Combined Scale Factor: 1.0002452

Surveyed on the ground.
November 14, 2014

John E. Allen
Registered Professional
Land Surveyor No. 5895
State of Texas

STATE OF TEXAS
REGISTERED
JOHN E. ALLEN
5895
PROFESSIONAL
LAND SURVEYOR

Note: No abstract of title or title commitment was provided to this surveyor. Record research done by this surveyor was made only for the purpose of determining the boundary of this property and of the adjoining parcels. Recorded or unrecorded documents other than those shown on this survey may exist and encumber this property.

NOTES:
HEAVY LINES INDICATE PLAT LIMITS.
○ - SET MAG NAIL WITH CAP
◉ - FOUND 1/2" IRON ROD WITH CAP
△ - FOUND RAIL ROAD SPIKE

A legal description of even survey date herewith accompanies this plat of survey.

Sheet 1 of 2

HUGO REED AND ASSOCIATES, INC.
LAND SURVEYORS
CIVIL ENGINEERS
TEXAS LICENSED SURVEYING FIRM 100676-00
TEXAS REGISTERED ENGINEERING FIRM F-760
1601 AVENUE N
LUBBOCK, TEXAS 79401
PHONE: 806 / 763-5642
FAX: 806 / 763-3891

Copyright 2014, Hugo Reed and Associates, Inc. for the sole use of Title Co. for GF # and any other identifiers as indicated in the certificate shown hereon.

NORTHWEST WATER RECLAMATION PROJECT
Parcel No. 36 - Permanent Easement
PERIMETER SURVEY OF A 0.089 ACRE TRACT LOCATED IN
SECTION 13, BLOCK JS
LUBBOCK COUNTY, TEXAS

METES AND BOUNDS DESCRIPTION of a 0.089 acre parcel located in Section 13, Block JS, Lubbock County, Texas, being the South 20.00 feet of a 1.13 acre tract described in Volume 8998, Page 184, Official Public Records, Lubbock County, Texas (OPRLCT), being further described as follows:

BEGINNING at a mag nail with cap set in the South line of said Section 13, Block JS, and in the North line of Section 14, Block A, Lubbock County, Texas, and in the North line of a 6.75 acre tract described in County Clerk File Number (CCFN) 2008036588, OPRLCT, and at the Southeast corner of said 1.13 acre tract and at the Southwest corner of a 3.338 acre tract described in CCFN 2007038747, OPRLCT, which bears N. 88°22'25" W. a distance of 451.80 feet from a 1/2" iron pipe found at the Southeast corner of said Section 13, Block JS, for the Southeast corner of this parcel;

THENCE N. 88°22'25" W. along the common line of said Section 13, Block JS, and said Section 14, Block A, and along the North line of said 6.75 acre tract and along the South line of said 1.13 acre tract a distance of 193.30 feet to a rail road spike found at the Southwest corner of said 1.13 acre tract and at the Southeast corner of a 2.258 acre tract described in Volume 9732, Page 207, OPRLCT, for the Southwest corner of this parcel;

THENCE N. 01°45'58" E. along the common line of said 1.13 acre tract and said 2.258 acre tract a distance of 20.00 feet to a 1/2" iron rod with cap found for the Northwest corner of this parcel;

THENCE S. 88°22'25" E. a distance of 193.29 feet to a 1/2" iron rod with cap found in the common line of said 1.13 acre tract and said 3.338 acre tract, for the Northeast corner of this parcel;

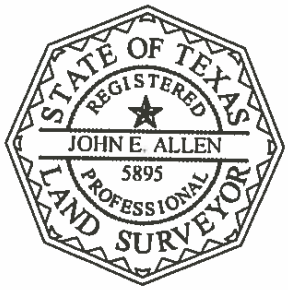
THENCE S. 01°44'29" W. along the common line of said 1.13 acre tract and said 3.338 acre tract a distance of 20.00 feet to the Point of Beginning.

Bearings relative to Grid North, NAD 83 (2011), Texas Coordinate System, North-Central Zone. Distances are Surface, U. S. Survey Feet. Combined Scale Factor: 1.0002452

A plat of even survey date herewith accompanies this legal description.

Surveyed on the ground
November 14, 2014

John E. Allen
Registered Professional
Land Surveyor No. 5895
State of Texas



HUGO REED AND ASSOCIATES, INC.
LAND SURVEYORS
CIVIL ENGINEERS
TEXAS LICENSED SURVEYING FIRM 10067600
TEXAS REGISTERED ENGINEERING FIRM F-750
1601 AVENUE N
LUBBOCK, TEXAS 79401
PHONE: 806 / 763-5642
FAX: 806 / 763-3891

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City of Lubbock
Capital Project
Project Cost Detail
December 3, 2015

Capital Project Number:	92221
Capital Project Name:	Northwest Water Reclamation Plant

		Budget
Encumbered/Expended		
Feasibilty Study - APAI	$	1,603,816
Surveying for Land Acquisition - Hugo Reed		6,152
Bid Cost		14,127
BNSF Railroad		5,500
Appraisal		16,128
Flow metering		17,850
Staff time		71,245
Professional Services Contract for Final Design - APAI		8,841,689
Easement Acquisition		128,773
Land Acquisition		1,166,743
Construction Contract for NWWRP Potable Water Pipeline		1,245,847
Construction Contract for NWWRP, Eagle Contracting		53,685,000
Construction Phase Services Contract with Alan Plummer		4,293,311
Agenda Item December 3, 2015		
Raymond D. Stevens - Section 14 Block A		500
Roy Hernandez and Yvonne Torres- Section 13 Block JS		600
Encumbered/Expended To Date		71,097,281
Estimated Cost for Remaining Appropriation		
Construction		23,202,719
Remaining Appropriation		23,202,719
Total Appropriation to Date	$	94,300,000

Project Name **Northwest Water Reclamation Plant** *Project Number* **92221**

Managing Department **Public Works Engineering**

Project Manager **Wood Franklin**

Project Classification **New Facility**

Project Status **Approved**



Project Scope

Design and construction of a new Northwest Water Reclamation Plant. The reclamation plant will handle wastewater flow from Northwest Lubbock. The new plant will handle 5 million gallons of wastewater a day with the ability to expand to 15 million gallons. The new plant will produce stream quality effluent that may be discharged into the North Fork of the Double Mountain Fork of the Brazos River for potential reuse.

Project Justification

The project includes the preliminary engineering, design, and construction of a proposed northwest water reclamation plant as recommended by the Sewer Collection System Master Plan.

Project History

$2.0 million was appropriated in FY 2009-10 Budget Amendment No. 6, Ord. No. 2009-O0108, December 2, 2009.
$3.0 million was appropriated in the FY 2010-11 Budget, Ord. No. 2010-O0070, September 16, 2010.
$18.5 million was appropriated in the FY 2012-13 Budget, Ord. No. 2012-O0100, September 13, 2012.
Reduced by $700,000 in FY 2012-13 Budget Amendment No. 14, Ord. No. 2013-O0009, February 14, 2013.
$53.0 million was appropriated in the FY 2014-15 Budget, Ord. No. 2014-O0122, September 11, 2014.

			Unappropriated Planning Years					
Appropriation Detail	Appropriation to Date	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	Total Project Amount
Construction	70,800,000	18,500,000	0	0	0	0	0	89,300,000
Design and Engineering	5,000,000	0	0	0	0	0	0	5,000,000
Total Project Appropriation	75,800,000	18,500,000	0	0	0	0	0	94,300,000

			Unappropriated Planning Years					
Funding Detail	Funding to Date	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	Total Funding
2005 Wastewater Revenue CO's	139,641	0	0	0	0	0	0	139,641
FY 2008 Wastewater Revenue CO's	2,257,726	0	0	0	0	0	0	2,257,726
FY 2010 Wastewater Revenue CO's	1,860,359	0	0	0	0	0	0	1,860,359
FY 2011 Wastewater Revenue CO's	5,089,098	0	0	0	0	0	0	5,089,098
FY 2013 Wastewater Revenue CO's	18,500,000	0	0	0	0	0	0	18,500,000
FY 2015 Wastewater Revenue CO's	47,953,176	0	0	0	0	0	0	47,953,176
FY 2016 Wastewater Revenue CO's	0	18,500,000	0	0	0	0	0	18,500,000
Total Funding Sources	75,800,000	18,500,000	0	0	0	0	0	94,300,000

Regular City Council Meeting **5. 13.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - Civic Center: Consider a resolution authorizing the Mayor to execute Change Order 1 with Yates Flooring to provide additional carpet and for the scheduled carpet overage at the Lubbock Memorial Civic Center.

Item Summary

This project will provide for the overage of the special order carpet for the Lubbock Memorial Civic Center, the vendor had identified a not to exceed cost of $24,000 on the bid document. The overage amount for the project totals $17,807.00. The amount of carpet overage was determined by the manufacturer at the completion of the order. This change order will also cover the cost of carpet that will be used in the hallways of the meeting room area in order to keep a pattern consistency throughout this area. The amount for this change totals $11,839.00. The changes come to a gross total amount of $29,646.00.

Fiscal Impact

$9,126,853 is appropriated in Capital Improvement Project 91195, Civic Center Renovations, with an amount not to exceed $29,646 available for this purpose.

Staff/Board Recommending

Scott Snider, Assistant City Manager

Attachments

Resolution & Change Order - Yates Flooring

Budget Detail

CIP Detail

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Change Order No. 1 to that certain Contract No. 12290 by and between the City of Lubbock and Yates Flooring, for carpet replacement at the Lubbock Civic Center per Bid/RFP No. ITB 15-12290-PD, and related documents. Said Change Order No. 1 is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Freddy Chavez, Civic Center Director

APPROVED AS TO FORM:

_____
Justin Pruitt, Assistant City Attorney

ccdocs/RES. Change Order 1 – Contract 12290 – Civic Center – Yates Carpet
November 19, 2015

City of Lubbock
Purchasing and Contract Management
Change Order

Contract No: 12290 Contractor: Yates Flooring

Change Order No. 01 Contract Title: Carpet Replacement at the Civic Center

BID/RFP No. ITB 15-12290-PD Project Number: 91195

1. **"Change Order"** means a written order to a Contractor executed by the Owner in accordance with the contract authorizing an addition to, deletion from, or adjustment or revision of the requirements of the contract documents, or an adjustment to the compensation payable to Contractor, or to the time for performance of the contract and completion of the Project, or a combination thereof, which does not alter the nature of the thing to be constructed and is an integral part of the project objective. Adjustments to "Estimated Quantities" to a line item in a Unit Price contract do not require a Change Order. All work that alters the nature of the thing to be constructed or that is not an integral part of the project objective must be let out for public bid.
Description of change (alteration, deviation, addition, or deletion) caused by conditions encountered during construction not covered by the specifications and drawings of the project ***(attach additional pages if necessary)*****:**

This change order will provide for additional carpet that will be used in the hallways of the meeting room area in order to keep a pattern consistency throughout this area and for the overage as a result of the special order design for the overall project.

2. Where the Change Order is negotiated, the Change Order must be fully documented and itemized as to costs, including material quantities, material costs, taxes, insurance, employee benefits, other related costs, profit and overhead. Where certain unit prices are contained in the initial contract, no deviations are allowed in computing negotiated change order costs.

ITEMIZED COSTS MUST BE FULLY DOCUMENTED AND ATTACHED TO THIS FORM.

ITEM	DESCRIPTION	AMOUNT
A.	ORIGINAL CONTRACT VALUE:	$ 548,610.00
B.	AMOUNT OF THIS CHANGE ORDER: *Council approval required if over $25,000* COST CENTER: 91195 ACCOUNT: 8302	$ 29,646.00 MT
C.	PERCENT OF CONTRACT VALUE THIS CHANGE ORDER (B/A):	5.4 %
D.	AMOUNT OF PREVIOUS CHANGE ORDERS:	$ 0
E.	TOTAL AMOUNT OF ALL CHANGE ORDERS (B+D):	$ 29,646.00
F.	PERCENT OF CONTRACT OF ALL CHANGE ORDERS (E/A): *25% increase or decrease*	5.4 %
G.	NEW CONTRACT AMOUNT (A+E):	$ 578,256.00

3. It is mutually agreed that the above dollar amount and the time extension, as applicable, as set forth in this Change Order constitutes full compensation to the Contractor for all costs, expenses and damages to the Contractor, whether direct, consequential or otherwise, in anyway incident to, or arising out of or resulting directly or indirectly; from the work performed or modified by the Contractor under this Change Order.

This Change Order is not valid without the following signatures (please sign in order and return 3 originals with Contract Cover Sheet to Purchasing and Contract Management Department):

(1) CONTRACTOR	11-19-15 Date	(2) PROJECT ARCHITECT/ENGINEER	11-19-2015 Date
Approved as to Content:		Approved as to Form:	
(3) OWNER'S REPRESENTATIVE	11-19-15 Date	(4) CITY ATTORNEY	11-19-2015 Date
(5) CAPITAL PROJECTS MANAGER	11/23/15 Date	(6) PURCHASING AND CONTRACT MANAGER	11/23/15 Date

Change Orders over $25,000 require a Contract Cover Sheet and the following signatures:

CITY OF LUBBOCK ATTEST:

(7) MAYOR	Date	(8) CITY SECRETARY	Date

Council Date:_____ Agenda Item #:_____ Resolution #:_____

PUR-45 (Rev 12/2012)

Yates Carpet & Tile

CHANGE ORDER

1901 W. Loop 289. Suite 11
Lubbock, TX. 79407
Phone (806) 795-0070 Fax (806) 797-7111

DATE:	October 22, 2015	PROJECT:	Civic Center
SOLD TO:	-		1501 Mac Davis Lane
ADDRESS:	-		Lubbock, TX
CITY, STATE, ZIP:	-		
	-	FAX:	-
PHONE:	-	EMAIL:	
ATTN: Freddy Chavez	-	CHANGE ORDER NO.:	2.00

Description	Units	Amount	Price
Cpt 6 Net Effect B603 Driftwood 102927 50cmX50cm 20 x 20	161.46	50.18	$8,102.06
Cpt 5 Net Effect B602 Driftwood 102919 50cmx50cm 20 x 20	17.94	56.20	$1,008.23
Cpt 4 Net Effect B601 Driftwood 102911 50x50 20 x 20	17.94	56.20	$1,008.23
Cpt Base Net Effect B603 Driftwood 102927 6"	700.00	2.10	$1,470.00
Freight	1.00	250.48	$250.48

Add carpets 4,5, and 6 in lieu of carpet 3 in conference corridors
Also carpet 4,5, and 6 from the offices will have to be used to complete the halls

Previous Contract Amount: $566,417.00
Change Order Amount: $11,839.00
New Contract Amount: $578,256.00

Authorized Signature

Name: Rene J. Vargas

ACCEPTANCE OF CHANGES 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.

ACCEPTED BY: _____
Authorized Signature

DATE: _____

Yates Carpet & Tile

CHANGE ORDER

1901 W. Loop 289. Suite 11
Lubbock, TX. 79407

Phone (806) 795-0070 Fax (806) 797-7111

DATE:	October 2, 2015	**PROJECT:**	Civic Center
SOLD TO:	-		1501 Mac Davis Lane
ADDRESS:	-		Lubbock, TX
CITY, STATE, ZIP:	-		
	-	**FAX:**	-
PHONE:	-	**EMAIL:**	
ATTN: Freddy Chavez	-	**CHANGE ORDER NO.:**	1.00

Description	Units	Amount	Price
Cpt 1 Interface A Cut Above 260937-052 19.7x19.7 20 x 20	59.80		$0.00
Cpt 2 Urban Retreat UR303 260937-081 19.7X19.7 20 x 20	95.68		$0.00
Cpt 3 Common Theme CT13 260937-057 25CMX1M 40 x 10	47.84		$0.00
Cpt 4 Net Effect B601 Driftwood 102911 50x50 20 x 20	5.98		$0.00
Cpt 7 A Cut Above 260937-070 1mx1m 40 x 40	131.56		$0.00
Cpt 8 A Cut Above 260937-067 1mX1M 40 x 40	47.84		$0.00
Total overage cost not exceed $24000.00	1.00	17,407.00	$17,407.00
Freight	1.00	400.00	$400.00
Carpets 5 and 6 as well as carpet base did not have any overage			

Previous Contract Amount: **$548,610.00**
Change Order Amount: **$17,807.00**
New Contract Amount: **$566,417.00**

Authorized Signature

Name: Rene J. Vargas

ACCEPTANCE OF CHANGES 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

ACCEPTED BY: _____
Authorized Signature

DATE: _____

City of Lubbock, TX
Capital Project
Project Cost Detail
December 3, 2015

Capital Project Number:	91195
Capital Project Name:	Civic Center Renovations

		Budget
Encumbered/Expended		
Theater Renovations	$	276,258
Elevator Repair		34,187
Physical Plant Roof/Upgrade		769,583
Civic Center Renovations Phase I w/ Change Orders		895,936
Asbestos Protocol and Air Monitoring Service		1,090
Plaza Renovations		162,529
West Pedestrian Bridge Architecture and Engineering		23,500
Civic Center Roof Replacement		1,414,280
Centennial Moisture Control, Inc.		247,902
Architectural and Engineering Services		410,392
Civic Center Telescopic Seating Replacement		572,297
Technology Improvements		80,899
Civic Center Elevator Upgrades		194,353
Civic Center Carpet Replacement		548,610
Banquet seating and carts		181,703
Upholster chairs		40,460
Phase II Interior Renovations		2,322,960
Chapman Harvey Architects Amendment No. 1		66,298
Chapman Harvey Architects: reimbursibles		6,707
BSA Consulting Engineers Amendment No. 1		9,888
Rose Brand Wipers, Inc. - Theatrical Drapes		53,230
Henthorn Commercial Construction - CO #1		(16,416)
Miscellaneous Expenditures*		8,983
Agenda Items December 3, 2015		
Yates Flooring Civic Center Carpet - CO #1		29,646
Encumbered/Expended To Date		8,335,275
Estimated Costs for Remaining Appropriation		
Furnishings, Digital HVAC Controls, kitchen equipment		791,578
Remaining Appropriation		791,578
Total Appropriation	$	9,126,853

as of 11.09.2015

Project Name **Civic Center Renovation** *Project Number* **91195**

Managing Department **Civic Centers**

Project Manager **Freddy Chavez**

Project Classification **Bond Election Project - 2004**

Project Status **Approved**



Project Scope

The first phase of renovations to the Lubbock Memorial Civic Center was the upgrade and replacement of the heating and cooling equipment in the physical plant that serves both the Civic Center and Mahon Library. The majority of the costs for the physical plant were funded from a Department of Energy American Recovery and Reinvestment Act (ARRA) grant ($2,109,900). Also included in this phase is the replacement of the physical plant roof and demolition of the water fountain in the Civic Center plaza area.

The next phase includes the refurbishment of all seating in the Civic Center theater; installation of Direct Digital Controls for all heating/cooling equipment; renovation of the restrooms; replacement of carpet and replacement of existing light fixtures surrounding the complex with energy efficient fixtures. Also included is the replacement of light fixtures in the exhibit hall, removal and replacement of existing roofing membrane, and any other necessary improvements/upgrades to the Civic Center. The current valves that control the flow of oil in the four elevator units at the Civic Center are obsolete and no replacement parts are available. This project will upgrade the power unit in each elevator unit, which includes the valve.

This project also includes furnishings, which will provide for the procurement of new banquet style seating to be used throughout the year in various areas of the building, recovering of existing chairs, replacement of chairs utilized in common areas of the facility and all theatrical drapery in the exhibit hall, banquet hall and theater.

Project Justification

The Civic Center complex was opened in 1976 and has only seen one major renovation in 1997. Many of the components of the complex are in need of replacement due to age and wear.

Project History

Phase I of the project was developed during the 2004 Citizen Advisory Committee process, recommended as a project in the 2004 bond election, and was approved by Lubbock voters.

$1.45 million was appropriated in FY 2008-09 Budget, Ord. No. 2008-O0077, September 11, 2008.
$7,209,288 was appropriated in the FY 2012-13 Budget, Ord. No. 2012-O0100, September 13, 2012.
$475,000 was appropriated in the FY 2013-14 Budget, Ord. No. 2013-O0087, September 10, 2013.
Reduced appropriation by $7,435 due to true-up of Hotel Occupancy Tax revenues in FY 2013-14. Actual revenues were less than budgeted which required a reduction in the project funding.

		Unappropriated Planning Years						
Appropriation Detail	Appropriation to Date	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	Total Project Amount
Construction	8,881,853	0	0	0	0	0	0	8,881,853
Construction Management Support	100,000	0	0	0	0	0	0	100,000
Design and Engineering	145,000	0	0	0	0	0	0	145,000
Total Project Appropriation	9,126,853	0	0	0	0	0	0	9,126,853

Funding Detail	Funding to Date	FY 2015-16	Unappropriated Planning Years FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	Total Funding
FY 2009 General Obligation Bonds	109,288	0	0	0	0	0	0	109,288
FY 2010 General Obligation Bonds	5,950,000	0	0	0	0	0	0	5,950,000
Hotel/Motel Funds	3,067,565	0	0	0	0	0	0	3,067,565
Total Funding Sources	9,126,853	0	0	0	0	0	0	9,126,853

Regular City Council Meeting **5. 14.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - Fleet Services: Consider a resolution authorizing the Mayor to execute purchase order contract 10015415 with Kubota Tractor Corporation for two 2016 L606HSTC tractors.

Item Summary

The contract is for the purchase of two 2016 L606HSTC tractors. These tractors replace a 1993 John Deere tractor and a 1997 M-Ferguson tractor for Parks and Recreation. The $90,378.70 purchase from Kubota Tractor Corporation of Torrance, CA is made through Texas Association of School Boards Local Government Purchasing Cooperative, contract 447-14, using an electronic purchasing system known as BuyBoard. The purchasing cooperative is an administrative agency created in accordance with Section 791.001 of the Texas Government Code and used to obtain the benefits and efficiencies that can accrue to members of a cooperative, to comply with state bidding requirements, and to identify qualified vendors of commodities, goods and services.

Fiscal Impact

Funding is available in the FY 2014-15 Master Lease Program.

Staff/Board Recommending

Scott Snider, Assistant City Manager

Attachments

Resolution & Purchase Order Contract - Kubota Tractor Corporation

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Purchase Order Number 10015415 for the Texas BuyBoard Contract #447-14 for two, four-wheel drive tractors with additional equipment, by and between the City of Lubbock and Kubota Tractor Corporation, of Torrance, California, and related documents. Said Purchase Order is attached hereto and incorporated into this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on this ____ day of _____, 2015.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Scott Snider, Assistant City Manager

APPROVED AS TO FORM:

_____
Laura Pratt, Assistant City Attorney

RES.Kubota Tractor PO 10.20.15
10.20.15

City of Lubbock TEXAS

PURCHASE ORDER

Page - 1
Date - 11/03/2015
Order Number 10015415 000 OP
Branch/Plant 5221

TO:
KUBOTA TRACTOR CORPORATION
3401 DEL AMO BLVD
TORRANCE California 90503

SHIP TO:
CITY OF LUBBOCK
FLEET SERVICES
204 MUNICIPAL DRIVE
LUBBOCK Texas 79404

INVOICE TO: CITY OF LUBBOCK
ACCOUNTS PAYABLE
P.O. BOX 2000
LUBBOCK, TX 79457

BY: _____
Maria Alvarez, Director of Purchasing & Contract Management

Ordered 10/19/2015 Freight
Requested 12/19/2015 Taken By S SUMMERS
Delivery PER D GAMBOA REQ # 45121 BUYBOARD CONTRACT #447-14

Description/Supplier Item	Ordered	Unit Cost	UM	Extension	Request Date
Four wheel drive tractor, 5221	1.000	43,345.6000	EA	43,345.60	12/19/2015
Four wheel drive tractor, 5221	1.000	45,189.3500	EA	45,189.35	12/19/2015
Freight Cost	1.000	700.0000	EA	700.00	12/19/2015
Factor Assembly	1.000	350.0000	EA	350.00	12/19/2015
Dealer Assembly	1.000	543.7500	EA	543.75	12/19/2015
PDI	1.000	250.0000	EA	250.00	12/19/2015
				Total Order	

Terms NET 30 90,378.70

This purchase order encumbers funds in the amount of $90,378.70 awarded to Kubota Tractor Corporation of Torrance, CA on December 3, 2015. The following is incorporated into and made part of this purchase order by reference BuyBoard Contract 447-14 dated October 8, 2015 Kubota Tractor Corporation of Torrance, CA. Resolution #_____.

CITY OF LUBBOCK

_____
Glen C. Robertson, Mayor

ATTEST:

_____
Rebecca Garza, City Secretary

BuyBoard® Cooperative Purchasing

L6060HSTC WEB QUOTE #478588
Date: 10/8/2015 1:53:48 PM
– Customer Information –
Gamboa, David
City of Lubbock Parks Dept.
mike.murphy@kubotalubbock.com
806-775-2370

To order equipment – purchase orders must be made out and returned to:

Kubota Tractor Corporation
3401 Del Amo Blvd.
Torrance, CA 90503
or email NA.Support@kubota.com
or call 310-303-7834 or fax 844-582-1581

– Standard Features –

Kubota

L Series L6060HSTC

*** EQUIPMENT IN STANDARD MACHINE ***

DIESEL ENGINE
Model # V2403CRTE4GL4/GL5
Tier IV Engine
Common Rail Direct Injection
w/ DPF and EGR
Turbo Charged
4 Cyl., 148.5 cu. in.
^ 60.0 Net Eng. HP
^ 53.0 PTO HP
@ 2600 Eng. rpm
12V 45Amp - 582CCA
Radial Air Flow Cooling
Dual Air Cleaner Element

HYDRAULICS
Open Center
Tandem Pump Gear Type
4.7 gpm Power Steering
9.4 gpm Remote/3 Pt. Hitch
14.1 gpm Total Hyd. Flow
Category I 3-Pt. Hitch
Lift Capacity —
At lift Point 3858 lbs.
24" Behind 2976 lbs.
Position Control

FRONT AXLE
Hydrostatic Power Steering
Cast iron 4WD front axle
Tread Spacing – Non-adjustable
Bevel Gear drive

DRIVE TRAIN
HST PLUS
3 Forward Speeds / 3 Reverse Speeds
High-Med-Low
Mech. Wet Disc Brakes
Differential Lock
Cruise Control

FLUID CAPACITY
Fuel Tank 13.5 gal.
Cooling System 8.7 qts.
Crankcase 9.9 qts
Transmission and
Hydraulics 11.9 gal
Front Axle Differential 9.5 qts

^ Manufacturer Estimate

POWER TAKE OFF
1 Speed Rear Live — HYD. IND.
540 rpm @ 2550 Eng. rpm
SAE 1-3/8 6 Splines
Electric over Hydraulic PTO Switch

DIMENSIONS
Overall Height w/ROPS 98.0"
Overall Length w/3pt. 135.0"
Wheel Base 75.4"
Crop Clearance 16.7"

STANDARD EQUIPMENT
ROPS Certified Cab
w/Retractable
Seat Belt
Highback Adj. Swivel Seat w/ Deluxe
Suspension w/Arm Rests
Safety Start Switches
Operator Presence Control System
Parking Brakes
Flat Deck w/Hanging Pedals
Electric Key Shut-off
2 Front Work Lights
Tilt Steering
Wide Anti-Slip Step
ISO Mounted Platform
Turn Signals / Hazard Flashers
SMV Sign
Operator Presence Control System
Telescoping Lower Links
2 Tier Halogen Head Lights
4 Position Loader Valve
One Piece Metal Hood
12V Outlet and Cup Holder
Front Wiper w/ asher
60 Amp Alternator
Interior Light
AC/Heater with
Internal/External
Ventilation
Speakers and Radio Wired
Horn

IntelliPanel™
Lighted Communications Symbols
Standard Tachometer
Digital Read for Speed, MPH, PTO
speeds, diagnostics system and
DPF system
Warning Symbols

SELECTED TIRES
ALR8869A & AMXR8862 INDUSTRIAL TIRES
FRONT - 10-16.5 R4 Titan Trac Loader
REAR - 17.5L-24 R4 Titan Industrial Contractor TL

– Custom Options –

L6060HSTC Base Price:	$45,046.00
(1) FRONT LOADER PACKAGE (LIFT CAPACITY 1,784 LBS) LA1055-FRONT LOADER PACKAGE (LIFT CAPACITY 1,784 LBS)	$4,898.00
(1) 3RD FUNCTION VALV KIT L2265-3RD FUNCTION VALV KIT	$899.00
(1) 72" TWO-LEVER QUICK ATTACH 4-IN-1 BUCKET L2245-72" TWO-LEVER QUICK ATTACH 4-N-1 BUCKET	$2,140.00
(1) 1ST POSITION LEVER & BASE KIT L8396-1ST POSITION LEVER & BASE KIT	$587.00
(1) FLOAT DETENT VALVE L8309-FLOAT DETENT VALVE	$302.00
(1) AM/FM RADIO W/ MP3 PORT & 7-CHANNEL WEATHER BAND E9299A-AM/FM RADIO W/ MP3 PORT & 7-CHANNEL WEATHER BAND	$310.00
Configured Price:	$54,182.00
BUY BOARD GM #447-14 Discount:	($10,836.40)
BUY BOARD GM #447-14 Price:	$43,345.60
Factory Assembly:	$350.00
Dealer Assembly:	$543.75
Freight Cost:	$700.00
PDI:	$250.00
Additonal 2nd Unit	$45,189.35
Final Sales Price:	$90,378.70

***All equipment specifications are as complete as possible as of the date on the quote. Additional attachments, options, or accessories may be added (or deleted) at the discounted price. All specifications and prices are subject to change. Taxes are not included. The PDI fees and freight for attachments and accessories quoted may have additional charges added by the delivering dealer. These charges will be billed separately. Prices for product quoted are good for 60 days from the date shown on the quote. All equipment as quoted is subject to availability.**

CITY OF LUBBOCK
MINIMUM SPECIFICATIONS
FOR
53 H.P. FOUR WHEEL DRIVE TRACTOR
SPEC F-90-SW

YEAR_____MAKE _____ MODEL_____

IT IS THE INTENT OF THIS SPECIFICATION, REFERENCED DOCUMENTS, REQUIREMENTS AND CONDITIONS SECTIONS TO DESCRIBE MINIMUM PERFORMANCE REQUIREMENTS. THE VEHICLE OR PRODUCT MEET OR EXCEED THE PERFORMANCE OR CONSTRUCTION DESCRIBED HEREIN. THE VENDOR SHALL BE REQUIRED TO MARK COMPLIANCE OR NON-COMPLIANCE TO EACH ITEM DESCRIPTION IN THE SPACE PROVIDED. ALL EQUIPMENT FURNISHED AS STANDARD TO THE GENERAL PUBLIC ON THE PRODUCT BY THE MANUFACTURER SHALL BE INCLUDED, EVEN WHEN NOT SPECIFICALLY IDENTIFIED IN THIS SPECIFICATION. ANY DEVIATIONS FROM THE WRITTEN SPECIFICATION WITH DATE AS SHOWN IN THE INVITATION TO BID (ITB) SHALL BE NOTED ON THE ATTACHED EXCEPTIONS TO THE SPECIFICATION. IN ORDER TO RECEIVE FULL CONSIDERATION, ITB RESPONSE QUOTATION MUST FOLLOW THIS SPECIFICATION AND THE INVITATION TO BID'S TERMS AND CONDITIONS.

VENDOR NAME: _____ PHONE: _____

NO.	ITEM	MINIMUM REQUIREMENTS	SELLER COMPLIANCE YES		NO
1.	GENERAL	52 GROSS HORSE POWER ENGINE, 4WD AGRICULTURAL TRACTOR. THIS SPECIFICATION WILL INCLUDE FRONT LOADER. ATTACHMENTAND ROTARTY CUTTER ATTACHEMENT. ALL UNITS SHALL BE FURNISHED COMPLETE WITH STANDARD EQUIPMENT AND FACTORY INSTALLED ACCESSORIES AS LISTED IN THE MANUFACTURER'S PRINTED LITERATURE AND AS STATED IN THE STATE OF TEXAS FLEET AUTOMOBILE AND TRUCKS TEXAS SPECIFICATION NO. 071-072-AT.			

TRACTOR

2.	ENGINE	CRS, DIRECT INJECTION, LIGUID COLLED DIESEL, 4 TURBOCHARGED CYLINDERS, TURBO CHARGED AFTER-COOLED, WET SLEEVE, LIQUID COOLED MINIMUM 52 NET H.P. @ 2700 RPM, GROSS ENGINE H.P. OF 54.7 @ 2700 RPM; MINIMUM OF 45 PTO. ASPIRATION: TURBOCHARGED; DISPLACEMENT; 148.5. A MINIMUM OF 45 ALTERNATOR AMPS FOR HIGHER BATTERY CHARGE. WILL CONTAIN UNDER HOOD MUFFLER LOWER LEFT FRONT EXHAUST. AND TWO STAGE DRY TYPE AIR CLEANER, STARTING AID. ENGINE MUST BE TIER IV CERTIFIED.			
3.	FUEL TANK	FUEL TANK CAPACITY A MINIMUM OF 13 GALLONS.			
4.	TRANSMISSION	TRANSMISSION WITH 8 FORWARD AND 8 REVERSE GEARS PARTIALLY SYNCHRONIZED. FOR RIGHT HAND USE OF JOYSTICK CONTROL WILL NEED A STANDARD LEFT-HAND SHUTTLE LEVER SYNCHRONIZED SHUTTLE; MAIN CLUTCH DRY SINGLE PLATE; MECHANICAL WET BRAKE; REAR STANDARD DIFFFERENTIAL LOCK. SELF ADJUSTING PARKING BRAKE. SHALL BE EQUIPPED WITH NEUTRAL SAFETY SWITCH THAT WILL NOT ALLOW ENGINE TO BE STARTED WHEN IN GEAR.			

5.	FINAL DRIVE	MANUFACTURERS STANDARD			
6.	AXLE STEERING	BEVEL PINION FRONT 4WD AXLE; POWER STEERING			
7.	PTO	LIVE INDEPENDENT, HYDRAULIC PTO WITH PTO BRAKE, WET CLUTCH. MINIMUM OF 540RPM			
8.	HYDRAULIC SYSTEMS	THREE POINT HITCH CATEGORY I & II; OPEN CENTER TYPE; MAIN PUMP FLOW 9.5GPM; POWER STEERING FLOW 4.9GPM; TOTAL FLOW 14.4GPM. MAIN PUMP PRESSURE PSI OF 2560. LIFT CAPACITY, 24" BEHIND LIFT POINT 2310 LBS. REMOTE VALVES 1-3. CONTROL SYSTEM –POSITION. TOP LINK DRAFT CONTROL SENSING.			
9.	DIMENSIONS	OVERALL LENGTH 125.2 INCHES; OVERALL HEIGHT FROM TOP OF ROPS 95.7 INCHES; OVERALL WIDTH 69.7 INCHES; WHEELBASE 74.6 INCHES. MINIMUM GROUND CLEARANCE 15.2 INCHES; TREAD WIDTH FRON 52.2 INCHES, REAR 58.7 INCHES. TURNING RADIUS 2WD W/O BRAKE 8.5FT, 4WD ENGAGED/ NO BRAKE 8.9 FT. WEIGHT 3716 LBS. WEIGHT WITH ROPS 3474LBS.			
10.	CAB	SUN SHADE MOUNTED TO THE TOP OF CAB			
11.	ROPS	MANUFACTURER'S STANDARD ROLL OVER PROTECTION SYSTEM.			
12.	TIRES	FRONT 4WD9.5-16 R1 Bias, REAR 4WD 14.9-26 R1 Bias			

FRONT LOADER

13.	MAXIMUM LIFT HEIGHT (PIVOT PIN)	111.2 INCHES			
14.	CLEARANCE WITH ATTACHMENT DUMP	85.5 INCHES			
15.	REACH AT MAXIMUM HEIGHT	26.1 INCHES			
16.	MAXIMUM DUMP ANGLE	46 DEGREES			
17.	REACH WITH ATTACHMENT ON GROUND	78.1 INCHES			
18.	MAXIMUM ROLLBACK ANGLE	42 DEGREES			
19.	DIGGING DEPTH	WHEN BUCKET IS LEVEL 8.4 INCHES			
20.	OVERALL HEIGHT IN CARY POSITION	55.7 INCHES			
21.	MATERIAL BUCKET WIDTH/ WEIGHT	72 INCHES/ 322LBS			
22.	LIFE CAPACITY (PIVOT PIN)	2275 LBS			
23.	LIFE CAPACITY	1691 LBS			
24.	BREAK FORCE	3102 LBS			
25.	RATED FLOW	9.5 GPM			
26.	RELIEF VALVE PSI	2631 PSI			

DUAL SPINDAL ROTARY CUTTER

27.	HORSE POWER	PULL: 40-110 HP; 3-PT: 50-110 HP			

28.	HITCH	CATEGORY I& II			
29.	WORKING WIDTH	7FT 10IN.			
30.	OVERALL WIDTH	8FT 3-3/4IN.			
31.	OVERALL LENGTH	LIFT -8FT 10IN.; PULL 11FT 8-3/4INCH.			
32.	WEIGHT	3-PT: 1,380LBS; PULL: 1,665 LBS			
33.	DECK HEIGHT	9FT-5/8"			
34.	SAFETY GAURDS	FRONT OR REAR CHAIN			
35.	SKIDS	REPLACEABLE SKIDS			
36.	GEARBOX	540 RPM, CAST IRON HOUSING, BEVELED GEARS			
37.	CUTTING HEIGHT	2INCHES-12INCHES			
38.	CUTTING CAPACITY	1-1/2 INCHES			
39.	BLADES	½ INCHES X 4 INCHES HEAT TREATED, FREE-SWINGING SUCTION BLADES			
40.	BLADE TIP SPEED	540 RPM: 14,592FPM			
41.	DISHPAN	3/16INCHES, ROUND, DISH SHAPED			
42.	DRIVELINE	ASAE 4 PLATE SLIP-CLUTCH			
43.	TAILWHEEL	LIFT-TYPE: 2 EACH, 4INCHES X 8INCHES X15-1/4 INCHES LAMINATED; PULL-TYPE: 2 EACH 6IN X 9IN X 21IN. LAMINATED TIRES.			
44.	WARRANTY	MANUFACTURER'S STANDARD WARRANTY. THE WARRANTY SHALL COMPLETELY DETAIL THE COVERED ITEMS AND DESCRIBE ALL EXCLUSIONS OF PARTS THAT ARE NOT COVERED			
45.	TRAINING	TRAINING SHALL BE PROVIDED AFTER THE DELIVERY AND ACCEPTANCE OF THE TRACTOR AND ACCESSORIES THE VENDOR SHALL PROVIDE NO LESS THANK 16 HOURS OF INSTRUCTIONS ON THE PROPER OPERATION AND MAINTENANCE OF THE TRACTOR AND ACCESSORIES. THE TRAINING SHALL TAKE PLACE IN LUBBOCK, TEXAS NO LATER THAN SEVEN WORKING DAYS AFTER NOTIFICATION BY THE CITY OF THE ACCEPTANCE OF THE TRACTOR UNIT.			
46.	INSTRUCTOR	THE COMPANY'S REPRESENTATIVE/ INSTRUCTOR SHALL HAVE A COMPLETE AND THOROUGH WORKING KNOWLEDGE IN THE OPERATION AND MAINTENANCE OF THE TRACTOR AND ITS ACCESSORIES. THE INSTRUCTIONS SHALL BE ICONSIDERED AS A PERFORMANCE REQUIREMENT OF THIS BID DOCUMENT AND PROVIDED AT NO ADDITIONAL CHARGES TO THE CITY.			
47.	OPERATOR'S MANUALS	THREE COPIES OF THE OPERATORS' MANUALS. THESE MANUALS SHALL PROVIDE COMPLETE OPERATING INSTRUCTIONS AND ROUTINE LUBRICATING AND SERVICING INSTRUCTIONS NORMALLY EXPECTED OF THE OPERATOR. IF POSSIBLE PROVIDE ONE MANUAL ON DVD.			
48.	MAINTENANCE AND OVERHAUL (SHOP) MANUALS	THREE OVERHAUL AND SHOP MANUALS SHALL BE PROVIDED AND INCLUDE THE COMPLETE LUBRICATING AND SERVICING INSRUCTIONS NORMALLY NOT EXPECTED OF THE OPERATOR. THE MANUALS SHALL HAVE INSTRUCTIONS ON THE COMPLETE MAINTENANCE AND OVERHAUL REQUIRED FOR SHOP DISASSEMBLY, INSPECTION, REPAIR, REWORK, TEST, REINSTALLATION, AND PROVIDE INFORMATION ON LIMITS, TOLERANCES AND TORQUE VALUES. THE MANUALS SHALL INCLUDE THE WIRING SCHEMATICS AND ILLUSTRATED REPAIR PROCEDURES FOR THIS PARTICULAR TRACTOR. GENERIC MANUALS WILL NOT BE ACCEPTABLE.			

OPTIONS

1.	BACKHOE	ATTACHEMENT TO HAVE OVER 9 FEET OF DIGGING DEPTH. HOESES TO BE ROUTED THROUGH BACKHOE BOOM FOR BETTER PROTECTION.			
	TRANSPORT HEIGHT	100.1 INCHES			
	STABILIZER SPREAD TRANSPORT	69.2 INCHES			
	GROUND CLEARANCE	12.7 INCHES			
	DIGGING DEPTH, 2FT. FLATT BOTTOM	109.8 INCHES			
	LOADING HEIGHT	84.3 INCHES			
	REACH FROM SWING PIVOT	150.4 INCHES			
	SWING IVOT TO REAR AXLE CENTER LINE	42.1 INCHES			
	BUCKET ROTATION	180 DEGREES			

PROVIDE BUILD DATES IN SPACE BELOW

	BUILD DATE:	/ /

MSO AND PAPERWORK

Vehicle/equipment will not be accepted by the City of Lubbock without the MSO, all keys (two sets), and all paperwork

GENERAL REQUIREMENT AND INFORMATION

Bidder shall submit with each bid, current printed literature and specification sheets on the unit offered in the response to solicitation.

Exceptions to the specifications of any items stated herein shall be fully described in writing by the bidding vendor in the space provided below. **List items by item numbers.**

Regular City Council Meeting **5. 15.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - Fleet Services: Consider a resolution authorizing the Mayor to execute purchase order contract 31025378 with Lubbock Truck Sales, Inc. of Lubbock, TX for the purchase of 21 cab and chassis M2-112 Freightliner bodies. ITB 15-12518-SS.

Item Summary

The contract is for the purchase of 21 Freightliner M2 112 cab and chassis bodies. The $ 1,829,751 purchase from Lubbock Truck Sales, Inc. is made through results of ITB 15-12518-SS.

The following bids were received:

Lubbock Truck Sales, Inc. of Lubbock, TX	$ 1,829,751
Roberts Truck Sales of Lubbock, TX	1,909,068
Rush Truck Center of Robinson, TX	1,940,085
Southwest International Trucks of Arlington, TX	2,179,800
Warren Cat of Midland, TX	2,714,313

The bids were requested for 23 +/- cab and chassis in order to meet approved budget amounts only 21 cab and chassis will be recommended for purchase in the amount of $ 1,829,751.

Fiscal Impact

Funding is available in the FY 2014-15 for 10 of the cab and chassis and in FY 2015-16 Master Lease Program for 11 of the cab and chassis.

Approved FY 2014-15 Master Lease budgeted amount for Residential Collection $ 1,895,863.
Approved FY 2015-16 Master Lease budgeted amount for Residential Collection $ 2,209,620.

Staff/Board Recommending

Scott Snider, Assistant City Manager

Attachments

Resolution & Purchase Order Contract - Lubbock Truck Sales, Inc

Bid Tabulation

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Purchase Order Number 31025378 for ITB 15-12518-SS for twenty-one trash trucks, by and between the City of Lubbock and Lubbock Truck Sales, Inc., of Lubbock, Texas, and related documents. Said Purchase Order is attached hereto and incorporated into this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on this ____ day of _____, 2015.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Scott Snider, Assistant City Manager

APPROVED AS TO FORM:

_____
Laura Pratt, Assistant City Attorney

RES.Lubbock Truck Sales PO 11.3.15
11.3.15

City of Lubbock
TEXAS PURCHASE ORDER

Page - 1
Date - 11/02/2015
Order Number 31025378 000 OP
Branch/Plant 3526

TO:
LUBBOCK TRUCK SALES INC
1801 E SLATON HWY
LUBBOCK Texas 79404

SHIP TO:
CITY OF LUBBOCK
FLEET SERVICES
204 MUNICIPAL DRIVE
LUBBOCK Texas 79404

INVOICE TO: CITY OF LUBBOCK
ACCOUNTS PAYABLE
P.O. BOX 2000
LUBBOCK, TX 79457

BY: _____
Maria Alvarez, Director of Purchasing & Contract Management

Ordered 10/30/2015 Freight
Requested 02/01/2016 Taken By S SUMMERS
Delivery PER D GAMBOA REQ #46076 ITB 15-12518-SS

Description/Supplier Item	Ordered	Unit Cost	UM	Extension	Request Date
Trash Trucks (Cab & Chassis)	21.000	87,131.0000	EA	1,829,751.00	02/01/2016
Freightliner M2 112					

Total Order

Terms NET 30 1,829,751.00

This purchase order encumbers funds in the amount of 1,829,751.00 awarded to Lubbock Truck Sales, Inc. of Lubbock, TX on December 3, 2015. The following is incorporated into and made part of this purchase order by reference ITB 15-12518-SS dated October 8, 2015 Lubbock Truck Sales, Inc. of Lubbock, TX. Resolution #_____.

CITY OF LUBBOCK

_____
Glen C. Robertson, Mayor

ATTEST:

_____
Rebecca Garza, City Secretary

Bid Form
Trash Trucks
City of Lubbock, TX
ITB 15-12518-SS

In compliance with the Invitation to Bid 15-12518-SS, the undersigned Bidder having examined the Invitation to Bid and Specifications, and being familiar with the conditions to be met, hereby submits the following Bid for furnishing the material, equipment, labor and everything necessary for providing the items listed below and agrees to deliver said items at the locations and for the prices set forth on this form. A bid will be subject to being considered irregular and may be rejected if it shows omissions, alterations of form, conditional alternate bids, additions or alternates in lieu of the items specified, if the unit prices are obviously unbalanced (either in excess of or below reasonably expected values), or irregularities of any kind. The Invitation to Bid 15-12518-SS is by reference incorporated in this contract. The Bid Form must be completed in blue or black ink or by typewriter.

ITEM	QTY (+/-)	Unit of Measure	DESCRIPTION	UNIT PRICE* BID	EXTENDED COST	Delivery (Days) ARO**
1.	21 -23-	Each	Trash Trucks, per Specification SWSL2014-LH	$ 87,131.00	$1,829,751.00 $ 2,004,013.00	90
	Model Year, Brand Name and Model Number:		FREIGHTLINER M2 112			

***PRICE: F.O.B. Destination, Freight Pre-Paid and Allowed**

****ARO – After Receipt of Order**

Unless otherwise specified herein, the City may award the bid either item-by–item or on an all-or-none basis for any item or group of items shown on the bid.

PAYMENT TERMS AND DISCOUNTS - Bidder offers a prompt payment discount of 0 %, net 10 calendar days. Unless otherwise indicated on the Bid Form, payment terms will be NET THIRTY DAYS. The City will pay the successful bidder within thirty days after the receipt of a correct invoice or after the date of acceptance, whichever event occurs later. Discounts for prompt payment requiring payment by the City within a stipulated number of days will be interpreted as applying within the stipulated number of calendar days after the date of receipt by the City of a correct invoice or after the date of acceptance that meets contract requirements, whichever event occurs later. Discounts for payment in less than ten days will not be considered.

MOST FAVOURED PRICING: The Bidder certifies that the price quoted is not in excess of the lowest price charged anyone else, including its most favoured customer, for like quality and quantity of the products/services; does not include an element of profit on the sale in excess of that normally obtained by the Bidder on the sale of products/services of like quality and quantity; and does not include any provision for discounts to selling agents. If at any time during the contract period, the supplier should sell or offer for sale to any other customer, an equal or less quantity of similar contract products of like or better quality, at a lower net price(s) than provided herein, supplier agrees to notify the City and sell same product(s) at the lower price(s) on all deliveries made during the period in which such lower price(s) is effective.

INTERLOCAL PURCHASING *(optional)*: The City desires to make available to other local governmental entities of the State of Texas, by mutual agreement with the successful bidder, and properly authorized interlocal purchasing agreements as provided for by the Interlocal Cooperation Act (Chapter 791, Government Code), the right to purchase the same services, at the prices quoted, for the period of this contract. Each bidder shall indicate on the Bid Form in the space provided below if he/she will honor Political Subdivision orders in addition to orders from the City of Lubbock. Should these other governmental entities decide to participate in this contract, would you (the bidder) agree that all terms, conditions, specifications, and pricing would apply?

Other governmental entities that might have interests in this contract are Frenship Independent School District, Lubbock Housing Authority, Lubbock County, Lubbock County Hospital District, Lubbock Independent School District, South Plains Association of Governments, City of Texarkana, Texas Tech University, West Texas Municipal Power Agency, Lynn County, and City of Wolfforth.

YES X NO _____

- If you (the bidder) checked YES, the following will apply:
- Governmental entities utilizing Interlocal Agreements for Cooperative Purchasing with the City of Lubbock will be eligible, but not obligated, to purchase materials/services under the contract(s) awarded as a result of this solicitation. All purchases by

governmental entities other than the City of Lubbock will be billed directly to that governmental entity and paid by that governmental entity. City of Lubbock will not be responsible for another governmental entity's debts. Each governmental entity will order their own materials/service as needed.

THIS BID IS SUBMITTED BY LUBBOCK TRUCK SALES a corporation organized under the laws of the State of TEXAS, or a partnership consisting of _____ or individual trading as _____ of the City of LUBBOCK, TX

Firm: LUBBOCK TRUCK SALES INC.

Address: 1801 E. SLATON HWY

City: LUBBOCK State: TX Zip 79404

Bidder acknowledges receipt of the following addenda:

Addenda No. 1 Date 10/1/15
Addenda No. 2 Date 10/5/15
Addenda No. _____ Date _____
Addenda No. _____ Date _____

M/WBE Firm:		Woman		Black American		Native American
		Hispanic American		Asian Pacific America		Other (Specify)

Any entity or person that manufactures, distributes, converts new motor vehicles (or represents an entity that manufactures, distributes, or converts new motor vehicles) or is in the business of buying, exchanging, or selling new motor vehicles is required under the Tex. Occ. Code. Chapter 2301 to be licensed by Motor Vehicle Division of the Texas Department of Transportation. In order for a bid to be in compliance with the Motor Vehicle Commission Code, the bidder must hold and provide all applicable current valid licenses issued by the State of Texas:

1. Name _____ and Manufacture's License No. _____
2. Name _____ and Converter's License No. _____
3. Name _____ and Representative's License No. _____
4. Name _____ and Franchise Dealer's License No. _____

General Distinguishing No. P15961 (Franchised TX dealer)

By _____ Date: 10/7/15
Authorized Representative - must sign by hand

Officer Name and Title: MIKE IDEN SALES
Please Print

Business Telephone Number 806-748-1529 FAX: 806-748-1240

E-mail Address: MIDEN@LUBBOCKTRUCKSALES.COM

FOR CITY USE ONLY

Bid Form Item Number(s) Awarded to Above Named Firm/Individual: _____

Date of Award by City Council *(for bids over $50,000)*: _____ Date P.O./Contract Issued: _____

RETURN COMPLETED & SIGNED BID FORM ALONG WITH CITY OF LUBBOCK SPECIFICATIONS.

LABEL THE OUTSIDE OF YOUR SEALED BID WITH THE ITB NUMBER, THE CLOSING DATE AND TIME, AND YOUR COMPANY NAME AND ADDRESS.

S:\Purchase/Bid Docs/ITB 15-12518-SS Trash Trucks

Department/Cost Center requesting vehicle/equipment:_____
Spec Content Reviewed & Approved by:_____
Department Head Authorizing Release of Spec:_____
Date: _____

REVISED 2
CITY OF LUBBOCK, TX
MINIMUM SPECIFICATIONS
LEFT HAND DRIVE, TANDEM DRIVE REAR AXLE,
DIESEL-POWERED, CAB AND CHASSIS
SPEC # SWSL2014-LH

YEAR 2016 MAKE FREIGHTLINER MODEL M2 112

IT IS THE INTENT OF THIS SPECIFICATION, REFERENCED DOCUMENTS, REQUIREMENTS AND CONDITIONS SECTIONS TO DESCRIBE MINIMUM PERFORMANCE REQUIREMENTS. THE VEHICLE OR PRODUCT MEET OR EXCEED THE PERFORMANCE OR CONSTRUCTION DESCRIBED HEREIN. THE VENDOR SHALL BE REQUIRED TO MARK COMPLIANCE OR NON-COMPLIANCE TO EACH ITEM DESCRIPTION IN THE SPACE PROVIDED. ALL EQUIPMENT FURNISHED AS STANDARD TO THE GENERAL PUBLIC ON THE PRODUCT BY THE MANUFACTURER SHALL BE INCLUDED, EVEN WHEN NOT SPECIFICALLY IDENTIFIED IN THIS SPECIFICATION. ANY DEVIATIONS FROM THE WRITTEN SPECIFICATION WITH DATE AS SHOWN IN THE INVITATION TO BID (ITB) SHALL BE NOTED ON THE ATTACHED EXCEPTIONS TO THE SPECIFICATION IN ORDER TO RECEIVE FULL CONSIDERATION, ITB RESPONSE QUOTATION MUST FOLLOW THIS SPECIFICATION AND THE INVITATION TO BID'S TERMS AND CONDITIONS

VENDOR NAME: LUBBOCK TRUCK SALES INC. PHONE: 806-748-1529

NO.	ITEM	MINIMUM REQUIREMENTS	SELLER COMPLIANCE YES		NO
1.	**GENERAL**	**TRUCK, LEFT HAND DRIVE, TANDEM AXLE, DIESEL-POWERED, CAB AND CHASSIS, 62,000 GVWR.** **In places where the term "City approved equivalent" appears below, the vendor must identify what their proposed "City approved equivalent" product will be at the pre-bid meeting.** **No item included in the specifications can be changed or modified after the bid is accepted and approved by the City Council.**	✓		
2.	**SCOPE**	This specification describes a tandem axle, diesel powered cab and chassis for use by the City of Lubbock, Solid Waste Department, for mounting a 27 cubic yard, high compaction side loader that picks up from the street side of the body. All specified components shall be original equipment manufacturer (OEM) chassis-factory installed, when offered by the vehicle manufacturer. Trucks furnished to this specification shall be certifiable as straight trucks and shall meet or exceed the following requirements:	✓		
3.	**NOTICE TO RESPONDENTS**	DO NOT ASSUME YOUR STANDARD EQUIPMENT MEETS ALL OF THE DETAILED SPECIFICATION REQUIREMENTS. Respondents are cautioned that any unit delivered to FOB point which does not meet specifications in every aspect will not be accepted.	✓		
4.	**VEHICLE WEIGHT RATINGS**	Gross vehicle weight rating (GVWR) shall be minimum of **62,000** pounds.	✓		
4.1		Trucks shall be legally capable of operating at a maximum gross weight of **62,000** pounds.	✓		

NO.	ITEM	MINIMUM REQUIREMENTS	SELLER COMPLIANCE YES		NO
4.2		Trucks shall also be structurally capable of operating at a gross weight of **62,000** pounds, off highway, under condition imposing more severe frame stresses without experiencing failure or permanent sets in truck frame or any component of the unit.	✓		
5.	**CHASSIS**				
5.1		The effective cab-to-trunnion dimension shall accommodate body being mounted, with horizontal muffler to accommodate the 27 cubic yard, high compaction side loader. Tree hugger Packer Body from KANN MANUFACTURING. The City of Lubbock is requesting KANN manufactured packer bodies or a City of Lubbock and department approved equal. Drawing is provided by Kann	✓		
5.2		Frame shall be minimum 2,100,000 RBM straight reinforced, continuous, double-frame.	✓		
5.3		Special Chassis Requirement: No equipment shall be bolted inside the left hand frame from immediately behind the cab and extending 24 inches toward the rear of the unit. Left hand side must be clear of any obstruction.	✓		
6.	**DRIVELINE COMPONENTS**	Engine, transmission, and tandem drive rear axle offered shall have been in regular production and offered for sale to public and private entities for a minimum of 12 calendar months prior to bid opening. Drive line components shall meet the following requirements:	✓		
6.1		Engine shall be electronically controlled, **minimum 9.0** liter, in-line, 6-cylinder design. Shall have **minimum 345** gross horsepower at **1,900 RPM**, and **minimum 1,150** ft/lb gross torque. Engine repairs shall be available at any facility authorized as a repair provider by the applicable engine manufacturer. Engine shall have electronic shutdown protection and shall also include engine exhaust brakes. **To be governed at 65mph.** Automobiles and trucks shall meet or exceed the minimum requirements of the specification and all applicable requirements of Federal Motor Vehicle Safety Standards (Public Law 89-563). All requirements of these specifications shall be met unless they are in conflict with the applicable Federal Motor Vehicle Standards. Equipment furnished for the specification shall comply with all applicable requirements of the Environmental Protection Agency's Exhaust Emission Standards (940 CFR 85) as issued under authority of the Clean Air Act, as amended, (42 USC 1857, et seq.). It shall be the responsibility to the vendor to ensure that the equipment furnished meets the most recent requirements of all applicable laws. In the event equipment is furnished that is not in compliance with the law, it shall be the responsibility of the vendor to make all necessary modifications to the equipment required to achieve compliance with these laws.	✓		
6.2		Transmission shall be automatic shift type, 6-speed Allison transmission or a City of Lubbock approved equal, and furnished with auxiliary transmission oil cooler, as recommended for severe service applications by transmission manufacturer, suitable for the applications described in the	✓		

		Scope, and meet the performance requirements in paragraphs 7. to 7.5 & shall have PTO provisions.	✓		
6.3		Full tandem drive rear axle GAWR shall be **44,000** pounds minimum. Tandem shall be single speed, single reduction with inter-axle differential and power divider lockout, or single speed, double reduction with automatic power divider system. Shall be equipped with Axle-Lockout. Axle-Lockout should be equipped with driver controlled traction differential on both axles.	✓		
6.4		Transmission and rear axles shall be equipped with synthetic lubricants, and be labeled as such.	✓		
7.	**PERFORMANCE REQUIREMENTS**	The driveline components offered shall provide the following minimum performance in the intended application:	✓		
7.1		Maximum vehicle speed in top gear shall be electronically limited to 65 mph.	✓		
7.2		Cruise control shall be provided, and be electronically set at 60 mph.	✓		
7.3		Shall provide minimum 1.1 percent gradeability at 55 mph steady-state at peak torque, based upon **62,000 pound** GVWR.	✓		
7.4		Shall provide minimum 20 percent startability from a complete stop (at clutch engagement) based upon **62,000** pound GVWR.	✓		
7.5		Respondents shall furnish documentation verifying the driveline configuration offered meets all specified requirements. Documentation shall be with the bid submittal, and prior to purchase order award. City of Lubbock will make the final determination on acceptability of a proposed drivetrain, and its suitability for the intended application.	✓		
8.	**DRIVE LINE AND ENGINE ACCESSORIES**	All accessories necessary for operation shall be provided, to include but not limited to, the following:	✓		
8.1		Heavy-duty batteries shall deliver a starting power of at least 1,800 cold-cranking amperes (CCA) at zero degrees Fahrenheit.	✓		
8.2		Battery disconnect switch used to shut down the entire battery fed electrical system.	✓		
8.3		Heavy-duty 12 volt alternator or generator rated at minimum 145 amperes.	✓		
8.4		Full-flow type oil filtration system with replaceable filter and provision for bypassing oil to the engine as the filter becomes clogged. To include oil pump. As per 6.1, engine shall have electronic shutdown protection.	✓		
8.5		Heavy-duty (minimum 1,228 square inches) aluminum radiator, maximum cooling capacity offered by manufacturer.	✓		
8.6		Silicone radiator hoses and silicon water lines.	✓		
8.7		OEM standard coolant.	✓		
8.8		Automatic or viscous fan clutch.	✓		

NO.	ITEM	MINIMUM REQUIREMENTS	SELLER COMPLIANCE YES	NO	
8.9		Horizontal muffler, with guard(s). The lower edge of the muffler must not be lower than fuel tank(s), and not interfere with the PTO.	✓		
8.10		Magnetic drain plugs in transmission case and rear axle housings.	✓		
8.11		Diesel engine fuel filtration system shall include at least two stages of filtration. Filter stages may consist of a primary and a secondary filter, or a two-stage filter in a common housing. At least one drain shall be provided in the system to prevent water damage to the injection system. All items shall be factory installed.	✓		
8.12		Cold weather starting aid shall be automatic with internal electronic control.	✓		
8.13		Dry type air cleaner, including a primary element, a safety element, and/ or pre-cleaners with high capacity air filters, a restriction (service) indicator, to indicate the percentage of contamination and restriction. Indicator shall be easily visible from the operator's station.	✓		
9.	**TIRES**	Tires furnished shall be GOODYEAR DURASEALS or City of Lubbock approved equivalent with same functionality appropriate for the applications described and be of high quality design, materials, and workmanship. Tires shall meet Uniform Tire Quality Grading Standards, with UTGQ grades stamped on the side-wall. Tires shall also comply with all US DOT Tire Safety Standards, with federal DOT marking stamped on the side-wall. Vendor must identify City approved equivalent product at pre-bid meeting.	✓		
10.	**FRONT AXLE, WHEELS, AND TIRES**	Front tires shall be 315x80Rx22.5 – 20 ply rating (Load Range H). Disc Wheel shall be hub piloted, 10 hole with 8.25 inch rims. Steel-belted radial-design. On highway, all position, tread design.	✓		
10.1		Front axle GAWR shall be **18,000** pounds minimum and shall be set back type front axles.	✓		
10.2		Front shock absorbers, double action hydraulic.	✓		
10.3		Wheel bearings shall be fluid lubricated with synthetic lubricants.	✓		
10.4		Wheel seals shall be STEMCO wet type standard unitized with sight glass, or City of Lubbock approved equivalent. Vendor must identify City approved equivalent product at pre-bid meeting.	✓		
10.5		Dust shields (rock guards) shall be provided for each front axle.	✓		
11.	**REAR SUSPENSION, WHEELS, AND TIRES**	Rear tires shall be shall be 11R x 22.5 – 16 ply rating (Load Range H). Single piece steel disc wheels shall be hub piloted, 10 hole, with 8.25 inch rims. Steel-belted radial-design. Mud and snow, all position, tread design.	✓		
11.1		Hendrickson RT-463 Walking beam type or a City of Lubbock and department approved equal; 54" axle spacing; **46,000** lbs. capacity with rubber center bushings. Vendor must identify City approved equivalent product at pre-bid meeting.	✓		
11.2		Wheel bearing shall be fluid lubricated with synthetic lubricants.	✓		

NO.	ITEM	MINIMUM REQUIREMENTS	SELLER COMPLIANCE YES		NO
11.3		Wheel seals shall be STEMCO wet type standard unitized, or City of Lubbock approved equivalent. Vendor must identify City approved equivalent product at pre-bid meeting.	✓		
11.4		Dust shields (rock guards) shall be provided for each rear axle.	✓		
12.	**BRAKES**	Antilock brake system (full vehicle wheel control system, 4S/4M) with air brakes for straight truck application, complete with:	✓		
12.1		Compressor, minimum 12 cubic feet.	✓		
12.2		Reservoir.	✓		
12.3		Low air pressure warning indicator in cab.	✓		
12.4		Spring-set type parking brake.	✓		
12.5		Air brake lines shall be routed through the chassis and shall be securely fastened to the frame at intervals sufficient to prevent snagging and to provide clearance of any mechanical parts.	✓		
12.6		Air dryer – including integral 100 watt heater, shall be easily accessible, with spin on desiccant cartridge and automatic moisture ejector – for air brake system/reservoir(s) with automatic tank air drain.	✓		
12.7		Automatic slack adjusters – front and rear.	✓		
13.	**STEERING**	Truck shall be equipped with power steering of type normally recommended by manufacturer for left hand drive (Dual drive is not acceptable), and shall have a minimum wheel cut of 53 degrees.	✓		
14.	**CAB**	The truck shall have an enclosed cab. Hood and fender unit shall maintain a 70-degree forward tilt, without contact with the bumper. When gauges are specified, indicator lights are not acceptable. Trucks shall be equipped with, but not limited to, the following:	✓		
14.1		Cab grab handles on driver and passenger side.	✓		
14.2		Tachometer.	✓		
14.3		Speedometer.	✓		
14.4		Amp meter or volt meter.	✓		
14.5		Oil pressure gauge.	✓		
14.6		Engine coolant temperature gauge.	✓		
14.7		Fuel gauge.	✓		
14.8		Air pressure gauge.	✓		
14.9		Electric powered intermittent windshield wipers (air not acceptable) with washers for both sides.	✓		

NO.	ITEM	MINIMUM REQUIREMENTS	SELLER COMPLIANCE YES		NO
14.10		National Cush-N-Aire equal air-ride high back driver and passenger seats with non-vinyl fabric or City approved equivalent. The minimum height from the Cush-N-Aire seat cushion, in its lowest position, to the interior cab roof shall not be less than 40 inches. Vendor must identify City approved equivalent product at pre-bid meeting.	✓		
14.11		Dual sun visors.	✓		
14.12		Fresh air type heater and defroster.	✓		
14.13		Air conditioner, factory installed.	✓		
14.14		Pre-trip exterior light test switch.	✓		
14.15		Head lights on when wipers on.	✓		
14.16		Electrically heated rear view mirrors, OEM metal framed, exterior west-coast rearview type left and right side mirrors with a minimum 6" x 16" viewing surface. In addition, an 8" convex spot mirror shall be installed on the bottom support arm bar of the rearview mirror, and a 3" convex spot mirror shall be installed on the top support arm bar of the rearview mirror for the driver's side only. Mirror support systems shall be a break-away type design.	✓		
14.17		Hourmeter shall be factory installed if available from the OEM. If the hourmeter will be an after-market installation, it shall be electric, quartz type, or digital, shock proof, in a sealed case, with readout to 9,999.9 hours. Three screw or flush mount with system voltage between 10-32V.	✓		
14.18		AM-FM radio, chassis factory-installed standard brand. Antenna, which may be an integral part of the windshield, shall be furnished and mounted.	✓		
14.19		Two entry steps (step tank(s) and under-fuel tank) shall be provided on each side of the cab. Anti-skid surface shall be furnished on entry steps.	✓		
14.20		Cab shall be furnished with OEM maximum noise suppression package. Cab shall meet EPA noise level requirements effective on date of delivery.	✓		
14.21		Power windows and power locks.	✓		
15.	**TRUCK**	The truck shall be equipped to include, but not be limited to, the following:	✓		
15.1		Directional signals with flasher.	✓		
15.2		Clearance lights and reflectors meeting Texas Motor Vehicle Laws and Texas Department of Public Safety Requirements.	✓		
15.3		Front fenders and bumpers.	✓		
15.4		Front and rear tow hooks.	✓		
15.5		Radiator protector/stone guard shall be behind, or integral with, the front grille.	✓		
15.6		License plate bracket on front bumper.	✓		

NO.	ITEM	MINIMUM REQUIREMENTS	SELLER COMPLIANCE YES		NO
15.7		Twin air horns, if available from OEM, or single trumpet air horn if twin air horns are not available.	✓		
15.8		Sealed beam or halogen headlights.	✓		
16.	**FUEL TANK**	Shall be equipped with one ICC approved frame mounted safety fuel tank with a total minimum 100 gallon capacity. Tank shall be mounted on the passenger's side of the unit, and shall not interfere with side loading operations. Shall include all necessary valves, hoses, and gauges. Kann provided drawing for reference	✓		
17.	**SAFETY PLAQUES OR DECALS**	Product safety plaques or decals shall be furnished and affixed at the operator's station and at any hazardous area. The safety plaques or decals shall describe the nature of the hazard, level of hazard seriousness, how to avoid the hazard, and the consequence of human interaction with the hazard. Permanent plaques are preferred to decals. Type, size, and location of product safety plaques or decals shall be in accordance with current ANZI Z535.4.	✓		
18.	**PAINTING**	The unit shall be painted an approved manufacturer's standard lead free bright white color, except for glass, rubber, and those metallic accessories or fixtures constructed of rust-resistant or plated material not normally painted.	✓		
19.	**MANUAL(S)**	Original manual(s) containing illustrated parts list(s) and operating and service instructions for the unit and engine shall be delivered with each unit. Manuals can be either electronic or written.	✓		
19.1		The manual(s) shall be as detailed as possible outlining all necessary service and operating instructions for each unit delivered. Parts list(s) shall cover all components identified by part number, description, and component location. Necessary warnings and safety precautions shall be included. It is requested, but not required, that the manual(s) be printed on recycled paper.	✓		
19.2		The following additional information shall be provided by the vendor at the time of delivery if it is not included in the manual(s) required above:	✓		
19.2.1		Manufacturer's recommended service and preventive maintenance intervals.	✓		
19.2.2		Recommended fluids, lubricants, and their SAE/API equivalents.	✓		

NO.	ITEM	MINIMUM REQUIREMENTS	SELLER COMPLIANCE YES		NO
20.	**PARTS AND SERVICE**	The manufacturer of the equipment furnished shall have an authorized dealer within the state of Texas. The authorized dealer shall have factory-trained personnel available for warranty repairs and the performance of service. The dealer shall also maintain an inventory of high-usage parts and a quick source for low-usage parts, which shall be available within three working days after ordering.	✓		
21.	**MANUFACTURER'S STATEMENT OF ORIGIN (MSO)**	Vendor shall furnish MSO with each unit at the time of delivery. City of Lubbock will not accept the unit and process payment without the MSO, all keys, and all paperwork.	✓		
22.	**WARRANTY**	OEM full bumper-to-bumper coverage for a minimum of 24 months to include engine, transmission, drive line, and axles. The unit shall be warranted against defects in material and workmanship for a minimum of 24 months. Warranty provided by vendor shall also include towing for 24 month period.	✓		
23.	**LINE SETTING TICKET**	Line setting ticket vendor shall furnish vehicle line setting tickets, describing all major components furnished to make up the chassis and body.	✓		
24.	**KEYS**	All trucks are to be keyed the same.	✓		
25.	**CAB/CHASSIS INSPECTION**	Vendor shall notify the City of Lubbock when cab/chassis' are completed and City of Lubbock shall travel to cab/chassis vendor to inspect for compliance. If cab/chassis fail to meet compliance, vendor shall ensure that repairs are completed within 24 hours. Repairs that cannot be completed during inspection must be re-inspected to meet compliance by vendor and City of Lubbock prior to releasing to body builder. Cab/chassis vendor is responsible for delivery of all cab/chassis units to body builder manufacturer facility.	✓		
26.	**SECOND STAGE**	All cab/chassis' not meeting City of Lubbock specifications can be delivered but shall not be released to the secondary stage manufacturer (body builder). Secondary vendor shall notify City of Lubbock when the body installation is completed.	✓		
27.	**PRE-DELIVERY**	After the body installation and chassis has been returned to the City, the cab/chassis vendor shall provide the pre-delivery service and first state safety inspection and install the windshield sticker. All unit(s) must include a fire extinguisher, minimum 5 pounds, UL rating 1A-10B:C. The fire extinguisher shall be installed in a suitable and readily accessible location within the cab. All unit(s) delivered to the City of Lubbock (206 Municipal Drive, Lubbock, TX 79403) shall also have a set of warning triangles and must have a minimum of ¼ tank of fuel upon delivery.	✓		
28.	**ACCEPTANCE INSPECTION**	All equipment ordered will be subject to acceptance inspection and performance testing upon receipt. Acceptance inspection and performance testing will not take more than 5 working days, weather permitting. The vendor will be notified within this time frame of any units not delivered in full compliance with the purchase order specifications.	✓		

NO.	ITEM	MINIMUM REQUIREMENTS	SELLER COMPLIANCE YES		NO
29.	**WORKING DAY**	A working day is defined as a calendar day, not including Saturdays, Sundays, or regularly observed city, state, and federal holidays.	✓		
30.	**DELIVERY**	Unit(s) shall be delivered completely assembled, serviced, adjusted, and all equipment including standard and optional equipment shall be installed and the unit(s) made ready for continuous operation. On-site (FOB point) dealer preparation or other type of work will not be permitted. Unit(s) with fluid levels (coolant, engine oil, transmission oil, axle grease, brake fluid, etc.) in need of service will not be accepted. Unit(s) shall be in compliance with Texas Traffic Laws.	✓		
30.1		Provisions shall be made by the vendor to prevent any undue delay or imposition upon City of Lubbock personnel at time of delivery. City of Lubbock assistance will not be provided for unsaddling piggy back chassis or off-loading convoyed units.	✓		
30.2		Vendor shall notify City of Lubbock purchaser, at telephone number listed on bid, at least three working days prior to making each delivery.	✓		

OPTIONS

1.	**EXTENDED WARRANTY**	OEM full bumper-to-bumper coverage for 4 yrs/150,000 miles, whichever comes first, to include engine, transmission, drive line, and axles, with written detailed explanation of covered components that includes a complete listing of exclusions. Warranty shall be ZERO deductible. Warranty provided by vendor shall also include towing for 48 month period.	$ 10,155.00

PROVIDE BUILD DATES IN SPACE BELOW

	BUILD DATE:	12/20/15

GENERAL REQUIREMENT AND INFORMATION

BIDDER SHALL SUBMIT WITH EACH BID, CURRENT PRINTED LITERATURE AND SPECIFICATION SHEETS ON THE UNIT OFFERED IN THE RESPONSE TO SOLICITATION.

EXCEPTIONS TO THE SPECIFICATIONS OF ANY ITEMS STATED HEREIN SHALL BE FULLY DESCRIBED IN WRITING BY THE BIDDING VENDOR IN THE SPACE PROVIDED BELOW. **LIST ITEMS BY ITEM NUMBERS.**
NONE

City of Lubbock, TX
Fleet Services
Bid Tabulation
December 3, 2015

ITB 15-12518-SS
Trash Trucks

Item	Qty	UOM	Description/Vendor	Location	Unit Price	Extended Cost
1	21	EA	Trash Trucks, per Specification SWSL2014-LH			
			Lubbock Truck Sales, Inc.	**Lubbock, TX**	**$ 87,131**	**1,829,751**
			Robert's Truck Center	Lubbock, TX	90,908	1,909,068
			Rush Truck Center	Robinson, TX	92,385	1,940,085
			Southwest International Trucks	Arlington, TX	103,800	2,179,800
			Warren Cat	Midland, TX	129,253	2,714,313

Regular City Council Meeting **5. 16.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - Fleet Services: Consider a resolution authorizing the Mayor to execute purchase order contract 31025384 with Kann Manufacturing Corporation for 21 Kann packer bodies.

Item Summary

The contract is for the purchase of 21 Kann packer bodies that will be installed by Kann Manufacturing Corporation on 21 Solid Waste Collection truck cab and chassis bodies purchased from the results of ITB 15-12518-SS. The $1,963,438 purchase from Kann Manufacturing Corporation of Guttenberg, Iowa is made through the Texas Association of School Boards Local Government Purchasing Cooperative, contract 425-13, using an electronic purchasing system known as BuyBoard. The purchasing cooperative is an administrative agency created in accordance with Section 791.001 of the Texas Government Code and used to obtain the benefits and efficiencies that can accrue to members of a cooperative, to comply with state bidding requirements, and to identify qualified vendors of commodities, goods and services.

Fiscal Impact

Funding is available in the FY 2014-15 for 10 of the packer bodies and in FY 2015-16 Master Lease Program for 11 of the packer bodies.

Approved FY 2014-15 Master Lease budgeted amount for Residential Collection $ 1,895,863.
Approved FY 2015-16 Master Lease budgeted amount for Residential Collection $ 2,209,620.

Staff/Board Recommending

Scott Snider, Assistant City Manager

Attachments

Resolution & Purchase Order Contract - Kann Manufacturing Corporation

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Purchase Order Number 31025384 for the Texas BuyBoard Contract 425-13 for twenty-one trash truck bodies, by and between the City of Lubbock and Kann Manufacturing Corporation, of Guttenberg, Iowa, and related documents. Said Purchase Order is attached hereto and incorporated into this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on this ____ day of _____, 2015.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Scott Snider, Assistant City Manager

APPROVED AS TO FORM:

_____
Laura Pratt, Assistant City Attorney

RES.Kann Manufacturing Corporation PO 11.3.15
11.3.15

City of Lubbock TEXAS

PURCHASE ORDER

Page - 1
Date - 11/16/2015
Order Number 31025384 000 OP
Branch/Plant 3526

TO:
KANN MANUFACTURING CORPORATION
PO BOX 400
GUTTENBERG Iowa 52052

SHIP TO:
CITY OF LUBBOCK
FLEET SERVICES
204 MUNICIPAL DRIVE
LUBBOCK Texas 79404

INVOICE TO: CITY OF LUBBOCK
ACCOUNTS PAYABLE
P.O. BOX 2000
LUBBOCK, TX 79457

BY: _____
Marta Alvarez, Director of Purchasing & Contract Management

Ordered 11/02/2015 Freight
Requested 02/01/2016 Taken By S SUMMERS
Delivery PER D GAMBOA REQ #46076 BUYBOARD 425-13

Description/Supplier Item	Ordered	Unit Cost	UM	Extension	Request Date
Trash Trucks (Bodies)	21.000	91,133.0000	EA	1,913,793.00	02/01/2016
31 YD Side Load Series					
Freight	21.000	2,345.0000	EA	49,245.00	02/01/2016
BuyBoard Service Fee	1.000	400.0000	EA	400.00	02/01/2016
				Total Order	
Terms NET 30				1,963,438.00	

This purchase order encumbers funds in the amount of $1,963,438.00 awarded to Kann Manufacturing Corp. of Guttenberg, IA on December 3, 2015. The following is incorporated into and made part of this purchase order by reference Quote #4828 / BuyBoard Contract 425-13 dated November 2, 2015 Kann Manufacturing Corp. of Guttenberg, IA. Resolution #_____.

CITY OF LUBBOCK

_____
Glen C. Robertson, Mayor

ATTEST:

_____
Rebecca Garza, City Secretary

Kann Manufacturing Corporation
P.O. Box 400 – 210 Regent Street – Guttenberg, Iowa 52052
Phone: 563-252-2035 – Fax: 563-252-3069 – Email: sales@kannmfg.com

QUOTE

Date	Quote #
11/02/15	4828

Quote To: CITY OF LUBBOCK
PO BOX 2000
LUBBOCK, TX 79457-

Ship To: CITY OF LUBBOCK
324 MUNICIPAL DRIVE
LUBBOCK, TX
79403-

Contact ISAAC
Customer 0012068
Telephone 806-775-2376 **Fax** 806-775-3085

Terms	Expiry Date	Salesperson	Ship Via
NET 30 DAYS	09/30/16	RT	DELIVER

Qty	Part #	Description	Unit Price	Ext. Price
		31 YD COMMERCIAL SIDE LOAD SERIES		
21.0	3531062	BODY ASSY 26YD SSL XS SLEC RR	49,710.00	1,043,910.00
21.0	3531068	TAILGATE ASSY 1YD, SLEC RR	3,030.00	63,630.00
21.0	3530709	PAINT, MISC MATL PPG#FDGH SLC	2,800.00	58,800.00
126.0	1800306-18	PPG#FDGH 90604 NC, INT WHT	110.00	13,860.00
21.0	4530046-01	SINGLE HOOK LOAD OPTION SLEC	1,455.00	30,555.00
21.0	3530937	ROOF DECK ASSY, SLEC RR	668.00	14,028.00
21.0	3531115	LIGHTS, LED 1 YD TLGT SLEC RR	1,375.00	28,875.00
21.0	4530093	STROBE WHEELEN M6A, 1YD TG SLE	425.00	8,925.00
21.0	4530092	BEACON WHEELEN L360, LWR 1Y TG	560.00	11,760.00
21.0	4530094	7" RND AMB ARROW LIGHTS SLEC	348.00	7,308.00
21.0	4530006	LIGHTS, SIDE WORK OPTION SLC	165.00	3,465.00
21.0	4530050	LOADING WORK LIGHTS, SLEC	90.00	1,890.00
21.0	4530091	CAMERA, (3) CONVOY 7" LCD 33'	1,991.00	41,811.00
21.0	5530028	SLEC27YD SSL PTO/TP INT AL3000	27,856.00	584,976.00
1.0	5000405	BUYBOARD SERVICE FEE	400.00	400.00
21.0	FREIGHT		2,345.00	49,245.00

BUYBOARD PRICING IS VALID UNTIL 09/30/16
UNDER CONTRACT #425-13.
ANY DEVIATIONS FROM QUOTE #4828 ARE SUBJECT
TO PRICE CHANGE.

Sub Total:	1,963,438.00
Federal Excise Tax:	0.00
Freight Total:	0.00
Total:	1,963,438.00

Kann Manufacturing Corporation
P.O. Box 400 – 210 Regent Street – Guttenberg, Iowa 52052
Phone: 563-252-2035 – Fax: 563-252-3069 – Email: sales@kannmfg.com

QUOTE

Date	Quote #
11/02/15	4828

-Customer is responsible for throttle advance programming if required.
- F.O.B. Kann Manufacturing Corporation. Freight charge is estimated based upon fuel cost at the time of quotation. The charge is subject to change at the time of delivery.
- Modifications to customer supplied chassis will be at the customer's expense and will be added to the customer's invoice. Customers will be notified prior to any modifications.
- If Kann Manufacturing Corporation facilitates the customer purchase of a chassis, C.O.D. terms on both chassis and body will supercede all other specified terms found in this agreement.

*** Ordering Information:

Order date: _____ Number of Units Ordered: _____ Customer's P.O. #: _____

Customer Order Authorization Signature: _____

Kann Manager Authorization: _____

Regular City Council Meeting **5. 17.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - Fleet Services: Consider a resolution authorizing the Mayor to execute purchase order contract 31025337 Associated Supply Company, Inc. for a 2015 Advantage 500 Landfill Compactor.

Item Summary

The purchase order contract is for one 2015 Advantage 500 Landfill Compactor for the City of Lubbock Solid Waste Disposal department. This unit replaces a 2007 BOMAG Compactor. The $ 644,990 purchase from Associated Supply Company, Inc. of Lubbock, TX is made through HGAC Contract EM0615.

2015 Advantage Compactor	$ 613,977
Extended 5 year warranty	46,013
Trade Allowance 2007 BOMAG Compactor	-15,000

The price is $ 613,977 for the unit plus $46,013 for 5 years of extended warranty coverage minus $ 15,000 trade allowance option for the 2007 BPMAG Compactor unit for a total of $644,990.

Fiscal Impact

The equipment is approved in the Adopted 2014-15 Master Lease Program.

Staff/Board Recommending

Scott Snider, Assistant City Manager

Attachments

Resolution & Purchase Order Contract - Associated Supply Company, Inc

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Purchase Order Number 31025337 for the Houston-Galveston Area Council Contract EM0615 for a landfill compactor and warranty, by and between the City of Lubbock and Associated Supply Company, Inc., of Lubbock, Texas, and related documents. Said Purchase Order is attached hereto and incorporated into this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on this ____ day of _____, 2015.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Scott Snider, Assistant City Manager

APPROVED AS TO FORM:

_____
Laura Pratt, Assistant City Attorney

RES.Associated Supply Company PO 10.28.15
10.28.15

City of Lubbock TEXAS

PURCHASE ORDER

Page - 1
Date - 10/26/2015
Order Number 31025337 000 OP
Branch/Plant 3626

TO:

ASSOCIATED SUPPLY COMPANY INC
2102 E SLATON ROAD
LUBBOCK Texas 79452

SHIP TO:

CITY OF LUBBOCK
FLEET SERVICES
204 MUNICIPAL DRIVE
LUBBOCK Texas 79404

INVOICE TO: CITY OF LUBBOCK
ACCOUNTS PAYABLE
P.O. BOX 2000
LUBBOCK, TX 79457

BY: _____
Maria Alvarez, Director of Purchasing & Contract Management

Ordered 10/26/2015 Freight

Requested 12/26/2015 Taken By S SUMMERS

Delivery D GAMBOA REQ #45581 HGAC CONTRACT EM0615

Description/Supplier Item	Ordered	Unit Cost	UM	Extension	Request Date
Landfill Compactor Spec 952-SW	1.000	613,977.0000	EA	613,977.00	12/26/2015
Warranty	1.000	46,013.0000	EA	46,013.00	12/26/2015
Trade In	1.000	(15,000.0000)	EA	(15,000.00)	12/26/2015

Total Order

Terms NET 30 644,990.00

This purchase order encumbers funds in the amount of $644,990.00 awarded Associated Supply Company, Inc. of Lubbock, TX on December 3, 2015. The following is incorporated into and made part of this purchase order by reference HGAC Contract EM0615 dated October 16, 2015 Associated Supply Company, Inc. of Lubbock, TX. Resolution #_____.

CITY OF LUBBOCK

_____
Glen C. Robertson, Mayor

ATTEST:

_____
Rebecca Garza, City Secretary

Quote

ASCO - ASSOCIATED SUPPLY CO., INC.
PO BOX 3888
2102 SLATON HWY
LUBBOCK, TX 79452
PH# 806-745-2000
FAX# 806-748-1268

Date: 10/16/2015
Invoice #:
Customer ID#:
Expiration Date: 12/16/2015

To: CITY OF LUBBOCK
LUBBOCK TX

TERMS:	QUOTED F.O.B.:
DUE ON DELIVERY	LUBBOCK TX LANDFILL

HGAC PURCHASE CONTRACT PRICING #EM0615

		Line Total
MODEL: NEW 2015 ADVANTAGE 500 LANDFILL COMPACTOR		$ 613,977.00
EPA TIER 3 CATERPILLAR ENGINE		
REAR VISION CAMERA SYSTEM		
JOYSTICK STEERING W/ CRUISE CONTROL		
A/C / HEATER / DEFROSTER		
ANSUL FIRE SUPPRESSION SYSTEM		
STD AUTO LUBE SYSTEM		
1 X 48 X 58 CONST SMOOTH DRUMWHEELS W/ CLEANER BAR SYSTEM		
CLEAT PATTERN M-TRAX 8" (112 T CLEATS)		
15' 3" STRAIGHT BLADE		
ALJON WHEEL WARRANTY - 8 YRS OR 20,000 HRS		
M-TRAX CLEAT WEAR LIFE GURANTEE - 4 YRS OR 10,000 HRS - NON PRO RATED		
WIRE WRAP DAMAGE WARRANTY - 5 YRS OR 10,000 HRS		
PLUS ALL OTHER STD FEATURES		
TOTAL COVERAGE EXTENDED WARRANTY OPTION = $46,013.00 ADDITIONAL		46,013.00
(INCLUDES CAT ENGINE & POWERTRAIN FOR 5 YRS OR 10,000 HRS)		
TRADE UNIT - BOMAG BC 772RB-2		(15,000.00)
		$ 644,990.00
	Total	$ **644,990.00**

QUOTATION EXPIRES IN 45 DAYS UNLESS OTHERWISE NOTED.
ALL EQUIPMENT IS SUBJECT TO PRIOR SALE & IS NOT GUARANTEED.
ALL PRICES, TERMS, & DELIVERY ARE SUBJECT TO MANAGEMENT APPROVAL.
A CANCELLATION CHARGE OF 20% OF THE TOTAL PURCHASE PRICE WILL BE ASSESSED & IS HEREBY AGREED TO BY THE CUSTOMER ON ALL CANCELLED ORDERS.

Plus any & all applicable taxes

ACCEPTED BY: _____

THANK YOU FOR YOUR BUSINESS!

KEVIN BURRELL - TERRITORY MANAGER / CELL# 806-224-9930 / EMAIL: KBURRELL@ASCOEQ.COM

DATED: 08/18/15

Specification Reviewed by: _____ 10/6/15
Department requesting vehicle/equipment: Solid Waste Disposal
Signature of Department Head/Date: _____
Fleet Services Manager/Date: _____

CITY OF LUBBOCK
MINIMUM SPECIFICATIONS
REQUEST FOR PROPOSAL FOR BUY BACK PROGRAM
FOR (1) ONE COMPACTOR
SPEC #: 952-SW

MAKE ALLISON MODEL ADVANTAGE 500 YEAR 2015

IT IS THE INTENT OF THIS SPECIFICATION, REFERENCED DOCUMENTS, REQUIREMENTS AND CONDITIONS SECTIONS TO DESCRIBE MINIMUM PERFORMANCE REQUIREMENTS. THE VEHICLE OR PRODUCT MEET OR EXCEED THE PERFORMANCE OR CONSTRUCTION DESCRIBED HEREIN. THE VENDOR SHALL BE REQUIRED TO MARK COMPLIANCE OR NON-COMPLIANCE TO EACH ITEM DESCRIPTION IN THE SPACE PROVIDED. ALL EQUIPMENT FURNISHED AS STANDARD TO THE GENERAL PUBLIC ON THE PRODUCT BY THE MANUFACTURER SHALL BE INCLUDED, EVEN WHEN NOT SPECIFICALLY IDENTIFIED IN THIS SPECIFICATION. ANY DEVIATIONS FROM THE WRITTEN SPECIFICATION WITH DATE AS SHOWN IN THE INVITATION TO BID (ITB) SHALL BE NOTED ON THE ATTACHED EXCEPTIONS TO THE SPECIFICATION. IN ORDER TO RECEIVE FULL CONSIDERATION, ITB RESPONSE QUOTATION MUST FOLLOW THIS SPECIFICATION AND THE INVITATION TO BID'S TERMS AND CONDITIONS.

VENDOR NAME: ASCO PHONE: 806-745-2000

NO.	ITEM	MINIMUM REQUIREMENTS	SELLER COMPLIANCE YES		NO
	GENERAL	THIS SPECIFICATION DESCRIBES FOUR WHEELED COMPACTOR WITH DOZER BLADE FOR USE IN A LANDFILL OPERATION THE COMPACTOR MINIMUM OPERATING WEIGHT SHALL BE NO LESS THAN 82,000 POUNDS.	YES		
	WEIGHT	THE COMPACTOR'S MINIMUM OPERATING WEIGHT WITHOUT BALLASTING SHALL BE NO LESS THAN 82,000 POUNDS.	YES		
	DIMENSIONS	OVERALL LENGTH 29FT 9INCHES; OVERALL WIDTH (AT WHEELS) 14FT 7INCHES; OVERALL HEIGHT AT ROPS 13FT 10INCHES; WHEELBASE 12FT; TURNING RADIUS (INSIDE) 10FT 6 INCHES; GROUND CLEARANCE 30 INCHES; ARTICULATION PLUS/MINUS 35 DEGREES; OSCILLATION PLUS/ MINUS 6 DEGREES.	YES		
	ENGINE	THE COMPACTOR ENGINE SHALL BE 15.2 LITER/475 GROSS HORSEPOWER. TIER 3/STAGE IIIA EMISSIONS REGULATIONS. DIRECT INJECTION FUEL SYSTEM WITH ADJUSTMENT-FREE INJECTION PUMPS AND VALVES. 1500 WATT ENGINE BLOCK HEATER. 24 VOLT DIRECT ELECTRIC STARTING WITH EITHER STARTING AID. DUAL, DRY-TYPE, TWO STAGE AIR CLEANER. PRESSURE LUBRICATION WITH FULL-FLOW FILTERED OIL AND HEAT EXCHANGE OIL COOLER. HYDRAULIC, AUTO-REVERSE COOLING FAN.	YES		
	FUEL TANK CAPACITY	175 GALLON LARGE CAPACITY FUEL TANK.	YES		
	BRAKES	ALL WHEEL HYDRODYNAMIC BRAKING. SPRING APPLIED HYDRAULIC RELEASE FAIL-SAFE PARKING/ EMERGENCY BRAKES ON FRONT WHEELS. THE BRAKE DESIGN SHALL BE DESIGNED TO PREVENT FOREIGN OBJECT FROM ENTERING THE BRAKING SYSTEM AND	YES		

		CREATING DAMAGE TO THE BRAKES.			
	FRAME	EXTRA HEAVY BOX BEAM WITH 1 ½ INCH FLANGES AND 1 INCH THICK WEBS. CENTER JOINTWITH 4 INCH THINCK REAR TANGS AND ONE 2 INCH AND THREE 1 ½ INCH THICK FRONT TANGS. SHALL BE EXTREME HEAVY BOX BEAM CONSTRUCTION. SHALL HAVE SEALED UNDERCARRIAGE, SHALL HAVE NO SERVICE POINTS LOCATED UNDER MACHINE, SHALL HAVE NO OPENING BELLY PAN. WITH A MINIMUM 30 INCH GROUND CLEARANCE AT CENTER JOINT.	YES		
	ELECTRICAL SYSTEM	24 VOLT ELECTRICAL SYSTEM WITH MASTER SWITCH. MAINTENANCE FREE HEAVY DUTY 925CCA BATTERIES WITH 95AMP ALTERNATOR.	YES		
	DRIVE	HYDROSTATIC DRIVE, WITH EACH WHEEL DRIVEN BY ITS OWN INDEPENDENCT SYSTEM, COSISTING OF PC-CONTROLLED VARIABLE DISPLACEMENT PUMP, MOTOR AND PLANETARY REDUCTION FINAL DRIVE.	YES		
	OIL FILTERS	OEM FULL FLOW MAXIMUM PROTECTION OIL FILTER.	YES		
	FUEL FILTERS	OEM FUEL FILTERS WITH MAXIMUM PROTECTION AND CAB MOUNTED WATER INDICATOR.	YES		
	COOLING	MAXIMUM COOLING SYSTEM WITH COOLING FANS. AUTOMATIC REVERSING FANS WITH AN OVERRIDE SWITCH.	YES		
	AIR CLEANER	DUAL ELEMENT DRY TYPE AIR CLEANER WITH RESTRICTION INDICATOR	YES		
	STARTING ASSIST	OEM COLD WEATHER STARTING ASSIST SYSTEM PROVIDING COLD STARTING AT -5 DEGREES FAHRENHEIT.	YES		
	COOLANT HEATER	THE UNIT SHALL BE PROVIDED WITH 110VAC COOLANT HEATER WITH CONNECTOR FOR A STANDARD 110VAC ELECTRICAL OUTLET.	YES		
	LUBRICATION	THE UNIT SHALL BE PROVIDED WITH AN AUTOMATIC LUBRICATION SYSTEM	YES		
	ENGINE GUARD	OEM FRAME DESIGN OR SEPARATE HINGED TYPE ENGINE CRANKCASE.	YES		
	TRANSMISSION	FULL POWER SHIFT HYDROSTATIC DESIGN PROVIDING NO LESS THAN FOUR (4) FORWARD AND (4) REVERSE SPEEDS. THE GEAR SELECTION SHALL BE SELECTABLE BETWEEN ZERO (0) AND FIVE (5) MILES PER HOUR IN BOTH FORWARD AND REVERSE DIRECTIONS.	YES		
	PROTECTION	THE COMPACTOR SHALL BE PROVIDED WITH TRANSMISSION GUARDS PROVIDING PROTECTION AGAINST LANDFILL DEBRIS MATERIALS.	YES		
	ROPS CAB	OEM FULLY ENCLOSED PRESSURIZED CAB, WITH OEM ROPS / FOPS PROTECTION AS REQUIRED BY FEDERAL LAWS EFFECT AS OF THE MACHINE DELIVERY, OEM TINTED GLASS IN ALL POSITIONS, OEM NOISE SUPPRESSION.	YES		
	SEATS	FULLY ADJUSTABLE AIR RIDE SEATS, WITH ARM REST	YES		

		AND CLOTH COVERING.			
	HEATING AND AIR CONDITIONING	OEM STANDARD WITH MULTI-SPEED FAN MOTORS	YES		
	CAB LIGHTING	LIGHTED INSTRUMENTAL PANEL AND OVERHEAD DOME LIGHT.	YES		
	MIRRORS	REAR VIEW MIRRORS ON BOTH THE LEFT AND RIGHT SIDE OF THE VEHICLE.	YES		
	LIGHTING	OEM LIGHTING SYSTEM TO INCLUDE: TWO (2) FRONT FACING FLOOD LIGHTS AND TWO (2) REAR FACING FLOOD LIGHTS. THE FLOOD AND STANDARD LIGHTING SHALL PROVIDE MAXIMUM ILLUMINATION OF THE WORK AREA AND ROAD WAYS BOTH ON AND OFF-ROAD DURING TRAVEL FROM ONE WORK SITE TO ANOTHER.	YES		
	HORN	OEM STANDARD HORN	YES		
	WINDSHIELD WIPERS	FRONT AND REAR POWERED WINDSHIELD WIPERS WITH WASHER SYSTEM.	YES		
	RADIO	AM/FM RADIO/ CD, MP3 PORT, BLUETOOTH CAPABLE, FOUR SPEAKER STEREO.	YES		
	POWER OUTLET	TWO SEPARATELY FUSED POWER OUTLET FOR ADDITIONAL WORK ACCESSORIES AS NEEDED.	YES		
	INSTRUMENT PANEL	OEM STANDARD INSTRUMENT PANEL AND GAUGE CLUSTER TO INCLUDE: LOW ENGINE OIL PRESSURE, HIGH COOLANT TEMPERATURE, AMP OR VOLT METER, RESTRICTED OR HIGH TRANSMISSION TEMPERATURE, RESTRICTED OR HIGH HYDRAULIC OIL TEMPERATURE, ENGINE HOUR METER, FUEL LEVEL INDICATOR AND HOUR METER.	YES		
	WHEELS	FOUR WHEEL DESIGN MINIMUM WHEEL WIDTH 48 INCHES. ALL WHEELS MUST BE THE SAME SIZE TO PERMIT FRONT TO REAR ROTATION. WHEEL CLEATS SHALL BE MINIMUM OF 8 INCHES IN HEIGHT, MINIMUM OF 28 CLEARS PER WHEEL. ALL WHEELS TO BE SELF-CLEANING WITH THE USE OF LEANER BARS. WEAR BARS PROVIDED TO PROTECT THE WHEEL CONES. <u>WHEEL WARRANTY REQUIRED.</u>	YES		
	RIMS	OEM STANDARD	YES		
	AXLE SEAL	INTEGRAL AXLE SEAL GUARDS NOT NEEDED ON ALUN			NO
	WEAR BARS	INSIDE WEAR BARS PROTECTING THE WHEEL CONES.	YES		
	WHEEL WARRANTY	THE WHEELS SHALL BE WARRANTED FOR A MINIMUM TWENTY-THOUSAND (20,000) HOURS AND NO LESS THAN NINETY-SIX MONTHS.	YES		
	STRIKER BARS BEHIND WHEELS ONLY	THE COMPACTOR SHALL BE EQUIPPED WITH STRIKER BARS LOCATED BEHIND THE FRONT WHEELS AND LOCATED IN FRONT AND BEHIND THE REAR WHEELS.			NO
	STEERING	OEM POWER ASSISTED ARTICULATED STEERING WITH THE STEERING ABILITY TO TURN 35 DEGREES IN ANY DIRECTION.	YES		
	AXLE	MANUFACTURER FULL HYDRO-STATIC POSITIVE ALL-	YES		

		WHEEL DRIVE.			
	BLADE	HYDRAULIC OPERATED STRAIGHT FACED LANDFILL BLADE WITH A WIDTH OF 184 MINIMUM INCHES. THE BLADE SHALL INCLUDE A LANDFILL SEE THROUGH TOP RACK WITH TO REACH A COMBINE HEIGHT OF NOT LESS THE SIX (6) FEET.	YES		
	COOLING SYSTEM	OEM STANDARD THAT IS TRASH RESISTANT. THE COOLING SYSTEM DESIGN SHALL INCLUDE ALTERNATE ROUTES FOR ADEQUATE AIRFLOW AND BE EASILY ACCESSIBLE BY THE OPERATOR FOR MAINTENANCE AND SERVICING AS NEEDED. THE RADIATOR SCREEN SHALL PROVIDE MAXIMUM PROTECTION FROM LANDFILL DEBRIS. THE COOLING FAN SHALL BE OF THE AUTOMATIC REVERSING DESIGN WITH AN OVERRIDE SWITCH.	YES		
	FIRE PROTECTION SYSTEM	THE COMPACTOR SHALL BE PROVIDED WITH A MEANS FOR FIRE FIGHTING. TH FIRE PROTECTION SYSTEM SHALL BE OF A DESIGN THAT IS COMMONLY USED ON LANDFILL COMPACTORS AND PROVIDE AUDIBLE WARNING ALARM SYSTEM AND WARNING LIGHT SYSTEM FOR THE OPERATOR'S PROTECTION. THE AUDIBLE ALARM SHALL BE ABLE TO BE HEARD ABOVE AND BEYOND THE ENGINE NOISE. THE FIRE FIGHTING SYSTEM SHALL BE MOUNTED IN SUCH A WAY THAT WILL NOT HINDER THE OPERATOR'S VIEW OR CREATE AN UNCOMFORTABLE ENVIRONMENT FOR THE OPERATOR.	YES		
	ENGINE COMPARTMENT	THE ENGINE COMPARTMENT SHALL BE ENCLOSED OR SEALED TO PREVENT TRASH ENTRY.	YES		
	EXHAUST	VERTICAL ENDING EXHAUST PIPES SHALL HAVE CURVED TIPS OR RAIN CAPS TO PREVENT WATER ENTERING THE SYSTEM.	YES		
	WIRING/LINES	ALL WIRING AND LINES LEADING FROM DIFFERENT COMPONENTS ON THE COMPACTOR SHALL BE SECURED TO PREVENT ABRASIVE WEAR DAMAGE TO THE ELECTRICAL OR HYDRAULIC SYSTEM.	YES		
	BACKUP ALARM	COMPACTOR SHALL BE EQUIPPED WITH AN AUDIBLE BACK UP ALARM THAT COMES ON AUTOMATICALLY WHEN THE VEHICLE SHIFTS INTO REVERSE.	YES		
	TOW HOOKS	THE COMPACTOR SHALL BE EQUIPPED WITH EASILY ACCESSIBLE TOW HOOKS LOCATED IN BOTH THE FRONT AND REAR OF THE UNIT.	YES		
	DELIVERY OF THE UNIT	THE UNIT SHALL BE DELIVERED TO THE CITY'S LANDFILL SITE COMPLETE AND READY TO BE PLACED INTO SERVICE. THE UNIT SHALL COME FUELED WITH A MINIMUM ONE QUARTER (1/4) TANK OF FUEL.	YES		
	TRAINING	THE VENDOR SHALL WITHIN SEVEN (7) WORKING DAYS OF DELIVERY AND THE CITY'S ACCEPTANCE OF THE DOZER, PROVIDE OPERATOR TRAINING. THE TRAINING SHALL CONSIST OF ONE EIGHT (8) HOUR DAY OF OPERATION AND MAINTENANCE TRAINING. THE VENDOR SHALL WITHIN SIX (6) DAYS AFTER DELIVERY	YES		

		OF THE COMPACTOR PROVIDE REFRESHER TRAINING AND EVALUATION OF THE COMPACTOR'S PERFORMANCE.	YES		
	SERVICE	SERVICE NEEDS TO BE PROVIDED WITHIN 24 HOURS OF NOTIFICATION. LOCAL SERVICE TECHNICIANS ARE REQUIRED ALONG WITH AVAILABILITY OF PARTS LOCALLY OR OVERNIGHT. FORMAL OPERATOR TRAINING IS REQUIRED.	YES		
.	WARRANTY	THE WARRANTY COVERAGE SHOULD PROVIDE THE MAXIMUM HOURS AND TIME AVAILABLE FROM THE MANUFACTURER. PROVIDE ADDITIONAL WARRANTY OPTIONS BASED ON YEARS OF SERVICE AND OPERATING HOURS. THE COVERAGE SHALL INCLUDE IN WRITING THE COMPONENTS THAT ARE AND ARE NOT INCLUDED IN THE WARRANTY AND SHALL INCLUDE THE POWER TRAIN. ZERO DEDUCTIBLE	YES		
	REFERENCES	REFERENCES FROM LANDFILLS IN TEXAS THAT HAVE BEEN USING THE PROPOSED COMPACTOR FOR A MINIMUM OF THREE YEARS. REFERENCES FOR LOCAL SERVICE PROVIDER THAT IS SERVICING MANUFACTURER'S LANDFILL EQUIPMENT LOCATED IN TEXAS FOR A MINIMUM OF THREE YEARS.	YES		

		OPTIONS	
1.	EXTENDED WARRANTY TOTAL COVERAGE WARRANTY	EXTENDED WARRANTY SHALL BE NO LESS THE AN ADDITIONAL 5,000 HOURS AND FIVE YEAR COVERAGE. EXTENDED WARRANTY MUST BE OEM. ZERO DEDUCTIBLE. 5 YRS OR 10,000 HRS	$ 46,013.00 XX
2.	GUARANTEED BUY BACK	VENDOR SHALL PROVIDE OPTION TO BUYBACK AFTER: SEE ALSON BUYBACK CONDITIONS SHEET AGREEMENT	
		ONE YEAR	$ 269,500.00 XX
		EXTENDED WARRANTY NO LESS THAN _____HOURS AND _____YEAR COVERAGE. EXTENDED WARRANTY MUST BE OEM. ZERO DEDUCTIBLE	$ N/A
		TWO YEAR	$ 181,300.00 XX
		EXTENDED WARRANTY NO LESS THAN _____HOURS AND _____YEAR COVERAGE. EXTENDED WARRANTY MUST BE OEM. ZERO DEDUCTIBLE	$ N/A
		THREE YEAR	$ 147,000.00 XX
		EXTENDED WARRANTY NO LESS THAN _____HOURS AND _____YEAR COVERAGE. EXTENDED WARRANTY MUST BE OEM. ZERO DEDUCTIBLE	$ N/A
		FOUR YEAR	$ 100,000.00 XX
		EXTENDED WARRANTY NO LESS THAN _____HOURS AND _____YEAR COVERAGE. EXTENDED WARRANTY MUST BE OEM. ZERO DEDUCTIBLE	$ N/A
		FIVE YEAR	$ 93,000.00 XX

		EXTENDED WARRANTY NO LESS THAN _____HOURS AND _____YEAR COVERAGE. EXTENDED WARRANTY MUST BE OEM. ZERO DEDUCTIBLE	$ N/A
	TRADE IN ALLOWANCE	PROVIDE A TRADE ALLOWANCE FOR CITY OWNED 2007 BOMAG BC 772RB-2. CURRENT OPERATING HOURS ARE 12,703. THE MACHINE IS CURRETNLY OPERATING AND WILL BE MAKE AVAILABLE FOR INSPECTION IF REQUESTED.	$ 15,000.00

PROVIDE BUILD DATES
MSO AND PAPERWORK VEHICLE WILL NOT BE ACCEPTED BY THE CITY OF LUBBOCK WITHOUT THE MSO, ALL KEYS, AND ALL PAPERWORK
GENERAL REQUIREMENT AND INFORMATION
BIDDER SHALL SUBMIT WITH EACH BID, CURRENT PRINTED LITERATURE AND SPECIFICATION SHEETS ON THE UNIT OFFERED IN THE RESPONSE TO SOLICITATION
EXCEPTIONS TO THE SPECIFICATIONS
EXCEPTIONS TO THE SPECIFICATIONS OF ANY ITEMS STATED HEREIN SHALL BE FULLY DESCRIBED IN WRITING BY THE CONTRACTOR IN THE SPACE PROVIDED.

Regular City Council Meeting **5. 18.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - Information Technology: Consider a resolution authorizing the Mayor to execute purchase order contract 33000678 with Dell Marketing LP for the purchase of a Disk Backup and Deduplication Appliance for the Data Center.

Item Summary

The purchase of the Disk Backup and Deduplication Appliance is necessary to replace the aging backup server at the Data Center. The appliance will improve the City's backup and recovery process by reducing the amount of data that needs to be stored, with its advanced deduplication and compression technology.

The purchase is being made through the City of Lubbock Master Lease program - Servers.

The purchase of the Backup and Deduplication Appliance is a replacement for the aging backup server at the Data Center and is made available through the State of Texas Department of Information Resources (DIR) Contract DIR-SDD-1951. Texas Local Government Code Chapter 271.083 authorizes local governments to acquire hardware, software, and other Information Technology products through the DIR program. Pursuant to the Texas Government Code Chapter 791.025, purchases from DIR contracts meet competitive bid requirements.

Fiscal Impact

The purchase price of $161,457 for the appliance to replace the aging backup server is being made through two funding sources. The City of Lubbock Master Lease program will fund $95,711 and the balance of the purchase of $65,746 will be made with budgeted funds in Information Technology's Systems Maintenance account.

Staff/Board Recommending

Mark Yearwood, Assistant City Manager

Attachments

Resolution & Purchase Order Contract - Dell Marketing, L.P.

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock for the State of Texas Department of Information Resources, Purchase Order No. **33000678**, in the amount of $161,456.83, for a **Disk Backup and Deduplication Appliance** and related hardware and software, by and between the City of Lubbock and Dell Marketing LP of Round Rock, Texas, and related documents, pursuant to State of Texas Department of Information Resources Contract No. DIR-SDD-1951. Said Purchase Order is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Mark Yearwood, Assistant City Manager

APPROVED AS TO FORM:

_____
John C. Grace, Assistant City Attorney

S:\cityatt\CCDOCS\RES PO33000678_Dell_Computers_Backup_Appliance 2015.doc

City of Lubbock TEXAS

PURCHASE ORDER

Page - 1
Date - 11/17/2015
Order Number 33000678 000 OP
Branch/Plant 330

TO:

DELL MARKETING LP
RR 8 BOX 8706 ONE DELL WAY
ROUND ROCK Texas 78682

SHIP TO:

CITY OF LUBBOCK
INFORMATION TECHNOLOGY
C/O DAVID MCGAUGHEY
1611 10TH STREET
LUBBOCK Texas 79401

INVOICE TO: CITY OF LUBBOCK
ACCOUNTS PAYABLE
P.O. BOX 2000
LUBBOCK, TX 79457

BY: _____
Marta Alvarez, Director of Purchasing & Contract Management

Ordered 11/13/2015 Freight

Requested 12/17/2015 Taken By S SUMMERS

Delivery Per J Zhine / Req # 46614 Quote #718575263/ DIR-SDD-1951

Description/Supplier Item	Ordered	Unit Cost	UM	Extension	Request Date
Group 1	1.000	43,236.9000	EA	43,236.90	12/17/2015
DR6000 MotherBoard #210-ACEC					
ProSupportPlus MissionCritical	1.000		EA		12/17/2015
3Yr #966-9427					
Group 2	1.000	52,473.9300	EA	52,473.93	12/17/2015
ExpansionShelf for DR6000					
Group 3	1.000	65,746.0000	EA	65,746.00	12/17/2015
DSG NetVault #210-ACIB					
NVI-BAK-PB-247-3Yr, NV BkUpCap	1.000		EA		12/17/2015
Edn/Managed TB Lic #634-BBZD					

Total Order

Terms NET 30 161,456.83

City of Lubbock TEXAS

PURCHASE ORDER

Page - 1
Date - 11/17/2015
Order Number 33000678 000 OP
Branch/Plant 330

TO:

DELL MARKETING LP
RR 8 BOX 8706 ONE DELL WAY
ROUND ROCK Texas 78682

SHIP TO:

CITY OF LUBBOCK
INFORMATION TECHNOLOGY
C/O DAVID MCGAUGHEY
1611 10TH STREET
LUBBOCK Texas 79401

INVOICE TO: CITY OF LUBBOCK
ACCOUNTS PAYABLE
P.O. BOX 2000
LUBBOCK, TX 79457

BY: _____
Maria Alonzo, Director of Purchasing & Contract Management

Ordered	11/13/2015	Freight	
Requested	12/17/2015	Taken By	S SUMMERS
Delivery Per J Zhine / Req # 46614		Quote #718575263/ DIR-SDD-1951	

This purchase order encumbers funds in the amount of $161,456.83 awarded to Dell Marketing LP of Round Rock, TX on December 3, 2015. The following is incorporated into and made part of this purchase order by reference contract DIR-SDD-1951 dated November 9, 2015 Dell Marketing LP of Round Rock, TX. Resolution #_____.

CITY OF LUBBOCK

_____
Glen C. Robertson, Mayor

ATTEST:

_____
Rebecca Garza, City Secretary



QUOTATION

Quote #:	**718575263**
Customer #:	**001784159**
Contract #:	**42AFU**
CustomerAgreement #:	**DIR-SDD-1951**
Quote Date:	**11/09/2015**
Date: 11/09/2015 **Customer Name:**	**CITY OF LUBBOCK**

Thanks for choosing Dell! Your quote is detailed below; please review the quote for product and informational accuracy. If you find errors or desire certain changes please contact your sales professional as soon as possible.

Sales Professional Information

SALES REP:	JAMES SMITH	**PHONE:**	1800 - 4563355
Email Address:	J_C_SMITH@DELL.COM	**Phone Ext:**	7032304730

GROUP: 1 QUANTITY: 1 SYSTEM PRICE: $43,236.90 GROUP TOTAL: $43,236.90

Base Unit	DR6000 36TB (210-ACEC)	1
	DR TPM Motherboard (329-BBHT)	1
	DR6000 Ship DAO (340-AGYP)	1
	DR6000 Base Components (384-BBCN)	1
	2 x 300GB SAS 12Gbps 10k 2.5" Hard Drive Hot Plug (400-ABLY)	1
	12 x 4TB 7.2K NL SAS 3.5 HDDs (400-ABVC)	1
	PERC H810 RAID Adapter for External JBOD, 1Gb NV Cache (405-AABK)	1
	Redundant PowerSupply 1100W - LTON (450-AAZB)	1
	Thank you for choosing Dell ProSupport Plus. For tech support, visit http://www.dell.com/contactdell (951-2015)	1
	ProSupport Plus: Mission Critical 4-Hour 7x24 On-Site Service with Emergency Dispatch, 2 Year Extended (966-9427)	1
	ProSupport Plus: Mission Critical 4-Hour 7x24 On-Site Service with Emergency Dispatch, Initial Year (966-9430)	1
	ProSupport Plus: 7x24 HW/SW Tech Support and Assistance, 3 Year (966-9439)	1
	Dell Hardware Limited Warranty Initial Year (966-9478)	1
	Dell Hardware Limited Warranty Extended Year(s) (966-9479)	1
	Remote Implementation of a Dell DR Series Appliance (939-8118)	1
	Installation of a Dell Server, Storage or Peripheral Device, EqualLogic MWT (992-2529)	1
	Dell Software Non-Returnable Product (800-BBKI)	1
	Intel X520 DP 10Gb DA/SFP+ Server Adapter, Low Profile (406-BBCR)	1
	iDRAC7 Enterprise (421-5339)	1
	Intel Ethernet i350 QP 1Gb Network Daughter Card (540-BBCB)	1
	Bezel (350-BBBV)	1
	ReadyRails Sliding Rails With Cable Management Arm (770-BBBR)	1
	NEMA 5-15P to C13 Wall Plug, 125 Volt, 15 AMP, 10 Feet (3m), Power Cord, North America (450-AALV)	2
	C13 to C14, PDU Style, 10 AMP, 6.5 Feet (2m), Power Cord (450-AADY)	2

GROUP: 2 QUANTITY: 1 SYSTEM PRICE: $52,473.93 GROUP TOTAL: $52,473.93

Base Unit	54TB Expansion Shelf for DR (DR6000) (210-AEGG)	1
	Documentation and Shipping for 2U Arrays (340-ABWK)	1
	Thank you for choosing Dell ProSupport Plus. For tech support, visit http://www.dell.com/contactdell (951-2015)	1
	Dell Hardware Limited Warranty Initial Year (974-8251)	1
	Dell Hardware Limited Warranty Extended Year(s) (974-8252)	1

	ProSupport Plus: 7x24 HW/SW Tech Support and Assistance, 3 Year (974-8259)	1
	ProSupport Plus: Mission Critical 4-Hour 7x24 On-Site Service with Emergency Dispatch, Initial Year (974-8260)	1
	ProSupport Plus: Mission Critical 4-Hour 7x24 On-Site Service with Emergency Dispatch, 2 Year Extended (974-8261)	1
	Remote Implementation of a Dell PowerVault MD1xxx Subsystem (to schedule, email US_Remote_Services@dell.com) (983-7217)	1
	Installation of a Dell Server, Storage or Peripheral Device, PV Storage MWT (992-2509)	1
	Dell Software Non-Returnable Product (800-BBKI)	1
	MD1200 Bezel (350-BBDL)	1
	2 Encl Mgmt Modules, SAS Only (440-BBCE)	1
	12 x 6TB 7.2K RPM NL SAS 6GBps 3.5in HotPlug Hard Drives (400-AGVP)	1
	ReadyRails II Static Rails for 4-post Racks (770-BBCL)	1
	Power Supply, AC 600W, Redundant (450-ABLJ)	1
	C13 to C14, PDU Style, 10 AMP, 6.5 Feet (2m), Power Cord (450-AADY)	1
	C13 to C14, PDU Style, 10 AMP, 6.5 Feet (2m), Power Cord (450-AADY)	1
	5-15P to C13, 10 amp, 6 feet wall plug Power Cord (450-ABLK)	1
	5-15P to C13, 10 amp, 6 feet wall plug Power Cord (450-ABLK)	1
	6Gb Mini to Mini SAS Cable, 1M (470-AAQT)	1
	6Gb Mini to Mini SAS Cable, 1M (470-AAQT)	1
	DR Expansion License 54TB (634-BCYK)	1

GROUP: 3 QUANTITY: 1 SYSTEM PRICE: $65,746.00 GROUP TOTAL: $65,746.00

Base Unit	DSG NetVault (210-ACIB)	1
	Thank you for Your Order (929-3709)	1
	Thank you for Your Order (935-6720)	1
	Dell Software Non-Returnable Product (800-BBKI)	1
	NVI-BAK-PB-247-3YR, NV BACKUP CAPACITY EDITION PER MANAGED TB (100TB PK)LICENSE/3YR 24X7 MAINT (634-BBZD)	1

***Total Purchase Price:**	**$161,456.83**
Product Subtotal:	$161,456.83
Tax:	$0.00
Shipping & Handling:	$0.00
State Environmental Fee:	$0.00
Shipping Method:	LTL 5 DAY OR LESS

(Amount denoted in $)*

Statement of Conditions

The information in this document is believed to be accurate. However, Dell assumes no responsibility for inaccuracies, errors or omissions, and shall not be liable for direct, indirect, special, incidental, or consequential damages resulting from any such error or omission. Dell is not responsible for pricing or other errors, and reserves the right to cancel orders arising from such errors.

Dell may make changes to this proposal including changes or updates to the products and services described, including pricing, without notice or obligation.

This proposal is not intended to create a contractual relationship. Unless expressly agreed otherwise in a writing signed by the parties, all orders by CITY OF LUBBOCK for Dell products and services shall be subject to Dell's Terms and Conditions of Sale-Direct, which can be found at www.dell.com/terms, and which incorporate Dell's U.S. Return Policy, at www.dell.com/returnpolicy#total . Please read those terms carefully and in their entirety, and note in particular that Dell EqualLogic and EqualLogic-branded products, Dell|EMC and EMC-branded products, PowerVault ML6000 tape libraries, non-Dell-branded enterprise products, enterprise software, and customized hardware or software products may not be returned at any time. Orders also shall be subject to the terms of any applicable service contract(s), which can be found at www.dell.com/servicecontracts.

All information supplied to CITY OF LUBBOCK for the purpose of this proposal is to be considered confidential information belonging to Dell.

About Dell

Dell Inc. (NASDAQ: DELL) listens to customers and delivers innovative technology and services they trust and value. Uniquely enabled by its direct business model, Dell is a leading global systems and services company and No. 34 on the Fortune 500. For more information, visit www.dell.com.

Privacy Policy

Regular City Council Meeting **5. 19.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - GIS and Data Services: Consider a resolution authorizing the Mayor to execute Contract 12643 for an Enterprise License Agreement (ELA) with Environmental Systems Research Institute (ESRI) for Geographic Information Systems (GIS) software and services.

Item Summary

In December 2012, the City of Lubbock contracted with the Environmental Services Research Institute (ESRI) for Geographic Information Systems (GIS) software and services. ESRI is the industry standard software that provides spatial information for a variety of third party software used by the city, including the EnerGov permit and licensing system.

This is a new contract that continues the city's successful relationship with ESRI. It is an Enterprise License Agreement (ELA), which is a bundled package for licensing software, technical services, web services, and maintenance. This contract will give city departments unlimited access to a wide variety of ESRI Software, plus technical services and training.

The new contract uncaps the number of licenses for almost every piece of software covered under the current contract, and adds additional seats of Data Interoperability (FME) and new software including ESRI Developer Network (EDN) and Portal for ArcGIS. The number of Technical Advisory hours is increased to 100 for every year of the contract, and the Learning and Service credits, which include configuration and implementation assistance and training, are increased to 200 per year.

ESRI is the owner and manufacturer of their GIS software, and is the sole source of all U.S. domestic ELA's. Therefore this is a sole source procurement, exempt from competitive bidding persuant to Texas Local Government Code Chapter 252.022 (a)(7)(A).

Fiscal Impact

The annual cost of this three year ELA will be funded from the Information Technology operating budget. The annual cost is $375,000, for a total cost of $1,125,000.

Staff/Board Recommending

Mark Yearwood, Assistant City Manager

Attachments

Resolution & Contract - Environmental Systems Research Institute

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute on behalf of the City of Lubbock an Enterprise Agreement with Environmental Systems Research Institute, Inc. (ESRI) for the licensing and deployment of certain ESRI software, delivery of EA Maintenance and provisions of the ESRI User Conference registrations and any additional services specified in the Enterprise Agreement. The Enterprise Agreement is attached hereto and incorporated in this Resolution as if fully set forth herein and shall be included in the minutes of the Council.

Passed by the City Council this _____ day of _____, 2015.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Mark Yearwood, Assistant City Manager
And Chief Information Officer

APPROVED AS TO FORM:

_____
John C. Grace, Assistant City Attorney

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Esri, 380 New York St., Redlands, CA 92373-8100 USA • TEL 909-793-2853 • FAX 909-793-5953

Agreement No. 2015ELA3977

This Enterprise Agreement, including the documents listed below (collectively, "Agreement" or "EA"), is between **City of Lubbock, TX ("City")**, with its main offices located at 1625 13th Street, Lubbock, TX 79401 and **Environmental Systems Research Institute, Inc. ("Esri")**, with an effective date as December 17, 2015 ("Effective Date"). This Agreement provides for the licensing and Deployment of certain Esri Software, delivery of EA Maintenance, and provision of Esri User Conference registrations and any additional services as specified herein.

This Agreement is composed of the following documents, which are incorporated herein by reference:

1. Enterprise Agreement signature page(s), E512G
2. Enterprise License Terms and Conditions, E512G, including
   - Appendix A—Products and Deployment Schedule
   - Appendix B—EA Fee Schedule
   - Appendix C—City Annual Deployment Report
   - Appendix D—EA Points of Contact
   - Appendix E—Tier 1 Help Desk Authorized Individuals
3. License Agreement, 2012MLA7699, comprised of the
   - General License Terms and Conditions, E204
   - Esri Exhibit 1, Scope of Use, E300
4. Esri Enterprise Advantage Program (EEAP) Enterprise Agreement (EA) Addendum (E125-EA) 2015EAP3977
5. Exhibit A: Insurance

Note: Licensee is defined on first page of item 2 above.

The parties acknowledge that they have read and understand this Agreement and agree to be bound by the terms and conditions contained herein.

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This Agreement constitutes the sole and entire agreement of the parties as to the subject matter set forth herein and supersedes any previous agreements, proposals, presentations, understandings, and arrangements between the parties relating to such subject matter. Any modifications or amendments to this Agreement must be in writing and signed by an authorized representative of each party.

ACCEPTED AND AGREED:

CITY OF LUBBOCK, TX
(City)

By: _____
GLEN C. ROBERTSON, Mayor

DATE: _____
REBECCA GARZA, City Secretary

ATTEST: _____

APPROVED AS TO CONTENT:

_____
MARK YEARWOOD, Assistant City Manager / CIO

APPROVED AS TO FORM:

_____
JOHN C. GRACE, Assistant City Attorney

ENVIRONMENTAL SYSTEMS
RESEARCH INSTITUTE, INC.
(Esri)

By: _____
Authorized Signature

Printed Name: Chris Johnson

Title: Manager, Commercial & Government Contracts

Date: November 12, 2015

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ENTERPRISE LICENSE TERMS AND CONDITIONS

ARTICLE 1—DEFINITIONS

All definitions in other parts of the EA will have the same meaning in this Enterprise License Terms and Conditions. In addition, the following definitions apply to the EA:

- "Deploy," "Deployment," or "Deployed" means to redistribute, or the redistribution of, the EA Products (and their related keycodes/registration files), or their having been redistributed, by City during the term of this EA for installation and use by Licensee.
- "EA Fee(s)" means the fee set forth in Appendix B—EA Fee Schedule.
- "EA Maintenance" means Tier 2 Support, updates, and patches provided by Esri for EA Products and Rolled-In Software.
- "EA Products" means the Products identified in Tables A-1 and A-2 of Appendix A—Products and Deployment Schedule. EA Products do not include Unit-Priced Item(s) or Esri technology that may be embedded in third-party products purchased by Licensee.
- "Effective Date" means the date the Agreement commences and the start date for all licenses, regardless of when an Ordering Document is provided by Licensee.
- "Incident(s)" means a failure of Products to operate according to the Documentation where such failure substantially impacts operational or functional performance.
- "License Agreement" means the applicable license agreement incorporated by this reference that is (i) found at http://www.esri.com/legal/software-license, composed of the General License Terms and Conditions (E204) and Exhibit 1—Scope of Use (E300) and available in the installation process requiring acceptance by electronic acknowledgment or (ii) a signed license agreement between Esri and Licensee that supersedes such electronically acknowledged license agreement.
- "Licensee" means City, its agencies and departments, including Lubbock Metropolitan Planning Organization and Lubbock Power and Light. For avoidance of doubt, the definition of Licensee will not include consultants or contractors. Licensees must not include persons or entities ineligible to receive or have access to Esri products or services by operation of law, including US export control laws, decrees, orders, rules, regulations, policies, riders, conditions, or provisos.
- "Rolled-In Software" means Products of the same type as EA Products that Licensee acquired for use prior to the Effective Date, that are current on paid maintenance (as shown in Esri's customer service records), and that receive EA Maintenance during the term of the EA.
- "Technical Support" means a process to attempt to resolve reported Incidents through error correction, patches, hot fixes, and workarounds; replacement deliveries; or any other type of Product corrections or modifications specified in the most current applicable Esri US Software Maintenance Program.
- "Tier 1 Help Desk" means City's point of contact from which all Tier 1 Support will be given to Licensee.
- "Tier 1 Support" means the Technical Support provided by the Tier 1 Help Desk as the primary contact to Licensee in the attempted resolution of reported Incidents.
- "Tier 2 Support" means the Technical Support provided by Esri to the Tier 1 Help Desk when an Incident cannot be resolved through Tier 1 Support.
- "Unit-Priced Item(s)" means separately orderable Products or maintenance that is available subject to a per-unit license fee, subscription fee, or maintenance fee.

ARTICLE 2—GRANT OF LICENSE

2.1 Grant of License. Licensee's use of the EA Products is subject to the License Agreement and any additional terms set forth in this Article 2 and in Article 3 below. Unit-Priced Items, if acquired, and Rolled-In Software will be licensed in accordance with the License Agreement.

2.2 Beta License. Beta licenses are not available under this EA as EA Products. If a beta license is requested and provided, it will be licensed separately and individually under the terms of the License Agreement (see Beta License in Section 3.2 of the General License Terms and Conditions—E204) only. No other benefits, grants, or rights provided in this EA shall apply or be provided/granted.

2.3 Consultant Access. Esri grants Licensee the right to permit Licensee's consultants or contractors to use the EA Products exclusively for Licensee's benefit. Licensee shall be solely responsible for compliance by consultants and contractors with this License Agreement and shall ensure that the consultant or contractor discontinues use of EA Products upon completion of work for Licensee. Access to or use of EA Products by consultants or contractors not exclusively for Licensee's benefit is prohibited. Licensee may not permit its consultants or contractors to install Software or Data on consultant, contractor, or third-party computers or remove Software or Data from Customer locations except for the purpose of hosting the Software or Data on Contractor Servers for the benefit of Licensee. Consultant or contractors must not include persons or entities ineligible to receive or have access to Esri products or services by operation of law, including US export control laws, decrees, orders, rules, regulations, policies, riders, conditions, or provisos.

2.4 City Responsibility. City shall remain primarily responsible to Esri for compliance by Licensees (including their users) with the terms and conditions of this EA.

ARTICLE 3—SCOPE OF USE

The Permitted Uses and Uses Not Permitted sections of the General License Terms and Conditions portion of the License Agreement are modified to include the additional term in Sections 3.1 and 3.2 below:

3.1 Additional Permitted Uses. For the term of the EA, City may copy and Deploy the EA Products to Licensees up to the quantities of licenses granted in Appendix A. No other Licensee has a right to copy (except as permitted in the License Agreement) or Deploy the EA Products.

3.2 Uses Not Permitted

a. City shall not transfer, redistribute, or Deploy the EA Products outside the United States or its territories or possessions without the prior written permission of Esri and agreement on additional fees, if any.
b. Licensee shall not use the EA Products outside the United States or its territories or possessions without the prior written permission of Esri and agreement on additional fees, if any. Any such export will be subject to US Export Control Regulation requirements of the License Agreement.
c. Licensee shall not transfer, redistribute, or assign EA Products to any third party without the prior written permission of Esri.

3.3 Additional Restrictions Applicable to EA and License Agreement. A new or additional eligible agency may not be added as an EA participant or Licensee without the express prior written approval of Esri. Addition of an eligible agency may result in an increase in the EA Fee.

ARTICLE 4—MAINTENANCE

4.1 EA Maintenance. EA Maintenance is included in the EA Fee. Rolled-In Software and EA Products will receive EA Maintenance, provided that standard maintenance is available for each item. EA Maintenance includes benefits specified in the most current applicable Esri US Software Maintenance Program document (found at www.esri.com/legal) as modified by this Section 4.1.

a. Tier 1 Support Provided by City

(1) The Tier 1 Help Desk will provide Tier 1 Support to all Licensees.
(2) The Tier 1 Help Desk will use analysts fully trained in the Products they are supporting.
(3) At a minimum, Tier 1 Support will include those activities that assist the user in resolving how-to and operational questions as well as questions on installation and troubleshooting procedures.
(4) Tier 1 Support analysts will be the initial points of contact for all questions and Incidents. Tier 1 Support analysts shall obtain a full description of each reported Incident and the system configuration from Licensee. This may include obtaining any customizations, code samples, or data involved in the Incident. The analyst may also use any other information and databases that may be developed to satisfactorily resolve Incidents.
(5) If the Tier 1 Help Desk cannot resolve an Incident, an authorized Tier 1 Help Desk individual may contact Esri for Tier 2 Support. The Tier 1 Help Desk shall provide support in such a way as to minimize repeat calls and make solutions available to Licensee.

(6) City may assign named Tier 1 Help Desk individuals up to the quantity listed in Appendix B. These individuals will be identified in Appendix E and will be the only individuals (callers) authorized to contact Esri directly for Tier 2 Support.

b. Tier 2 Support Provided by Esri

(1) Esri shall log the calls received from Tier 1 Help Desk individuals.
(2) Esri shall review all information collected by and received from Tier 1 Help Desk individuals including preliminary documented troubleshooting provided by the Tier 1 Help Desk when Tier 2 Support is required.
(3) Esri may request that Tier 1 Help Desk individuals provide verification of information, additional information, or answers to additional questions to supplement any preliminary information gathering or troubleshooting performed by Tier 1 Help Desk.
(4) Esri shall attempt to resolve Incident submitted by Tier 1 Help Desk by assisting the Tier 1 Help Desk individuals and not Licensee.
(5) When an Incident is resolved, Esri shall communicate the information to the Tier 1 Help Desk individuals, and the Tier 1 Help Desk shall disseminate the resolution to Licensee.
(6) Esri may, at its sole discretion, make patches, hot fixes, or updates available for downloading from Esri's website or, if requested, deliver them on media.

ARTICLE 5—ORDERING, ADMINISTRATIVE PROCEDURES, DELIVERY, AND DEPLOYMENT REPORT

5.1 Purchase Orders, Delivery, and Deployment

i. Esri does not require City to issue purchase orders and will invoice City upon Effective Date of the EA and subsequently on each contract anniversary date during the EA Term. City may submit purchase orders in accordance with its own process requirements. If City issues purchase orders, then City will submit its initial purchase order upon execution of this EA and any subsequent purchase order at least 30 days before the anniversary date. Invoices will be due and payable within thirty (30) days of invoice.
ii. Any purchase orders issued by City will reference, incorporate, and be subject to the terms and conditions of this EA. No additional, conflicting, or different terms contained in a purchase order or ordering document will be binding. All orders and deliveries pertaining to this EA will be processed through City's centralized point of contact.
iii. The following information will be included in each purchase order:

(1) Esri customer number, the ship-to address, and bill-to address as identified in Appendix D
(2) Purchase order number
(3) Applicable annual payment due and name of Licensee
(4) On the face of the purchase order, the following printed statement: "Governed by and subject to Enterprise Agreement No. 2015ELA3977."

iv. Esri will provide Authorization Codes to activate the nondestructive copy protection program that enables City to download, operate, or allow access to the EA Products listed in Appendix A.
v. Delivery of updates/new versions of EA Products will be made in the same manner. If requested by City, Esri will deliver a limited number of sets of backup media as provided in Appendix B to the ship-to address identified in Appendix D—EA Points of Contact, FOB destination with shipping charges prepaid. City may purchase additional backup media sets at the prices in effect at the time of purchase. Delivery or receipt of tangible media could cause prior and future license fees to be subject to taxes. City acknowledges that Esri has a right to invoice for and City agrees to pay any such sales or use tax associated with receipt of tangible media.
vi. City shall track the Deployment status of EA Products.

5.2 Annual Report of Deployments. At each anniversary date and ninety (90) days prior to the expiration date of this EA, City shall provide a written report, as set forth in Appendix C, to Esri detailing all Deployments made, including preexisting and Rolled-In Software. The report will be subject to audit by an authorized representative of Esri.

5.3 Esri User Conference Registration. Esri shall provide Esri User Conference registrations to City annually during the term of this EA in the quantities set forth in Appendix B. City is responsible for distributing the registrations to Licensees. Third parties may not represent or attend on behalf of City at any Esri User Conference.

ARTICLE 6—POINTS OF CONTACT; NOTICES

6.1 Points of Contact. In Appendix D, each party shall identify points of contact for administrative and technical issues.

6.2 Legal Notices. Except as otherwise set forth in this EA, any notice, report, demand, or other communication will be made in writing in English; sent by courier, registered or certified airmail, or facsimile or other electronic transmission; and confirmed when sent by courier or by registered or certified airmail, properly addressed to the appropriate party at the address set forth below, until changed by notice in writing by either party hereto. If sent by courier or airmail, notice will be effective upon the earlier of confirmed receipt or seven (7) days from the date of deposit with the courier service or post office. If sent by electronic transmission, notice will be effective one (1) business day from the date of transmission, provided confirmation of receipt is made. Notices will be given at the following addresses:

To: Esri
380 New York Street
Redlands, CA 92373-8100
Attn.: Manager, Contracts and Legal
Fax: 909-307-3020
E-mail: legalnotices@esri.com

To: City
as listed in Appendix D

ARTICLE 7—TERM, TERMINATION, AND EXPIRATION

7.1 Term. The term of the EA will commence on the Effective Date and be for the period listed in Appendix B unless this EA is terminated earlier as provided herein.

7.2 Termination for a Material Breach. Esri may terminate this EA for a material breach by Licensee. Licensee will be given a period of thirty (30) days from date of written notice to cure any material breach. Upon termination of this EA by Esri for a material breach by Licensee, all licenses Deployed will also terminate, and the full amount of unpaid EA Fees will be due and payable by City within thirty (30) days from the date of termination. Licensees shall uninstall, remove, and destroy all EA Products; training materials; and any whole or partial copies, modifications, or merged portions in any form. City shall deliver evidence of such destruction to Esri (e.g., certification letter). Licensee may continue to use Rolled-In Software, provided Licensee complies with the terms and conditions of the License Agreement. Further, Esri agrees that Licensee is not required to pay a maintenance reinstatement fee for lapsed maintenance for Rolled-In Software if Licensee orders maintenance at time of EA termination. Other items that may be included in this EA—such as EAP, Esri Virtual Campus annual user license, access codes, Virtual Campus dollar credits, and Esri User Conference registrations—will also terminate if this EA is terminated.

7.3 Reserved

7.4 License Term and Use upon Expiration of EA Term. Upon full payment of EA Fee and expiration of this EA, the License Agreement will survive, and Licensee may continue to use the Deployed EA Products and Rolled-In Software in accordance with the terms and conditions set forth in the License Agreement. Licensee shall notify Esri of the quantity and type of licenses for which Licensee elects to purchase standard maintenance. If maintenance is not ordered for Rolled-In Software or EA Products upon expiration of the EA, it lapses. If, at a later date, Licensee decides to reinstate maintenance, Licensee must pay maintenance reinstatement fees from the date of EA expiration (i.e., back maintenance fees). City shall not Deploy additional copies of the EA Products beyond the quantities in use upon termination or as of the date of expiration.

ARTICLE 8—CONFIDENTIALITY

8.1 Esri Confidential Information. Certain terms and conditions of this EA are confidential and proprietary information of Esri. Except as provided herein, City shall not publish or disclose the EA (or contents) to any third party without Esri's prior written consent. Disclosure may be made only to those City employees, contractors, or consultants of City (e.g., outside counsel or accountants) who have a need to know to perform their duties or work on behalf of City, and have an obligation of confidentiality. No other portions of the EA may be disclosed to a contractor or consultant. To the extent that any such disclosures may be required by law (such as an open/public records request), City shall inform Esri of the requested

disclosure, with a reasonable description of the requested disclosure and identification of the requester, in sufficient time for Esri to assert any objection Esri may have to such disclosure with the appropriate administrative or judicial body.

ARTICLE 9—RELATIONSHIP OF THE PARTIES

The EA does not constitute a partnership, joint venture, or agency between Esri and City. Neither Esri nor City will hold itself out as such, nor shall Esri or City be bound or become liable because of any representation, action, or omission of the other.

ARTICLE 10—FORCE MAJEURE

If the performance of any obligation under this EA is prevented, restricted, or interfered with by reason of fire, flood, earthquake, explosion, or other casualty or accident; strikes or labor disputes; inability to procure or obtain delivery of parts, supplies, or power; war; threat of or actual terrorist act, cyber attack, or other violence; any law, order, proclamation, regulation, ordinance, demand, or requirement of any government agency; or any act or condition whatsoever beyond the reasonable control of the affected party, the party so affected, upon giving prompt notice to the other party, will be provided a temporary extension for a period of time as may be reasonably necessary to allow for such delay, prevention, interference, or restriction.

ARTICLE 11—GIS STANDARD

City shall officially name Esri as its GIS standard and act as a reference for other Esri customers and potential customers as long as the EA remains in effect. This EA will not be construed or interpreted as an exclusive dealings agreement, and City reserves the right to purchase from third parties any of their requirements for GIS software or related services.

City agrees that Esri may publicize the existence of the EA.

ARTICLE 12—ADMINISTRATIVE REQUIREMENTS

12.1 Esri Partner Original Equipment Manufacturer (OEM) Bundled or Embedded Items/Services. Certain Esri partners are authorized to either embed limited portions of Esri technology or bundle Esri products or services with the partner's application or service under Esri's OEM or Solution OEM programs. Partner pricing and product bundling is independent of this EA, and each partner markets under its own business model and pricing. Licensee shall not be entitled to or seek any discount from the OEM partner or Esri, directly or indirectly, as a result of or based on the availability of such Products as EA Products under this EA. Licensee shall not be entitled to or seek to decouple Esri's technology or products/services from the partner's bundle or solution. In addition, such Products or any component thereof included in the OEM software program or product, will be licensed through the license agreement provided by the OEM partner and not through this EA.

12.2 EA Products—Limited Quantity or unit-priced items. Esri reserves the right to exclude new Products from uncapped Deployment. New Products may contain or be developed with (i) newly acquired technology obtained through a significant investment or (ii) third-party intellectual property that requires a unit-based royalty fee or prohibits Deployment under a site or enterprise license. Such items can be made available to City on a limited-quantity basis or as unit-priced items.

12.3 Obsolescence. During the term of this Agreement, some of the items listed in Appendix A may become obsolete, will no longer be commercially offered, or may no longer be available for Deployment. Licensee may continue to use EA Products that have been Deployed, but support and upgrades for older items may not be available. EA Maintenance and maintenance and availability of EA Products identified in Appendix A will be subject to each item's Product Life Cycle Support Status, which can be found at http://support.esri.com/en/content/productlifecycles by selecting the product type and clicking the Product Life Cycle link for specific product plans. Esri's Product Life Cycle Support Policy, available at http://help.arcgis.com/en/shared/product-life-cycle/ProductLifeCycle.pdf, covers the support phases and overall support plans.

ARTICLE 13—GENERAL PROVISIONS

13.1 The General Provisions and Limitations of Liability of the License Agreement will apply to the entire EA. If there is a conflict among any of the other terms and conditions in the various documents, the order of descending precedence will be as

follows: (1) Signature Page, (2) E512G Enterprise License Terms and Conditions, (3) E300 Scope of Use, and (4) E204 General License Terms and Conditions. In the event this EA includes the Esri Enterprise Advantage Program, the terms and conditions of the Enterprise Advantage Program Addendum will take precedence over the provision of the EA with respect to the Enterprise Advantage Program. Except as otherwise expressly provided herein, any amendment or Addendum to this EA must be in writing and signed by an authorized representative of each party.

13.2 Survival of Certain EA Clauses. The provisions of Section 7.4 and Article 8 of this Enterprise License Terms and Conditions document (E512G) will survive the expiration or termination of this EA.

APPENDIX A
PRODUCTS AND DEPLOYMENT SCHEDULE

City may Deploy the EA Products up to the total quantity of licenses indicated below to Licensees during the term of this EA.

Table A-1
EA Products—Uncapped Quantities

Product	Total Qty. to Be Deployed
ArcGIS for Desktop: ArcGIS for Desktop Advanced, Standard, and Basic (single and concurrent use)	Uncapped
ArcGIS for Desktop extensions: ArcGIS 3D Analyst, ArcGIS Data Reviewer, ArcGIS Geostatistical Analyst, ArcGIS Network Analyst, ArcGIS Schematics, ArcGIS Spatial Analyst, and ArcGIS Workflow Manager (single and concurrent use)	Uncapped
ArcGIS for Server: ArcGIS for Server Enterprise and Workgroup (Advanced, Standard, and Basic)	Uncapped
ArcGIS for Server extensions: ArcGIS 3D Analyst, ArcGIS Geostatistical Analyst, ArcGIS Image Extension for Server, ArcGIS Network Analyst, ArcGIS Schematics, ArcGIS Spatial Analyst, GeoEvent Server and ArcGIS Workflow Manager	Uncapped
ArcGIS Engine	Uncapped
ArcGIS Engine extensions: ArcGIS 3D Analyst, ArcGIS Engine Geodatabase Update, ArcGIS Network Analyst, ArcGIS Schematics, and ArcGIS Spatial Analyst (single and concurrent use)	Uncapped
ArcGIS Runtime	Uncapped
ArcGIS Runtime extensions: ArcGIS 3D Analyst, ArcGIS Network Analyst, and ArcGIS Spatial Analyst (single use)	Uncapped

Table A-2
EA Products—Capped Quantities

Item	Rolled-In Qty. (if applicable)	Qty./Seats to Be Deployed	Total
Esri Developer Network (EDN)	-	3	3
Data Interoperability for Desktop Concurrent	2	2	4
Esri City Engine Advanced Single Use	1	-	1

Table A-3
ArcGIS Online Subscription

Product	Number of Subscriptions	Named Users per Subscription	Annual Credits per Subscription
ArcGIS Online Level 7 Subscription	1	Unlimited	37,500
Portal for ArcGIS	1	100	-

APPENDIX B
EA FEE SCHEDULE

The EA Fee will be $1,125,000.00. The EA Fee is in consideration of the EA Products, EA Maintenance, Esri International User Conference registrations, and the Esri Enterprise Advantage Program (EEAP).

	Year 1 (12/17/2015-12/16/2016)	Year 2 (12/17/2016-12/16/2017)	Year 3 (12/17/2017-12/16/2018)	Total ELA Renewal Fee
Payments	***$375,000***	***$375,000***	***$375,000***	***$1,125,000***
Esri Enterprise Advantage Program	***Included***	***Included***	***Included***	-

Number of Esri International User Conference Registrations per Year	**7**
Number of Tier 1 Help Desk Individuals	**6**
Number of Sets of Backup Media, if Requested	**5**
Term of ELA pursuant to Section 7.1	**3 Years through 12/16/2018**
Support Incidents for EDN	**One 10-Pack/Year**
Esri Enterprise Advantage Program (EEAP)	• **100 Technical Advisory hours per year** • **200 Learning and Services credits per year to be used at any time during the Term of the EA.*** • **1-day planning session (Annual)** • **Technology webcasts (Quarterly)**

APPENDIX C
CITY ANNUAL DEPLOYMENT REPORT

SAMPLE REPORT—This report will be provided to Esri annually as an Excel spreadsheet or in a comparable format.

Esri Annual EA License Deployment Report				
Customer Name				
Customer Number				
Date				
Prepared by				
PRODUCT		Count	PRODUCT	Count
Desktop—Concurrent Use (CU)			ArcGIS for Server	
Desktop—Single Use (SU)			ArcGIS for Server Extensions	
Desktop Extensions			Other	

APPENDIX D
EA POINTS OF CONTACT

Either party may change its point of contact by written notice to the other party.

1. Esri point of contact for order processing issues:

   Name: Customer Service
   Esri
   380 New York Street
   Redlands, CA 92373-8100
   E-mail: service@esri.com
   Phone: 888-377-4575
   Fax: 909-307-3083

2. Esri contact for Tier 2 Support issues:

   E-mail: support@esri.com
   Phone: 909-793-3774 (within the United States only)
   Fax: 909-792-0960
   Web: support@esri.com

3. City centralized point of contact for order release and administrative issues:

   Name: Sally Still Abbe
   E-mail: sabbe@mylubbock.us
   Phone: 806-775-2106
   Fax: none

4. All invoices to City will be mailed to the address listed below (unless otherwise stated on the purchase order):

   City Office: Information Technology
   Name: c/o Jay Zhine
   Address: PO Box 2000
   Lubbock, TX 79457

5. All deliverables to City will be shipped to the address listed below:

   City Office: Same as # 4
   Name:
   Address:

6. All notices to City will be mailed to the address listed below:

   City Office: Same as #4
   Name:
   Address:

APPENDIX E
TIER 1 HELP DESK AUTHORIZED INDIVIDUALS

Below are named Tier 1 Help Desk individuals authorized to seek Tier 2 Support from Esri. Substitutes/Changes to Tier 1 Help Desk authorized individuals may be made by written notice to Esri.

1. Name: Jerrid Sanders
   Address: PO Box 2000
   Lubbock, TX 79457
   Phone: 806-775-2396
   Fax: n/a
   E-mail: jsanders@mylubbock.us

2. Name: Cory Medlock
   Address: PO Box 2000
   Lubbock, TX 79457
   Phone: 806-775-2104
   Fax: n/a
   E-mail: cmedlock@mylubbock.us

3. Name: Susan Nagihara
   Address: PO Box 2000
   Lubbock, TX 79457
   Phone: 806-775-3163
   Fax: n/a
   E-mail: snagihara@mylubbock.us

4. Name: David McGaughey
   Address: PO Box 2000
   Lubbock, TX 79457
   Phone: 806-775-2372
   Fax: n/a
   E-mail: dmcgaughey@mylubbock.us

5. Name: Kevin Randolph
   Address: PO Box 2000
   Lubbock, TX 79457
   Phone: 806-775-2571
   Fax: 806-775-3574
   E-mail: krandolph@mail.ci.lubbock.tx.us

6. Name: Cody Kruger
   Address: PO Box 2000
   Lubbock, TX 79457
   Phone: 806-775-2542
   Fax: 806-775-3574
   E-mail: ckruger@mail.ci.lubbock.tx.us

ESRI ENTERPRISE ADVANTAGE PROGRAM (EEAP)
ENTERPRISE AGREEMENT (EA)
ADDENDUM (E125-EA)

Esri, 380 New York St., Redlands, CA 92373-8100 USA • TEL 909-793-2853 • FAX 909-793-5953

EEAP Agreement No. 2015EAP3977

This Esri Enterprise Advantage Program (EEAP) Enterprise Agreement (EA) Addendum adds terms and conditions to the EA with respect to the Esri Enterprise Advantage Program.

Esri offers the Esri Enterprise Advantage Program to Licensees that are current on Esri software maintenance and implementing or have implemented a geographic information system (GIS) enterprise solution based on Esri technology. Licensee agrees to contract with Esri for and Esri agrees to provide Licensee with certain enhanced consulting services, training, Premium Support Services (PSS), and Managed Services available under the Esri Enterprise Advantage Program for the authorized Licensee location as described herein. The Esri Enterprise Advantage Program is not designed for Esri to provide project-specific professional services such as custom application or database development for solutions or applications. If these types of professional services are required, Licensee will need to enter into an agreement for use of Esri Professional Services.

This EEAP EA Addendum supersedes any previous agreements or understandings related to the Esri Enterprise Advantage Program. All other terms and conditions of the EA and any preceding addenda will remain in full force and effect.

ARTICLE 1—DEFINITIONS

Capitalized terms that have not been defined in this EEAP EA Addendum shall have the meaning found in the applicable Esri License Agreement.

1.1 "Activity Description" means the confirmation email or document received from Licensee that describes the number of Learning and Services Credits Esri estimates is required to perform an activity and authorizes Esri to begin work based on such estimate.

1.2 "Authorized EEAP Contact" means the Licensee point of contact identified on the final page of this EEAP EA Addendum.

1.3 "End User" means any third party or entity that accesses or uses any Licensee Content via Licensee Website.

1.4 "Esri Mobile Lab" means Esri hardware, shipped to domestic US Licensee site training events if Licensee does not have the required hardware to host a scheduled training event, consisting of laptops preconfigured with Esri Software, Training Materials, hard drives, power cords, and network switches.

1.5 "Hosting" means the business of housing and making accessible Licensee Content via the Internet.

1.6 "Licensee Authorized Contact(s)" or "LAC" means up to two (2) individuals selected by Licensee to report Premium Support Reports and work directly with Esri's Technical Account Manager ("TAM") regarding all such reports. A Licensee that has purchased unlimited PSS may designate additional LAC upon payment of additional fees.

1.7 "Licensee Content" means items including, but not limited to, custom software applications owned or licensed by Licensee, photos, journal text, geospatial data, nongeospatial data, user interfaces, graphics components, and icons, plus any personally identifiable information, supplied by or on behalf of Licensee.

1.8 "Licensee Website" means Licensee Content viewed through a user interface and made available via the Internet under the domain name reserved for the website.

1.9 "Managed Services" means Hosting and the provision of the Managed Services Environment, enhanced by the provision of related services (such as system monitoring and support associated with providing Licensee access to the Managed Services Environment), required to make Licensee Content available to Licensee or Licensee's End Users.

1.10 "Managed Services Environment" means the hardware, Software, Data, Online Services, and network that Esri or its third-party suppliers/partners make available as the underlying environment for Hosting the Licensee Content.

1.11 "Premium Support Report(s)" means a communication via telephone or email by Licensee to Support Services regarding technical problems with Software, Data, or Documentation.

1.12 "Protected Information" means any information, whether in written or digital format, that incorporates content from a protected category, including, but not limited to, personally identifiable information, Customer Proprietary Network Information (CPNI), Protected Health Information (as it is defined by the Health Insurance Portability and Accountability Act of 1996 [HIPAA]), Unclassified Controlled Technical Information (as it is defined by DFARS Section 204.73), and data controlled by the International Traffic and Arms Regulations (ITAR) classified as other than EAR99, all of which may require a greater degree of control, monitoring, and security than is typically established for Esri's Managed Services offering.

1.13 "PSS" means Premium Support Services, which is a prioritized incident management and technical support program as further described at http://support.esri.com/en/support/premium.

1.14 "Renewal Period" means any one (1)-year extension of this EEAP EA Addendum.

1.15 "Secure Formats" means object code, executable code, or similar formats.

1.16 "Student(s)" means a registered participant for a specific training course, Licensee coaching services, or training-related services.

1.17 "Technical Account Manager" (TAM) means a designated support resource who acts as the primary point of contact to Licensee for the purpose of coordinating Premium Support Reports through Esri's support processes.

1.18 "Term" means the initial term of this EEAP EA Addendum as described in Section 7.1.

1.19 "Training Materials" means digital or print content required to complete a course, which may include, but is not limited to, workbooks, data, concepts, exercises, and exams.

1.20 "Work Product" means reports, documented analysis, sample code, prototype/unsupported code, or technical memorandums provided as a result of the consulting services performed under this EEAP EA Addendum.

ARTICLE 2—ESRI ENTERPRISE ADVANTAGE PROGRAM

2.1 Esri Enterprise Advantage Program Description. The Esri Enterprise Advantage Program is a menu of consulting services, training, PSS, and Managed Services that provides Licensee with the flexibility to select components that best meet its needs. The Esri Enterprise Advantage Program includes the following components as further described at www.esri.com/services/eeap/components, which may be changed from time to time.

a. *Technical Advisor.* Licensee will receive up to the number of Technical Advisor hours ordered. Licensee may elect to retain additional Technical Advisor hours for a supplemental price.
b. *Annual Account Planning Session.* A one (1)-day annual account planning and review meeting.
c. *Technical Work Plan.* A collaboratively developed document designed to drive the program's implementation through definition of Licensee's GIS vision, goals, and objectives.
d. *Learning and Services Credits.* Licensee will receive the number of Learning and Services Credits ordered. Licensee may use the credits toward any combination of consulting services support, training, PSS, or related travel expenses. Licensee may order, for an additional price, additional Learning and Services Credits. Learning and Services Credits may be exchanged as described at the following website: http://www.esri.com/services/eeap/components#learning. Esri will provide the Authorized EEAP Contact with a monthly report outlining usage of Esri Enterprise Advantage Program Learning and Services Credits to date.
e. *Quarterly Technology Webcast.* Esri will provide an email invitation to the Authorized EEAP Contact for a quarterly webcast presenting business and technical information related to enterprise GIS.

2.2 Learning and Services Credit Use

2.2.1 Current on Maintenance. Licensee must remain current on standard maintenance during the Term of this EEAP EA Addendum. Standard maintenance is described at http://www.esri.com/legal, which may be changed from time to time.

2.2.2 Authorization of Credit Use. Licensee will contact its Account Manager or Technical Advisor to consume Learning and Services Credits for a particular request. Esri will submit to Licensee a Learning and Services Credit estimate by email for confirmation and authorization to use the credits. This confirmation email or document is hereafter referred to as an Activity Description. The total credits quoted in the Activity Description will be drawn from the unused Learning and Services Credits available, in a single transaction, upon Esri's receipt of approval via email from the Authorized EEAP Contact.

2.2.3 Travel and Per Diem. Any Esri travel and per diem will be quoted separately. Licensee may direct Esri to use credits for travel and per diem, as stated in Esri Enterprise Advantage Program Description, Section 2.1 above, or Licensee will issue a purchase order and Esri will invoice Licensee for the travel and per diem expenses as described below in Article 6.

2.2.4 Notification of Consumed Credits. Esri will notify Licensee in the event that the authorized Learning and Services Credits are consumed prior to completion of the requested work. Licensee may elect to direct use of additional credits, if available; procure additional Learning and Services Credits; or notify Esri to stop work on such requested work. Esri reserves the right to discontinue work when the authorized credits are consumed.

2.2.5 Review of Proposed Activities. Any activities proposed to be completed under the Esri Enterprise Advantage Program will be subject to review and approval by Esri to ensure alignment with the intent of the program.

2.3 Defense or Military Application. At the time the Learning and Services Credits are requested or before any services are provided by the Technical Advisor, Licensee will inform Esri if any of the requested services, consulting, training, or support provided by Esri is directly related to a defense article or for a military application.

ARTICLE 3—OWNERSHIP; LICENSE GRANT

3.1 For Training

3.1.1 Software. The terms of the Esri License Agreement shall be applicable to all Licensee course participants and for all of Esri's Software, Data, Online Services, and Documentation used by Student during any training event. Esri may issue temporary Software licenses when there is an insufficient number of Software licenses available at Licensee's training facility. Upon conclusion of the training event, Licensee shall uninstall the temporary Software licenses and return to Esri any media provided.

3.1.2 Training Materials. This EEAP EA Addendum gives Student certain limited rights to use electronic and tangible versions of the Training Materials. Esri and its licensor(s) retain exclusive rights, title, and ownership to the copy of Training Materials licensed under this Agreement. Training Materials are protected by United States copyright laws and applicable international copyright treaties and/or conventions. All rights not specifically granted in this EEAP EA Addendum are reserved to Esri and its licensor(s). Esri grants to Student a personal, nonexclusive, nontransferable license to use Training Materials for Student's own training purposes. Student may run and install one (1) copy of Training Materials and reproduce one (1) copy of Training Materials. Student may make one (1) additional copy of the original Training Materials for archive purposes only, unless Esri grants in writing the right to make additional copies.

3.1.3 Prohibited Uses. Training Materials are intended solely for the use of the training of the individual Student who registered and attended a specific training course. Student may not

a. Separate the component parts of the Training Materials for use on multiple systems or in the cloud, use in conjunction with any other software package, and/or merge and compile into a separate database(s) or documents for other analytical uses;
b. Make any attempt to circumvent the technological measure(s) (e.g., software or hardware key) that effectively controls access to Training Materials;
c. Remove or obscure any copyright, trademark, and/or proprietary rights notices of Esri or its licensor(s); or

d. Use audio and/or video recording equipment during a training course.

3.1.4 Licensee-Supplied Training Data. Licensee will retain ownership of any Licensee-supplied data.

3.2 For Work Product

3.2.1 Ownership. Except as specifically granted in this EEAP EA Addendum, Esri or its licensors own and retain all right, title, and interest in the Work Product.

3.2.2 License Grant. Esri hereby grants to Licensee a nonexclusive, royalty-free license in the Work Product to use in connection with Licensee's authorized use of the Software and Data for support of which the Work Product was supplied.

3.2.3 Patents and Inventions. Each party shall retain title to any inventions, innovations, and improvements ("Inventions") made or conceived solely by its principals, employees, consultants, or independent contractors (hereinafter called "Inventors") during the term of this EEAP EA Addendum. The parties shall jointly own any Invention(s) made or conceived jointly by Inventors from both parties. With respect to such Inventions of Licensee relating to the Esri Software, Licensee hereby grants and agrees to grant to Esri an irrevocable, royalty-free, nonexclusive, worldwide right and license, with right to sublicense, use, make, sell, offer to sell, or import such Inventions for any purpose, whether or not patented in the country of such past or intended use. Except as provided below, where an Invention is jointly owned, each party shall share equally the costs of acquiring protection for the Invention and furnish the other joint owner with assistance reasonably required for acquiring protection. Neither party may license, transfer, sell, or otherwise alienate or encumber its interest in jointly owned Inventions without the written consent of the other party, which is hereby given to Esri for Inventions relating to the Esri Software and shall otherwise not be unreasonably withheld by either party.

3.3 For PSS. The terms and conditions of the License Agreement for the affected Software will govern any updates, patches, hot fixes, or software provided pursuant to Esri's performance of the PSS ordered under this EEAP EA Addendum.

3.4 For Managed Services. Esri or its affiliates shall retain at all times the right, title, and interest in the Managed Services Environment.

3.5 Licensee Content

3.5.1 Ownership. All Licensee Content submitted by Licensee to Esri under this EEAP EA Addendum shall at all times remain the intellectual property of Licensee or its licensor(s). Rights maintained in intellectual property by Licensee or its licensor(s) shall mean any and all now known or hereafter known

a. Rights associated with works of authorship throughout the universe, including, but not limited to, copyrights, moral rights, and mask works;
b. Trademark and trade name rights and similar rights;
c. Trade secret rights;
d. Patents, designs, algorithms, and other industrial property rights;
e. Other intellectual and industrial property rights of every kind and nature throughout the universe and however designated (including logos, "rental" rights, and rights to remuneration), whether arising by operation of law, contract, license, or otherwise; and
f. Registrations, initial applications, renewals, extensions, continuations, divisions, or reissues hereof now or hereafter in force (including any rights in any of the foregoing).

Esri shall have no rights to such Licensee Content other than the limited right to use such content for the purposes expressly set forth in Subsections 3.5.2 and 11.9 of this EEAP EA Addendum.

3.5.2 License to Licensee Content. During the term of the Activity Description, Licensee hereby grants to Esri and its affiliates permission to use Licensee Content to support the provision of Managed Services. Such permission shall include, but not be limited to, the grant of rights and license to manipulate, publish, distribute, and implement Licensee Content within the Managed Services Environment in any reasonable manner needed to support the provision of Managed Services.

ARTICLE 4—WARRANTIES AND DISCLAIMERS

4.1 Warranties

4.1.1 Esri will perform its obligation under this EEAP EA Addendum in a professional and workmanlike manner.

4.1.2 Esri warrants for a period of ninety (90) days after delivery of the services that the services will conform to professional and technical standards of the software industry.

4.1.3 During the term of the Managed Services as described in the Activity Description, Esri warrants that the Managed Services will conform to the scope, descriptions, and assumptions for Managed Services set forth at http://www.esri.com/services/emcs/packages. Licensee's exclusive remedy and Esri's entire liability for breach of the limited warranty set forth in this article shall be limited, at Esri's sole discretion, to

a. Providing a correction or a workaround for the Managed Services, or
b. Returning the Managed Services fees paid for up to three (3) months prior to Licensee's invocation of the limited warranty, provided Licensee ceases to use the Managed Services.

4.1.4 Esri warrants that the media upon which Training Materials is provided will be free from defects in materials and workmanship under normal use and service for a period of ninety (90) days from the date of receipt. Licensee's exclusive remedy and Esri's entire liability for breach of the limited warranties set forth in this Article 4.1.4 shall be limited, at Esri's sole discretion, to

a. Replacement of any defective Training Materials;
b. Repair, correction, or a workaround for Training Materials; or
c. Return of the fees paid by Licensee for Training Materials that do not meet Esri's limited warranty, provided that Licensee uninstalls, removes, and destroys all copies of the Training Materials and executes and delivers evidence of such actions to Esri.

4.1.5 Licensee warrants that Licensee Content will not

a. Infringe or misappropriate any third-party intellectual property rights or proprietary rights;
b. Violate any third party's privacy rights or any applicable law; or
c. Contain or transmit to a third party any software viruses; worms; time bombs; Trojan horses; or any other computer code, files, or programs designed to interrupt, destroy, or limit the functionality of any computer software, hardware, or telecommunications equipment.

Except as prohibited by applicable law, Licensee agrees to defend, indemnify, and hold Esri harmless from and against any claim, action, liability, or demand arising out of a breach of the foregoing warranties.

4.2 Data Disclaimer. Data may contain nonconformities, defects, errors, or omissions. Licensee should verify data accuracy before use. ALL DATA THAT ESRI PROVIDES IS "AS IS" WITHOUT WARRANTY OF ANY KIND.

4.3 General Disclaimer. EXCEPT FOR THE ABOVE EXPRESS LIMITED WARRANTIES, ESRI DISCLAIMS ALL OTHER WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SYSTEM INTEGRATION, AND NONINFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS. ESRI DOES NOT WARRANT AND DISCLAIMS THAT THE ESRI ENTERPRISE ADVANTAGE PROGRAM OR ANY WORK PRODUCT PROVIDED HEREUNDER WILL MEET LICENSEE'S NEEDS; THAT LICENSEE'S OPERATION OF THE SAME WILL BE UNINTERRUPTED, ERROR FREE, FAULT TOLERANT, OR FAIL-SAFE; OR THAT ALL NONCONFORMITIES CAN OR WILL BE CORRECTED. WORK PRODUCT IS NOT DESIGNED, MANUFACTURED, OR INTENDED FOR USE IN ENVIRONMENTS OR APPLICATIONS THAT MAY LEAD TO DEATH, PERSONAL INJURY, OR PHYSICAL PROPERTY/ENVIRONMENTAL DAMAGE. ANY SUCH USE SHALL BE AT LICENSEE'S OWN RISK AND COST.

4.4 Internet Disclaimer. LICENSEE EXPRESSLY ACKNOWLEDGES AND AGREES THAT THE INTERNET (INCLUDING, WITHOUT LIMITATION, THE WEB) IS A NETWORK OF PRIVATE AND PUBLIC NETWORKS, AND THAT

a. THE INTERNET IS NOT A SECURE INFRASTRUCTURE;
b. ESRI HAS NO CONTROL OVER THE INTERNET; AND
c. ESRI IS NOT LIABLE FOR DAMAGES UNDER ANY THEORY OF LAW RELATED TO THE DISCONTINUANCE OF OPERATION OF ANY PORTION OF THE INTERNET OR POSSIBLE REGULATION OF THE INTERNET THAT MIGHT RESTRICT OR PROHIBIT THE OPERATION OF THE LICENSEE WEBSITE.

ARTICLE 5—LIMITATION OF LIABILITY

5.1 Disclaimer of Certain Types of Liability. ESRI IS NOT LIABLE TO LICENSEE FOR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; LOST PROFITS, LOST SALES, OR BUSINESS EXPENDITURES; INVESTMENTS; BUSINESS COMMITMENTS; LOSS OF ANY GOODWILL; OR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS EEAP EA ADDENDUM OR USE OF THE WORK PRODUCT, HOWEVER CAUSED ON ANY THEORY OF LIABILITY, WHETHER OR NOT ESRI HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

5.2 General Limitation of Liability. ESRI'S TOTAL CUMULATIVE LIABILITY HEREUNDER FOR DIRECT DAMAGES SHALL IN NO EVENT EXCEED THE AMOUNT ACTUALLY PAID BY LICENSEE FOR THE ESRI ENTERPRISE ADVANTAGE PROGRAM.

5.3 Applicability of Disclaimers and Limitations. The parties agree that Esri has set its prices and entered into this EEAP EA Addendum in reliance on the disclaimers and limitations set forth herein, that the same reflect an allocation of risk between the parties, and that the same form an essential basis of the bargain between the parties. THESE LIMITATIONS APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

ARTICLE 6—COMPENSATION

6.1 The fees for the initial term of this EEAP EA Addendum are included in the EA Fees. Fees for additional Learning and Services Credits or Technical Advisor Services will be invoiced upon receipt of Licensee's order. Licensee shall pay Esri within thirty (30) calendar days of receipt of invoice.

6.2 Pricing for annual program renewals and new or additional Esri service offerings will be in accordance with Esri's most current price schedule at the time of purchase or renewal.

6.3 For Esri travel-related expenses, Licensee may elect to do one of the following: (1) use Learning and Services Credits to pay for Esri travel-related expenses including Esri's standard handling fee or (2) request a separate invoice for Esri's travel-related expenses including Esri's standard handling fee. Esri will invoice for all meals (excluding incidental expenses) on a per diem basis in accordance with the per diem rates specified on the government General Services Administration (GSA) website at http://gsa.gov/.

ARTICLE 7—TERM AND TERMINATION

7.1 Initial Term; Renewals. The Term of this EEAP EA Addendum shall run concurrent with the term of the EA. Prior to the end of the Term, Esri may provide Licensee with a quotation for a Renewal Period. If Licensee accepts the quote, the following terms will apply:

a. Esri will submit an invoice to Licensee for the quoted annual Esri Enterprise Advantage Program price and Licensee will pay in accordance with Section 6.1 of this EEAP EA Addendum;
b. This EEAP EA Addendum will automatically be extended for the Renewal Period; and
c. The Learning and Services Credits remaining at the end of the initial Term or any subsequent Renewal Period will remain valid for use for a period not to exceed two (2) years following the initial purchase date.

7.2 Termination for Convenience. Licensee may terminate this EEAP EA Addendum without cause upon delivery of thirty (30) days' prior written notice or may simply choose not to renew the EEAP EA Addendum.

7.3 Termination for Cause by Licensee. Licensee may terminate this EEAP EA Addendum for Esri's material breach of its obligations under this EEAP EA Addendum upon thirty (30) days' prior written notice to Esri providing Esri the opportunity to cure. If termination is due solely to Esri's failure to perform a material term of this EEAP EA Addendum, Esri will refund a prorated share of amounts paid to Esri equal to the credits not used by Licensee.

7.4 Termination for Cause by Esri. Esri may terminate this EEAP EA Addendum for Licensee's material breach of its obligations under this EEAP EA Addendum upon thirty (30) days' prior written notice to Licensee providing Licensee the opportunity to cure. In such event, Esri is not obligated to refund any amounts paid for credits not used.

7.5 Survival. Upon termination or expiration of this EEAP EA Addendum

a. The Technical Advisor, Annual Account Review, and Activity Description services will end as of the expiration or termination date;
b. Unless either party terminates this EEAP EA Addendum for cause, Licensee may apply any unused Learning and Services Credits toward any consulting services support, training, premium support, or related travel expenses that are scheduled as of the termination or expiration date, provided that the Learning and Services Credits are used within three (3) months after the termination or expiration date. Any other unused Learning and Services Credits will expire thirty (30) days after the expiration or termination date; if Licensee renews the EEAP EA Addendum within this time period, any unused Learning and Services Credits will carry over for up to two (2) years from their purchase date, or termination of the EEAP EA Addendum, whichever comes first;
c. Unless Esri terminates this EEAP EA Addendum for Licensee's breach, Licensee retains the right to use any Training Materials and Work Product.

ARTICLE 8—CONFIDENTIALITY OBLIGATIONS

8.1 Obligations Pertaining to PSS. It may be necessary for Esri or Licensee to disclose to the other party certain confidential information under this EEAP EA Addendum. Confidential information shall be designated by Disclosing Party in writing or orally and confirmed in writing within thirty (30) calendar days of disclosure as "Confidential," "Proprietary," "Trade Secret," or other similar term. Each party shall use the confidential information described above only for exchanging information needed to provide the PSS contemplated by this EEAP EA Addendum. Within sixty (60) days of termination of this EEAP EA Addendum, each party shall promptly return or destroy and provide a certification of destruction of the confidential information of the other party.

8.2 Obligations Pertaining to Training. Except as described in Section 8.4, Esri or Licensee may disclose to the other party certain confidential information under this EEAP EA Addendum. The disclosing party shall identify the information as confidential information at the time of disclosure. Each party shall use the confidential information described above only for exchanging information needed to provide the training contemplated by this EEAP EA Addendum. Within fourteen (14) days of completion of the training, each party shall return or destroy and provide written notification of destruction of the other party's confidential information.

8.3 Obligations Pertaining to Work Product

8.3.1 Any Work Product provided to Licensee is deemed confidential information of Esri. Insofar as its rights may be legally restricted, Licensee agrees not to reverse engineer or decompile Work Product delivered in Secure Formats. For Work Product delivered in source code or other human-readable formats, Licensee will have met its obligations under this EEAP EA Addendum if its disclosure of Work Product is limited to such items in Secure Formats, provided that the means for reverse engineering, decompiling, or disassembling such Work Product is withheld from such disclosure, and the person or entity in receipt of such Work Product similarly agrees not to perform such acts or allow others to do so.

8.3.2 Except as provided in the preceding paragraph, Licensee shall not disclose the Work Product to employees or third parties without the advance written consent of Esri. However, Licensee may, without such consent, make such disclosures to employees to the extent reasonably required to allow Licensee to use the Software or Data in a manner authorized under applicable licenses.

8.3.3 The disclosures permitted under this section shall not relieve Licensee of its obligation to maintain the Work Product in confidence and comply with all applicable laws and regulations of the United States, including, without limitation, its export control laws. Furthermore, before disclosing all or any portion of the Work Product to employees or third parties as permitted in the preceding paragraph, Licensee shall inform such employees or third parties of the obligations in this EEAP EA Addendum and obtain their agreement to be bound by them.

8.4 Excluded Information. Licensee shall not provide to Esri or disclose to the instructor any data or information that is personally identified information (PII), including, but not limited to, Gramm-Leach-Bliley Act (GLBA)- or HIPAA-type data or information or critical infrastructure information (CII) from the US Department of Homeland Security. Notwithstanding anything in this Addendum to the contrary, Esri retains the right to refuse acceptance of any nonpublic personal information (NPI) or customer information regardless of the form of disclosure. Esri will only accept receipt of information from Licensee that comports with the exceptions set forth in Subsections 4(B) and 4(C)(ii) of Section 509 of the Gramm-Leach-Bliley Act (PL 106-102) (15 USC Section 6809) and implementing regulations thereof.

8.5 Other Exchange of Confidential Information. Any other exchange of confidential information between the parties shall require execution of a nondisclosure agreement signed between the parties separate from this EEAP EA Addendum.

ARTICLE 9—PREMIUM SUPPORT SERVICES TERMS AND CONDITIONS

9.1 Application. Should Licensee choose to use Learning and Services Credits for PSS, the terms of this Article 9 shall also apply.

9.2 PSS Availability. Licensee may use Learning and Services Credits for PSS (annually) for any product covered under Esri's standard maintenance subscription, provided that Licensee is current on maintenance for applicable Esri Software. Esri shall provide PSS for the Term of the EEAP EA Addendum as further described at http://support.esri.com/en/support/premium.

9.3 Premium Support Description. PSS shall provide

a. A designated TAM;
b. The ability for LAC to submit Premium Support Reports or escalate standard technical support incidents to Premium Support Reports via telephone or the Esri My Support Portal twenty-four (24) hours per day, seven (7) days per week, three hundred sixty-five (365) days per year;
c. Priority Incident Management; and
d. Additional enhanced support and services, as described at http://support.esri.com/en/support/premium.

9.4 PSS Restrictions and Exclusions

9.4.1 Excluded Software. PSS is not available for third-party software. Esri is not responsible for errors attributable to third-party software used in conjunction with or built on Software.

9.4.2 English Language. All communications will be conducted in the English language except by agreement of both parties.

9.4.3 Acknowledgment. Licensee acknowledges and agrees that the report of an error or defect of any Software is not a guarantee that it can or will be corrected. At Esri's sole discretion, Software is corrected on a priority basis and is subject to release schedules determined by Esri.

9.4.4 Exceptions to PSS. The following are not covered by PSS:

a. Any problem resulting from Licensee's misuse, improper use, unauthorized modification, or damage of the Software or Licensee's combining or merging the Software with any hardware or software not supplied or identified as compatible by Esri;
b. Any problem resulting from third-party hardware or software;
c. Errors in any version of the Software other than the officially supported version of Software; and
d. Any support or implementation services, on-site or otherwise, including, but not limited to, those provided by Esri Professional Services or any third party.

ARTICLE 10—TRAINING TERMS AND CONDITIONS

10.1 Application. Should Licensee choose to use Learning and Services Credits for training or coaching services, the terms of this Article 10 shall also apply.

10.2 Training Descriptions. Esri offers instructor-led training and client coaching services in the use of Esri's Software as described below:

a. Instructor-led training is offered online in a cloud-based environment, at a Licensee site, or at an Esri Learning Center. Course information, location, dates, number of maximum participants, and registration requirements can be found in the Esri Training catalog located at http://training.esri.com. Courses are conducted in close conformance with the course description outlined in the Esri Training catalog and are subject to change due to limitations or constraints including, but not limited to, technical capabilities and Licensee's needs.
b. Client coaching services are available for Licensee to enhance the learning experience by providing extra time to review and practice course concepts with an instructor's on-site guidance.

10.3 Esri's Responsibilities. Esri will

a. Provide the training in a manner consistent with the technical and professional standards of the industry.
b. Provide an instructor qualified to conduct the course(s).
c. Provide all necessary training materials for Student(s).
d. Confirm class approximately ten (10) business days prior to the scheduled start date. For Licensee site and private classes, confirmation is dependent on receipt of the completed Licensee site training request form and intended method of payment.

10.4 Licensee's Obligations; Limitations

10.4.1 Licensee will

a. Ensure that all Students have received confirmation from Esri to participate in an Esri training event. Unregistered student(s) will not be permitted to view or participate in an Online Classroom training event. Esri reserves the right to disconnect any Student who permits access to unregistered student(s).
b. Confirm that all Students meet the minimum prerequisites for the applicable training event set forth on Esri's Training website.
c. Submit registrations with a confirmed payment commitment at least seven (7) business days prior to the scheduled start date. Registrations submitted without payment commitment will not be guaranteed a reservation and will be added to a wait list pending payment confirmation. All wait list reservations are subject to availability.
d. Submit to the Esri Training Event Assistant a list of the names and email addresses of Students that are to attend a Licensee site or private training event at least three (3) business days prior to the scheduled start date. Subject to compliance with Section 12.12 Export Control Regulations, any Student that is a resident of a US embargoed country or found on any of the various US Government Lists of Parties of Concern or Specially Designated Nationals lists will not be permitted to attend the training event.
e. Be responsible for all Student travel arrangements. Esri is not responsible for losses from nonrefundable travel arrangements due to the denial of a Student's participation based on US government export regulation requirements, course scheduling changes, or cancellations.
f. Complete and submit an Esri Licensee site training request form, if applicable, and ensure that the class environment adheres to the requirements for Esri Training as found online at http://training.esri.com/gateway/index.cfm?fa=classroom.requirements.
g. Ensure that Student use of Training Materials provided by Esri complies with the terms of this EEAP EA Addendum.
h. Assume full responsibility for Student attending training course(s) under this EEAP EA Addendum. Licensee agrees to indemnify Esri, its officers, directors, and employees for any and all claims, liabilities, and expenses (including reasonable legal fees) arising out of or based on any uncured material breach by Student of the terms and conditions of this EEAP EA Addendum.
i. Ensure that Student does not use audio and/or video recording equipment within the classroom without prior written approval from Esri.

10.4.2 The Esri Mobile Lab option is available for domestic US Licensee site training events if Licensee does not have the required hardware to host a scheduled class. If the Esri Mobile Lab is used, Licensee will

a. Immediately report any damage to the Esri Mobile Lab equipment to the Training Event Assistant upon receipt of the equipment.
b. Keep the Esri Mobile Lab equipment in a secure, locked area between training event sessions.
c. Ensure that only Students use the Esri Mobile Lab equipment.
d. Be responsible for loss of, damage to, and/or theft of the Esri Mobile Lab equipment while in Licensee's possession.
e. Warrant that it maintains sufficient insurance coverage obligations created by this EEAP EA Addendum and required by law.
f. Allow the Esri instructor to check all Esri Mobile Lab equipment following the completion of training. Any damage to the Esri Mobile Lab equipment due to Student use, excluding normal wear and tear, will be brought to the attention of Licensee by written notice. Licensee hereby agrees to be financially responsible for any repair or replacement of equipment resulting from such damage.
g. Make the Esri Mobile Lab equipment available for freight pickup upon the conclusion of the training event.

10.5 Student Registration and Training Event Change Policy

10.5.1 Individual Student Seats. Licensee will provide written notice to Esri's Customer Service department at service@esri.com of any Student transfer, cancellation, or substitution requests at least three (3) business days before the scheduled start date, subject to the following conditions:

a. Multiple requests and any requests that occur without the three (3) business days' advance notice are subject to a fee, as determined by Esri.
b. Cancellation of Student registrations that occur without the three (3) business days' advance notice is subject to the full training event fee.
c. Substitute Students must be from the same organization as the Student being replaced.

10.5.2 Licensee Site/Private Class/Client Coaching Services (Training Event). Licensee will provide written notice to Esri's Customer Service department at service@esri.com of any training event reschedule, cancellation, or Student substitution requirements at least three (3) business days before the scheduled start date.

a. Training event reschedules and cancellations that occur without the three (3) business days' advance notice are subject to the full training event fee. Licensee will be responsible for all of Esri's reasonable travel expenses and shipping costs (including Esri Mobile Lab), for all rescheduled or canceled training events.
b. Student substitutions that occur without the three (3) business days' advance notice are subject to a fee. Substitute Students must be from the same organization as the student being replaced.

10.5.3 If cancellation of a training event is necessary due to force majeure as described in Article 12.5 below, the affected party is released in full from the three (3)-business-day notification requirement. The affected party will either reschedule or cancel the training without that affected party incurring any liability.

10.5.4 If Esri is unable to conduct the training on the scheduled date, Esri will notify Licensee at least three (3) business days before the scheduled start date.

10.6 Unless specifically authorized in writing by Esri, Licensee is not authorized to resell seat(s) to an Esri training event.

10.7 Indemnification. Esri will indemnify and hold harmless Licensee and each of its directors and officers (collectively, the "Indemnified Parties") from and against any and all damages, losses, liabilities, claims, judgments, and settlements, including all reasonable costs, expenses, and attorneys' fees, arising out of any action or claim for bodily injury, death, or property damage brought against any of the Indemnified Parties to the extent arising from any negligent act or omission or willful misconduct by Esri or its directors, officers, employees, or agents while engaged in or as a result of the training or coaching services provided by Esri pursuant to this EEAP EA Addendum while on Licensee's site.

ARTICLE 11—MANAGED SERVICES TERMS AND CONDITIONS

11.1 Documentation. The Activity Description must define the following:

a. The Hosting term—This is the duration in which the Managed Services Environment is available to Licensee via HTTP or HTTPS access through the Internet. The Hosting term does not begin until setup and deployment of the data and application are complete.
b. Targeted system availability—"System availability" means that Licensee and associated End Users are able to have external HTTP or HTTPS access to the application and associated data content through the Internet. Examples of supported levels of system availability are ninety-five percent (95%), ninety-nine percent (99%), and ninety-nine point nine percent (99.9%). Not all Managed Services offerings include a targeted system availability.
c. Number of anticipated requests—A request is made by an End User through a client (e.g., desktop computer, web application, mobile device) and sent to the server(s) that is set up in the Managed Services Environment by Esri and performs computational tasks on behalf of End User. An example of a common request used in a GIS is a map request. A map request is made every time a user pans, zooms, or queries a map service.
d. Amount of data storage—"Data storage" refers to the components required to retain digital data, which is to be used and consumed in Licensee GIS applications and/or Online Services, and
e. The quote for the applicable price in terms of Learning and Services Credits.

The Data storage location may be defined in the Activity Description.

11.2 Requirements Planning. It is Licensee's responsibility to plan for and address with Esri changes to Licensee's requirements, such as the need for additional capacity, the update of an application or dataset, or increased level of system availability.

11.3 Licensee Content Licensing and Deployment Confirmation. Licensee is responsible for maintaining the appropriate licensing to the Licensee Content. Provision of Managed Services will be subject to Licensee's compliance of all relevant Esri and third-party licensing agreement terms, conditions, and arrangements. Licensee will confirm access to the Managed Services Environment within five (5) days of receiving notification from Esri that the Managed Services Environment and Licensee Content are accessible.

11.4 Risk of Loss. Risk of loss for all Licensee Content shall at all times remain with Licensee, and it is Licensee's sole responsibility to maintain regular backups of Licensee Content. Risk of loss for the Managed Services Environment shall at all times remain with Esri.

11.5 Protected Information. Prior to providing any Licensee Content under this EEAP EA Addendum, Licensee shall notify Esri if Licensee Content includes Protected Information.

11.6 Public Software. Licensee may not upload, use, process, modify, or combine any Open-Source Materials in a manner that requires Esri to (i) disclose or distribute in source code form; (ii) make available free of charge; or (iii) permit others to modify, without charge, any component of the Managed Services. "Open-Source Materials" means any software, documentation, or other material that contains or is derived (in whole or in part) from any software, documentation, or other material distributed as free or open source software or under other similar licensing or distribution models.

11.7 Monitoring. Licensee will provide information and/or other materials related to its Licensee Content as reasonably requested by Esri or its Hosting partner to verify Esri's and/or Licensee's compliance with this EEAP EA Addendum. Esri or its Hosting partner, as applicable, may browse, index, or otherwise monitor the external interfaces of any Licensee Content solely for the purpose of verifying compliance with this EEAP EA Addendum.

11.8 Prohibited Use. Licensee may not access or use Managed Services to do any of the following, which hereafter will collectively be referred to as "Prohibited Use":

a. Spam, spoof, phish, or transmit junk email or offensive or defamatory material;
b. Stalk or make threats of physical harm;

c. Store or transmit any software viruses; worms; time bombs; Trojan horses; or any other computer code, files, or programs designed to interrupt, destroy, or limit the functionality of any computer software, hardware, or telecommunications equipment;
d. Violate any law;
e. Infringe or misappropriate the rights of any third party;
f. Process, store, or transmit any data, information, or technology that is controlled for export under the International Traffic in Arms (ITAR) regulations, is unclassified controlled technical information (UCTI) under DFARS 204.73, or is protected health information (PHI) under HIPAA; or
g. Otherwise violate a material term of this EEAP EA Addendum.

11.9 Takedowns and Service Suspension. If Esri believes that any Licensee's use of the Managed Services constitutes a Prohibited Use or if Licensee Content violates the restrictions listed in Section 11.8, Esri will notify Licensee, request Licensee to stop the Prohibited Use, and may request that such Licensee Content be removed from Managed Services Environment or access to it be disabled. Esri may remove or disable access to any such Licensee Content without prior notice as permitted under applicable law or as required to comply with any judicial, regulatory, or other governmental order. Esri may also suspend Licensee's access to Managed Services Environment at any time

a. For scheduled downtime to conduct maintenance or make modifications to Managed Service(s); or
b. In the event of a threat or attack on Managed Service(s) (including a denial-of-service attack) or other event that may create a risk to the applicable part of Managed Services.

If feasible under these circumstances, Licensee will be notified of any service suspension beforehand and allowed reasonable opportunity to take remedial action. In the event that Esri removes Licensee Content or suspends access to Managed Services Environment without prior notice, Esri will provide prompt written notice to Licensee unless prohibited by law.

ARTICLE 12—GENERAL PROVISIONS

12.1 Relationship of the Parties. The parties hereto agree that each is an independent contractor with respect to this EEAP EA Addendum; that this EEAP EA Addendum does not constitute an agency, partnership, franchise, or joint venture; and that nothing herein contained is intended to constitute, nor shall it be construed to constitute, the parties as agents, partners, franchisor/franchisee, or co-venturers of each other. Except as expressly provided in this EEAP EA Addendum, neither party shall have any power or authority to act in the name or on behalf of the other party except with the prior express written consent of the other party.

12.2 Intellectual Property Rights Attribution. Licensee shall retain any copyright, patent, or trademark notices on all items licensed under this EEAP EA Addendum and shall take other necessary steps to protect Esri's or its licensor's intellectual property rights. Licensee shall not copy or distribute, or permit a third party to copy or distribute, any of Esri's Training Material(s).

12.3 No Implied Waivers. The failure of either party to enforce any provision of this EEAP EA Addendum shall not be deemed a waiver of the provisions or of the right of such party thereafter to enforce that or any other provision.

12.4 Severability. If any provision of this EEAP EA Addendum is determined to be invalid, illegal, or unenforceable, the parties agree the remaining provisions of this EEAP EA Addendum shall remain in full force if both the economic and legal substance of the transactions contemplated by this EEAP EA Addendum are not affected in any manner that is materially adverse to either party by severing the provision determined to be invalid, illegal, or unenforceable.

12.5 Force Majeure. If the performance of this EEAP EA Addendum, or any obligation except the making of payments, is prevented, restricted, or interfered with by reason of fire, flood, earthquake, explosion, or other casualty or accident; strikes or labor disputes; inability to procure or obtain delivery of parts, supplies, or power; war, terrorist act, cyber attack, or other violence; any law, order, proclamation, regulation, ordinance, demand, or requirement of any governmental agency; or any act or condition whatsoever beyond the reasonable control of the affected party, the party so affected, upon giving prompt notice to the other party, shall be excused from such performance to the extent of such prevention, restriction, or interference.

12.6 Applicable Laws. This EEAP EA Addendum shall be governed by and construed in accordance with the laws of the State of California without reference to conflict of laws principles.

12.7 Nonsolicitation of Contractor Personnel. Licensee shall not solicit for hire any Esri employee who is associated with efforts called for under this EEAP EA Addendum during the Term and for a period of one (1) year thereafter. In the event the foregoing provision is breached, Licensee shall pay Esri liquidated damages for recruiting and training costs equal to twelve (12) months of the employee's compensation plus any legal expenses associated with the enforcement of this provision.

12.8 Taxes. Services provided are quoted exclusive of all state, local, value-added, or other taxes, customs, or duties, or other charges (other than income taxes payable by Esri). In the event such taxes and/or charges become applicable to Esri's services, applications, or data, Licensee shall pay any such applicable tax upon receipt of written notice that such taxes are due.

12.9 UCC Inapplicability. Any services provided under this EEAP EA Addendum will not be governed by the Uniform Commercial Code (UCC) and will not be deemed "goods" within the definition of the UCC.

12.10 Assignment and Delegation. Esri may, in whole or in part, assign any of its rights or delegate any performance under this EEAP EA Addendum, provided that Esri shall remain responsible for the performance it delegates. This EEAP EA Addendum binds and benefits successors or assigns permitted under this Section 12.10.

12.11 Insurance. Each party shall, throughout the term of this EEAP EA Addendum, obtain and maintain at its own cost and expense from a qualified insurance company an appropriate commercial general liability (CGL) insurance policy, including coverage for products liability, naming the other party as an additional named insured. Such policy shall provide protection against any and all claims, demands, and causes of action arising out of any error, omission, failure to perform, or defect, alleged or otherwise, of goods and services used in connection therewith or any use thereof. The amount of coverage shall be in the minimum amount of one million US dollars (US$1,000,000).

12.12 Export Control Regulations. Licensee expressly acknowledges and agrees that Licensee shall not export, reexport, transfer, or release Software, Data, Online Services, or Documentation, in whole or in part, to

a. Any US embargoed country (or to a national or resident of any US embargoed country);
b. Any person on the US Treasury Department's list of Specially Designated Nationals;
c. Any person or entity on the US Commerce Department's Denied Persons List, Entity List, or Unverified List; or
d. Any person or entity where such export or reexport violates any US export control laws or regulations including, but not limited to, the terms of any export license or license exemption and any amendments and supplemental additions to US export laws as they may occur from time to time.

12.13 Headers. Headers are for convenience only and are not to be used in the interpretation of this EEAP EA Addendum.

All Licensee contact regarding the Esri Enterprise Advantage Program shall be through the point of contact identified below.

Authorized EEAP Contact Information
(to be completed by Licensee)

Contact: Sally Abbe

Telephone: (806) 775-2106

Address: PO Box 2000 or 1625 13th Room 107

Fax:

City, State, ZIP: Lubbock, TX 79407

Email: sabbe@mylubbock.us

Exhibit A

INSURANCE (Copies of Endorsements are Required)

TYPE OF INSURANCE	**COMBINED SINGLE LIMIT**	
GENERAL LIABILITY		
X Commercial General Liability	General Aggregate	$1,000,000
X Occurrence	Products-Comp/Op AGG	x
	Personal & Adv. Injury	x
	Contractual Liability	x
AUTOMOTIVE LIABILITY		
X Any Auto	Aggregate $1,000,000	

X **WORKERS COMPENSATION** As required by State Law or **OCCUPATIONAL MEDICAL AND DISABILITY**

OTHER: COPIES OF ENDOSEMENTS ARE REQUIRED

X City of Lubbock named as additional insured on Auto/General Liability on a primary and non-contributory basis.

X Waiver of subrogation in favor of the City of Lubbock on coverages listed above.

Regular City Council Meeting **5. 20.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - Community Development: Consider a resolution authorizing and directing the Mayor to execute contract 12594, and all related documents, between the City of Lubbock Community Development Department and the U. S. Department of Housing and Urban Development (HUD) for the Community Development Block Grant (CDBG).

Item Summary

This is a renewal contract for the CDBG from HUD. The funds will be used for Public Service Activities, Non-Public Service Activities, Housing, Direct Delivery and Administration. The City Council voted and approved the use of these funds at the regularly scheduled meeting on June 25, 2015.

Fiscal Impact

There is no fiscal impact on the General Fund involved with this contract. The funds used originate from HUD. The maximum to be allocated to this grant is $1,935,068.

Staff/Board Recommending

Bill Howerton, Assistant City Manager

Attachments

Resolution - Community Development Block Grant

Agreement - Community Development Block Grant

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Contract 12594 and all related documents, between the City of Lubbock Community Development Department and the U.S. Department of Housing and Urban Development, for the renewal of the Community Development Block Grant that will fund public service activities, non-public service activities, housing, direct delivery, and administration. Said Contract is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Bill Howerton, Assistant City Manager

APPROVED AS TO FORM:

_____
Justin Pruitt, Assistant City Attorney

ccdocs/RES. Agreement – Community Development Block Grant Renewal Contract
November 11, 2015

Funding Approval/Agreement

Title I of the Housing and Community Development Act (Public Law 930383)
HI-00515R of 20515R

U.S. Department of Housing and Urban Development
Office of Community Planning and Development
Community Development Block Grant Program

OMB Approval No. 2506-0193 (exp 1/31/2015)

1. Name of Grantee (as shown in item 5 of Standard Form 424)	3a. Grantee's 9-digit Tax ID Number:	3b. Grantee's DUNS Number:	4. Date use of funds may begin (mm/dd/yyyy):
City of Lubbock	756000590	058213893	10-01-2015

2. Grantee's Complete Address (as shown in item 5 of Standard Form 424)	5a. Project/Grant No. 1	6a. Amount Approved
P. O. Box 2000 Lubbock, TX 79457-2000	B-15-MC-48-0022	$1,935,068
	5b. Project/Grant No. 2	6b. Amount Approved
	5c. Project/Grant No. 3	6c. Amount Approved

Grant Agreement: This Grant Agreement between the Department of Housing and Urban Development (HUD) and the above named Grantee is made pursuant to the authority of Title I of the Housing and Community Development Act of 1974, as amended, (42 USC 5301 et seq.) The Grantee's submissions for Title I assistance, the HUD regulations at 24 CFR Part 570 (as now in effect and as may be amended from time to time), and this Funding Approval, including any special conditions/addendums, constitute part of the Agreement. Subject to the provisions of this Grant Agreement, HUD will make the funding assistance specified here available to the Grantee upon execution of the Agreement by the parties. The funding assistance specified in the Funding Approval may be used to pay costs incurred after the date specified in item 4 above provided the activities to which such costs are related are carried out in compliance with all applicable requirements. Pre-agreement costs may not be paid with funding assistance specified here unless they are authorized in HUD regulations or approved by waiver and listed in the special conditions to the Funding Approval. The Grantee agrees to assume all of the responsibilities for environmental review, decision making, and actions, as specified and required in regulations issued by the Secretary pursuant to Section 104(g) of Title I and published in 24 CFR Part 58. The Grantee further acknowledges its responsibility for adherence to the Agreement by sub-recipient entities to which it makes funding assistance hereunder available.

U.S. Department of Housing and Urban Development (By Name)	Grantee Name
Shirley J. Henley	
Title: Director, Community Planning and Development	Title
Signature	Signature
Date (mm/dd/yyyy): 04 NOV 2015	Date (mm/dd/yyyy)

7. Category of Title I Assistance for this Funding Action (check only one)
- [X] a. Entitlement, Sec 106(b)
- [ ] b. State-Administered, Sec 106(d)(1)
- [ ] c. HUD-Administered Small Cities, Sec 106(d)(2)(B)
- [ ] d. Indian CDBG Programs, Sec 106(a)(1)
- [ ] e. Surplus Urban Renewal Funds, Sec 112(b)
- [ ] f. Special Purpose Grants, Sec 107
- [ ] g. Loan Guarantee, Sec 108

8. Special Conditions (check one)
- [ ] None
- [X] Attached

9a. Date HUD Received Submission (mm/dd/yyyy): 08-12-2015
9b. Date Grantee Notified (mm/dd/yyyy): 04 NOV 2015
9c. Date of Start of Program Year (mm/dd/yyyy): 10-01-2015

10. check one
- [X] a. Orig. Funding Approval
- [ ] b. Amendment
  Amendment Number

11. Amount of Community Development Block Grant

	FY (15)	FY ( )	FY ( )
a. Funds Reserved for this Grantee	$1,935,068		
b. Funds now being Approved			
c. Reservation to be Cancelled (11a minus 11b)			

12a. Amount of Loan Guarantee Commitment now being Approved

12b. Name and complete Address of Public Agency

Loan Guarantee Acceptance Provisions for Designated Agencies:
The public agency hereby accepts the Grant Agreement executed by the Department of Housing and Urban Development on the above date with respect to the above grant number(s) as Grantee designated to receive loan guarantee assistance, and agrees to comply with the terms and conditions of the Agreement, applicable regulations, and other requirements of HUD now or hereafter in effect, pertaining to the assistance provided it.

12c. Name of Authorized Official for Designated Public Agency

Title

Signature

HUD Accounting use Only

Batch	TAC	Program	Y	A	Reg	Area	Document No.	Project Number	Category	Amount	Effective Date (mm/dd/yyyy)	F
	153 176											
			Y					Project Number		Amount		
			Y					Project Number		Amount		

Date Entered PAS (mm/dd/yyyy)	Date Entered LOCCS (mm/dd/yyyy)	Batch Number	Transaction Code	Entered By	Verified By

8. Special Conditions.

(a) The period of performance for the funding assistance specified in the Funding Approval ("Funding Assistance") shall begin on the date specified in item 4 and shall end on September 1, 2022. The Grantee shall not incur any obligations to be paid with such assistance after September 1, 2022. (Source: 31 U.S.C. 1551-1557)

(b) If Funding Assistance will be used for payment of indirect costs pursuant to 2 CFR 200, Subpart E - Cost Principles, attach a schedule in the format set forth below to the executed Grant Agreement that is returned to HUD. The schedule shall identify each department/agency that will carry out activities with the Funding Assistance, the indirect cost rate applicable to each department/agency (including if the de minimis rate is charged per 2 CFR §200.414), and the direct cost base to which the rate will be applied. Do not include indirect cost rates for subrecipients.

Administering Department/Agency	Indirect cost rate	Direct Cost Base
City of Lubbock Community Dev	3 %	1,893,068
	%	
	%	

(c) The grantee shall comply with requirements established by the Office of Management and Budget (OMB) concerning the Universal Numbering System and System for Award Management (SAM) requirements in Appendix A to 2 CFR part 25, and the Federal Funding Accountability and Transparency Act (FFATA) in Appendix A to 2 CFR part 170.

(d) The grantee, unit of general local government or Insular Area that that directly or indirectly receives CDBG funds may not sell, trade, or otherwise transfer all or any such portion of such funds to another such entity in exchange for any other funds, credits or non-Federal considerations, but must use such funds for activities eligible under title I of the Housing and Community Development Act of 1974 (the Act). (Source: P.L. 113-235, Consolidated and Further Continuing Appropriations Act, 2015, Division K, Title II, Community Development Fund)

(e) CDBG funds may not be provided to a for-profit entity pursuant to section 105(a)(17) of the Act unless such activity or project has been evaluated and selected in accordance with Appendix A to 24 CFR 570 - "Guidelines and Objectives for Evaluating Project Costs and Financial Requirements." (Source - P.L. 113-235, Consolidated and Further Continuing Appropriations Act, 2015, Division K, Title II, Community Development Fund)

(f) The grantee shall ensure that no CDBG funds are used to support any Federal, State, or local projects that seek to use the power of eminent domain, unless eminent domain is employed only for a public use. For the purposes of this requirement, public use shall not be construed to include economic development that primarily benefits private entities. Any use of funds for mass transit, railroad, airport, seaport or highway projects as well as utility projects which benefit or serve the general public (including energy-related, communication-related, water- related and wastewater-related infrastructure), other structures designated for use by the general public or which have other common-carrier or public-utility functions that serve the general public and are subject to regulation and oversight by the government, and projects for the removal of an immediate threat to public health and safety or brownsfield as defined in the Small Business Liability Relief and Brownsfield Revitalization Act (Public Law 107–118) shall be considered a public use for purposes of eminent domain. (Source: P.L. 113-235, Consolidated and Further Continuing Appropriations Act, 2015, Division K, Title IV, General Provisions, Section 407)

(g) E.O. 12372-Special Contract Condition - Notwithstanding any other provision of this agreement, no funds provided under this agreement may be obligated or expended for the planning or construction of water or sewer facilities until receipt of written notification from HUD of the release of funds on completion of the review procedures required under Executive Order (E.O.) 12372, Intergovernmental Review of Federal Programs, and HUD's implementing regulations at 24 CFR Part 52. The recipient shall also complete the review procedures required under E.O. 12372 and 24 CFR Part 52 and receive written notification from HUD of the release of funds before obligating or expending any funds provided under this agreement for any new or revised activity for the planning or construction of water or sewer facilities not previously reviewed under E.O. 12372 and implementing regulations.

Regular City Council Meeting **5. 21.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - Community Development: Consider a resolution authorizing and directing the Mayor to execute contract 12595 and all related documents between the City of Lubbock Community Development Department and the U. S. Department of Housing and Urban Development (HUD) for the Home Investment Partnerships Grant (HOME).

Item Summary

This is a renewal contract for the HOME Grant from HUD. The funds will be used for Community Housing Development Operations (CHDO), CHDO Project, New Construction, Rehab/Recon and Administration. The City Council voted and approved the use of these funds at the regularly scheduled meeting on June 25, 2015.

Fiscal Impact

There is no fiscal impact on the General Fund involved with this contract. The funds used originate from the U. S. Department of Housing and Urban Development. The maximum to be allocated to this grant is $994,643.

Staff/Board Recommending

Bill Howerton, Assistant City Manager

Attachments

Resolution - Home Investment Partnerships Grant

Agreement - Home Investment Partnerships Grant

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Contract 12595 and all related documents, between the City of Lubbock Community Development Department and the U.S. Department of Housing and Urban Development, for the renewal of the Home Investment Partnership Grant that will fund Community Housing Development Operations projects, new construction, rehabilitation, reconstruction, and administration. Said Contract is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

GLEN C. ROBERTSON, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Bill Howerton, Assistant City Manager

APPROVED AS TO FORM:

Justin Pruitt, Assistant City Attorney

ccdocs/RES. Agreement – Home Investment Partnerships Grant Renewal Contract
November 11, 2015

Funding Approval and HOME Investment Partnerships Agreement

Title II of the National Affordable Housing Act

U.S. Department of Housing and Urban Development
Office of Community Planning and Development

1. Participant Name and Address City of Lubbock P. O. Box 2000 Lubbock, TX 79457-2000	2. Grant Number M-15-MC-48-0205	
	3a Tax Identification Number 756000590	3b. Unique Entity Identifier (formerly DUNS) 058213893
	4. Appropriation Number 865/80205	5. FY (yyyy) 2015

6. Previous Obligation (Enter "0" for initial FY allocation)		$0.00
a. Formula Funds	$	
b. Community Housing Development Org. (CHDO) Competitive	$	
7. Current Transaction (+ or -)		$679,643
a. Formula Funds	$679,643	
1. CHDO (For deobligations only)	$	
2. Non- CHDO (For deobligations only)	$	
b. CHDO Competitive Reallocation or Deobligation	$	
8. Revised Obligation		$
a. Formula Funds	$	
b. CHDO Competitive Reallocation	$	

9. Special Conditions (check applicable box)
☒ Not applicable ☐ Attached

10. **Date of Obligation (Congressional Release Date)**
(mm/dd/yyyy) / / 04 NOV 2015

11. Indirect Cost Rate*

Administering Agency/Dept.	Indirect Cost Rate	Direct Cost Base
	%	
	%	
	%	
	%	

12. Period of Performance
Date in Box #10 04 NOV 2015

* If funding assistance will be used for payment of indirect costs pursuant to 2 CFR 200, Subpart E-Cost Principles, provide the name of the department/agency, its indirect cost rate (including if the de minimis rate is charged per 2 § CFR 200.414), and the direct cost base to which the rate will be applied. Do not include cost rates for subrecipients.

This Agreement between the Department of Housing and Urban Development (HUD) and the Participating Jurisdiction/Entity is made pursuant to the authority of the HOME Investment Partnerships Act (42 U.S.C. 12701 et seq.). The Participating Jurisdiction's /Entity's approved Consolidated Plan submission/Application and the HUD regulations at 24 CFR Part 92 (as is now in effect and as may be amended from time to time) and this HOME Investment Partnership Agreement, form HUD-40093, including any special conditions, constitute part of this Agreement. Subject to the provisions of this Agreement, HUD will make the funds for the Fiscal Year specified, available to the Participating Jurisdiction/Entity upon execution of this Agreement by the parties. All funds for the specified Fiscal Year provided by HUD by formula reallocation are covered by this Agreement upon execution of an amendment by HUD, without the Participating Jurisdiction's execution of the amendment or other consent. HUD's payment of funds under this Agreement is subject to the Participating Jurisdiction's/Entity's compliance with HUD's electronic funds transfer and information reporting procedures issued pursuant to 24 CFR 92.502. To the extent authorized by HUD regulations at 24 CFR Part 92, HUD may, by its execution of an amendment, deobligate funds previously awarded to the Participating Jurisdiction/Entity without the Participating Jurisdiction's/Entity's execution of the amendment or other consent. The Participating Jurisdiction/Entity agrees that funds invested in affordable housing under 24 CFR Part 92 are repayable when the housing no longer qualifies as affordable housing. Repayment shall be made as specified in 24 CFR Part 92. The Participating Jurisdiction agrees to assume all of the responsibility for environmental review, decision making, and actions, as specified and required in regulation at 24 CFR 92.352 and 24 CFR Part 58.

The Grantee shall comply with requirements established by the Office of Management and Budget (OMB) concerning the Universal Numbering System and System for Award Management (SAM) requirements in Appendix A to 2 CFR part 25, and the Federal Funding Accountability and Transparency Act (FFATA) in Appendix A to 2 CFR part 170.

The Period of Performance for the funding assistance shall begin on the date specified in item 12 and shall end on September 1st of the 5th fiscal year after the expiration of the period of availability for obligation. Funds remaining in the account will be cancelled and thereafter not available for obligation or expenditure for any purpose. Per 31 U.S.C. 1552. The grantee shall not incur any obligations to be paid with such assistance after the end of the Period of Performance.

13. For the U.S. Department of HUD (Name and Title of Authorized Official) Shirley J. Henley, Director of Community Planning & Development	14. Signature	15. Date 04 NOV 2015
16. For the Participating Jurisdiction/Entity (Name and Title of Authorized Official)	17. Signature	18. Date / /

19. Check one:
☐ Initial Agreement ☐ Amendment #

20. Funding Information: *HOME*

Source of Funds	Appropriation Code	PAS Code	Amount
			$
			$
			$

Regular City Council Meeting **5. 22.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - Community Development: Consider a resolution authorizing and directing the Mayor to execute contract 12596, and all related documents, between the City of Lubbock Community Development Department and the U. S. Department of Housing and Urban Development (HUD) for the Emergency Solutions Grant (ESG).

Item Summary

This is a renewal contract for the ESG from HUD. The funds will be used for Emergency Shelter, Homeless Prevention, Rapid Re-housing, Homeless Management Information System (HMIS) and Administration. The City Council voted and approved the use of these funds at the regularly scheduled meeting on June 25, 2015.

Fiscal Impact

There is no fiscal impact on the General Fund involved with this contract. The funds used originate from HUD. The maximum to be allocated to this grant is $171,680.

Staff/Board Recommending

Bill Howerton, Assistant City Manager

Attachments

Resolution - Emergency Services Grant

Contract - Emergency Services Grant

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Contract 12596 and all related documents, between the City of Lubbock Community Development Department and the U.S. Department of Housing and Urban Development, for the renewal of the Emergency Services Grant that will fund street outreach, emergency shelter, homeless prevention, rapid re-housing, programs, and administration. Said Contract is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Bill Howerton, Assistant City Manager

APPROVED AS TO FORM:

_____
Justin Pruitt, Assistant City Attorney

ccdocs/RES. Agreement – Emergency Services Grant Renewal Contract
November 11, 2015

Funding Approval/Agreement

Emergency Solutions Grants Program
Subtitle B of Title IV of the McKinney-Vento Homeless Assistance Act,
42 U.S.C. 11371 et seq.
CFDA Number 14.231

U.S. Department of Housing and Urban Development
Office of Community Planning and Development

1. Recipient Name and Address City of Lubbock P. O. Box 2000 Lubbock, TX 79457-2000	2. Unique Federal Award Identification Number: E15-MC-48-0022
	3. Tax Identification Number: 756000590
	4. Unique Entity Identifier (DUNS): 058213893

5. Fiscal Year (yyyy): 2015	
6. Previous Obligation (Enter "0" for initial Fiscal Year allocation)	$-0-
7. Amount of Funds Obligated or Deobligated by This Action (+ or -)	$171,680
8. Total Amount of Federal Funds Obligated	$171,680
9. Total Required Match: $171,680	

10. Start Date of Recipient's Program Year (mm/dd/yyyy)	11. Date HUD Received Recipient's Consolidated Plan Submission (mm/dd/yyyy)	12. Date On Which Recipient May Begin Incurring Costs (the later of the dates listed in 10 and 11) (mm/dd/yyyy)
10-01-2015	08-12-2015	10-01-2015

13. Type of Agreement (check applicable box)	14. Special Conditions
☒ Initial Agreement (Purpose #1 – Initial Fiscal Year allocation)	☐ Not applicable ☒ Attached
☐ Amendment (Purpose #2 – Deobligation of funds)	15. Period of Performance End Date (mm/dd/yyyy)
☐ Amendment (Purpose #3 – Obligation of additional funds)	

General Terms and Conditions: This Agreement between the U.S. Department of Housing and Urban Development (HUD) and the Recipient is made pursuant to the authority of Subtitle B of Title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11371 et seq.). The Recipient's Consolidated Plan submissions (including the Recipient's approved annual Action Plan and any amendments completed in accordance with 24 CFR Part 91), the Emergency Solutions Grants Program regulations at 24 CFR Part 576 (as now in effect and as may be amended from time to time), and this Agreement, including any special conditions attached to this Agreement, constitute part of this Agreement. The Recipient shall comply with requirements established by the Office of Management and Budget concerning the Universal Identifier and System of Award Management (SAM) requirements in Appendix A to 2 CFR Part 25 and the Federal Funding Accountability and Transparency Act requirements in Appendix A to 2 CFR Part 170. Subject to the terms and conditions of this Agreement, HUD will make the funds for the specified Fiscal Year available to the Recipient upon execution of this Agreement by the Recipient and HUD, and the funds may be used to pay costs incurred on or after the date specified in Box 12 above. All funds for the specified Fiscal Year that HUD provides by reallocation are covered by this Agreement upon execution of an amendment by HUD, without the Recipient's execution of the amendment or other consent. The Recipient agrees to assume all of the responsibilities with respect to environmental review, decision making, and action required under the HUD regulations at 24 CFR Part 58. Nothing in this Agreement shall be construed as creating or justifying any claim against the federal government or the Recipient by any third party. To the extent authorized by HUD regulations at 24 CFR Part 576, HUD may, by its execution of an amendment, deobligate funds previously awarded to the Recipient without the Recipient's execution of the amendment or other consent.

16. For the U.S. Department of HUD (Name, Title, and Contact Information of Authorized Official)	17. Signature	18. Date of Obligation/Federal Award Date
Shirley J. Henley, **Director of Community Planning and Development**	Shirley J. Henley	04 NOV 2015
19. For the Recipient (Name and Title of Authorized Official)	20. Signature	21. Date / /

Funding Information (HUD Accounting Use Only):

PAS Code:	Region:	Program Code:
Appropriation:	Office:	Allotment:
Appro Symbol:		

14. Special Conditions: Indirect Cost Rate

(a) The period of performance for the funding assistance specified in the Funding Approval ("Funding Assistance") shall begin on the date specified in item 10 and shall end on the date specified in item 15. The recipient shall not incur any obligations to be paid with such assistance after the date specified in item 15.

(b) If Funding Assistance will be used for payment of indirect costs pursuant to 2 CFR 200, Subpart E - Cost Principles, attach a schedule in the format set forth below to the executed Grant Agreement that is returned to HUD. The schedule shall identify each department/agency that will carry out activities with the Funding Assistance, the indirect cost rate applicable to each department/agency (including if the de minimis rate is charged per 2 CFR §200.414), and the direct cost base to which the rate will be applied. Do not include indirect cost rates for subrecipients.

Administering Department/Agency	Indirect cost rate	Direct Cost Base
_____	_____%	_____
_____	_____%	_____
_____	_____%	_____

Regular City Council Meeting **5. 23.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - Community Development: Consider a resolution authorizing and directing the Mayor to execute for and on behalf of the City of Lubbock a Community Development funding contract 12597 and all related documents between the City of Lubbock and the Lubbock Boys and Girls Clubs from the Community Development Block Grant (CDBG) program to fund the D-League.

Item Summary

Grantee: Lubbock Boys and Girls Clubs

Program: D-League

Funding Source: 2015-2016 CDBG

Use of Funds: The funds for this program will be used to allow income eligible youth to participate in D-League, providing safe supervised sport activities, at two Boys and Girls Club branches.

Amount: $32,000

Match: 25%

Return of Investment: Not required for Community Development public service

Terms: October 1, 2015 through September 30, 2016

Comments: Funding for this contract was approved by the City Council at the June 25, 2015 council meeting.

Fiscal Impact

Federal funds will be used from the CDBG program. The maximum to be allocated to this project is $32,000.

Staff/Board Recommending

Bill Howerton, Assistant City Manager

Attachments

Resolution - Boys & Girls Club

Agreement - Boys & Girls Club

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, a Community Development Block Grant funding contract, and related documents, to provide for safe, supervised activities for low-income youth, by and between the City of Lubbock and the Lubbock Boys and Girls Club. Said funding contract is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Bill Howerton, Assistant City Manager

APPROVED AS TO FORM:

_____
Justin Pruitt, Assistant City Attorney

ccdocs/RES. Agreement – Lubbock Boys & Girls Club – CDBG Funds
November 11, 2015

COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDING AGREEMENT
BETWEEN
THE CITY OF LUBBOCK
AND
LUBBOCK BOYS AND GIRLS CLUB, INC.

STATE OF TEXAS §

COUNTY OF LUBBOCK §

THIS AGREEMENT, entered this 1st day of October 2015 by and Between the City of Lubbock (herein called the "City") and **Lubbock Boys & Girls Club, Inc.** (herein called the "Grantee").

WHEREAS, the City has applied for and received funds from the United States Government under Title I of the Housing and Community Development Act of 1974; and

WHEREAS, the City wishes to engage the Grantee to assist the Grantee in utilizing such funds;

WHEREAS, the City is obligated to do and perform certain services in its undertaking of a Community Development Block Grant Program pursuant to the Housing and Development Act of 1975, as amended; and

WHEREAS, the Grantee operates a non-profit center offering services to low- and moderate-income individuals and families; and

WHEREAS, the services provided by the Grantee benefit citizens of the City of Lubbock and constitute a valuable public service; and

WHEREAS, the City Council of the City of Lubbock has declared programs of the Grantee to be a public purpose and the provision of these services to be a predominate purpose of this transaction; and

WHEREAS, the Grantee and the services it provides have been found to meet the criteria for funding under provision 24 CFR 570.201; and

WHEREAS, the accomplishment of the above public purpose is the predominant purpose of this transaction, continuing supervision by the City together with statutory and contractual requirements provide sufficient assurance that this public purpose will be accomplished; and an audit provides sufficient protection of the handling of public money; and

WHEREAS, the City Council has found that the Grantee has the special expertise, knowledge and experience necessary for the **D League project** and that the City will receive adequate consideration in the form of substantial public benefit; and

WHEREAS, the City desires to contract with the Grantee to make available funds for the **Lubbock Boys & Girls D League.**

NOW, THEREFORE, it is agreed between the parties hereto that:

I. SCOPE OF SERVICE

A. Activities

1. General Statement

The Grantee will be responsible for administering a Community Development Block Grant (CDBG) Year 2015-2016 **D League** project in a manner satisfactory to the City and consistent with any standards required as a condition of providing these funds. Such program will include the following activities eligible under the CDBG Program.

2. Program Delivery

Activity #1 The Lubbock Boys & Girls Club D League program will provide quality summer day camps from the months of June - August. The camps provide safe, fun, and educational activities for the children during the summer when school is not in session. The program provides a supervised place for children to enjoy while parents are working or in school. The programs will take place at the Phea Branch, located at 1801 E. 24th and the Optimist Branch, located at 3301 Cornell.

B. National Objectives

The Grantee certifies that the activities carried out with funds provided under this Agreement will meet the suitable living environment objective by providing eligible activities that benefit communities, families or individuals by addressing issues in their living environment under the Community Development Block Grant program - as defined in 24 CFR §576.21 as amended by the HEARTH

Act.

C. City Responsibilities

1. City agrees to provide Grantee assistance from the U. S. Department of Housing and Urban Development (HUD) funds in an amount not to exceed **$32,000** in return for Grantee performing the activities set forth in this Agreement as consideration for said funds.

2. It is expressly understood and agreed by the parties hereto that City's responsibilities are contingent upon the actual receipt of adequate federal funds to meet City's liabilities under this agreement. If adequate funds are not available to

make payments under this agreement, City shall notify Grantee in writing within a reasonable time after such fact is determined. City shall terminate this agreement and will not be liable for failure to make payments to Grantee under this agreement.

3. City shall not be liable to Grantee for any costs incurred by Grantee, or any portions thereof, which have been paid to Grantee or which are subject to payment to Grantee, or which have been reimbursed to Grantee or which are subject to reimbursement to Grantee by any source other than City or Grantee.

4. City shall not be liable to Grantee for any costs incurred by Grantee which are not allowable costs, as set forth in 24 CFR §570.207.

5. City shall not be liable to Grantee for any costs incurred by Grantee or for any performances rendered by Grantee which are not strictly in accordance with the terms of this agreement.

6. City shall not be liable to Grantee for any costs incurred by Grantee in the performance of this agreement which have not been billed to City by Grantee within ninety (90) days.

7. City shall not be liable for costs incurred or performances rendered by Grantee before commencement of this agreement or after termination of this agreement.

D. Grantee's Responsibilities

1. Grantee shall perform all activities in accordance with their budget, the applicable laws and regulations set forth herein; the assurance, certifications, and all other terms, provisions, and requirements set forth in this agreement.

2. Grantee shall submit to City such reports on the operation and performance of this agreement during their program activity timeframe, as required by the City.

3. In addition to the limitations on liability otherwise specified in this agreement, it is expressly understood and agreed by the parties hereto that if Grantee fails to submit to City in a timely and satisfactory manner any report required by this agreement, City may, at its sole option and in its sole discretion, withhold any or all payments otherwise due or requested by Grantee hereunder. If City withholds such payments, it shall notify Grantee in writing of its decision and the reasons therefor. Payments withheld pursuant to this paragraph may be held by City until such time as the delinquent obligations for which funds are withheld are fulfilled by Grantee.

4. Grantee shall refund to City any sum of money which has been paid to Grantee by City which City determines has resulted in overpayment to Grantee, or which City

determines has not been spent by Grantee strictly in accordance with the terms of this agreement. Such refund shall be made by Grantee to City within thirty (30) working days after such refund is requested by City.

5. Grantee agrees to comply with applicable uniform administrative requirements, as described in 24 CFR 570.502.

6. Grantee agrees to comply with Housing and Urban Development Outcome Performance Measurement requirements and reporting.

7. Grantee agrees to carry out the activities under this agreement in compliance with all Federal laws and regulations described in 24 CFR Chapter 570 subpart K except grantee does not assume the City's responsibility for initiating the review process under the provisions of 24 CFR part 52.

8. Grantee will have the Match and Non-CDBG funds ready and available prior to the start of the project. Failure to do so may delay, and or cancel the project.

9. Grantee will verify and certify eligibility when the activity is a Low-mod Clientele program by signing and dating the Self Certification form.

E. Grantee's Match:

1. Grantees applying for Community Development Block Grant (CDBG) funds must supplement requests for CDBG funds with additional funds from sources other than CDBG. This project must provide 25% or more of the total project costs from non-CDBG sources.

2. Matching funds may include cash provided by the agency from its own fund or other agencies, donations, or grants other than CDBG. The value of the match is subject to review and approval by the City of Lubbock.

F. Levels of Accomplishment - Goals and Performance Measures

In addition to the normal administrative services required as part of this Agreement, the Grantee agrees to provide the following levels of summer program services:

Activity	Units per Month	Total Units/Year
Program June - August	3 Months / 100	300 (youth)
Year End and Outcome reporting	100	300

Note: Units means the number of unduplicated participants that will benefit directly from the program.

G. Staffing - Staff related to the entire project:

Staff Member	General Program Duties
Tom Vermillion, Executive Director	Administration, oversight of grant funds and club branches.
Pam Amen, Program Manager	Request funds, submit reports, oversee budget
Matthew Thompson, Unit Director Optimist	Program coordinator and club activities
Albert McCleod, Unit Director Phea	Program coordinator and club activities

H. Performance Monitoring

1. General Statement:

The City will monitor the performance of the Grantee for compliance with goals and requirements as required or as it deems necessary in accordance with the regulations. Monitoring will be based on a risk analysis and a monitoring plan developed at the beginning of the fiscal year. Desk monitoring will take place on a monthly and quarterly basis as described below during grantees program activity timeframe. Substandard performance as determined by the City will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by the Grantee within a reasonable period of time after being notified by the City in writing, contract suspension or termination procedures will be initiated.

2. On-site Monitoring

- The number of on-site Monitoring Visits will be determined by the Community Development department of the City of Lubbock.
- Notification letter sent to grantee at least 15 days before on-site monitoring visit.
- Monitoring letter sent to grantee identifying concerns and findings if any within thirty (30) days of on-site monitoring visit.
- Grantee must provide a written response within thirty (30) days to the monitoring letter that describes how the grantee will resolve any issues. If no deficiencies were

noted grantee must confirm receipt of report within thirty (30) days of the date of the letter.

II. TIME OF PERFORMANCE

Services of the Grantee shall start on the 1st day of October 2015, and terminate on the 30th day of September, 2016. The term of this Agreement and the provisions herein may be extended to cover any additional time period during which the Grantee remains in control of CDBG funds or other assets, including program income.

III. BUDGET

Line Item:	**Amount:**
Personnel	$19,000
Payroll Taxes	$ 2,500
Promotional	$ 2,000
Other: Stipens	$ 5,000
Equipment:	$ 3 500
TOTAL:	**$32,000**

Any indirect costs charged must be consistent with the conditions of Paragraph VIII (C) (2) of this Agreement. In addition, the City may require a more detailed budget breakdown than the one contained herein, and the Grantee shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the City. Any changes to this budget must be approved in writing by the City.

IV. PAYMENT

All payments to grantees are on a monthly reimbursement basis. The Grantee will have incurred the expense or paid for the expense and submit detailed source documentation to the City when requesting payment.

It is expressly agreed and understood that the total amount to be paid by the City under this contract shall not exceed **$32,000**. Requests for payment of eligible expenses shall be made against the line item budgets specified in Paragraph III herein and in accordance with performance. Expenses for general administration shall also be paid against the line item budgets specified in Paragraph III and in accordance with performance.

Payment request must be submitted with back-up documentation such as time sheets, paycheck stubs, receipts, invoices, billing statements or other verification in support of all expenditures incurred and charged to the grant.

Payments may be contingent upon certification of the Grantee's financial management system in accordance with the standards specified in 24 CFR 84.

V. NOTICES

Notices required by this Agreement shall be in writing and delivered via mail (postage prepaid), commercial courier and personal delivery or sent by facsimile or other electronic means. Any notice delivered or sent as aforesaid shall be effective on the date of delivery or sending. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice.

City	Grantee
Piata Bryant City of Lubbock P. O. Box 2000 Lubbock, TX 79457	Tom Vermillion Lubbock Boys & Girls Club P. O. Box 94163 Lubbock, TX 79493

VI. SPECIAL CONDITIONS

NONE

VII. GENERAL CONDITIONS

A. General Compliance

The Grantee agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the U. S. Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)) including subpart J and subpart K of these regulations, except that (1) the Grantee does not assume the recipient's environmental responsibilities described in 24 CFR 570.604 and (2) the Grantee does not assume the recipient's responsibility for initiating the review process under the provisions of 24 CFR Part 52. The Grantee also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract. The Grantee further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

The Grantee shall comply with all applicable Federal laws, regulations, and requirements and all provisions of this Agreement, which include compliance with the provisions of the HCD Act and all rules, regulations, guidelines, and circulars promulgated by the

various Federal departments, agencies, administrations, and commissions relating to the CDBG Program. The applicable laws and regulations include, but are not limited to:

- 24 CFR Part 570;
- 24 CFR Parts 84 and 85;
- OMB Circular A-87 "Cost Principles for State and Local Governments," or OMB Circular A-110, or OMB Circular A-122 "Cost Principles for Non-Profit Organizations," or OMB Circular A-21 "Cost Principles for Educational Institutions";
- OMB Circular A-128, "Audits of State and Local Governments" or OMB Circular A-133 Audits of Institutions of Higher Education and Other Non-Profit Institutions";
- The Davis-Bacon Fair Labor Standards Act;
- The Contract Work Hours and Safety Standards Act of 1962;
- Copeland "Anti-Kickback" act of 1934;
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA);
- Title VI of the Civil Rights Act of 1964; (Public Law 88-352 implemented in 24 CFR Part 1)
- Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (Public Law 90-234 and Executive Order 11063 as amended by Executive Order 12259 (implemented in 24 CFR Part 107);
- Section 104(b) and 109 of the Housing and Community Development Act of 1974;
- Section 3 of the Housing and Urban Development Act of 1968;
- Equal employment opportunity and minority business enterprise regulations established in 24 CFR Part 570.904;
- Non-discrimination in employment, established by Executive Order 11246 (as amended by Executive Orders 11375 and 12086)
- Section 504 of the Rehabilitation Act of 1973 Uniform Federal accessibility Standards;
- The Architectural Barriers Act of 1968;
- The Americans With Disabilities Act (ADA) of 1990;
- The Age Discrimination Act of 1975, as amended;
- National Environmental Policy of 1969 (42 USC 4321 et seq.), as amended
- Lead Based paint regulations established in 24 CFR Parts 35, 570.608, &24 CFR982.401;
- Asbestos guidelines established in CPD Notice 90-44;
- HUD Environmental Criteria and Standards (24CFR Part 51);
- The Energy Policy and conservation Act (Public Law 94-163) and 24 CFR Part39;
- Historic Preservation Act of 1966, as amended, and related laws and Executive Orders;
- Executive Order 11988, floodplain management, 1977 (42 FR 26951 et seq.);
- Flood Disaster protection Act of 1973

B. <u>"Independent Contractor"</u>

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Grantee shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The City shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation insurance as the Grantee is an independent contractor.

C. Indemnity and Release

Grantee shall indemnify and hold harmless, to the fullest extent permitted by law, the City, and City's respective officers, employees, elected officials and agents, from and against any and all losses, damages, claims or liabilities, of any kind or nature, which arise directly or indirectly, or are related to, in any way, manner or form, the activities contemplated hereunder.

Grantee shall pay to the City, the City's respective officers, employees, elected officials and/or agents, as applicable, all attorneys' fees incurred by such parties in enforcing Grantee's indemnity in this section.

The City, and its respective officers, employees, elected officials and agents shall not be liable and Grantee hereby releases the City, and its respective officers, employees, elected officials and agents, for, from and/or against any losses, damages, claims or liabilities to Grantee

The indemnity and release provided herein shall survive the termination or voidance of this agreement.

D. Right to Exercise

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

E. Workers' Compensation

The Grantee shall provide Workers' Compensation insurance coverage for all of its employees involved in the performance of this contract.

F. Insurance and Bonding

The Grantee shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum, shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the City.

The Grantee shall comply with the bonding and insurance requirements of 24 CFR 84, Bonding and Insurance.

G. Grantor Recognition

The Grantee shall insure recognition of the role of the grantor agency in providing services through this contract. All activities, facilities, and items utilized pursuant to this contract shall be prominently labeled as to funding source. In addition, the Grantee will include a reference to the support provided herein in all publications made possible with funds made available under this contract.

H. Amendments

The City or Grantee may amend this Agreement at any time, provided that such amendments make specific reference to this Agreement and are executed in writing, signed by a duly authorized representative of both organizations and approved by the City's governing body. Such amendments shall not invalidate this Agreement nor relieve or release the City or Grantee from its obligations under this Agreement.

The City may, at its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both City and Grantee.

I. Suspension or Termination

Either party may terminate this contract at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least 30 days before the effective date of such termination. Partial termination of the Scope of Service in Paragraph I.A. above may only be undertaken with the prior approval of the City. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Grantee under this Agreement shall, at the option of the City, become the property of the City, and the Grantee shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

The City may also suspend or terminate this Agreement, in whole or in part, if the Grantee fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein; and the City may declare the Grantee

ineligible for any further participation in the City's contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe the Grantee is in noncompliance with any applicable rules or regulations, the City may withhold up to fifteen percent (15%) of said contract funds until such time as the Grantee is found to be in compliance by the City, or is otherwise adjudicated to be in compliance.

The City may also terminate this agreement in the event of an emergency or disaster, whether, an act of God, natural or manmade, by giving twenty-four (24) hour notice. The City may give said notice verbally to Grantee. Any expenditure incurred prior to receiving notice will be reimbursed; however, in no event shall the City pay any expenses incurred after notice of termination is received by Grantee.

VIII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards

The Grantee agrees to comply with 24 CFR 84 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles

The Grantee shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations". These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

B. Documentation and Record-Keeping

1. Records to be maintained

The Grantee shall maintain all records required by the Federal regulations specified in 24 CFR Part 570.506 that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

a. Records providing a full description of each activity undertaken;
b. Records demonstrating that each activity undertaken meet the National Objective of the CDBG program of benefiting low/moderate income persons.
c. Records required determining the eligibility of activities;
d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
f. Financial records as required by 24 CFR Part 570.502, and 24 CFR 84;

g. Other records necessary to document compliance with Subpart K of 24 CFR 570.

2. Retention

The Grantee shall retain all records pertinent to expenditures incurred under this contract for a period of four (4) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this contract shall be retained for four (4) years after final disposition of such property. Records for any displaced person must be kept for four (4) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the four-year period, whichever occurs later.

3. Client Data

The Grantee shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to City monitors or their designees for review upon request.

4. Disclosure

The Grantee understands that client information collected under this contract is private, and the use or disclosure of such information, when not directly connected with the administration of the City's or Grantee's responsibilities with respect to services provided under this contract, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian, unless otherwise required by law.

5. Property Records

The Grantee shall maintain real property inventory records which clearly identify properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform to the "changes in use" restrictions specified in 24 CFR Parts 570.503(b) (8), as applicable.

6. Close-Outs

The Grantee's obligation to the City shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program

income balances, and accounts receivable to the City), final close-out reports and determining the custodianship of records.

7. Audits & Inspections

All Grantee records with respect to any matters covered by this Agreement shall be made available to the City, grantor agency, their designees or the Federal Government, at any time during normal business hours, as often as the City or grantor agency deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Grantee within 30 days after receipt by the Grantee. Failure of the Grantee to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The Grantee hereby agrees to have an annual agency audit conducted in accordance with current City policy concerning Grantee audits and, as applicable, OMB Circular A-133.

Grantees meeting the OMB Circular A-133 requirements must submit their audits to the audit clearing house within nine (9) months after the entities fiscal year end date.

C. Reporting and Payment Procedures

1. Payment Procedures

The City will pay to the Grantee funds available under this contract based upon information submitted by the Grantee and consistent with any approved budget and City policy concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Grantee, and not to exceed actual cash requirements. Payments will be adjusted by the City in accordance with advance fund and program income balances available in Grantee accounts. In addition, the City reserves the right to liquidate funds available under this contract for costs incurred by the City on behalf of the Grantee.

2. Performance Reports

Grantee shall submit to City a Performance, Financial Report, and narrative information monthly or during their program activity time frame as requested by the city, in a format prescribed by the City and shall include the amount of funds expended for each of the eligible activities. Grantee shall submit the reports monthly no later than the 20th of each month.

The September financial and narrative reports must submitted by September 30. The performance report will remain due by the 20th of the following month.

Reporting will continue from the start of program activity till the end of the program year. End of year reports are required.

D. Procurement

1. Compliance

The Grantee shall comply with current City policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets purchased with such funds (unexpended program income, property, equipment, etc.) shall revert to the City upon termination of this contract.

2. CFR Standards

The Grantee shall procure all materials, property, or services in accordance with the requirements of 24 CFR 84, Procurement Standards, and shall subsequently follow Property Management Standards as modified by 24 CFR 570.502(b)(6), covering utilization and disposal of property.

3. Travel

The Grantee shall obtain written approval from the City for any travel outside the metropolitan area with funds provided under this contract.

E. Use and Reversion of Assets

The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 24 CFR Part 84 and CFR 570.502, 570.503, and 570.504, as applicable, which include but are not limited to the following:

1. The Sub-recipient shall transfer to the Grantee any CDBG funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.

2. Real property under the Sub-recipient's control that was acquired or improved, in whole or in part, with funds under this Agreement in excess of $25,000 shall be used to meet one of the CDBG National Objectives pursuant to 24 CFR 570.208 until five (5) years after expiration of this Agreement [or such longer period of time as the Grantee deems appropriate]. If the Sub-recipient fails to use CDBG-assisted real property in a manner that meets a CDBG National Objective for the prescribed period of time, the Sub-recipient shall pay the Grantee an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property. Such

payment shall constitute program income to the Grantee. The Sub-recipient may retain real property acquired or improved under this Agreement after the expiration of the five-year [or such longer period of time as the Grantee deems appropriate.

3. In all cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds shall be program income (prorated to reflect the extent to that funds received under this Agreement were used to acquire the equipment). Equipment not needed by the Sub-recipient for activities under this Agreement shall be (a) transferred to the Grantee for the CDBG program or (b) retained after compensating the Grantee [an amount equal to the current fair market value of the equipment less the percentage of non-CDBG funds used to acquire the equipment].

IX. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT

The Grantee agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Antidisplacement and Relocation Assistance Plan under Section 104(d) of the HCD Act; and (c) the requirements in 570.606(d) governing optional relocation policies. (The City may preempt the optional policies.) The Grantee shall provide relocation assistance to persons (families, individuals, businesses, nonprofit organizations and farms) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project. The Grantee also agrees to comply with applicable City ordinances, resolutions and policies concerning the displacement of persons from their residences.

X. PERSONNEL & PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

The Grantee agrees to comply and to require all subcontractors to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086.

2. Nondiscrimination

The Grantee will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital/familial status, or status with regard to public assistance. The Grantee will take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include, but are not limited to, the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Grantee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

3. Land Covenants

This contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Grantee shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City and the United States are beneficiaries of and entitled to enforce such covenants. The Grantee, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

4. Section 504

The Grantee agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), which prohibits discrimination against the handicapped in any Federally-assisted program. The City shall provide the Grantee with any guidelines necessary for compliance with that portion of the regulations in force during the term of this contract.

5. Reports

The Grantee shall maintain a report that documents the race/ethnicity of its employees. The Grantee shall provide the City a copy with said report upon execution of this Agreement.

6. Policies

The Grantee shall maintain current copies of its fair housing and equal opportunity policies. The Grantee shall provide a copy of said policies to the City immediately upon request.

B. Affirmative Action

1. Approved Plan

The Grantee agrees that it shall be committed to carry out pursuant to the City's specifications an Affirmative Action Program in keeping with the principles as provided in the President's Executive Order 11246 of September 24, 1965. Grantees receiving federal funds through the City are required to develop a written affirmative action program to insure that equal opportunity is provided in all aspects of their employment.

2. Women-and Minority-Owned Business

The Grantee will use its best efforts to afford minority- and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the term "minority and female business enterprise" means a business at least fifty-one percent (51%) owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish-surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Grantee may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

3. Access to Records

The Grantee shall furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

4. Notifications

The Grantee will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Grantee's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5. EEO/AA Statement

The Grantee will, in all solicitations or advertisements for employees placed by or on behalf of the Grantee, state that it is an Equal Opportunity or Affirmative Action employer.

6. Subcontract Provisions

The Grantee will include the provisions of Paragraphs X.A., Civil Rights, and B., Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subrecipients or subcontractors.

C. Employment Restrictions

1. Prohibited Activity

The Grantee is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; and lobbying, political patronage, and nepotism activities.

2. Labor Standards

The Grantee agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act, the Copeland "Anti-Kickback" Act (40 U.S.C. 276a-276a-5; 40 USC 327 and 40 USC 276c) and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this contract. The Grantee shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City for review upon request. The Grantee agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of $2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Grantee of its obligation, if any, to require payment of the higher wage. The Grantee shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

3. "Section 3" Clause

a. Compliance

Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the City, the Grantee and any of the Grantee's subrecipients and subcontractors. Failure to fulfill these requirements shall subject the City, the Grantee and any of the Grantee's subrecipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. The Grantee certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

The Grantee further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

> "The work to be performed under this contract is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 (of the Housing and Urban Development Act of 1968), as amended, 12 U.S.C. 1701. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to low- and very low-income residents of the project area, and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."

The Grantee further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to business concerns which provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

The Grantee certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements.

b. Notifications

The Grantee agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

c. Subcontracts

The Grantee will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Grantee will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

D. Conduct

1. Assignability

The Grantee shall not assign or transfer any interest in this contract without the prior written consent of the City thereto; provided, however, that claims for money due or to become due to the Grantee from the City under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

2. Subcontracts

a. Approvals

The Grantee shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of the City prior to the execution of such agreement.

b. Monitoring

The Grantee will monitor all subcontracted services on a risk analysis basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content

The Grantee shall cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d. Selection Process

The Grantee shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the City along with documentation concerning the selection process.

e. Suspension / Disbarment

The Grantee shall not enter into any subcontracts with an agency, business or individual that has been suspended, disbarred or otherwise excluded from federal grants. The Grantee shall maintain records demonstrating that it has reviewed potential subcontractors against the debarred and excluded list prior to committing any grant funds to a subcontract.

3. Hatch Act

The Grantee agrees that no funds provided, nor personnel employed under this contract, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

4. Conflict of Interest

The Grantee shall maintain written codes of conduct that govern the performance of its employees engaged in the award and administration of contracts. Said codes of conduct shall be in compliance with 24 CFR 84.42.

Further, Grantee covenants that it presently has no financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Grantee further covenants that, in the performance of this Agreement, no person having such a financial interest shall be employed or retained by the Grantee hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the City, or of any designated public

agencies or subrecipients which are receiving funds under the CDBG Entitlement program.

5. Lobbying

The Grantee hereby certifies that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

c. It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly; and

d. Lobbying Certification

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

6. Copyright

If this contract results in any copyrightable material or inventions, the City and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable

license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

7. Religious Organization

The Grantee agrees that funds provided under this contract will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the Federal regulations specified in 24 CFR 570.200(j).

XI. ENVIRONMENTAL CONDITIONS

A. Air and Water

The Grantee agrees to comply with the following requirements insofar as they apply to the performance of this contract:

Clean Air Act, 42 U.S.C., 7401, et seq.
Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.

Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R., Part 50, as amended.

B. Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 USC 4001), the Grantee shall assure that, for activities located in an area identified by FEMA as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint

The Grantee agrees that any construction or rehabilitation of residential structures with assistance provided under this contract shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35 and will comply with all applicable requirements.

D. Asbestos

City agrees to comply with the Texas Asbestos Health Protection Act set forth at Article 4477-3a Section 12 of the Texas Civil Statutes and the National Emission Standard for Asbestos Regulations set forth at 40 CFR Part 61.

E. Historic Preservation

The Grantee agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR, Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this contract. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty (50) years old or older or that are included on a Federal, state, or local historic property list.

XII. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby, and all other parts of this Agreement shall nevertheless be in full force and effect.

XIII. SECTION HEADINGS AND SUBHEADINGS

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

XIV. WAIVER

The Grantee's failure to act with respect to a breach by the Sub-recipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the Grantee

to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

XV. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the Grantee and the Sub-recipient for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the Grantee and the Sub-recipient with respect to this Agreement.

IN WITNESS WHEREOF, the Parties have executed this contract as of the date first written above.

CITY OF LUBBOCK

GLEN C. ROBERTSON
MAYOR

ATTEST:

Rebecca Garza, City Secretary

LUBBOCK BOYS AND GIRLS CLUB, INC.

Tom Vermillion
Executive Director

FED.I.D. # 75-1037228

Dr. Harry Overstreet
Board Chair

APPROVED AS TO CONTENT:

Karen Murfee, Community Development Director

APPROVED AS TO FORM:

Justin Pruitt, Assistant City Attorney

Regular City Council Meeting **5. 24.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - Community Development: Consider a resolution authorizing and directing the Mayor to execute for and on behalf of the City of Lubbock a Community Development funding contract 12598 and all related documents between the City of Lubbock and the Court Appointed Special Advocates (CASA) of the South Plains from the Community Development Block Grant (CDBG) program for advocacy services.

Item Summary

Grantee: CASA of the South Plains

Program: Advocacy Services

Funding Source: 2015-2016 CDBG

Use of Funds: The funds for these programs will be used to provide partial funding for advocacy services and daily operational cost.

Amount: $35,000

Match: 25%

Return of Investment: Not required for Community Development public service

Terms: October 1, 2015 through September 30, 2016

Comments: Funding for this contract was approved by City Council at the June 25, 2015 council meeting.

Fiscal Impact

Federal funds will be used from the CDBG program. The maximum to be allocated to these projects is $35,000.

Staff/Board Recommending

Bill Howerton, Assistant City Manager

Attachments

Resolution - Court Appointed Special Advocates

Agreement - Court Appointed Special Advocates

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, a Community Development Block Grant funding contract, and related documents, to provide partial funding for advocacy services and daily operational costs for Court Appointed Special Advocates of the South Plains (CASA), by and between the City of Lubbock and CASA. Said funding contract is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Bill Howerton, Assistant City Manager

APPROVED AS TO FORM:

_____
Justin Pruitt, Assistant City Attorney

ccdocs/RES Agreement – Court Appointed Special Advocates (CASA)– CDBG Funds
November 11, 2015

COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDING AGREEMENT
BETWEEN
THE CITY OF LUBBOCK
AND
CASA of the South Plains

STATE OF TEXAS §

COUNTY OF LUBBOCK §

THIS AGREEMENT, entered this 1st day of October 2015 by and Between the City of Lubbock (herein called the "City") and **Court Appointed Special Advocates of the South Plains (CASA)** (herein called the "Grantee").

WHEREAS, the City has applied for and received funds from the United States Government under Title I of the Housing and Community Development Act of 1974; and

WHEREAS, the City wishes to engage the Grantee to assist the Grantee in utilizing such funds;

WHEREAS, the City is obligated to do and perform certain services in its undertaking of a Community Development Block Grant Program pursuant to the Housing and Development Act of 1975, as amended; and

WHEREAS, the Grantee operates a non-profit center offering services to low- and moderate-income individuals and families; and

WHEREAS, the services provided by the Grantee benefit citizens of the City of Lubbock and constitute a valuable public service; and

WHEREAS, the City Council of the City of Lubbock has declared programs of the Grantee to be a public purpose and the provision of these services to be a predominate purpose of this transaction; and

WHEREAS, the Grantee and the services it provides have been found to meet the criteria for funding under provision 24 CFR 570.201; and

WHEREAS, the accomplishment of the above public purpose is the predominant purpose of this transaction, continuing supervision by the City together with statutory and contractual requirements provide sufficient assurance that this public purpose will be accomplished; and an audit provides sufficient protection of the handling of public money; and

WHEREAS, the City Council has found that the Grantee has the special expertise, knowledge and experience necessary for the **Advocacy Services Expansion for Lubbock Foster Youth Project** and that the City will receive adequate consideration in the form of substantial public benefit; and

WHEREAS, the City desires to contract with the Grantee to make available funds for the **CASA of the South Plains Advocacy Services Expansion for Lubbock Foster Youth Project.**

NOW, THEREFORE, it is agreed between the parties hereto that:

I. SCOPE OF SERVICE

A. Activities

1. General Statement

The Grantee will be responsible for administering a Community Development Block Grant (CDBG) Year 2015-2016 **Advocacy Services Expansion for Lubbock Foster Youth project** in a manner satisfactory to the City and consistent with any standards required as a condition of providing these funds. Such program will include the following activities eligible under the CDBG Program.

2. Program Delivery

Activity #1 The CASA of the South Plains Advocacy Services Expansion for Lubbock Foster Youth program will provide one year of advocacy services to 21 additional foster youth in the City of Lubbock. This increase will allow CASA to expand advocacy services to foster youth in the City of Lubbock that currently are not receiving these program services.

B. National Objectives

The Grantee certifies that the activities carried out with funds provided under this Agreement will meet the suitable living environment objective by providing eligible activities that benefit communities, families or individuals by addressing issues in their living environment Community Development Block Grant program - as defined in 24 CFR §576.21 as amended by the HEARTH Act.

C. City Responsibilities

1. City agrees to provide Grantee assistance from the U. S. Department of Housing and Urban Development (HUD) funds in an amount not to exceed **$35,000** in return for Grantee performing the activities set forth in this Agreement as consideration for said funds.

2. It is expressly understood and agreed by the parties hereto that City's responsibilities are contingent upon the actual receipt of adequate federal funds to meet City's liabilities under this agreement. If adequate funds are not available to make payments under this agreement, City shall notify Grantee in writing within a reasonable time after such fact is determined. City shall terminate this agreement

and will not be liable for failure to make payments to Grantee under this agreement.

3. City shall not be liable to Grantee for any costs incurred by Grantee, or any portions thereof, which have been paid to Grantee or which are subject to payment to Grantee, or which have been reimbursed to Grantee or which are subject to reimbursement to Grantee by any source other than City or Grantee.

4. City shall not be liable to Grantee for any costs incurred by Grantee which are not allowable costs, as set forth in 24 CFR §570.207.

5. City shall not be liable to Grantee for any costs incurred by Grantee or for any performances rendered by Grantee which are not strictly in accordance with the terms of this agreement.

6. City shall not be liable to Grantee for any costs incurred by Grantee in the performance of this agreement which have not been billed to City by Grantee within ninety (90) days.

7. City shall not be liable for costs incurred or performances rendered by Grantee before commencement of this agreement or after termination of this agreement.

D. Grantee's Responsibilities

1. Grantee shall perform all activities in accordance with their budget, the applicable laws and regulations set forth herein; the assurance, certifications, and all other terms, provisions, and requirements set forth in this agreement.

2. Grantee shall submit to City such reports on the operation and performance of this agreement during their program activity timeframe, as required by the City.

3. In addition to the limitations on liability otherwise specified in this agreement, it is expressly understood and agreed by the parties hereto that if Grantee fails to submit to City in a timely and satisfactory manner any report required by this agreement, City may, at its sole option and in its sole discretion, withhold any or all payments otherwise due or requested by Grantee hereunder. If City withholds such payments, it shall notify Grantee in writing of its decision and the reasons therefor. Payments withheld pursuant to this paragraph may be held by City until such time as the delinquent obligations for which funds are withheld are fulfilled by Grantee.

4. Grantee shall refund to City any sum of money which has been paid to Grantee by City which City determines has resulted in overpayment to Grantee, or which City determines has not been spent by Grantee strictly in accordance with the terms of

this agreement. Such refund shall be made by Grantee to City within thirty (30) working days after such refund is requested by City.

5. Grantee agrees to comply with applicable uniform administrative requirements, as described in 24 CFR 570.502.

6. Grantee agrees to comply with Housing and Urban Development Outcome Performance Measurement requirements and reporting.

7. Grantee agrees to carry out the activities under this agreement in compliance with all Federal laws and regulations described in 24 CFR Chapter 570 subpart K except grantee does not assume the City's responsibility for initiating the review process under the provisions of 24 CFR part 52.

8. Grantee will have the Match and Non-CDBG funds ready and available prior to the start of the project. Failure to do so may delay, and or cancel the project.

9. Grantee will verify and certify eligibility when the activity is a Low-mod Clientele program by signing and dating the Self Certification form.

E. Grantee's Match:

1. Grantees applying for Community Development Block Grant (CDBG) funds must supplement requests for CDBG funds with additional funds from sources other than CDBG. This project must provide 25% or more of the total project costs from non-CDBG sources.

2. Matching funds may include cash provided by the agency from its own fund or other agencies, donations, or grants other than CDBG. The value of the match is subject to review and approval by the City of Lubbock.

F. Levels of Accomplishment - Goals and Performance Measures

In addition to the normal administrative services required as part of this Agreement, the Grantee agrees to provide the following levels of program services:

Activity	Units per Month	Total Units/Year
Program October - September	1.75	21

Note: Units means the number of unduplicated participants that will benefit directly from the program.

G. Staffing - Staff related to the entire project:

Staff Member	General Program Duties
Jennie Hill, Executive Director	Oversight of all operations and supervises all Directors.
Lauren Westerberg, Program Director	Supervises and administrates program related activities.
Paris Wright, LeAnne Lopez, Kristen Mata, and Misty Horn, Advocacy Coordinators	Coaches and supervises up to 25 volunteer advocates.
Volunteer Advocates	Visits children, advocates for child's best interests, maintains records; submits court reports and monitors cases.

H. Performance Monitoring

1. General Statement:

The City will monitor the performance of the Grantee for compliance with goals and requirements as required or as it deems necessary in accordance with the regulations. Monitoring will be based on a risk analysis and a monitoring plan developed at the beginning of the fiscal year. Desk monitoring will take place on a monthly and quarterly basis as described below during grantees program activity timeframe. Substandard performance as determined by the City will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by the Grantee within a reasonable period of time after being notified by the City in writing, contract suspension or termination procedures will be initiated.

2. On-site Monitoring

- The number of on-site Monitoring Visits will be determined by the Community Development department of the City of Lubbock.
- Notification letter sent to grantee at least 15 days before on-site monitoring visit.
- Monitoring letter sent to grantee identifying concerns and findings if any within thirty (30) days of on-site monitoring visit.

- Grantee must provide a written response within thirty (30) days to the monitoring letter that describes how the grantee will resolve any issues. If no deficiencies were noted grantee must confirm receipt of report within thirty (30) days of the date of the letter.

II. TIME OF PERFORMANCE

Services of the Grantee shall start on the 1st day of October, 2015, and terminate on the 30th day of September, 2016. The term of this Agreement and the provisions herein may be extended to cover any additional time period during which the Grantee remains in control of CDBG funds or other assets, including program income.

III. BUDGET

Line Item:	**Amount:**
Personnel	$32,944
Payroll Taxes	$ 342
Employee Benefits	$ 1,714
TOTAL:	**$35,000**

The City may require a more detailed budget breakdown than the one contained herein, and the Grantee shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the City. Any changes to this budget must be approved in writing by the City.

IV. PAYMENT

All payments to grantees are on a monthly reimbursement basis. The Grantee will have incurred the expense or paid for the expense and submit detailed source documentation to the City when requesting payment.

It is expressly agreed and understood that the total amount to be paid by the City under this contract shall not exceed **$35,000**. Requests for payment of eligible expenses shall be made against the line item budgets specified in Paragraph III herein and in accordance with performance. Expenses for general administration shall also be paid against the line item budgets specified in Paragraph III and in accordance with performance.

Payment request must be submitted with back-up documentation such as time sheets, paycheck stubs, receipts, invoices, billing statements or other verification in support of all expenditures incurred and charged to the grant.

Payments may be contingent upon certification of the Grantee's financial management system in accordance with the standards specified in 24 CFR 84.

V. NOTICES

Notices required by this Agreement shall be in writing and delivered via mail (postage prepaid), commercial courier and personal delivery or sent by facsimile or other electronic means. Any notice delivered or sent as aforesaid shall be effective on the date of delivery or sending. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice.

City	Grantee
Piata Bryant City of Lubbock P. O. Box 2000 Lubbock, TX 79457	Jennie Hill CASA of the South Plains, Inc. 24 Briercroft Office Park Lubbock, TX 79412

VI. SPECIAL CONDITIONS

NONE

VII. GENERAL CONDITIONS

A. General Compliance

The Grantee agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the U. S. Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)) including subpart J and subpart K of these regulations, except that (1) the Grantee does not assume the recipient's environmental responsibilities described in 24 CFR 570.604 and (2) the Grantee does not assume the recipient's responsibility for initiating the review process under the provisions of 24 CFR Part 52. The Grantee also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract. The Grantee further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

The Grantee shall comply with all applicable Federal laws, regulations, and requirements and all provisions of this Agreement, which include compliance with the provisions of the HCD Act and all rules, regulations, guidelines, and circulars promulgated by the various Federal departments, agencies, administrations, and commissions relating to the CDBG Program. The applicable laws and regulations include, but are not limited to:

- 24 CFR Part 570;
- 24 CFR Parts 84 and 85;
- OMB Circular A-87 "Cost Principles for State and Local Governments," or OMB Circular A-110, or OMB Circular A-122 "Cost Principles for Non-Profit Organizations," or OMB Circular A-21 "Cost Principles for Educational Institutions";
- OMB Circular A-128, "Audits of State and Local Governments" or OMB Circular A-133 Audits of Institutions of Higher Education and Other Non-Profit Institutions";
- The Davis-Bacon Fair Labor Standards Act;
- The Contract Work Hours and Safety Standards Act of 1962;
- Copeland "Anti-Kickback" act of 1934;
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA);
- Title VI of the Civil Rights Act of 1964; (Public Law 88-352 implemented in 24 CFR Part 1)
- Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (Public Law 90-234 and Executive Order 11063 as amended by Executive Order 12259 (implemented in 24 CFR Part 107);
- Section 104(b) and 109 of the Housing and Community Development Act of 1974;
- Section 3 of the Housing and Urban Development Act of 1968;
- Equal employment opportunity and minority business enterprise regulations established in 24 CFR Part 570.904;
- Non-discrimination in employment, established by Executive Order 11246 (as amended by Executive Orders 11375 and 12086)
- Section 504 of the Rehabilitation Act of 1973 Uniform Federal accessibility Standards;
- The Architectural Barriers Act of 1968;
- The Americans With Disabilities Act (ADA) of 1990;
- The Age Discrimination Act of 1975, as amended;
- National Environmental Policy of 1969 (42 USC 4321 et seq.), as amended
- Lead Based paint regulations established in 24 CFR Parts 35, 570.608, &24 CFR982.401;
- Asbestos guidelines established in CPD Notice 90-44;
- HUD Environmental Criteria and Standards (24CFR Part 51);
- The Energy Policy and conservation Act (Public Law 94-163) and 24 CFR Part39;
- Historic Preservation Act of 1966, as amended, and related laws and Executive Orders;
- Executive Order 11988, floodplain management, 1977 (42 FR 26951 et seq.);
- Flood Disaster protection Act of 1973

B. <u>"Independent Contractor"</u>

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Grantee shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The City shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation insurance as the Grantee is an independent contractor.

C. Indemnity and Release

Grantee shall indemnify and hold harmless, to the fullest extent permitted by law, the City, and City's respective officers, employees, elected officials and agents, from and against any and all losses, damages, claims or liabilities, of any kind or nature, which arise directly or indirectly, or are related to, in any way, manner or form, the activities contemplated hereunder.

Grantee shall pay to the City, the City's respective officers, employees, elected officials and/or agents, as applicable, all attorneys' fees incurred by such parties in enforcing Grantee's indemnity in this section.

The City, and its respective officers, employees, elected officials and agents shall not be liable and Grantee hereby releases the City, and its respective officers, employees, elected officials and agents, for, from and/or against any losses, damages, claims or liabilities to Grantee

The indemnity and release provided herein shall survive the termination or voidance of this agreement.

D. Right to Exercise

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

E. Workers' Compensation

The Grantee shall provide Workers' Compensation insurance coverage for all of its employees involved in the performance of this contract.

F. Insurance and Bonding

The Grantee shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum, shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the City.

The Grantee shall comply with the bonding and insurance requirements of 24 CFR 84, Bonding and Insurance.

G. Grantor Recognition

The Grantee shall insure recognition of the role of the grantor agency in providing services through this contract. All activities, facilities, and items utilized pursuant to this contract shall be prominently labeled as to funding source. In addition, the Grantee will include a reference to the support provided herein in all publications made possible with funds made available under this contract.

H. Amendments

The City or Grantee may amend this Agreement at any time, provided that such amendments make specific reference to this Agreement and are executed in writing, signed by a duly authorized representative of both organizations and approved by the City's governing body. Such amendments shall not invalidate this Agreement nor relieve or release the City or Grantee from its obligations under this Agreement.

The City may, at its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both City and Grantee.

I. Suspension or Termination

Either party may terminate this contract at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least 30 days before the effective date of such termination. Partial termination of the Scope of Service in Paragraph I.A. above may only be undertaken with the prior approval of the City. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Grantee under this Agreement shall, at the option of the City, become the property of the City, and the Grantee shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

The City may also suspend or terminate this Agreement, in whole or in part, if the Grantee fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein; and the City may declare the Grantee

ineligible for any further participation in the City's contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe the Grantee is in noncompliance with any applicable rules or regulations, the City may withhold up to fifteen percent (15%) of said contract funds until such time as the Grantee is found to be in compliance by the City, or is otherwise adjudicated to be in compliance.

The City may also terminate this agreement in the event of an emergency or disaster, whether, an act of God, natural or manmade, by giving twenty-four (24) hour notice. The City may give said notice verbally to Grantee. Any expenditure incurred prior to receiving notice will be reimbursed; however, in no event shall the City pay any expenses incurred after notice of termination is received by Grantee.

VIII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards

The Grantee agrees to comply with 24 CFR 84 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles

The Grantee shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations". These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

B. Documentation and Record-Keeping

1. Records to be maintained

The Grantee shall maintain all records required by the Federal regulations specified in 24 CFR Part 570.506 that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

a. Records providing a full description of each activity undertaken;
b. Records demonstrating that each activity undertaken meet the National Objective of the CDBG program of benefiting low/moderate income persons.
c. Records required determining the eligibility of activities;
d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
f. Financial records as required by 24 CFR Part 570.502, and 24 CFR 84;

g. Other records necessary to document compliance with Subpart K of 24 CFR 570.

2. Retention

The Grantee shall retain all records pertinent to expenditures incurred under this contract for a period of four (4) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this contract shall be retained for four (4) years after final disposition of such property. Records for any displaced person must be kept for four (4) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the four-year period, whichever occurs later.

3. Client Data

The Grantee shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to City monitors or their designees for review upon request.

4. Disclosure

The Grantee understands that client information collected under this contract is private, and the use or disclosure of such information, when not directly connected with the administration of the City's or Grantee's responsibilities with respect to services provided under this contract, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian, unless otherwise required by law.

5. Property Records

The Grantee shall maintain real property inventory records which clearly identify properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform to the "changes in use" restrictions specified in 24 CFR Parts 570.503(b) (8), as applicable.

6. Close-Outs

The Grantee's obligation to the City shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program

income balances, and accounts receivable to the City), final close-out reports and determining the custodianship of records.

7. Audits & Inspections

All Grantee records with respect to any matters covered by this Agreement shall be made available to the City, grantor agency, their designees or the Federal Government, at any time during normal business hours, as often as the City or grantor agency deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Grantee within 30 days after receipt by the Grantee. Failure of the Grantee to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The Grantee hereby agrees to have an annual agency audit conducted in accordance with current City policy concerning Grantee audits and, as applicable, OMB Circular A-133.

Grantees meeting the OMB Circular A-133 requirements must submit their audits to the audit clearing house within nine (9) months after the entities fiscal year end date.

C. Reporting and Payment Procedures

1. Payment Procedures

The City will pay to the Grantee funds available under this contract, based upon information submitted by the Grantee and consistent with any approved budget and City policy concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Grantee, and not to exceed actual cash requirements. Payments will be adjusted by the City in accordance with advance fund and program income balances available in Grantee accounts. In addition, the City reserves the right to liquidate funds available under this contract for costs incurred by the City on behalf of the Grantee.

2. Performance Reports

Grantee shall submit to City a Performance, Financial Report, and narrative information monthly or during their program activity time frame as requested by the city, in a format prescribed by the City and shall include the amount of funds expended for each of the eligible activities. Grantee shall submit the reports monthly no later than the 20th of each month.

The September financial and narrative reports must submitted by September 30. The performance report will remain due by the 20th of the following month.

Reporting will continue from the start of program activity till the end of the program year. A final year-end report is also required.

D. Procurement

1. Compliance

The Grantee shall comply with current City policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets purchased with such funds (unexpended program income, property, equipment, etc.) shall revert to the City upon termination of this contract.

2. CFR Standards

The Grantee shall procure all materials, property, or services in accordance with the requirements of 24 CFR 84, Procurement Standards, and shall subsequently follow Property Management Standards as modified by 24 CFR 570.502(b)(6), covering utilization and disposal of property.

3. Travel

The Grantee shall obtain written approval from the City for any travel outside the metropolitan area with funds provided under this contract.

E. Use and Reversion of Assets

The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 24 CFR Part 84 and CFR 570.502, 570.503, and 570.504, as applicable, which include but are not limited to the following:

1. The Sub-recipient shall transfer to the Grantee any CDBG funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.

2. Real property under the Sub-recipient's control that was acquired or improved, in whole or in part, with funds under this Agreement in excess of $25,000 shall be used to meet one of the CDBG National Objectives pursuant to 24 CFR 570.208 until five (5) years after expiration of this Agreement [or such longer period of time as the Grantee deems appropriate]. If the Sub-recipient fails to use CDBG-assisted real property in a manner that meets a CDBG National Objective for the prescribed period of time, the Sub-recipient shall pay the Grantee an amount equal to the current fair

market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property. Such payment shall constitute program income to the Grantee. The Sub-recipient may retain real property acquired or improved under this Agreement after the expiration of the five-year [or such longer period of time as the Grantee deems appropriate.

3. In all cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds shall be program income (prorated to reflect the extent to that funds received under this Agreement were used to acquire the equipment). Equipment not needed by the Sub-recipient for activities under this Agreement shall be (a) transferred to the Grantee for the CDBG program or (b) retained after compensating the Grantee [an amount equal to the current fair market value of the equipment less the percentage of non-CDBG funds used to acquire the equipment].

IX. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT

The Grantee agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Antidisplacement and Relocation Assistance Plan under Section 104(d) of the HCD Act; and (c) the requirements in 570.606(d) governing optional relocation policies. (The City may preempt the optional policies.) The Grantee shall provide relocation assistance to persons (families, individuals, businesses, nonprofit organizations and farms) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project. The Grantee also agrees to comply with applicable City ordinances, resolutions and policies concerning the displacement of persons from their residences.

X. PERSONNEL & PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

The Grantee agrees to comply and to require all subcontractors to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the

Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375

2. Nondiscrimination

The Grantee will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital/familial status, or status with regard to public assistance. The Grantee will take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include, but are not limited to, the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Grantee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

3. Land Covenants

This contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Grantee shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City and the United States are beneficiaries of and entitled to enforce such covenants. The Grantee, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

4. Section 504

The Grantee agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), which prohibits discrimination against the handicapped in any Federally-assisted program. The City shall provide the Grantee with any guidelines necessary for compliance with that portion of the regulations in force during the term of this contract.

5. Reports

The Grantee shall maintain a report that documents the race/ethnicity of its employees. The Grantee shall provide the City a copy with said report upon execution of this Agreement.

6. Policies

The Grantee shall maintain current copies of its fair housing and equal opportunity policies. The Grantee shall provide a copy of said policies to the City immediately upon request.

B. Affirmative Action

1. Approved Plan

The Grantee agrees that it shall be committed to carry out pursuant to the City's specifications an Affirmative Action Program in keeping with the principles as provided in the President's Executive Order 11246 of September 24, 1965. Grantees receiving federal funds through the City are required to develop a written affirmative action program to insure that equal opportunity is provided in all aspects of their employment.

2. Women-and Minority-Owned Business

The Grantee will use its best efforts to afford minority- and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the term "minority and female business enterprise" means a business at least fifty-one percent (51%) owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish-surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Grantee may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

3. Access to Records

The Grantee shall furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

4. Notifications

The Grantee will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Grantee's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5. EEO/AA Statement

The Grantee will, in all solicitations or advertisements for employees placed by or on behalf of the Grantee, state that it is an Equal Opportunity or Affirmative Action employer.

6. Subcontract Provisions

The Grantee will include the provisions of Paragraphs X.A., Civil Rights, and B., Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subrecipients or subcontractors.

C. Employment Restrictions

1. Prohibited Activity

The Grantee is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; and lobbying, political patronage, and nepotism activities.

2. Labor Standards

The Grantee agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act, the Copeland "Anti-Kickback" Act (40 U.S.C. 276a-276a-5; 40 USC 327 and 40 USC 276c) and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this contract. The Grantee shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City for review upon request. The Grantee agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of $2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Grantee of its obligation, if any, to require payment of the higher wage. The Grantee shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

3. "Section 3" Clause

a. Compliance

Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the City, the Grantee and any of the Grantee's subrecipients and subcontractors. Failure to fulfill these requirements shall subject the City, the Grantee and any of the Grantee's subrecipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. The Grantee certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

The Grantee further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

> "The work to be performed under this contract is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 (of the Housing and Urban Development Act of 1968), as amended, 12 U.S.C. 1701. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to low- and very low-income residents of the project area, and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."

The Grantee further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to business concerns which provide economic opportunities to low- and very low-income residents within the

service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

The Grantee certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements.

b. Notifications

The Grantee agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

c. Subcontracts

The Grantee will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Grantee will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

D. Conduct

1. Assignability

The Grantee shall not assign or transfer any interest in this contract without the prior written consent of the City thereto; provided, however, that claims for money due or to become due to the Grantee from the City under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

2. Subcontracts

a. Approvals

The Grantee shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of the City prior to the execution of such agreement.

b. Monitoring

The Grantee will monitor all subcontracted services on a risk analysis basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content

The Grantee shall cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d. Selection Process

The Grantee shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the City along with documentation concerning the selection process.

e. Suspension / Disbarment

The Grantee shall not enter into any subcontracts with an agency, business or individual that has been suspended, disbarred or otherwise excluded from federal grants. The Grantee shall maintain records demonstrating that it has reviewed potential subcontractors against the debarred and excluded list prior to committing any grant funds to a subcontract.

3. Hatch Act

The Grantee agrees that no funds provided, nor personnel employed under this contract, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

4. Conflict of Interest

The Grantee shall maintain written codes of conduct that govern the performance of its employees engaged in the award and administration of contracts. Said codes of conduct shall be in compliance with 24 CFR 84.42.

Further, Grantee covenants that it presently has no financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Grantee further covenants that, in the performance of this Agreement, no person having such a financial interest shall be employed or retained by the Grantee hereunder. These conflict of interest

provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the City, or of any designated public agencies or subrecipients which are receiving funds under the CDBG Entitlement program.

5. Lobbying

The Grantee hereby certifies that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

c. It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly; and

d. Lobbying Certification

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

6. Copyright

If this contract results in any copyrightable material or inventions, the City and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

7. Religious Organization

The Grantee agrees that funds provided under this contract will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the Federal regulations specified in 24 CFR 570.200(j).

XI. ENVIRONMENTAL CONDITIONS

A. Air and Water

The Grantee agrees to comply with the following requirements insofar as they apply to the performance of this contract:

Clean Air Act, 42 U.S.C., 7401, et seq.
Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.

Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R., Part 50, as amended.

B. Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 USC 4001), the Grantee shall assure that, for activities located in an area identified by FEMA as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint

The Grantee agrees that any construction or rehabilitation of residential structures with assistance provided under this contract shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35 and will comply with all applicable requirements.

D. Asbestos

City agrees to comply with the Texas Asbestos Health Protection Act set forth at Article 4477-3a Section 12 of the Texas Civil Statutes and the National Emission Standard for Asbestos Regulations set forth at 40 CFR Part 61.

E. Historic Preservation

The Grantee agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR, Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this contract. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty (50) years old or older or that are included on a Federal, state, or local historic property list.

XII. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby, and all other parts of this Agreement shall nevertheless be in full force and effect.

XIII. SECTION HEADINGS AND SUBHEADINGS

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

XIV. WAIVER

The Grantee's failure to act with respect to a breach by the Sub-recipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the Grantee to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

XV. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the Grantee and the Sub-recipient for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the Grantee and the Sub-recipient with respect to this Agreement.

IN WITNESS WHEREOF, the Parties have executed this contract as of the date first written above.

CITY OF LUBBOCK

GLEN C. ROBERTSON
Mayor

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Karen Murfee, CD Director

APPROVED AS TO FORM:

Justin Pruitt, Assistant City Attorney

CASA OF THE SOUTH PLAINS, INC.

Jennie Hill, Executive Director

FED.I.D. # 75-2482631

Terri Duncan, Board President

Regular City Council Meeting **5. 25.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - Community Development: Consider a resolution authorizing and directing the Mayor to execute for and on behalf of the City of Lubbock a Community Development funding contract 12599 and all related documents between the City of Lubbock and Community Health Center of Lubbock (CHCL) from the Community Development Block Grant (CDBG) program for dental care services.

Item Summary

Grantee: Community Health Center of Lubbock

Program: Dental Care Services

Funding Source: 2015-2016 CDBG

Use of Funds: The funds for this program will be used to provide increased dental services to low-moderate income eligible families.

Amount: $40,000

Match: 25%

Return of Investment: Not required for Community Development public service

Terms: October 1, 2015 through September 30, 2016.

Comments: Funding for this contract was approved by City Council at the June 25, 2015 council meeting.

Fiscal Impact

Federal funds will be used from the CDBG program. The maximum to be allocated to this project is $40,000.

Staff/Board Recommending

Bill Howerton, Assistant City Manager

Attachments

Resolution - Community Health Center of Lubbock

Agreement - Community Health Center of Lubbock

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, a Community Development Block Grant funding contract, and related documents, to provide for increased dental services to low and moderate income eligible families, by and between the City of Lubbock and Community Health Center of Lubbock. Said funding contract is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Bill Howerton, Assistant City Manager

APPROVED AS TO FORM:

_____
Justin Pruitt, Assistant City Attorney

ccdocs/RES. Agreement – Community Health Center of Lubbock – CDBG Funds
November 11, 2015

COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDING AGREEMENT
BETWEEN
THE CITY OF LUBBOCK
AND
COMMUNITY HEALTH CENTER OF LUBBOCK, INC.

STATE OF TEXAS §

COUNTY OF LUBBOCK §

THIS AGREEMENT, entered this 1st day of October by and Between the City of Lubbock (herein called the "City") and **Community Health Center of Lubbock, Inc.** (herein called the "Grantee").

WHEREAS, the City has applied for and received funds from the United States Government under Title I of the Housing and Community Development Act of 1974; and

WHEREAS, the City wishes to engage the Grantee to assist the Grantee in utilizing such funds;

WHEREAS, the City is obligated to do and perform certain services in its undertaking of a Community Development Block Grant Program pursuant to the Housing and Development Act of 1975, as amended; and

WHEREAS, the Grantee operates a non-profit center offering services to low- and moderate-income individuals and families; and

WHEREAS, the services provided by the Grantee benefit citizens of the City of Lubbock and constitute a valuable public service; and

WHEREAS, the City Council of the City of Lubbock has declared programs of the Grantee to be a public purpose and the provision of these services to be a predominate purpose of this transaction; and

WHEREAS, the Grantee and the services it provides have been found to meet the criteria for funding under provision 24 CFR 570.201; and

WHEREAS, the accomplishment of the above public purpose is the predominant purpose of this transaction, continuing supervision by the City together with statutory and contractual requirements provide sufficient assurance that this public purpose will be accomplished; and an audit provides sufficient protection of the handling of public money; and

WHEREAS, the City Council has found that the Grantee has the special expertise, knowledge and experience necessary for the **Dental Services Program** and that the City will receive adequate consideration in the form of substantial public benefit; and

WHEREAS, the City desires to contract with the Grantee to make available funds for the **Community Health Center of Lubbock Dental Services Program.**

NOW, THEREFORE, it is agreed between the parties hereto that:

I. SCOPE OF SERVICE

A. Activities

1. General Statement

The Grantee will be responsible for administering a Community Development Block Grant (CDBG) Year 2015-2016 **Dental Services Program** in a manner satisfactory to the City and consistent with any standards required as a condition of providing these funds. Such program will include the following activities eligible under the CDBG Program.

2. Program Delivery

Activity #1 Program will support improved access to dental care for an additional 350 low to moderate income patients at the Arnett-Benson Clinic.

Activity #2 The funds will allow CHCL to add dental staff to the clinic to increase operating capacity to meet a growing unmet demand for dental care among low to moderate income families across all age groups and among the homeless in the City.

B. National Objectives

The Grantee certifies that the activities carried out with funds provided under this Agreement will meet the suitable living environment objective by providing eligible activities that benefit communities, families or individuals by addressing issues in their living environment under the Community Development Block Grant program - as defined in 24 CFR §576.21 as amended by the HEARTH

C. City Responsibilities

1. City agrees to provide Grantee assistance from the U. S. Department of Housing and Urban Development (HUD) funds in an amount not to exceed **$40,000** in return for Grantee performing the activities set forth in this Agreement as consideration for said funds.

2. It is expressly understood and agreed by the parties hereto that City's responsibilities are contingent upon the actual receipt of adequate federal funds to meet City's liabilities under this agreement. If adequate funds are not available to make payments under this agreement, City shall notify Grantee in writing within a reasonable time after such fact is determined. City shall terminate this agreement

and will not be liable for failure to make payments to Grantee under this agreement.

3. City shall not be liable to Grantee for any costs incurred by Grantee, or any portions thereof, which have been paid to Grantee or which are subject to payment to Grantee, or which have been reimbursed to Grantee or which are subject to reimbursement to Grantee by any source other than City or Grantee.

4. City shall not be liable to Grantee for any costs incurred by Grantee which are not allowable costs, as set forth in 24 CFR §570.207.

5. City shall not be liable to Grantee for any costs incurred by Grantee or for any performances rendered by Grantee which are not strictly in accordance with the terms of this agreement.

6. City shall not be liable to Grantee for any costs incurred by Grantee in the performance of this agreement which have not been billed to City by Grantee within ninety (90) days.

7. City shall not be liable for costs incurred or performances rendered by Grantee before commencement of this agreement or after termination of this agreement.

D. Grantee's Responsibilities

1. Grantee shall perform all activities in accordance with their budget, the applicable laws and regulations set forth herein; the assurance, certifications, and all other terms, provisions, and requirements set forth in this agreement.

2. Grantee shall submit to City such reports on the operation and performance of this agreement during their program activity timeframe, as required by the City.

3. In addition to the limitations on liability otherwise specified in this agreement, it is expressly understood and agreed by the parties hereto that if Grantee fails to submit to City in a timely and satisfactory manner any report required by this agreement, City may, at its sole option and in its sole discretion, withhold any or all payments otherwise due or requested by Grantee hereunder. If City withholds such payments, it shall notify Grantee in writing of its decision and the reasons therefor. Payments withheld pursuant to this paragraph may be held by City until such time as the delinquent obligations for which funds are withheld are fulfilled by Grantee.

4. Grantee shall refund to City any sum of money which has been paid to Grantee by City which City determines has resulted in overpayment to Grantee, or which City determines has not been spent by Grantee strictly in accordance with the terms of

this agreement. Such refund shall be made by Grantee to City within thirty (30) working days after such refund is requested by City.

5. Grantee agrees to comply with applicable uniform administrative requirements, as described in 24 CFR 570.502.

6. Grantee agrees to comply with Housing and Urban Development Outcome Performance Measurement requirements and reporting.

7. Grantee agrees to carry out the activities under this agreement in compliance with all Federal laws and regulations described in 24 CFR Chapter 570 subpart K except grantee does not assume the City's responsibility for initiating the review process under the provisions of 24 CFR part 52.

8. Grantee will have the Match and Non-CDBG funds ready and available prior to the start of the project. Failure to do so may delay, and or cancel the project.

9. Grantee will verify and certify eligibility when the activity is a Low-mod Clientele program by signing and dating the Self Certification form.

E. Grantee's Match:

1. Grantees applying for Community Development Block Grant (CDBG) funds must supplement requests for CDBG funds with additional funds from sources other than CDBG. This project must provide 25% or more of the total project costs from non-CDBG sources.

2. Matching funds may include cash provided by the agency from its own fund or other agencies, donations, or grants other than CDBG. The value of the match is subject to review and approval by the City of Lubbock.

F. Levels of Accomplishment - Goals and Performance Measures

In addition to the normal administrative services required as part of this Agreement, the Grantee agrees to provide the following levels of program services:

Activity	Units per Month	Total Units/Year
• Enrollment of eligible patients	16 patients	260 patients
• Verify patient's eligibility by reviewing household income (each participant must complete a "Self-certification of Income" form to be placed in a common area for monitoring purposes		

- Offer Dental Care services throughout the year

Note: Units means the number of unduplicated participants that will benefit directly from the program.

G. Staffing - Staff related to the entire project:

Staff Member	General Program Duties
Michael Sullivan, CEO	Oversee dental program
Jennifer Burris, CFO	Approver of request for funds
Elizabeth, Lopez, CDO	Assist with grant requirements & reporting
Xochitl Anderton, DDS	Dental Director & Supervisor of dental staff
Barbra Moore	Preparer of reports/grant request for funds
Colten Ducote, DDS	Full time Dentist
Heather Roschetzky	Dental hygienist, screening patients
Adrianna Deleon, DPSR	Dental patient service representative(PSR), assists patients scheduling appointments; collecting & reporting payments
Dental assistants	Janie Anaya, Renee Cavazos, Karen London, & Margaret Montez – obtaining medical history, performing office management tasks

H. Performance Monitoring

1. General Statement:

The City will monitor the performance of the Grantee for compliance with goals and requirements as required or as it deems necessary in accordance with the regulations. Monitoring will be based on a risk analysis and a monitoring plan developed at the beginning of the fiscal year. Desk monitoring will take place on a monthly and quarterly basis as described below during grantees program activity timeframe. Substandard performance as determined by the City will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by the Grantee within a reasonable period of time after being notified by the City in writing, contract suspension or termination procedures will be initiated.

2. On-site Monitoring

- The number of on-site Monitoring Visits will be determined by the Community Development department of the City of Lubbock.
- Notification letter sent to grantee at least 15 days before on-site monitoring visit.

- Monitoring letter sent to grantee identifying concerns and findings if any within thirty (30) days of on-site monitoring visit.

- Grantee must provide a written response within thirty (30) days to the monitoring letter that describes how the grantee will resolve any issues. If no deficiencies were noted grantee must confirm receipt of report within thirty (30) days of the date of the letter.

II. TIME OF PERFORMANCE

Services of the Grantee shall start on the 1st day of October 2015, and terminate on the 30th day of September, 2016. The term of this Agreement and the provisions herein may be extended to cover any additional time period during which the Grantee remains in control of CDBG funds or other assets, including program income.

III. BUDGET

Line Item:	**Amount:**
Personnel Services (Dental)	$40,000
TOTAL:	**$40,000**

PAYMENT

All payments to grantees are on a monthly reimbursement basis. The Grantee will have incurred the expense or paid for the expense and submit detailed source documentation to the City when requesting payment.

It is expressly agreed and understood that the total amount to be paid by the City under this contract shall not exceed **$40,000**. Requests for payment of eligible expenses shall be made against the line item budgets specified in Paragraph III herein and in accordance with performance. Expenses for general administration shall also be paid against the line item budgets specified in Paragraph III and in accordance with performance.

Payment request must be submitted with back-up documentation such as time sheets, paycheck stubs, receipts, invoices, billing statements or other verification in support of all expenditures incurred and charged to the grant.

Payments may be contingent upon certification of the Grantee's financial management system in accordance with the standards specified in 24 CFR 84.

V. NOTICES

Notices required by this Agreement shall be in writing and delivered via mail (postage prepaid), commercial courier and personal delivery or sent by facsimile or other electronic means. Any notice delivered or sent as aforesaid shall be effective on the date of delivery or sending. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice.

City	Grantee
Piata Bryant City of Lubbock P. O. Box 2000 Lubbock, TX 79457	Michael Sullivan Community Health Center of Lubbock 1313 Broadway, Suite 5 Lubbock, TX 79401

VI. SPECIAL CONDITIONS

NONE

VII. GENERAL CONDITIONS

A. General Compliance

The Grantee agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the U. S. Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)) including subpart J and subpart K of these regulations, except that (1) the Grantee does not assume the recipient's environmental responsibilities described in 24 CFR 570.604 and (2) the Grantee does not assume the recipient's responsibility for initiating the review process under the provisions of 24 CFR Part 52. The Grantee also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract. The Grantee further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

The Grantee shall comply with all applicable Federal laws, regulations, and requirements and all provisions of this Agreement, which include compliance with the provisions of the HCD Act and all rules, regulations, guidelines, and circulars promulgated by the various Federal departments, agencies, administrations, and commissions relating to the CDBG Program. The applicable laws and regulations include, but are not limited to:

- 24 CFR Part 570;
- 24 CFR Parts 84 and 85;
- OMB Circular A-87 "Cost Principles for State and Local Governments," or OMB

Circular A-110, or OMB Circular A-122 "Cost Principles for Non-Profit Organizations," or OMB Circular A-21 "Cost Principles for Educational Institutions";

- OMB Circular A-128, "Audits of State and Local Governments" or OMB Circular A-133 Audits of Institutions of Higher Education and Other Non-Profit Institutions";
- The Davis-Bacon Fair Labor Standards Act;
- The Contract Work Hours and Safety Standards Act of 1962;
- Copeland "Anti-Kickback" act of 1934;
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA);
- Title VI of the Civil Rights Act of 1964; (Public Law 88-352 implemented in 24 CFR Part 1)
- Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (Public Law 90-234 and Executive Order 11063 as amended by Executive Order 12259 (implemented in 24 CFR Part 107);
- Section 104(b) and 109 of the Housing and Community Development Act of 1974;
- Section 3 of the Housing and Urban Development Act of 1968;
- Equal employment opportunity and minority business enterprise regulations established in 24 CFR Part 570.904;
- Non-discrimination in employment, established by Executive Order 11246 (as amended by Executive Orders 11375 and 12086)
- Section 504 of the Rehabilitation Act of 1973 Uniform Federal accessibility Standards;
- The Architectural Barriers Act of 1968;
- The Americans With Disabilities Act (ADA) of 1990;
- The Age Discrimination Act of 1975, as amended;
- National Environmental Policy of 1969 (42 USC 4321 et seq.), as amended
- Lead Based paint regulations established in 24 CFR Parts 35, 570.608, &24 CFR982.401;
- Asbestos guidelines established in CPD Notice 90-44;
- HUD Environmental Criteria and Standards (24CFR Part 51);
- The Energy Policy and conservation Act (Public Law 94-163) and 24 CFR Part39;
- Historic Preservation Act of 1966, as amended, and related laws and Executive Orders;
- Executive Order 11988, floodplain management, 1977 (42 FR 26951 et seq.);
- Flood Disaster protection Act of 1973

B. <u>"Independent Contractor"</u>

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Grantee shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The City shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation insurance as the Grantee is an independent contractor.

C. <u>Indemnity and Release</u>

Grantee shall indemnify and hold harmless, to the fullest extent permitted by law, the City, and City's respective officers, employees, elected officials and agents, from and against any and all losses, damages, claims or liabilities, of any kind or nature, which arise directly or indirectly, or are related to, in any way, manner or form, the activities contemplated hereunder.

Grantee shall pay to the City, the City's respective officers, employees, elected officials and/or agents, as applicable, all attorneys' fees incurred by such parties in enforcing Grantee's indemnity in this section.

The City, and its respective officers, employees, elected officials and agents shall not be liable and Grantee hereby releases the City, and its respective officers, employees, elected officials and agents, for, from and/or against any losses, damages, claims or liabilities to Grantee

The indemnity and release provided herein shall survive the termination or voidance of this agreement.

D. Right to Exercise

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

E. Workers' Compensation

The Grantee shall provide Workers' Compensation insurance coverage for all of its employees involved in the performance of this contract.

F. Insurance and Bonding

The Grantee shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum, shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the City.

The Grantee shall comply with the bonding and insurance requirements of 24 CFR 84, Bonding and Insurance.

G. Grantor Recognition

The Grantee shall insure recognition of the role of the grantor agency in providing services through this contract. All activities, facilities, and items utilized pursuant to this contract shall be prominently labeled as to funding source. In addition, the Grantee will include a reference to the support provided herein in all publications made possible with funds made available under this contract.

H. Amendments

The City or Grantee may amend this Agreement at any time, provided that such amendments make specific reference to this Agreement and are executed in writing, signed by a duly authorized representative of both organizations and approved by the City's governing body. Such amendments shall not invalidate this Agreement nor relieve or release the City or Grantee from its obligations under this Agreement.

The City may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both City and Grantee.

I. Suspension or Termination

Either party may terminate this contract at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least 30 days before the effective date of such termination. Partial termination of the Scope of Service in Paragraph I.A. above may only be undertaken with the prior approval of the City. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Grantee under this Agreement shall, at the option of the City, become the property of the City, and the Grantee shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

The City may also suspend or terminate this Agreement, in whole or in part, if the Grantee fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein; and the City may declare the Grantee ineligible for any further participation in the City's contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe the Grantee is in noncompliance with any applicable rules or regulations, the City may withhold up to fifteen percent (15%) of said contract funds until such time as the Grantee is found to be in compliance by the City, or is otherwise adjudicated to be in compliance.

The City may also terminate this agreement in the event of an emergency or disaster, whether, an act of God, natural or manmade, by giving twenty-four (24) hour notice. The City may give said notice verbally to Grantee. Any expenditure incurred prior to

receiving notice will be reimbursed; however, in no event shall the City pay any expenses incurred after notice of termination is received by Grantee.

VIII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards

The Grantee agrees to comply with 24 CFR 84 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles

The Grantee shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations". These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

B. Documentation and Record-Keeping

1. Records to be maintained

The Grantee shall maintain all records required by the Federal regulations specified in 24 CFR Part 570.506 that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

a. Records providing a full description of each activity undertaken;
b. Records demonstrating that each activity undertaken meet the National Objective of the CDBG program of benefiting low/moderate income persons.
c. Records required determining the eligibility of activities;
d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
f. Financial records as required by 24 CFR Part 570.502, and 24 CFR 84;
g. Other records necessary to document compliance with Subpart K of 24 CFR 570.

2. Retention

The Grantee shall retain all records pertinent to expenditures incurred under this contract for a period of four (4) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this contract shall be retained for four (4) years after final disposition of such property. Records for any displaced person must be kept for four (4) years

after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the four-year period, whichever occurs later.

3. Client Data

The Grantee shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to City monitors or their designees for review upon request.

4. Disclosure

The Grantee understands that client information collected under this contract is private, and the use or disclosure of such information, when not directly connected with the administration of the City's or Grantee's responsibilities with respect to services provided under this contract, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian, unless otherwise required by law.

5. Property Records

The Grantee shall maintain real property inventory records which clearly identify properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform to the "changes in use" restrictions specified in 24 CFR Parts 570.503(b) (8), as applicable.

6. Close-Outs

The Grantee's obligation to the City shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), final close-out reports and determining the custodianship of records.

7. Audits & Inspections

All Grantee records with respect to any matters covered by this Agreement shall be made available to the City, grantor agency, their designees or the Federal Government, at any time during normal business hours, as often as the City or grantor agency deems necessary, to audit, examine, and make excerpts or

transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Grantee within 30 days after receipt by the Grantee. Failure of the Grantee to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The Grantee hereby agrees to have an annual agency audit conducted in accordance with current City policy concerning Grantee audits and, as applicable, OMB Circular A-133.

Grantees meeting the OMB Circular A-133 requirements must submit their audits to the audit clearing house within nine (9) months after the entities fiscal year end date.

C. Reporting and Payment Procedures

1. Payment Procedures

The City will pay to the Grantee funds available under this contract based upon information submitted by the Grantee and consistent with any approved budget and City policy concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Grantee, and not to exceed actual cash requirements. Payments will be adjusted by the City in accordance with advance fund and program income balances available in Grantee accounts. In addition, the City reserves the right to liquidate funds available under this contract for costs incurred by the City on behalf of the Grantee.

2. Performance Reports

Grantee shall submit to City a Performance, Financial Report, and narrative information monthly or during their program activity time frame as requested by the city, in a format prescribed by the City and shall include the amount of funds expended for each of the eligible activities. Grantee shall submit the reports monthly no later than the 20th of each month.

The September financial and narrative reports must submitted by September 30. The performance report will remain due by the 20th of the following month. Reporting will continue from the start of program activity till the end of the program year. End of year reports are required.

D. Procurement

1. Compliance

The Grantee shall comply with current City policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein.

All program assets purchased with such funds (unexpended program income, property, equipment, etc.) shall revert to the City upon termination of this contract.

2. CFR Standards

The Grantee shall procure all materials, property, or services in accordance with the requirements of 24 CFR 84, Procurement Standards, and shall subsequently follow Property Management Standards as modified by 24 CFR 570.502(b)(6), covering utilization and disposal of property.

3. Travel

The Grantee shall obtain written approval from the City for any travel outside the metropolitan area with funds provided under this contract.

E. Use and Reversion of Assets

The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 24 CFR Part 84 and CFR 570.502, 570.503, and 570.504, as applicable, which include but are not limited to the following:

1. The Sub-recipient shall transfer to the Grantee any CDBG funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.

2. Real property under the Sub-recipient's control that was acquired or improved, in whole or in part, with funds under this Agreement in excess of $25,000 shall be used to meet one of the CDBG National Objectives pursuant to 24 CFR 570.208 until five (5) years after expiration of this Agreement [or such longer period of time as the Grantee deems appropriate]. If the Sub-recipient fails to use CDBG-assisted real property in a manner that meets a CDBG National Objective for the prescribed period of time, the Sub-recipient shall pay the Grantee an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property. Such payment shall constitute program income to the Grantee. The Sub-recipient may retain real property acquired or improved under this Agreement after the expiration of the five-year [or such longer period of time as the Grantee deems appropriate.

3. In all cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds shall be program income (prorated to reflect the extent to that funds received under this Agreement were used to acquire the equipment). Equipment not needed by the Sub-recipient for activities under this Agreement shall be (a) transferred to the Grantee for the CDBG program or (b) retained after compensating the Grantee [an amount equal to the current fair market

value of the equipment less the percentage of non-CDBG funds used to acquire the equipment].

IX. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT

The Grantee agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Antidisplacement and Relocation Assistance Plan under Section 104(d) of the HCD Act; and (c) the requirements in 570.606(d) governing optional relocation policies. (The City may preempt the optional policies.) The Grantee shall provide relocation assistance to persons (families, individuals, businesses, nonprofit organizations and farms) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project. The Grantee also agrees to comply with applicable City ordinances, resolutions and policies concerning the displacement of persons from their residences.

X. PERSONNEL & PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

The Grantee agrees to comply and to require all subcontractors to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086.

2. Nondiscrimination

The Grantee will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital/familial status, or status with regard to public assistance. The Grantee will take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include, but are not limited to, the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for

training, including apprenticeship. The Grantee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

3. Land Covenants

This contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Grantee shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City and the United States are beneficiaries of and entitled to enforce such covenants. The Grantee, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

4. Section 504

The Grantee agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), which prohibits discrimination against the handicapped in any Federally-assisted program. The City shall provide the Grantee with any guidelines necessary for compliance with that portion of the regulations in force during the term of this contract.

5. Reports

The Grantee shall maintain a report that **documents the race/ethnicity of its employees. The Grantee shall provide the City a copy with said report upon execution of this Agreement.**

6. Policies

The Grantee shall maintain current copies of its fair housing and equal opportunity policies. The Grantee shall provide a copy of said policies to the City immediately upon request.

B. Affirmative Action

1. Approved Plan

The Grantee agrees that it shall be committed to carry out pursuant to the City's specifications an Affirmative Action Program in keeping with the principles as provided in the President's Executive Order 11246 of September 24, 1965. Grantees receiving

federal funds through the City are required to develop a written affirmative action program to insure that equal opportunity is provided in all aspects of their employment.

2. Women-and Minority-Owned Business

The Grantee will use its best efforts to afford minority- and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the term "minority and female business enterprise" means a business at least fifty-one percent (51%) owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish-surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Grantee may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

3. Access to Records

The Grantee shall furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

4. Notifications

The Grantee will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Grantee's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5. EEO/AA Statement

The Grantee will, in all solicitations or advertisements for employees placed by or on behalf of the Grantee, state that it is an Equal Opportunity or Affirmative Action employer.

6. Subcontract Provisions

The Grantee will include the provisions of Paragraphs X.A., Civil Rights, and B., Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subrecipients or subcontractors.

C. Employment Restrictions

1. Prohibited Activity

The Grantee is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; and lobbying, political patronage, and nepotism activities.

2. Labor Standards

The Grantee agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act, the Copeland "Anti-Kickback" Act (40 U.S.C. 276a-276a-5; 40 USC 327 and 40 USC 276c) and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this contract. The Grantee shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City for review upon request. The Grantee agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of $2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Grantee of its obligation, if any, to require payment of the higher wage. The Grantee shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

3. "Section 3" Clause

a. Compliance

Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the City, the Grantee and any of the Grantee's subrecipients and subcontractors. Failure to fulfill these requirements shall subject the City, the Grantee and any of the Grantee's subrecipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. The Grantee certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

The Grantee further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

> "The work to be performed under this contract is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 (of the Housing and Urban Development Act of 1968), as amended, 12 U.S.C. 1701. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to low- and very low-income residents of the project area, and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."

The Grantee further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to business concerns which provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

The Grantee certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements.

b. Notifications

The Grantee agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

c. Subcontracts

The Grantee will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Grantee will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

D. Conduct

1. Assignability

The Grantee shall not assign or transfer any interest in this contract without the prior written consent of the City thereto; provided, however, that claims for money due or to become due to the Grantee from the City under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

2. Subcontracts

a. Approvals

The Grantee shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of the City prior to the execution of such agreement.

b. Monitoring

The Grantee will monitor all subcontracted services on a risk analysis basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content

The Grantee shall cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d. Selection Process

The Grantee shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition

basis. Executed copies of all subcontracts shall be forwarded to the City along with documentation concerning the selection process.

e. Suspension / Disbarment

The Grantee shall not enter into any subcontracts with an agency, business or individual that has been suspended, disbarred or otherwise excluded from federal grants. The Grantee shall maintain records demonstrating that it has reviewed potential subcontractors against the debarred and excluded list prior to committing any grant funds to a subcontract.

3. Hatch Act

The Grantee agrees that no funds provided, nor personnel employed under this contract, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

4. Conflict of Interest

The Grantee shall maintain written codes of conduct that govern the performance of its employees engaged in the award and administration of contracts. Said codes of conduct shall be in compliance with 24 CFR 84.42.

Further, Grantee covenants that it presently has no financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Grantee further covenants that, in the performance of this Agreement, no person having such a financial interest shall be employed or retained by the Grantee hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the City, or of any designated public agencies or subrecipients which are receiving funds under the CDBG Entitlement program.

5. Lobbying

The Grantee hereby certifies that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal,

amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

c. It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly; and

d. Lobbying Certification

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

6. Copyright

If this contract results in any copyrightable material or inventions, the City and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

7. Religious Organization

The Grantee agrees that funds provided under this contract will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the Federal regulations specified in 24 CFR 570.200(j).

XI. ENVIRONMENTAL CONDITIONS

A. Air and Water

The Grantee agrees to comply with the following requirements insofar as they apply to the performance of this contract:

Clean Air Act, 42 U.S.C., 7401, et seq.
Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.

Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R., Part 50, as amended.

B. Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 USC 4001), the Grantee shall assure that, for activities located in an area identified by FEMA as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint

The Grantee agrees that any construction or rehabilitation of residential structures with assistance provided under this contract shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35 and will comply with all applicable requirements.

D. Asbestos

City agrees to comply with the Texas Asbestos Health Protection Act set forth at Article 4477-3a Section 12 of the Texas Civil Statutes and the National Emission Standard for Asbestos Regulations set forth at 40 CFR Part 61.

E. Historic Preservation

The Grantee agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR, Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this contract. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty (50) years old or older or that are included on a Federal, state, or local historic property list.

XII. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby, and all other parts of this Agreement shall nevertheless be in full force and effect.

XIII. SECTION HEADINGS AND SUBHEADINGS

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

XIV. WAIVER

The Grantee's failure to act with respect to a breach by the Sub-recipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the Grantee to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

XV. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the Grantee and the Sub-recipient for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the Grantee and the Sub-recipient with respect to this Agreement.

IN WITNESS WHEREOF, the Parties have executed this contract as of the date first written above.

CITY OF LUBBOCK

GLEN C. ROBERTSON
Mayor

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Karen Murfee, CD Director

APPROVED AS TO FORM:

Justin Pruitt, Assistant City Attorney

COMMUNITY HEALTH CENTER OF LUBBOCK

Michael Sullivan, Chief Executive Officer

FED.I.D. # 75-2424925

Natalia Campos, Board President

Regular City Council Meeting **5. 26.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - Community Development: Consider a resolution authorizing and directing the Mayor to execute for and on behalf of the City of Lubbock a Community Development funding contract 12600 and all related documents between the City of Lubbock and Communities In Schools of the South Plains (CISSP) from the Community Development Block Grant (CDBG) program to fund the Champions Program, an in-school program.

Item Summary

Grantee: Communities In Schools of the South Plains

Program: CIS Model Program

Funding Source: 2015-2016 CDBG

Use of Funds: The funds for this program will be used for administrative personnel and promotion of the year-round, in-school prevention and intervention program to help at risk students with academics, behavior and attendance.

Amount: $34,500

Match: 25%

Return of Investment: Not required for Community Development public service

Terms: October 1, 2015 through September 30, 2016

Comments: Funding for this contract was approved by City Council at the June 25, 2015 council meeting.

Fiscal Impact

Federal funds will be used from the CDBG program. The maximum to be allocated to this project is $34,500.

Staff/Board Recommending

Bill Howerton, Assistant City Manager

Attachments

Resolution - Communities in Schools

Agreement - Communities In Schools

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, a Community Development Block Grant funding contract, and related documents, to provide administrative personnel for and promotion of Communities In Schools on the South Plains' (CIS) year-round, in-school prevention and intervention program to help at-risk students with academics, behavior, and attendance, by and between the City of Lubbock and CIS. Said funding contract is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Bill Howerton, Assistant City Manager

APPROVED AS TO FORM:

_____
Justin Pruitt, Assistant City Attorney

ccdocs/RES Agreement – Communities In Schools on the South Plains (CIS)– CDBG Funds
November 11, 2015

COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDING AGREEMENT BETWEEN THE CITY OF LUBBOCK AND COMMUNITIES IN SCHOOLS ON THE SOUTH PLAINS, INC.

STATE OF TEXAS §

COUNTY OF LUBBOCK §

THIS AGREEMENT, entered this 1st day of October 2015 by and between the City of Lubbock (herein called the "City") and **Communities In Schools On The South Plains, Inc. (CIS)** (herein called the "Grantee").

WHEREAS, the City has applied for and received funds from the United States Government under Title I of the Housing and Community Development Act of 1974; and

WHEREAS, the City wishes to engage the Grantee to assist the Grantee in utilizing such funds;

WHEREAS, the City is obligated to do and perform certain services in its undertaking of a Community Development Block Grant Program pursuant to the Housing and Development Act of 1975, as amended; and

WHEREAS, the Grantee operates a non-profit center offering services to low- and moderate-income individuals and families; and

WHEREAS, the services provided by the Grantee benefit citizens of the City of Lubbock and constitute a valuable public service; and

WHEREAS, the City Council of the City of Lubbock has declared programs of the Grantee to be a public purpose and the provision of these services to be a predominate purpose of this transaction; and

WHEREAS, the Grantee and the services it provides have been found to meet the criteria for funding under provision 24 CFR 570.201; and

WHEREAS, the accomplishment of the above public purpose is the predominant purpose of this transaction, continuing supervision by the City together with statutory and contractual requirements provide sufficient assurance that this public purpose will be accomplished; and an audit provides sufficient protection of the handling of public money; and

WHEREAS, the City Council has found that the Grantee has the special expertise, knowledge and experience necessary for the **CIS Model Program** and that the City will receive adequate consideration in the form of substantial public benefit; and

WHEREAS, the City desires to contract with the Grantee to make available funds for the **Communities in Schools CIS Model Program.**

NOW, THEREFORE, it is agreed between the parties hereto that:

I. SCOPE OF SERVICE

A. Activities

1. General Statement

The Grantee will be responsible for administering a Community Development Block Grant (CDBG) Year 2014-2015 **CIS Model Program** in a manner satisfactory to the City and consistent with any standards required as a condition of providing these funds. Such program will include the following activities eligible under the CDBG Program.

2. Program Delivery

Activity: The purpose of Communities In Schools on the South Plains is to help young people in our community to stay in school, successfully learn and prepare for life by coordinating resources in the school setting. CIS Model Program will connect students with community leaders to address youth related issues and also help prevent youth from being involved in delinquent activities.

B. National Objectives

The Grantee certifies that the activities carried out with funds provided under this Agreement will meet the CDBG program's National Objective of benefiting low/moderate income persons by providing activities related to economic development, commercial revitalization, and job creation, as defined in 24 CFR Part 570.208.

C. City Responsibilities

1. City agrees to provide Grantee assistance from the U. S. Department of Housing and Urban Development (HUD) funds in an amount not to exceed **$34,500** in return for Grantee performing the activities set forth in this Agreement as consideration for said funds.

2. It is expressly understood and agreed by the parties hereto that City's responsibilities are contingent upon the actual receipt of adequate federal funds to meet City's liabilities under this agreement. If adequate funds are not available to make payments under this agreement, City shall notify Grantee in writing within a reasonable time after such fact is determined. City shall terminate this agreement and will not be liable for failure to make payments to Grantee under this agreement.

3. City shall not be liable to Grantee for any costs incurred by Grantee, or any portions thereof, which have been paid to Grantee or which are subject to payment to Grantee, or which have been reimbursed to Grantee or which are subject to reimbursement to Grantee by any source other than City or Grantee.

4. City shall not be liable to Grantee for any costs incurred by Grantee which are not allowable costs, as set forth in 24 CFR §570.207.

5. City shall not be liable to Grantee for any costs incurred by Grantee or for any performances rendered by Grantee which are not strictly in accordance with the terms of this agreement.

6. City shall not be liable to Grantee for any costs incurred by Grantee in the performance of this agreement which have not been billed to City by Grantee within ninety (90) days.

7. City shall not be liable for costs incurred or performances rendered by Grantee before commencement of this agreement or after termination of this agreement.

D. Grantee's Responsibilities

1. Grantee shall perform all activities in accordance with their budget, the applicable laws and regulations set forth herein; the assurance, certifications, and all other terms, provisions, and requirements set forth in this agreement.

2. Grantee shall submit to City such reports on the operation and performance of this agreement during their program activity timeframe, as required by the City.

3. In addition to the limitations on liability otherwise specified in this agreement, it is expressly understood and agreed by the parties hereto that if Grantee fails to submit to City in a timely and satisfactory manner any report required by this agreement, City may, at its sole option and in its sole discretion, withhold any or all payments otherwise due or requested by Grantee hereunder. If City withholds such payments, it shall notify Grantee in writing of its decision and the reasons therefore. Payments withheld pursuant to this paragraph may be held by City until such time as the delinquent obligations for which funds are withheld are fulfilled by Grantee.

4. Grantee shall refund any sum of money which has been paid to Grantee in which the City determines an overpayment has been identified to Grantee, or funds have not been spent by Grantee strictly in accordance with the terms of this agreement. Such refund shall be made by Grantee to City within thirty (30) working days after such refund is requested by City.

5. Grantee agrees to comply with applicable uniform administrative requirements, as described in 24 CFR 570.502.

6. Grantee agrees to comply with Housing and Urban Development Outcome Performance Measurement requirements and reporting.

7. Grantee agrees to carry out the activities under this agreement in compliance with all Federal laws and regulations described in 24 CFR Chapter 570 subpart K except grantee does not assume the City's responsibility for initiating the review process under the provisions of 24 CFR part 52.

8. Grantee will have the Match and Non-CDBG funds ready and available prior to the start of the project. Failure to do so may delay, and or cancel the project.

9. Grantee will verify and certify eligibility when the activity is a low-moderate clientele program by signing and dating the Self-Certification form.

E. Grantee's Match:

1. Grantees applying for Community Development Block Grant (CDBG) funds must supplement requests for CDBG funds with additional funds from sources other than CDBG. This project must provide 25% or more of the total project costs from non-CDBG sources.

2. Matching funds may include cash provided by the agency from its own fund or other agencies, donations, or grants other than CDBG. The value of the match is subject to review and approval by the City of Lubbock.

F. Levels of Accomplishment - Goals and Performance Measures

In addition to the normal administrative services required as part of this Agreement, the Grantee agrees to provide the following levels of program services:

Activity	Units per Month	Total Units/Year
Develop a Needs Assessment for each campus with the campus administrator	115 Youth	720 Youth
Complete a Campus Agreement with the administrator		
Develop the Campus Plan implementing activities using the CIS 6 component model		

Note: Units means the number of unduplicated participants that will benefit directly from the program.

G. Staffing - Staff related to the entire project:

Staff Member	General Program Duties
Donna Montes, Chief Executive Officer	Administration, oversight of grant funds
Eloisa Vigil, Chief Program Officer	Oversee Site Coordinators for each school
Cory Jones, Director of State and Local Programs	Implement use of grant funds according to contract

H. Performance Monitoring

1. General Statement:

The City will monitor the performance of the Grantee for compliance with goals and requirements as required or as it deems necessary in accordance with the regulations. Monitoring will be based on a risk analysis and a monitoring plan developed at the beginning of the fiscal year. Desk monitoring will take place on a monthly and quarterly basis as described below during grantees program activity timeframe. Substandard performance as determined by the City will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by the Grantee within a reasonable period of time after being notified by the City in writing, contract suspension or termination procedures will be initiated.

2. On-site Monitoring

- The number of on-site Monitoring Visits will be determined by the Community Development department of the City of Lubbock.
- Notification letter sent to grantee at least 15 days before on-site monitoring visit.
- Monitoring letter sent to grantee identifying concerns and findings if any within thirty (30) days of on-site monitoring visit.

- Grantee must provide a written response within thirty (30) days to the monitoring letter that describes how the grantee will resolve any issues. If no deficiencies were noted grantee must confirm receipt of report within thirty (30) days of the date of the letter.

II. TIME OF PERFORMANCE

Services of the Grantee shall start on the 1st day of October 2015, and terminate on the 30th day of September, 2016. The term of this Agreement and the provisions herein may be extended to cover any additional time period during which the Grantee remains in control of CDBG funds or other assets, including program income.

III. BUDGET

Line Item:	**Amount:**
Personnel	$27,926
Benefits	$ 3,632
Payroll Taxes	$ 2,942
TOTAL:	**$ 34,500**

PAYMENT

All payments to grantees are on a monthly reimbursement basis. The Grantee will have incurred the expense or paid for the expense and submit detailed source documentation to the City when requesting payment.

It is expressly agreed and understood that the total amount to be paid by the City under this contract shall not exceed **$34,500**. Requests for payment of eligible expenses shall be made against the line item budgets specified in Paragraph III herein and in accordance with performance. Expenses for general administration shall also be paid against the line item budgets specified in Paragraph III and in accordance with performance.

Payment request must be submitted with back-up documentation such as time sheets, paycheck stubs, receipts, invoices, billing statements or other verification in support of all expenditures incurred and charged to the grant.

Payments may be contingent upon certification of the Grantee's financial management system in accordance with the standards specified in 24 CFR 84.

V. NOTICES

Notices required by this Agreement shall be in writing and delivered via mail (postage prepaid), commercial courier, and personal delivery or sent by facsimile or other electronic means. Any notice delivered or sent as aforesaid shall be effective on the date of delivery or sending. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice.

City	Grantee
Piata Bryant	Donna Montes
City of Lubbock	Communities in Schools
P. O. Box 2000	1655 Main, suite 201
Lubbock, TX 79457	Lubbock, TX 79401

VI. SPECIAL CONDITIONS

NONE

VII. GENERAL CONDITIONS

A. General Compliance

The Grantee agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the U. S. Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)) including subpart J and subpart K of these regulations, except that (1) the Grantee does not assume the recipient's environmental responsibilities described in 24 CFR 570.604 and (2) the Grantee does not assume the recipient's responsibility for initiating the review process under the provisions of 24 CFR Part 52. The Grantee also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract. The Grantee further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

The Grantee shall comply with all applicable Federal laws, regulations, and requirements and all provisions of this Agreement, which include compliance with the provisions of the HCD Act and all rules, regulations, guidelines, and circulars promulgated by the various Federal departments, agencies, administrations, and commissions relating to the CDBG Program. The applicable laws and regulations include, but are not limited to:

- 24 CFR Part 570;
- 24 CFR Parts 84 and 85;
- OMB Circular A-87 "Cost Principles for State and Local Governments," or OMB Circular A-110, or OMB Circular A-122 "Cost Principles for Non-Profit Organizations," or OMB Circular A-21 "Cost Principles for Educational Institutions";

- OMB Circular A-128, "Audits of State and Local Governments" or OMB Circular A-133 Audits of Institutions of Higher Education and Other Non-Profit Institutions";
- The Davis-Bacon Fair Labor Standards Act;
- The Contract Work Hours and Safety Standards Act of 1962;
- Copeland "Anti-Kickback" act of 1934;
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA);
- Title VI of the Civil Rights Act of 1964; (Public Law 88-352 implemented in 24 CFR Part 1)
- Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (Public Law 90-234 and Executive Order 11063 as amended by Executive Order 12259 (implemented in 24 CFR Part 107);
- Section 104(b) and 109 of the Housing and Community Development Act of 1974;
- Section 3 of the Housing and Urban Development Act of 1968;
- Equal employment opportunity and minority business enterprise regulations established in 24 CFR Part 570.904;
- Non-discrimination in employment, established by Executive Order 11246 (as amended by Executive Orders 11375 and 12086)
- Section 504 of the Rehabilitation Act of 1973 Uniform Federal accessibility Standards;
- The Architectural Barriers Act of 1968;
- The Americans With Disabilities Act (ADA) of 1990;
- The Age Discrimination Act of 1975, as amended;
- National Environmental Policy of 1969 (42 USC 4321 et seq.), as amended
- Lead Based paint regulations established in 24 CFR Parts 35, 570.608, &24 CFR982.401;
- Asbestos guidelines established in CPD Notice 90-44;
- HUD Environmental Criteria and Standards (24CFR Part 51);
- The Energy Policy and conservation Act (Public Law 94-163) and 24 CFR Part39;
- Historic Preservation Act of 1966, as amended, and related laws and Executive Orders;
- Executive Order 11988, floodplain management, 1977 (42 FR 26951 et seq.);
- Flood Disaster protection Act of 1973

B. <u>"Independent Contractor"</u>

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Grantee shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The City shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation insurance as the Grantee is an independent contractor.

C. <u>Indemnity and Release</u>

Grantee shall indemnify and hold harmless, to the fullest extent permitted by law, the City, and City's respective officers, employees, elected officials and agents, from and against any and all losses, damages, claims or liabilities, of any kind or nature, which arise directly or indirectly, or are related to, in any way, manner or form, the activities contemplated hereunder.

Grantee shall pay to the City, the City's respective officers, employees, elected officials and/or agents, as applicable, all attorneys' fees incurred by such parties in enforcing Grantee's indemnity in this section.

The City, and its respective officers, employees, elected officials and agents shall not be liable and Grantee hereby releases the City, and its respective officers, employees, elected officials and agents, for, from and/or against any losses, damages, claims or liabilities to Grantee

The indemnity and release provided herein shall survive the termination or voidance of this agreement.

D. Right to Exercise

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

E. Workers' Compensation

The Grantee shall provide Workers' Compensation insurance coverage for all of its employees involved in the performance of this contract.

F. Insurance and Bonding

The Grantee shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum, shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the City.

The Grantee shall comply with the bonding and insurance requirements of 24 CFR 84, Bonding and Insurance.

G. Grantor Recognition

The Grantee shall insure recognition of the role of the grantor agency in providing services through this contract. All activities, facilities, and items utilized pursuant to this contract shall be prominently labeled as to funding source. In addition, the Grantee will include a reference to the support provided herein in all publications made possible with funds made available under this contract.

H. Amendments

The City or Grantee may amend this Agreement at any time, provided that such amendments make specific reference to this Agreement and are executed in writing, signed by a duly authorized representative of both organizations and approved by the City's governing body. Such amendments shall not invalidate this Agreement nor relieve or release the City or Grantee from its obligations under this Agreement.

The City may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both City and Grantee.

I. Suspension or Termination

Either party may terminate this contract at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least 30 days before the effective date of such termination. Partial termination of the Scope of Service in Paragraph I.A. above may only be undertaken with the prior approval of the City. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Grantee under this Agreement shall, at the option of the City, become the property of the City, and the Grantee shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

The City may also suspend or terminate this Agreement, in whole or in part, if the Grantee fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein; and the City may declare the Grantee ineligible for any further participation in the City's contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe the Grantee is in noncompliance with any applicable rules or regulations, the City may withhold up to fifteen percent (15%) of said contract funds until such time as the Grantee is found to be in compliance by the City, or is otherwise adjudicated to be in compliance.

The City may also terminate this agreement in the event of an emergency or disaster, whether, an act of God, natural or manmade, by giving twenty-four (24) hour notice. The City may give said notice verbally to Grantee. Any expenditure incurred prior to

receiving notice will be reimbursed; however, in no event shall the City pay any expenses incurred after notice of termination is received by Grantee.

VIII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards

The Grantee agrees to comply with 24 CFR 84 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles

The Grantee shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations". These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

B. Documentation and Record-Keeping

1. Records to be maintained

The Grantee shall maintain all records required by the Federal regulations specified in 24 CFR Part 570.506 that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

a. Records providing a full description of each activity undertaken;
b. Records demonstrating that each activity undertaken meet the National Objective of the CDBG program of benefiting low/moderate income persons;
c. Records required determining the eligibility of activities;
d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
f. Financial records as required by 24 CFR Part 570.502, and 24 CFR 84;
g. Other records necessary to document compliance with Subpart K of 24 CFR 570.

2. Retention

The Grantee shall retain all records pertinent to expenditures incurred under this contract for a period of four (4) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds

under this contract shall be retained for four (4) years after final disposition of such property. Records for any displaced person must be kept for four (4) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the four-year period, whichever occurs later.

3. Client Data

The Grantee shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to City monitors or their designees for review upon request.

4. Disclosure

The Grantee understands that client information collected under this contract is private, and the use or disclosure of such information, when not directly connected with the administration of the City's or Grantee's responsibilities with respect to services provided under this contract, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian, unless otherwise required by law.

5. Property Records

The Grantee shall maintain real property inventory records which clearly identify properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform with the "changes in use" restrictions specified in 24 CFR Parts 570.503(b)(8), as applicable.

6. Close-Outs

The Grantee's obligation to the City shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), final close-out reports and determining the custodianship of records.

7. Audits & Inspections

All Grantee records with respect to any matters covered by this Agreement shall be made available to the City, grantor agency, their designees or the Federal

Government, at any time during normal business hours, as often as the City or grantor agency deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Grantee within 30 days after receipt by the Grantee. Failure of the Grantee to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The Grantee hereby agrees to have an annual agency audit conducted in accordance with current City policy concerning Grantee audits and, as applicable, OMB Circular A-133.

Grantees meeting the OMB Circular A-133 requirements must submit their audits to the audit clearing house within nine (9) months after the entities fiscal year end date.

C. Reporting and Payment Procedures

1. Payment Procedures

The City will pay to the Grantee funds available under this contract based upon information submitted by the Grantee and consistent with any approved budget and City policy concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Grantee, and not to exceed actual cash requirements. Payments will be adjusted by the City in accordance with advance fund and program income balances available in Grantee accounts. In addition, the City reserves the right to liquidate funds available under this contract for costs incurred by the City on behalf of the Grantee.

2. Performance Reports

Grantee shall submit to City a Performance, Financial Report, and narrative information monthly or during their program activity time frame as requested by the city, in a format prescribed by the City and shall include the amount of funds expended for each of the eligible activities. Grantee shall submit the reports monthly no later than the 20th of each month.

The September financial and narrative reports must submitted by September 30. The performance report will remain due by the 20th of the following month. Reporting will continue from the start of program activity till the end of the program year. End of year reports are required.

D. Procurement

1. Compliance

The Grantee shall comply with current City policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets purchased with such funds (unexpended program income, property, equipment, etc.) shall revert to the City upon termination of this contract.

2. CFR Standards

The Grantee shall procure all materials, property, or services in accordance with the requirements of 24 CFR 84, Procurement Standards, and shall subsequently follow Property Management Standards as modified by 24 CFR 570.502(b)(6), covering utilization and disposal of property.

3. Travel

The Grantee shall obtain written approval from the City for any travel outside the metropolitan area with funds provided under this contract.

E. Use and Reversion of Assets

The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 24 CFR Part 84 and CFR 570.502, 570.503, and 570.504, as applicable, which include but are not limited to the following:

1. The Subrecipient shall transfer to the Grantee any CDBG funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.

2. Real property under the Subrecipient's control that was acquired or improved, in whole or in part, with funds under this Agreement in excess of $25,000 shall be used to meet one of the CDBG National Objectives pursuant to 24 CFR 570.208 until five (5) years after expiration of this Agreement [or such longer period of time as the Grantee deems appropriate]. If the Subrecipient fails to use CDBG-assisted real property in a manner that meets a CDBG National Objective for the prescribed period of time, the Subrecipient shall pay the Grantee an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property. Such payment shall constitute program income to the Grantee. The Subrecipient may retain real property acquired or improved under this Agreement after the expiration of the five-year [or such longer period of time as the Grantee deems appropriate.

3. In all cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds shall be program income (prorated to reflect the extent to that funds received under this Agreement were used to acquire the

equipment). Equipment not needed by the Subrecipient for activities under this Agreement shall be (a) transferred to the Grantee for the CDBG program or (b) retained after compensating the Grantee [an amount equal to the current fair market value of the equipment less the percentage of non-CDBG funds used to acquire the equipment].

IX. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT

The Grantee agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Antidisplacement and Relocation Assistance Plan under Section 104(d) of the HCD Act; and (c) the requirements in 570.606(d) governing optional relocation policies. (The City may preempt the optional policies.) The Grantee shall provide relocation assistance to persons (families, individuals, businesses, nonprofit organizations and farms) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project. The Grantee also agrees to comply with applicable City ordinances, resolutions and policies concerning the displacement of persons from their residences.

X. PERSONNEL & PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

The Grantee agrees to comply and to require all subcontractors to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086.

2. Nondiscrimination

The Grantee will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital/familial status, or status with regard to public assistance. The Grantee will take affirmative action to insure that all employment practices are free from

such discrimination. Such employment practices include, but are not limited to, the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Grantee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

3. Land Covenants

This contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Grantee shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City and the United States are beneficiaries of and entitled to enforce such covenants. The Grantee, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

4. Section 504

The Grantee agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), which prohibits discrimination against the handicapped in any Federally-assisted program. The City shall provide the Grantee with any guidelines necessary for compliance with that portion of the regulations in force during the term of this contract.

5. Reports

The Grantee shall maintain a report that documents the race/ethnicity of its employees. The Grantee shall provide the City a copy with said report upon execution of this Agreement.

6. Policies

The Grantee shall maintain current copies of its fair housing and equal opportunity policies. The Grantee shall provide a copy of said policies to the City immediately upon request.

B. Affirmative Action

1. Approved Plan

The Grantee agrees that it shall be committed to carry out pursuant to the City's specifications an Affirmative Action Program in keeping with the principles as provided in the President's Executive Order 11246 of September 24, 1965. Grantees receiving federal funds through the City are required to develop a written affirmative action program to insure that equal opportunity is provided in all aspects of their employment.

2. Women-and Minority-Owned Business

The Grantee will use its best efforts to afford minority- and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the term "minority and female business enterprise" means a business at least fifty-one percent (51%) owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish-surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Grantee may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

3. Access to Records

The Grantee shall furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

4. Notifications

The Grantee will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Grantee's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5. EEO/AA Statement

The Grantee will, in all solicitations or advertisements for employees placed by or on behalf of the Grantee, state that it is an Equal Opportunity or Affirmative Action employer.

6. Subcontract Provisions

The Grantee will include the provisions of Paragraphs X.A., Civil Rights, and B., Affirmative Action, in every subcontract or purchase order, specifically or by reference,

so that such provisions will be binding upon each of its own subrecipients or subcontractors.

C. Employment Restrictions

1. Prohibited Activity

The Grantee is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; and lobbying, political patronage, and nepotism activities.

2. Labor Standards

The Grantee agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act, the Copeland "Anti-Kickback" Act (40 U.S.C. 276a-276a-5; 40 USC 327 and 40 USC 276c) and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this contract. The Grantee shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City for review upon request. The Grantee agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of $2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Grantee of its obligation, if any, to require payment of the higher wage. The Grantee shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

3. "Section 3" Clause

a. Compliance

Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the City, the Grantee and any of the Grantee's subrecipients and subcontractors. Failure to fulfill these requirements shall subject the City, the Grantee and any of the Grantee's subrecipients and subcontractors, their successors and assigns, to those sanctions specified by the

Agreement through which Federal assistance is provided. The Grantee certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

The Grantee further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

> "The work to be performed under this contract is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 (of the Housing and Urban Development Act of 1968), as amended, 12 U.S.C. 1701. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to low- and very low-income residents of the project area, and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."

The Grantee further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to business concerns which provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

The Grantee certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements.

b. Notifications

The Grantee agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post

copies of the notice in conspicuous places available to employees and applicants for employment or training.

c. Subcontracts

The Grantee will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Grantee will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

D. Conduct

1. Assignability

The Grantee shall not assign or transfer any interest in this contract without the prior written consent of the City thereto; provided, however, that claims for money due or to become due to the Grantee from the City under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

2. Subcontracts

a. Approvals

The Grantee shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of the City prior to the execution of such agreement.

b. Monitoring

The Grantee will monitor all subcontracted services on a risk analysis basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content

The Grantee shall cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d. Selection Process

The Grantee shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the City along with documentation concerning the selection process.

e. Suspension / Disbarment

The Grantee shall not enter into any subcontracts with an agency, business or individual that has been suspended, disbarred or otherwise excluded from federal grants. The Grantee shall maintain records demonstrating that it has reviewed potential subcontractors against the debarred and excluded list prior to committing any grant funds to a subcontract.

3. Hatch Act

The Grantee agrees that no funds provided, nor personnel employed under this contract, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

4. Conflict of Interest

The Grantee shall maintain written codes of conduct that govern the performance of its employees engaged in the award and administration of contracts. Said codes of conduct shall be in compliance with 24 CFR 84.42.

Further, Grantee covenants that it presently has no financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Grantee further covenants that, in the performance of this Agreement, no person having such a financial interest shall be employed or retained by the Grantee hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the City, or of any designated public agencies or subrecipients which are receiving funds under the CDBG Entitlement program.

5. Lobbying

The Grantee hereby certifies that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in

connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

c. It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly; and

d. Lobbying Certification

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

6. Copyright

If this contract results in any copyrightable material or inventions, the City and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

7. Religious Organization

The Grantee agrees that funds provided under this contract will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the Federal regulations specified in 24 CFR 570.200(j).

XI. ENVIRONMENTAL CONDITIONS

A. Air and Water

The Grantee agrees to comply with the following requirements insofar as they apply to the performance of this contract:

Clean Air Act, 42 U.S.C., 7401, et seq.
Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.

Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R., Part 50, as amended.

B. Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 USC 4001), the Grantee shall assure that, for activities located in an area identified by FEMA as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint

The Grantee agrees that any construction or rehabilitation of residential structures with assistance provided under this contract shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35 and will comply with all applicable requirements.

D. Asbestos

City agrees to comply with the Texas Asbestos Health Protection Act set forth at Article 4477-3a Section 12 of the Texas Civil Statutes and the National Emission Standard for Asbestos Regulations set forth at 40 CFR Part 61.

E. Historic Preservation

The Grantee agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR, Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this contract. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty (50) years old or older or that are included on a Federal, state, or local historic property list.

XII. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby, and all other parts of this Agreement shall nevertheless be in full force and effect.

XIII. SECTION HEADINGS AND SUBHEADINGS

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

XIV. WAIVER

The Grantee's failure to act with respect to a breach by the Subrecipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the Grantee to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

XV. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the Grantee and the Subrecipient for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the Grantee and the Subrecipient with respect to this Agreement.

IN WITNESS WHEREOF, the Parties have executed this contract as of the date first written above.

CITY OF LUBBOCK

GLEN C. ROBERTSON
Mayor

ATTEST:

Rebecca Garza, City Secretary

COMMUNITIES IN SCHOOLS ON THE SOUTH PLAINS INC.

Donna Montes
Chief Executive Officer

FED.I.D. # 75-2819581

Board Chair

APPROVED AS TO CONTENT:

Karen Murfee, Community Development Director

APPROVED AS TO FORM:

Justin Pruitt, Assistant City Attorney

Regular City Council Meeting **5. 27.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - Community Development: Consider a resolution authorizing and directing the Mayor to execute for and on behalf of the City of Lubbock a Community Development funding contract 12601 and all related documents between the City of Lubbock and the Young Women's Christian Association of Lubbock (YWCA) from the Community Development Block Grant (CDBG) for child care, special needs and youth services.

Item Summary

Grantee: YWCA of Lubbock

Program: Child Care Services
Special Needs Program
Youth Services

Funding Source: 2015-2016 CDBG

Use of Funds: The funds for these programs will be used to provide partial funding scholarships for child care and after school care for low-to-moderate income families so they can pursue work, school or job training and to provide an educational/recreational program for emotionally disturbed children and children who have severe behavior problems. Funds for Youth Services will provide a safe place for teens to engage in healthful activities.

Amount: $66,000 Child Care
$30,000 Special Needs
$20,760 Youth Services

Match: 25%

Return of Investment: Not required for Community Development public service

Terms: October 1, 2015 through September 30, 2016

Comments: Funding for this contract was approved by City Council at the June 25, 2015 council meeting.

Fiscal Impact

Federal funds will be used from the CDBG program. The maximum to be allocated to these projects is $116,760.

Staff/Board Recommending

Bill Howerton, Assistant City Manager

Attachments

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, a Community Development Block Grant funding contract, and related documents, to provide partial scholarships for child care and after-school care for low-to-moderate income families, and to provide an educational and recreational program for special needs children, by and between the City of Lubbock and YWCA of Lubbock. Said funding contract is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Bill Howerton, Assistant City Manager

APPROVED AS TO FORM:

_____
Justin Pruitt, Assistant City Attorney

ccdocs/RES. Agreement – YWCA of Lubbock – CDBG Funds
November 11, 2015

COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDING AGREEMENT BETWEEN THE CITY OF LUBBOCK AND YOUNG WOMEN'S CHRISTIAN ASSOCIATION OF LUBBOCK (YWCA)

STATE OF TEXAS §

COUNTY OF LUBBOCK §

THIS AGREEMENT, entered this 1st day of October 2015 by and Between the City of Lubbock (herein called the "City") and **Young Women's Christian Association (YWCA)** (herein called the "Grantee").

WHEREAS, the City has applied for and received funds from the United States Government under Title I of the Housing and Community Development Act of 1974; and

WHEREAS, the City wishes to engage the Grantee to assist the Grantee in utilizing such funds;

WHEREAS, the City is obligated to do and perform certain services in its undertaking of a Community Development Block Grant Program pursuant to the Housing and Development Act of 1975, as amended; and

WHEREAS, the Grantee operates a non-profit center offering services to low-and moderate-income individuals and families; and

WHEREAS, the services provided by the Grantee benefit citizens of the City of Lubbock and constitute a valuable public service; and

WHEREAS, the City Council of the City of Lubbock has declared programs of the Grantee to be a public purpose and the provision of these services to be a predominate purpose of this transaction; and

WHEREAS, the Grantee and the services it provides have been found to meet the criteria for funding under provision 24 CFR 570.201; and

WHEREAS, the accomplishment of the above public purpose is the predominant purpose of this transaction, continuing supervision by the City together with statutory and contractual requirements provide sufficient assurance that this public purpose will be accomplished; and an audit provides sufficient protection of the handling of public money; and

WHEREAS, the City Council has found that the Grantee has the special expertise, knowledge and experience necessary for the **Child Care Services, Special Needs Program** and **Y*100 Youth Services** and that the City will receive adequate consideration in the form of substantial public benefit; and

WHEREAS, the City desires to contract with the Grantee to make available funds for the **YWCA Child Care Services, Special Needs Program and Y*100 Youth Services.**

NOW, THEREFORE, it is agreed between the parties hereto that:

I. SCOPE OF SERVICE

A. Activities

1. General Statement

The Grantee will be responsible for administering a Community Development Block Grant (CDBG) Year 2015-2016 **Child Care Services, Special Needs Program and Y*100 Youth Services** in a manner satisfactory to the City and consistent with any standards required as a condition of providing these funds. Such program will include the following activities eligible under the CDBG Program.

2. Program Delivery

Activity #1 The Child Care Services Program will offer scholarships to income eligible families for preschool, after school care, and summer care for school age children. Families will be required to pay co-pay, based on sliding scale, for YWCA childcare. The amount of their scholarships will also be based on a sliding scale. To receive scholarship assistance, parents must be working, in training, or in school. In rare instances, an exception could be made in extenuating circumstances. There will be approximately 60 children and their families that receive benefit from this program.

Activity #2 The Special Needs Program will provide educational/recreational activities and socialization for emotionally disturbed children and children with severe behavior problems. These children due to a disability are not able to participate in mainstream after-school programs. This program introduces students to constructive recreational activities, aids in educational successes and increases social skills. By intervening in the lives of these troubled children at an early age, the program seeks to prevent school dropout, involvement in gang and delinquent activities and drug abuse. Approximately fifteen (15) children will benefit from this program. This program meets on a daily basis.

Activity #3 The Youth Services Program will provide a safe place for teens to engage in healthful activities. This program provides funding support for teens to have a safe place for sports and activities as well as opportunities for leadership development, specific job skills and community engagement. The target audience is all teens ranging in age from 13 years – 17 years. The program will take place at the YWCA facilities and it does reflect one of the priorities in the Consolidated Plan by offering supportive services to at risk youth.

B. National Objectives

The Grantee certifies that the activities carried out with funds provided under this Agreement will meet the suitable living environment objective by providing eligible activities that benefit communities, families or individuals by addressing issues in their living environment under the Community Development Block Grant program - as defined in 24 CFR §576.21 as amended by the HEARTH Act.

C. City Responsibilities

1. City agrees to provide Grantee assistance from the U. S. Department of Housing and Urban Development (HUD) funds in an amount not to exceed **$66,000 for the Child Care Services Program, $30,000 for Special Needs Program and $20,760 for Youth Services Y*100 Program** in return for Grantee performing the activities set forth in this Agreement as consideration for said funds.

2. It is expressly understood and agreed by the parties hereto that City's responsibilities are contingent upon the actual receipt of adequate federal funds to meet City's liabilities under this agreement. If adequate funds are not available to make payments under this agreement, City shall notify Grantee in writing within a reasonable time after such fact is determined. City shall terminate this agreement and will not be liable for failure to make payments to Grantee under this agreement.

3. City shall not be liable to Grantee for any costs incurred by Grantee, or any portions thereof, which have been paid to Grantee or which are subject to payment to Grantee, or which have been reimbursed to Grantee or which are subject to reimbursement to Grantee by any source other than City or Grantee.

4. City shall not be liable to Grantee for any costs incurred by Grantee which are not allowable costs, as set forth in 24 CFR §570.207.

5. City shall not be liable to Grantee for any costs incurred by Grantee or for any performances rendered by Grantee which are not strictly in accordance with the terms of this agreement.

6. City shall not be liable to Grantee for any costs incurred by Grantee in the performance of this agreement which have not been billed to City by Grantee within ninety (90) days.

7. City shall not be liable for costs incurred or performances rendered by Grantee before commencement of this agreement or after termination of this agreement.

D. Grantee's Responsibilities

1. Grantee shall perform all activities in accordance with their budget, the applicable laws and regulations set forth herein; the assurance, certifications, and all other terms, provisions, and requirements set forth in this agreement.

2. Grantee shall submit to City such reports on the operation and performance of this agreement during their program activity timeframe, as required by the City.

3. In addition to the limitations on liability otherwise specified in this agreement, it is expressly understood and agreed by the parties hereto that if Grantee fails to submit to City in a timely and satisfactory manner any report required by this agreement, City may, at its sole option and in its sole discretion, withhold any or all payments otherwise due or requested by Grantee hereunder. If City withholds such payments, it shall notify Grantee in writing of its decision and the reasons therefor. Payments withheld pursuant to this paragraph may be held by City until such time as the delinquent obligations for which funds are withheld are fulfilled by Grantee.

4. Grantee shall refund to City any sum of money which has been paid to Grantee by City which City determines has resulted in overpayment to Grantee, or which City determines has not been spent by Grantee strictly in accordance with the terms of this agreement. Such refund shall be made by Grantee to City within thirty (30) working days after such refund is requested by City.

5. Grantee agrees to comply with applicable uniform administrative requirements, as described in 24 CFR 570.502.

6. Grantee agrees to comply with Housing and Urban Development Outcome Performance Measurement requirements and reporting.

7. Grantee agrees to carry out the activities under this agreement in compliance with all Federal laws and regulations described in 24 CFR Chapter 570 subpart K except grantee does not assume the City's responsibility for initiating the review process under the provisions of 24 CFR part 52.

8. Grantee will have the Match and Non-CDBG funds ready and available prior to the start of the project. Failure to do so may delay, and or cancel the project.

9. Grantee will verify and certify eligibility when the activity is a Low-mod Clientele program by signing and dating the Self Certification form.

E. Grantee's Match:

1. Grantees applying for Community Development Block Grant (CDBG) funds must supplement requests for CDBG funds with additional funds from sources other than CDBG. This project must provide 25% or more of the total project costs from non-CDBG sources.

2. Matching funds may include cash provided by the agency from its own fund or other agencies, donations, or grants other than CDBG. The value of the match is subject to review and approval by the City of Lubbock.

F. Levels of Accomplishment - Goals and Performance Measures

In addition to the normal administrative services required as part of this Agreement, the Grantee agrees to provide the following levels of program services:

Activity	Units per Month	Total Units/Year
• Child Care Services	12	144
Enrollment of eligible children		
Self Certification of Income completed		
• Special Needs	10	15
Create & distribute flyers to schools and organizations		
Hire & train staff		
Enroll students and hold sessions		
Self Certification of Income completed		
• Youth Services Y*100 Program	15	100
Enrollment of eligible children		
Self-Certification of Income completed		

Note: Units means the number of unduplicated participants that will benefit directly from the program.

G. Staffing - Staff related to the entire project:

Staff Member	General Program Duties
Glenda Mathis, Executive Director -	Administration, oversight of grant funds
Shane Moran, Finance Director -	Keeps record of all funding expenditures
Shannon Funk, Scholarship Manager -	Assists with reports and works with Finance Director

H. Performance Monitoring

1. General Statement:

The City will monitor the performance of the Grantee for compliance with goals and requirements as required or as it deems necessary in accordance with the regulations. Monitoring will be based on a risk analysis and a monitoring plan developed at the beginning of the fiscal year. Desk monitoring will take place on a monthly and quarterly basis as described below during grantees program activity timeframe. Substandard performance as determined by the City will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by the Grantee within a reasonable period of time after being notified by the City in writing, contract suspension or termination procedures will be initiated.

2. On-site Monitoring

- The number of on-site Monitoring Visits will be determined by the Community Development department of the City of Lubbock.
- Notification letter sent to grantee at least 15 days before on-site monitoring visit.
- Monitoring letter sent to grantee identifying concerns and findings if any within thirty (30) days of on-site monitoring visit.
- Grantee must provide a written response within thirty (30) days to the monitoring letter that describes how the grantee will resolve any issues. If no deficiencies were noted grantee must confirm receipt of report within thirty (30) days of the date of the letter.

II. TIME OF PERFORMANCE

Services of the Grantee shall start on the 1st day of October 2015, and terminate on the 30th day of September 2016. The term of this Agreement and the provisions herein may be extended to cover any additional time period during which the Grantee remains in control of CDBG funds or other assets, including program income.

III. BUDGET

Line Item:	**Amount:**
Child Care Services	$ 66,000
Special Needs	$ 30,000
Youth Services Y*100	$ 20,760
TOTAL OF ALL PROGRAMS:	**$ 116,760**

IV. PAYMENT

All payments to grantees are on a monthly reimbursement basis. The Grantee will have incurred the expense or paid for the expense and submit detailed source documentation to the City when requesting payment.

It is expressly agreed and understood that the total amount to be paid by the City under this contract shall not exceed **$66,000 for the Child Care Services Program; $30,000 for the Special Needs Program and $20,760 for Youth Services Y*100 Program.** Requests for payment of eligible expenses shall be made against the line item budgets specified in Paragraph III herein and in accordance with performance. Expenses for general administration shall also be paid against the line item budgets specified in Paragraph III and in accordance with performance.

Payment request must be submitted with back-up documentation such as time sheets, paycheck stubs, receipts, invoices, billing statements or other verification in support of all expenditures incurred and charged to the grant.

Payments may be contingent upon certification of the Grantee's financial management system in accordance with the standards specified in 24 CFR 84.

V. NOTICES

Notices required by this Agreement shall be in writing and delivered via mail (postage prepaid), commercial courier and personal delivery or sent by facsimile or other electronic means. Any notice delivered or sent as aforesaid shall be effective on the date of delivery or sending. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice.

City	Grantee
Piata Bryant City of Lubbock P. O. Box 2000 Lubbock, TX 79457	Glenda Mathis YWCA of Lubbock 3101 35th Street Lubbock, TX 79413

VI. SPECIAL CONDITIONS

NONE

VII. GENERAL CONDITIONS

A. General Compliance

The Grantee agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the U. S. Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)) including subpart J and subpart K of these regulations, except that (1) the Grantee does not assume the recipient's environmental responsibilities described in 24 CFR 570.604 and (2) the Grantee does not assume the recipient's responsibility for initiating the review process under the provisions of 24 CFR Part 52. The Grantee also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract. The Grantee further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

The Grantee shall comply with all applicable Federal laws, regulations, and requirements and all provisions of this Agreement, which include compliance with the provisions of the HCD Act and all rules, regulations, guidelines, and circulars promulgated by the various Federal departments, agencies, administrations, and commissions relating to the CDBG Program. The applicable laws and regulations include, but are not limited to:

- 24 CFR Part 570;
- 24 CFR Parts 84 and 85;
- OMB Circular A-87 "Cost Principles for State and Local Governments," or OMB Circular A-110, or OMB Circular A-122 "Cost Principles for Non-Profit Organizations," or OMB Circular A-21 "Cost Principles for Educational Institutions";
- OMB Circular A-128, "Audits of State and Local Governments" or OMB Circular A-133 Audits of Institutions of Higher Education and Other Non-Profit Institutions";
- The Davis-Bacon Fair Labor Standards Act;
- The Contract Work Hours and Safety Standards Act of 1962;
- Copeland "Anti-Kickback" act of 1934;
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA);
- Title VI of the Civil Rights Act of 1964; (Public Law 88-352 implemented in 24 CFR Part 1)
- Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (Public Law 90-234 and Executive Order 11063 as amended by Executive Order 12259 (implemented in 24 CFR Part 107);
- Section 104(b) and 109 of the Housing and Community Development Act of 1974;
- Section 3 of the Housing and Urban Development Act of 1968;
- Equal employment opportunity and minority business enterprise regulations established in 24 CFR Part 570.904;
- Non-discrimination in employment, established by Executive Order 11246 (as amended by Executive Orders 11375 and 12086)
- Section 504 of the Rehabilitation Act of 1973 Uniform Federal accessibility Standards;
- The Architectural Barriers Act of 1968;
- The Americans With Disabilities Act (ADA) of 1990;
- The Age Discrimination Act of 1975, as amended;

- National Environmental Policy of 1969 (42 USC 4321 et seq.), as amended
- Lead Based paint regulations established in 24 CFR Parts 35, 570.608, &24 CFR982.401;
- Asbestos guidelines established in CPD Notice 90-44;
- HUD Environmental Criteria and Standards (24CFR Part 51);
- The Energy Policy and conservation Act (Public Law 94-163) and 24 CFR Part39;
- Historic Preservation Act of 1966, as amended, and related laws and Executive Orders;
- Executive Order 11988, floodplain management, 1977 (42 FR 26951 et seq.);
- Flood Disaster protection Act of 1973

B. "Independent Contractor"

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Grantee shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The City shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation insurance as the Grantee is an independent contractor.

C. Indemnity and Release

Grantee shall indemnify and hold harmless, to the fullest extent permitted by law, the City, and City's respective officers, employees, elected officials and agents, from and against any and all losses, damages, claims or liabilities, of any kind or nature, which arise directly or indirectly, or are related to, in any way, manner or form, the activities contemplated hereunder.

Grantee shall pay to the City, the City's respective officers, employees, elected officials and/or agents, as applicable, all attorneys' fees incurred by such parties in enforcing Grantee's indemnity in this section.

The City, and its respective officers, employees, elected officials and agents shall not be liable and Grantee hereby releases the City, and its respective officers, employees, elected officials and agents, for, from and/or against any losses, damages, claims or liabilities to Grantee

The indemnity and release provided herein shall survive the termination or voidance of this agreement.

D. Right to Exercise

The City reserves the right to exercise any right or remedy available to it by law, contract, equity, or otherwise, including without limitation, the right to seek any and all forms of relief in a court of competent jurisdiction. Further, the City shall not be subject to any arbitration process prior to exercising its unrestricted right to seek judicial remedy. The

remedies set forth herein are cumulative and not exclusive, and may be exercised concurrently. To the extent of any conflict between this provision and another provision in, or related to, this document, the former shall control.

E. Workers' Compensation

The Grantee shall provide Workers' Compensation insurance coverage for all of its employees involved in the performance of this contract.

F. Insurance and Bonding

The Grantee shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum, shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the City.

The Grantee shall comply with the bonding and insurance requirements of 24 CFR 84, Bonding and Insurance.

G. Grantor Recognition

The Grantee shall insure recognition of the role of the grantor agency in providing services through this contract. All activities, facilities, and items utilized pursuant to this contract shall be prominently labeled as to funding source. In addition, the Grantee will include a reference to the support provided herein in all publications made possible with funds made available under this contract.

H. Amendments

The City or Grantee may amend this Agreement at any time, provided that such amendments make specific reference to this Agreement and are executed in writing, signed by a duly authorized representative of both organizations and approved by the City's governing body. Such amendments shall not invalidate this Agreement nor relieve or release the City or Grantee from its obligations under this Agreement.

The City may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both City and Grantee.

I. Suspension or Termination

Either party may terminate this contract at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least 30 days before

the effective date of such termination. Partial termination of the Scope of Service in Paragraph I.A. above may only be undertaken with the prior approval of the City. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Grantee under this Agreement shall, at the option of the City, become the property of the City, and the Grantee shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

The City may also suspend or terminate this Agreement, in whole or in part, if the Grantee fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein; and the City may declare the Grantee ineligible for any further participation in the City's contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe the Grantee is in noncompliance with any applicable rules or regulations, the City may withhold up to fifteen percent (15%) of said contract funds until such time as the Grantee is found to be in compliance by the City, or is otherwise adjudicated to be in compliance.

The City may also terminate this agreement in the event of an emergency or disaster, whether, an act of God, natural or manmade, by giving twenty-four (24) hour notice. The City may give said notice verbally to Grantee. Any expenditure incurred prior to receiving notice will be reimbursed; however, in no event shall the City pay any expenses incurred after notice of termination is received by Grantee.

VIII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards

The Grantee agrees to comply with 24 CFR 84 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles

The Grantee shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations". These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

B. Documentation and Record-Keeping

1. Records to be maintained

The Grantee shall maintain all records required by the Federal regulations specified in 24 CFR Part 570.506 that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

a. Records providing a full description of each activity undertaken;
b. Records demonstrating that each activity undertaken meet the National Objective of the CDBG program of benefiting low/moderate income persons.
c. Records required determining the eligibility of activities;
d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
f. Financial records as required by 24 CFR Part 570.502, and 24 CFR 84;
g. Other records necessary to document compliance with Subpart K of 24 CFR 570.

2. Retention

The Grantee shall retain all records pertinent to expenditures incurred under this contract for a period of four (4) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this contract shall be retained for four (4) years after final disposition of such property. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the four-year period, whichever occurs later.

3. Client Data

The Grantee shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to City monitors or their designees for review upon request.

4. Disclosure

The Grantee understands that client information collected under this contract is private, and the use or disclosure of such information, when not directly connected with the administration of the City's or Grantee's responsibilities with respect to services provided under this contract, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian, unless otherwise required by law.

5. Property Records

The Grantee shall maintain real property inventory records which clearly identify properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform to the "changes in use" restrictions specified in 24 CFR Parts 570.503(b) (8), as applicable.

6. Close-Outs

The Grantee's obligation to the City shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), final close-out reports and determining the custodianship of records.

7. Audits & Inspections

All Grantee records with respect to any matters covered by this Agreement shall be made available to the City, grantor agency, their designees or the Federal Government, at any time during normal business hours, as often as the City or grantor agency deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Grantee within 30 days after receipt by the Grantee. Failure of the Grantee to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The Grantee hereby agrees to have an annual agency audit conducted in accordance with current City policy concerning Grantee audits and, as applicable, OMB Circular A-133.

Grantees meeting the OMB Circular A-133 requirements must submit their audits to the audit clearing house within nine (9) months after the entities fiscal year end date.

C. Reporting and Payment Procedures

1. Payment Procedures

The City will pay to the Grantee funds available under this contract, based upon information submitted by the Grantee and consistent with any approved budget and City policy concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Grantee, and not to exceed actual cash requirements. Payments will be adjusted by the City in accordance with advance fund and program income balances available in Grantee accounts. In addition, the City reserves the right to liquidate funds available under this contract for costs incurred by the City on behalf of the Grantee.

2. Performance Reports

Grantee shall submit to City a Performance, Financial Report, and narrative information monthly or during their program activity time frame as requested by the city, in a format prescribed by the City and shall include the amount of funds expended for each of the eligible activities. Grantee shall submit the reports monthly no later than the 20th of each month.

The September financial and narrative reports must submitted by September 30. The performance report will remain due by the 20th of the following month. Reporting will continue from the start of program activity till the end of the program year. End of year reports are required.

D. Procurement

1. Compliance

The Grantee shall comply with current City policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets purchased with such funds (unexpended program income, property, equipment, etc.) shall revert to the City upon termination of this contract.

2. CFR Standards

The Grantee shall procure all materials, property, or services in accordance with the requirements of 24 CFR 84, Procurement Standards, and shall subsequently follow Property Management Standards as modified by 24 CFR 570.502(b)(6), covering utilization and disposal of property.

3. Travel

The Grantee shall obtain written approval from the City for any travel outside the metropolitan area with funds provided under this contract.

E. Use and Reversion of Assets

The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 24 CFR Part 84 and CFR 570.502, 570.503, and 570.504, as applicable, which include but are not limited to the following:

1. The Sub-recipient shall transfer to the Grantee any CDBG funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.

2. Real property under the Sub-recipient's control that was acquired or improved, in whole or in part, with funds under this Agreement in excess of $25,000 shall be used to meet one of the CDBG National Objectives pursuant to 24 CFR 570.208 until five (5) years after expiration of this Agreement [or such longer period of time as the Grantee deems appropriate]. If the Sub-recipient fails to use CDBG-assisted real property in a manner that meets a CDBG National Objective for the prescribed period of time, the Sub-recipient shall pay the Grantee an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property. Such payment shall constitute program income to the Grantee. The Sub-recipient may retain real property acquired or improved under this Agreement after the expiration of the five-year [or such longer period of time as the Grantee deems appropriate.

3. In all cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds shall be program income (prorated to reflect the extent to that funds received under this Agreement were used to acquire the equipment). Equipment not needed by the Sub-recipient for activities under this Agreement shall be (a) transferred to the Grantee for the CDBG program or (b) retained after compensating the Grantee [an amount equal to the current fair market value of the equipment less the percentage of non-CDBG funds used to acquire the equipment].

IX. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT

The Grantee agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Antidisplacement and Relocation Assistance Plan under Section 104(d) of the HCD Act; and (c) the requirements in 570.606(d) governing optional relocation policies. (The City may preempt the optional policies.) The Grantee shall provide relocation assistance to persons (families, individuals, businesses, nonprofit organizations and farms) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project. The Grantee also agrees to comply with applicable City ordinances, resolutions and policies concerning the displacement of persons from their residences.

X. PERSONNEL & PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

The Grantee agrees to comply and to require all subcontractors to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086.

2. Nondiscrimination

The Grantee will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital/familial status, or status with regard to public assistance. The Grantee will take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include, but are not limited to, the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Grantee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

3. Land Covenants

This contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Grantee shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City and the United States are beneficiaries of and entitled to enforce such covenants. The Grantee, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

4. Section 504

The Grantee agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), which prohibits discrimination against the handicapped in any Federally-assisted program. The City shall provide the Grantee with any guidelines necessary for compliance with that portion of the regulations in force during the term of this contract.

5. Reports

The Grantee shall maintain a report that documents the race/ethnicity of its employees. The Grantee shall provide the City a copy with said report upon execution of this Agreement.

6. Policies

The Grantee shall maintain current copies of its fair housing and equal opportunity policies. The Grantee shall provide a copy of said policies to the City immediately upon request.

B. Affirmative Action

1. Approved Plan

The Grantee agrees that it shall be committed to carry out pursuant to the City's specifications an Affirmative Action Program in keeping with the principles as provided in the President's Executive Order 11246 of September 24, 1965. Grantees receiving federal funds through the City are required to develop a written affirmative action program to insure that equal opportunity is provided in all aspects of their employment.

2. Women-and Minority-Owned Business

The Grantee will use its best efforts to afford minority- and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the term "minority and female business enterprise" means a business at least fifty-one percent (51%) owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish-surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Grantee may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

3. Access to Records

The Grantee shall furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

4. Notifications

The Grantee will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's

representative of the Grantee's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5. EEO/AA Statement

The Grantee will, in all solicitations or advertisements for employees placed by or on behalf of the Grantee, state that it is an Equal Opportunity or Affirmative Action employer.

6. Subcontract Provisions

The Grantee will include the provisions of Paragraphs X.A., Civil Rights, and B., Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subrecipients or subcontractors.

C. Employment Restrictions

1. Prohibited Activity

The Grantee is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; and lobbying, political patronage, and nepotism activities.

2. Labor Standards

The Grantee agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act, the Copeland "Anti-Kickback" Act (40 U.S.C. 276a-276a-5; 40 USC 327 and 40 USC 276c) and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this contract. The Grantee shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City for review upon request. The Grantee agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of $2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Grantee of its obligation, if any, to require payment of the higher wage. The Grantee shall cause or require to be inserted in

full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

3. "Section 3" Clause

a. Compliance

Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the City, the Grantee and any of the Grantee's subrecipients and subcontractors. Failure to fulfill these requirements shall subject the City, the Grantee and any of the Grantee's subrecipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. The Grantee certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

The Grantee further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

> "The work to be performed under this contract is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 (of the Housing and Urban Development Act of 1968), as amended, 12 U.S.C. 1701. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to low- and very low-income residents of the project area, and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."

The Grantee further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project

is located; where feasible, priority should be given to business concerns which provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

The Grantee certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements.

b. Notifications

The Grantee agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

c. Subcontracts

The Grantee will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Grantee will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

D. Conduct

1. Assignability

The Grantee shall not assign or transfer any interest in this contract without the prior written consent of the City thereto; provided, however, that claims for money due or to become due to the Grantee from the City under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

2. Subcontracts

a. Approvals

The Grantee shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of the City prior to the execution of such agreement.

b. Monitoring

The Grantee will monitor all subcontracted services on a risk analysis basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content

The Grantee shall cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d. Selection Process

The Grantee shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the City along with documentation concerning the selection process.

e. Suspension / Disbarment

The Grantee shall not enter into any subcontracts with an agency, business or individual that has been suspended, disbarred or otherwise excluded from federal grants. The Grantee shall maintain records demonstrating that it has reviewed potential subcontractors against the debarred and excluded list prior to committing any grant funds to a subcontract.

3. Hatch Act

The Grantee agrees that no funds provided, nor personnel employed under this contract, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

4. Conflict of Interest

The Grantee shall maintain written codes of conduct that govern the performance of its employees engaged in the award and administration of contracts. Said codes of conduct shall be in compliance with 24 CFR 84.42.

Further, Grantee covenants that it presently has no financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Grantee further covenants that, in the performance of this Agreement, no person having such a financial interest shall be employed or retained by the Grantee hereunder. These conflict of interest

provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the City, or of any designated public agencies or subrecipients which are receiving funds under the CDBG Entitlement program.

5. Lobbying

The Grantee hereby certifies that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

c. It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly; and

d. Lobbying Certification

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

6. Copyright

If this contract results in any copyrightable material or inventions, the City and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

7. Religious Organization

The Grantee agrees that funds provided under this contract will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the Federal regulations specified in 24 CFR 570.200(j).

XI. ENVIRONMENTAL CONDITIONS

A. Air and Water

The Grantee agrees to comply with the following requirements insofar as they apply to the performance of this contract:

Clean Air Act, 42 U.S.C., 7401, et seq.
Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.

Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R., Part 50, as amended.

B. Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 USC 4001), the Grantee shall assure that, for activities located in an area identified by FEMA as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint

The Grantee agrees that any construction or rehabilitation of residential structures with assistance provided under this contract shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35 and will comply with all applicable requirements.

D. Asbestos

City agrees to comply with the Texas Asbestos Health Protection Act set forth at Article 4477-3a Section 12 of the Texas Civil Statutes and the National Emission Standard for Asbestos Regulations set forth at 40 CFR Part 61.

E. Historic Preservation

The Grantee agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR, Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this contract. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty (50) years old or older or that are included on a Federal, state, or local historic property list.

XII. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby, and all other parts of this Agreement shall nevertheless be in full force and effect.

XIII. SECTION HEADINGS AND SUBHEADINGS

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

XIV. WAIVER

The Grantee's failure to act with respect to a breach by the Sub-recipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the Grantee to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

XV. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the Grantee and the Sub-recipient for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the Grantee and the Sub-recipient with respect to this Agreement.

IN WITNESS WHEREOF, the Parties have executed this contract as of the date first written above.

CITY OF LUBBOCK

GLEN C. ROBERTSON
Mayor

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Karen Murfee, CD Director

APPROVED AS TO FORM:

Justin Pruitt, Assistant City Attorney

YOUNG WOMEN'S CHRISTAIN ASSOCIATION OF LUBBOCK (YWCA)

Glenda Mathis, Executive Director

FED.I.D. # 75-1633066

Sharyn Ivory, Board Chairperson

Regular City Council Meeting **5. 28.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - Community Development: Consider a resolution authorizing and directing the Mayor to execute for and on behalf of the City of Lubbock a Community Development funding contract 12602 and all related documents between the City of Lubbock and Community Housing Resource Board (CHRB) from the HOME Investment Partnership Program Grant for the Community Housing Development Organization's (CHDO) operations.

Item Summary

Grantee: CHRB

Program: Community Housing Development Organization's operations

Funding Source: 2015-2016 HOME Investment Partnership Program Grant

Use of Funds: The funds will be used to partially pay for operations associated with the administration of programs currently being offered by the CHRB.

Amount: $27,000

Match: 25%

Return of Investment: Not required for CHDO operations

Terms: October 1, 2015 through September 30, 2016

Comments: Funding for this contract was approved by City Council at the June 25, 2015 council meeting.

Fiscal Impact

Federal funds will be used from the HOME Investment Partnership Program Grant. The maximum to be allocated to operations is $27,000.

Staff/Board Recommending

Bill Howerton, Assistant City Manager

Attachments

Resolution - Community Housing Resources Board Operations

Agreement - Community Housing Resource Board Operations

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, a Community Development funding contract and related documents, between the City of Lubbock and the Community Housing Resources Board, to allocate funding from the HOME Investment Partnership Program Grant in order to provide for the partial payment of operations associated with the administration of programs offered by the Community Housing Development Organization. Said funding contract is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Bill Howerton, Assistant City Manager

APPROVED AS TO FORM:

_____
Justin Pruitt, Assistant City Attorney

ccdocs/RES. Agreement – CHRB & CHDO Operations – HOME Funds
November 11, 2015

COMMUNITY DEVELOPMENT HOME Investment Partnership Program
FUNDING AGREEMENT
BETWEEN
THE CITY OF LUBBOCK
AND
COMMUNITY HOUSING RESOURCE BOARD (CHRB)

STATE OF TEXAS §

COUNTY OF LUBBOCK §

THIS AGREEMENT, entered this 1st day of October 2015 by and between the City of Lubbock (herein called the "City") and **Community Housing Resource Board (CHRB),** (herein called the "Grantee").

WHEREAS, the City is obligated to do and perform certain services in its undertaking of the HOME Investment Partnership Program pursuant to Titles I and II of the Cranston-Gonzales National Affordable Housing Act; and

WHEREAS, the Grantee operates as a non-profit organization offering services to families throughout Lubbock; and

WHEREAS, the Grantee is recognized as a **Community Housing Development Organization (CHDO)** by the Department of Housing and Urban Development; and

WHEREAS, the Grantee proposes to provide a program called **CHDO Operations** which will provide funds to enhance its ability to provide administrative funds to operate CHDO programs and enhance its ability to provide affordable housing for low-to-moderate income individuals

WHEREAS, the services provided by the Grantee benefit residents of the area and constitute a valuable public service; and

WHEREAS, the City Council of the City of Lubbock has declared the services provided by the Grantee to be a public purpose; and

WHEREAS, the Grantee and the services it provides have been found to meet the criteria for funding under 24 CFR Part 92; and

WHEREAS, the accomplishment of the above public purpose is the predominate purpose of this transaction; continuing supervision by the City together with statutory and contractual requirements provide sufficient assurance that the public purpose will be accomplished; the City Council has found that the Grantee has the special expertise, knowledge and experience necessary for the operation of the **CHDO Operating Funds** and that the City will receive adequate consideration in the form of substantial public benefit; and

NOW, THEREFORE, it is agreed between the parties hereto that:

I. SCOPE OF SERVICE

A. Activities

The Grantee will be responsible for administering a **HOME 2015 CHDO Operations** in a manner satisfactory to the City and consistent with any standards required as a condition of providing these funds. Such program will include the following activities eligible under the HOME Investment Partnership Program.

Specifically, the Grantee shall with the sum of **$27,000** pay for CHDO Operations to provide operating expenses (personnel, payroll taxes, office supplies, utilities/phone, insurance, membership, audit, professional services, travel and training) for its affordable housing programs.

B. Objectives

The Grantee certifies the activities carried out with funds provided under this Agreement will meet the HOME program's eligible activities under 24 CFR Part 92 Subpart E.

C. City Responsibilities

1. City agrees to provide Grantee assistance from the Department of Housing and Urban Development funds in an amount not to exceed **$27,000** for **CHDO Operations** in return for Grantee performing the activities set forth in this Agreement as consideration for said funds.

2. It is expressly understood and agreed by the parties hereto that City's responsibilities are contingent upon the actual receipt of adequate federal funds to meet City's liabilities under this agreement. If adequate funds are not available to make payments under this agreement, City shall notify Grantee in writing within a reasonable time after such fact is determined. City shall terminate this agreement and will not be liable for failure to make payments to Grantee under this agreement.

3. City shall not be liable for any incurred Grantee costs, Grantee reimbursements which have been paid to or subject to payment to Grantee by any source other than City or Grantee.

4. City shall not be liable to Grantee for any costs incurred by Grantee which are not allowable costs, as set forth in 24 CFR 92 Subpart E.

5. City shall not be liable to Grantee for any costs incurred by Grantee or for any performances rendered by Grantee which are not strictly in accordance with the terms of this agreement.

6. City shall not be liable to Grantee for any costs incurred by Grantee in the performance of this agreement which have not been billed to City by Grantee within ninety (90) days unless otherwise approved by the City.

7. City shall not be liable for costs incurred or performances rendered by Grantee before commencement of this agreement or after termination of this agreement.

8. City shall review all work specifications prior to the beginning of the procurement process.

9. City shall inspect all construction work for compliance with work specifications prior to the release of any funds.

D. Grantee's Responsibilities

1. Grantee shall perform all activities in accordance with their budget, the applicable laws and regulations set forth herein; the assurance, certifications, and all other terms, provisions, and requirements set forth in this agreement.

2. Grantee shall submit to City such reports on the operation and performance of this agreement during their program activity timeframe, as requested by the City.

3. In addition to the limitations on liability otherwise specified in this agreement, it is expressly understood and agreed by the parties hereto that if Grantee fails to submit to City in a timely and satisfactory manner any report required by this agreement, City may, at its sole option and in its sole discretion, withhold any or all payments otherwise due or requested by Grantee hereunder. If City withholds such payments, it shall notify Grantee in writing of its decision and the reasons therefor. Payments withheld pursuant to this paragraph may be held by City until such time as the delinquent obligations for which funds are withheld are fulfilled by Grantee.

4. Grantee shall refund to City any sum of money which has been paid to Grantee by City which City determines has resulted in overpayment to Grantee, or which City determines has not been spent by Grantee strictly in accordance with the terms of this agreement. Such refund shall be made by Grantee to City within thirty (30) working days after such refund is requested by City.

5. Grantee agrees to comply with the affordability requirements of 24 CFR 92.252 or 92.254. Grantee agrees to repay any funds during the time period wherein the housing does not meet the affordability requirements.

6. Grantee agrees to comply with the applicable uniform administrative requirements, as described in 24 CFR 92.505.

7. Grantee agrees to comply with project requirements in 24 CFR Part 92 Subpart F, as applicable with the type of project in the Agreement.

8. Grantee agrees to carry out each activity in the Agreement in compliance with all Federal laws and regulations described in 24 CFR Part 92 Subpart H, including responsibilities for environmental review in 24 CFR 92.352 and the intergovernmental review process in 24 CFR 92.359.

9. Grantee agrees to comply with Housing and Urban Development (HUD) Outcome Performance Measurement requirements and reporting.

10. Grantee agrees to comply with the affirmative marketing responsibilities specified in 24 CFR 92.351.

11. Grantee agrees that the units acquired and rehabilitated under the HOME program shall be made available exclusively to eligible low and moderate income families whose gross household income does not exceed the income eligibility requirements as established by the Department of Housing and Urban Development.

12. Grantee shall submit to City a request for an environmental assessment to be prepared and approved on individual construction sites prior to beginning the project and/or prior to the acquisition of any single-family home.

13. Grantee shall submit to City a request for a review of all work specifications prior to the beginning of the procurement process.

14. Grantee shall notify City upon interim draws and upon work completion for inspection by the Community Development Department prior to the request for funds and approval by the Community Development Department to allow the home buyer to move into home.

15. Grantee will have the Match and/or Non-HOME funds ready and available prior to the start of the project, if applicable. Failure to do so may delay, and or cancel the project.

16. Grantee will sell houses to eligible low income home buyers who qualify for a mortgage loan.

17. Grantee agrees that contracts, agreements and deed of trusts with homebuyers will include affordability requirements as defined in the HOME regulations.

18. Grantee agrees that any interests or assets obtained with HOME funding shall revert back to the City in the event that said Agency/Non-profit dissolves, files for bankruptcy or goes out of business for any reason.

E. Grantee's Match:

HOME funds used for administrative and planning costs (pursuant to 24 CFR 92.207) CHDO operating expenses (pursuant to 24 CFR 92.208) and capacity building (pursuant to 24 CFR 92.300(b)) of community housing development organizations are not required to be matched.

F. Project Proceeds

As allowed in 24 CFR 92.300(a)(2), project proceeds, if applicable, shall be retained by the Grantee and used to reinvest all project proceeds into additional properties for the CHDO Lease Purchase Program except as follows:

1. To pay for 25% return of investment to City. (See Special Conditions VI.)
2. To pay for insurance and maintenance of properties.
3. To pay for up to 10% of project proceeds for administration.

G. Levels of Accomplishment

In addition to the normal administrative services required as part of this Agreement, the Grantee agrees to provide the following levels of program services:

Activity	Timeline	Accomplishments
Administer HOME Elderly Rental Program	October 1, 2014 - September 30, 2016	Complete programs from previous a allocations and begin FY 2015-16 Program
Homebuyer Education	October 1, 2014 - September 30, 2016	Provide Homebuyer Education
Oversee Rental Properties	October 1, 2014 - September 30, 2016	Continue offering duplex units for seniors/disabled and maintain HOME rents through affordability period

H. Staffing

Staff Member	Title
Maggie Trejo	Executive Director
June Rangel	Administrative Assistant
Edelmira "Bibi" Licon	Office Clerk

I. Performance Monitoring

1. General Statement:

The City will monitor the performance of the Grantee for compliance with goals and requirements as required or as it deems necessary in accordance with the regulations. Monitoring will be based on a risk analysis and a monitoring plan developed at the beginning of the fiscal year. Desk monitoring will take place on a monthly and quarterly basis as described below during grantees program activity timeframe. Substandard performance as determined by the City will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by the Grantee within a reasonable period of time after being notified by the City in writing, contract suspension or termination procedures will be initiated.

2. Desktop Monitoring

Monthly / Quarterly Desktop Monitoring	Minimum % of funding spent
October – December 2015	12.5%
January – March	12.5%
April – June	12.5%
July – September	12.5%
October – December 2015	12.5%
January – March	12.5%
April – June	12.5%
July – September	12.5%

3. On-site Monitoring

- The number of on-site Monitoring Visits will be determined by the Community Development department of the City of Lubbock.
- Notification letter sent to grantee at least 15 days before on-site monitoring visit.
- Monitoring letter sent to grantee identifying concerns and findings if any within thirty (30) days of on-site monitoring visit.
- Grantee must provide a written response within thirty (30) days to the monitoring letter that describes how the grantee will resolve any issues. If no deficiencies were noted grantee must confirm receipt of report within thirty (30) days of the date of the letter.

II. TIME OF PERFORMANCE

Services of the Grantee shall start on the 1st day of October 2015, and end on the 30th day of September 2016. The term of this Agreement and the provisions herein shall be extended to cover the period of affordability required as specified under 24 CFR 92.254 and any additional time period during which the Grantee remains in control of HOME funds or other assets, including program income.

III. BUDGET

Line Item:		**Amount:**
Operations		
Personnel		$15,000
Payroll Taxes		$ 5,000
Professional Service		$ 2,000
Audit		$ 5,000
	Total:	$27,000

Any indirect costs charged must be consistent with the conditions of Paragraph VIII (C) (2) of this Agreement. In addition, the City may require a more detailed budget breakdown than the one contained herein, and the Grantee shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the City. Any change to this budget must be approved in writing by the City and the Grantee.

IV. PAYMENT

All payments to grantees are on a monthly reimbursement basis. The Grantee will have incurred the expense or paid for the expense and submit detailed source documentation to the City when requesting payment.

It is expressly agreed and understood that the total amount to be paid by the City under this contract shall not exceed **$27,000 for CHDO Operations.** Drawdowns for the payment of eligible expenses shall be made against the line item budgets specified in Paragraph III herein and in accordance with performance. Expenses for general administration shall also be paid against the line item budgets specified in Paragraph III and in accordance with performance.

Payment request must be submitted with back-up documentation such as time sheets, paycheck stubs, receipts, invoices, billing statements or other verification in support of all expenditures incurred and charged to the grant.

Payments may be contingent upon certification of the Grantee's financial management system in accordance with the standards specified in 24 CFR 84.

V. NOTICES

Communication and details concerning this contract shall be directed to the following contract representatives:

City	**Grantee**
Piata Bryant City of Lubbock P. O. Box 2000 Lubbock, TX 79457	Maggie Trejo Community Housing Resource Board 1628 Main Street Lubbock, TX 79401

VI. SPECIAL CONDITIONS

None

VII. GENERAL CONDITIONS

A. General Compliance

The Grantee agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 92 for Home Investment Partnerships Program. The Grantee also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract. The Grantee further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available. The Grantee also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract. The Grantee further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

The Grantee shall comply with all applicable Federal laws, regulations, and requirements and all provisions of this Agreement, which include compliance with the provisions of the HCD Act and all rules, regulations, guidelines, and circulars promulgated by the various Federal departments, agencies, administrations, and commissions relating to the CDBG Program. The applicable laws and regulations include, but are not limited to:

- Title 24 CFR, Part 92 for Home Investment Partnerships Program;
- OMB Circular A-87 "Cost Principles for State and Local Governments," or OMB Circular A-110, or OMB Circular A-122 "Cost Principles for Non-Profit Organizations," or OMB Circular A-21 "Cost Principles for Educational Institutions";
- OMB Circular A-128, "Audits of State and Local Governments" or OMB Circular A-133

Audits of Institutions of Higher Education and Other Non-Profit Institutions";

- The Contract Work Hours and Safety Standards Act of 1962;
- Copeland "Anti-Kickback" act of 1934;
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA);
- Title VI of the Civil Rights Act of 1964; (Public Law 88-352 implemented in 24 CFR Part 1)
- Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (Public Law 90-234 and Executive Order 11063 as amended by Executive Order 12259 (implemented in 24 CFR Part 107);
- Section 104(b) and 109 of the Housing and Community Development Act of 1974;
- Section 3 of the Housing and Urban Development Act of 1968;
- Equal employment opportunity and minority business enterprise regulations established in 24 CFR Part 570.904;
- Non-discrimination in employment, established by Executive Order 11246 (as amended by Executive Orders 11375 and 12086)
- Section 504 of the Rehabilitation Act of 1973 Uniform Federal accessibility Standards;
- The Architectural Barriers Act of 1968;
- The Americans With Disabilities Act (ADA) of 1990;
- The Age Discrimination Act of 1975, as amended;
- National Environmental Policy of 1969 (42 USC 4321 et seq.), as amended
- Lead Based paint regulations established in 24 CFR Parts 35, 570.608, &24 CFR982.401;
- Asbestos guidelines established in CPD Notice 90-44;
- HUD Environmental Criteria and Standards (24CFR Part 51);
- The Energy Policy and conservation Act (Public Law 94-163) and 24 CFR Part39;
- Historic Preservation Act of 1966, as amended, and related laws and Executive Orders;
- Executive Order 11988, floodplain management, 1977 (42 FR 26951 et seq.);
- Flood Disaster protection Act of 1973

B. "Independent Contractor"

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Grantee shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The City shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation insurance as the Grantee is an independent contractor.

C. Indemnity and Release

Grantee shall indemnify and hold harmless, to the fullest extent permitted by law, the City, and City's respective officers, employees, elected officials and agents, from and against any and all losses, damages, claims or liabilities, of any kind or nature, which arise directly or indirectly, or are related to, in any way, manner or form, the activities contemplated hereunder.

Grantee shall pay to the City, the City's respective officers, employees, elected officials and/or agents, as applicable, all attorneys' fees incurred by such parties in enforcing Grantee's indemnity in this section.

The City, and its respective officers, employees, elected officials and agents shall not be liable and Grantee hereby releases the City, and its respective officers, employees, elected officials and agents, for, from and/or against any losses, damages, claims or liabilities to Grantee.

The indemnity and release provided herein shall survive the termination or voidance of this agreement.

D. Right to Exercise

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

E. Workers' Compensation

The Grantee shall provide Workers' Compensation insurance coverage for all of its employees involved in the performance of this contract.

F. Insurance and Bonding

The Grantee shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and at a minimum, shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the City.

The Grantee shall comply with the bonding and insurance requirements of 24 CFR, Bonding and Insurance.

G. Grantor Recognition

The Grantee shall insure recognition of the role of the grantor agency in providing services through this contract. All activities, facilities, and items utilized pursuant to this contract shall be prominently labeled as to funding source. In addition, the Grantee will include a reference to the support provided herein in all publications made possible with funds made available under this contract.

H. Amendments

The City or Grantee may amend this Agreement at any time, provided that such amendments make specific reference to this Agreement and are executed in writing, signed by a duly authorized representative of both organizations and approved by the City's governing body. Such amendments shall not invalidate this Agreement nor relieve or release the City or Grantee from its obligations under this Agreement.

The City may, at its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both City and Grantee.

I. Suspension or Termination

Either party may terminate this contract at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least 30 days before the effective date of such termination. Partial termination of the Scope of Service in Paragraph I.A. above may only be undertaken with the prior approval of the City. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Grantee under this Agreement shall, at the option of the City, become the property of the City, and the Grantee shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

The City may also suspend or terminate this Agreement, in whole or in part, if the Grantee fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein; and the City may declare the Grantee ineligible for any further participation in the City's contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe the Grantee is in noncompliance with any applicable rules or regulations, the City may withhold up to fifteen percent (15%) of said contract funds until such time as the Grantee is found to be in compliance by the City, or is otherwise adjudicated to be in compliance.

The City may also terminate this agreement in the event of an emergency or disaster, whether an act of God, natural or manmade, by giving twenty-four (24) hour notice. The City may give said notice verbally to Grantee. Any expenditures incurred prior to receiving notice will be reimbursed; however, in no event shall the City pay any expenses incurred after notice of termination is received by Grantee.

VIII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards

The Grantee agrees to comply with 24 CFR 84 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles

The Grantee shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations." These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

B. Documentation and Record-Keeping

1. Records to be maintained

The Grantee shall maintain all records required by the Federal regulations specified in 24 CFR Part 92.508 that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

a. Records providing a full description of each activity undertaken;
b. Records demonstrating that each activity undertaken meets the eligible activities under the HOME program;
c. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with HOME assistance, as applicable;
d. Records documenting compliance with the fair housing and equal opportunity components of the HOME program;
e. Financial records as required by 24 CFR Part 92.505, and 24 CFR 84; and
f. Other records necessary to document compliance with Subpart H of 24 CFR Part 92.
g. Records documenting that each housing project meets the requirements of 24 CFR 92.252 for the required period of affordability. Records must be kept for each family assisted.
h. All records as required by 24 CFR Part 92.508.

2. Retention

The Grantee shall retain all records, as specified in 24 CFR 92.505, pertinent to expenditures incurred under this contract for a period of five (5) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this contract shall be retained for five (5) years after final disposition of such property. Records regarding project requirements (24 CFR 92 subpart F) and 24 CFR 92 subpart H requirements that apply for the duration of the period of affordability (24 CFR 92.350, 92.351, and 92.358), as well as the written agreement and inspection and monitoring reports must be maintained for five (5) years after the required period of affordability

specified in 24 CFR 92.252 or 92.254, as applicable. Records for any displaced person must be kept for five (5) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the five-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the five-year period, whichever occurs later.

3. Client Data

The Grantee shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility and demographic information. Such information shall be furnished to the City monitors as the houses are leased and or sold.

4. Disclosure

The Grantee understands that client information collected under this contract is private, and the use or disclosure of such information, when not directly connected with the administration of the City's or Grantee's responsibilities with respect to services provided under this contract, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian, unless otherwise required by law.

5. Property Records

The Grantee shall maintain real property inventory records which clearly identify properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and affordability requirements of 24 CFR 92.252 or 92.254, as applicable.

6. Close-Outs

The Grantee's obligation to the City shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), final close-out reports and determining the custodianship of records.

Affordability and resale/recapture requirements, as applicable continue through the term of those requirements in the individual agreements with home buyers. The Grantee is required to continue monitoring those requirements until they expire.

7. Audits & Inspections

All Grantee records with respect to any matters covered by this Agreement shall be made available to the City, grantor agency, their designees or the Federal Government, at any time during normal business hours, as often as the City or grantor agency deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Grantee within 30 days after receipt by the Grantee. Failure of the Grantee to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The Grantee hereby agrees to have an annual agency audit conducted in accordance with current City policy concerning Grantee audits and, as applicable, OMB Circular A-133.

Grantees meeting the OMB Circular A-133 requirements must submit their audits to the audit clearing house within nine (9) months after the entities fiscal year end date.

C. Reporting and Payment Procedures

1. Payment Procedures

The City will pay to the Grantee funds available under this contract, based upon information submitted by the Grantee and consistent with any approved budget and City policy concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Grantee, and not to exceed actual cash requirements. Payments will be adjusted by the City in accordance with advance fund and program income balances available in Grantee accounts. In addition, the City reserves the right to liquidate funds available under this contract for costs incurred by the City on behalf of the Grantee.

2. Performance Reports

Grantee shall submit to City a Financial Report, at minimum every three months or during their program activity time frame as requested by the city, in a format prescribed by the City and shall include the amount of funds expended for each of the eligible activities.

Along with the performance report grantee shall submit **narrative information** on progress of the funded activities to the City in the form, content, and frequency as required by the City.

D. Procurement

1. Compliance

The Grantee shall comply with current City policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets purchased with such funds (unexpended program income, property, equipment, etc.) shall revert to the City upon termination of this contract.

2. CFR Standards

The Grantee shall procure all materials, property, or services in accordance with the requirements of 24 CFR 84, Procurement Standards, and shall subsequently follow Property Management Standards covering utilization and disposal of property.

3. Travel

The Sub-recipient shall obtain written approval from the Grantee for any travel outside the metropolitan area with funds provided under this Agreement

E. Use and Reversion of Assets

The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 24 CFR Part 84 and CFR 570.502, 570.503, and 570.504, as applicable, which include but are not limited to the following:

1. The Sub-recipient shall transfer to the Grantee any CDBG funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.

2. Real property under the Sub-recipient's control that was acquired or improved, in whole or in part, with funds under this Agreement in excess of $25,000 shall be used to meet one of the CDBG National Objectives pursuant to 24 CFR 570.208 until five (5) years after expiration of this Agreement [or such longer period of time as the Grantee deems appropriate]. If the Sub-recipient fails to use CDBG-assisted real property in a manner that meets a CDBG National Objective for the prescribed period of time, the Sub-recipient shall pay the Grantee an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property. Such payment shall constitute program income to the Grantee. The Sub-recipient may retain real property acquired or improved under this Agreement after the expiration of the five-year [or such longer period of time as the Grantee deems appropriate.

3. In all cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds shall be program income (prorated to

reflect the extent to that funds received under this Agreement were used to acquire the equipment). Equipment not needed by the Sub-recipient for activities under this Agreement shall be (a) transferred to the Grantee for the CDBG program or (b) retained after compensating the Grantee [an amount equal to the current fair market value of the equipment less the percentage of non-CDBG funds used to acquire the equipment].

IX. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT

The Grantee agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 92.353; (b) the requirements of 24 CFR 570.606(c) governing the Residential Antidisplacement and Relocation Assistance Plan under Section 104(d) of the HCD Act; and (c) the requirements in 570.606(d) governing optional relocation policies. The Grantee shall provide relocation assistance to persons (families, individuals, businesses, nonprofit organizations and farms) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a HOME-assisted project. The Grantee also agrees to comply with applicable City ordinances, resolutions and policies concerning the displacement of persons from their residences.

X. PERSONNEL & PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

The Grantee agrees to comply and to require all subcontractors to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086.

2. Nondiscrimination

The Grantee will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital/familial status, or status with regard to public assistance. The Grantee will take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include, but are not limited to, the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Grantee agrees to post in conspicuous places, available to

employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

3. Land Covenants

This contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 92.350. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Grantee shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City and the United States are beneficiaries of and entitled to enforce such covenants. The Grantee, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

4. Section 504

The Grantee agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), which prohibits discrimination against the handicapped in any Federally-assisted program. The City shall provide the Grantee with any guidelines necessary for compliance with that portion of the regulations in force during the term of this contract.

5. Reports

The Grantee shall maintain a report that documents the race/ethnicity of its employees. The Grantee shall provide the City a copy with said report upon execution of this Agreement.

6. Policies

The Grantee shall maintain current copies of its fair housing and equal opportunity policies. The Grantee shall provide a copy of said policies to the City immediately upon request.

B. Affirmative Action

1. Approved Plan

The Grantee agrees that it shall be committed to carry out pursuant to the City's specifications an Affirmative Action Program in keeping with the principles as provided in the President's Executive Order 11246 of September 24, 1965. The City shall provide Affirmative Action guidelines to the Grantee to assist in the

formulation of such program. The Grantee shall submit a plan for an Affirmative Action Program for approval prior to the award of funds.

2. Women-and Minority-Owned Businesses

The Grantee will use its best efforts to afford minority and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the term "minority and female business enterprise" means a business at least fifty-one percent (51%) owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish-surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Grantee may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

3. Access to Records

The Grantee shall furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

4. Notifications

The Grantee will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Grantee's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5. EEO/AA Statement

The Grantee will, in all solicitations or advertisements for employees placed by or on behalf of the Grantee, state that it is an Equal Opportunity or Affirmative Action employer.

6. Subcontract Provisions

The Grantee will include the provisions of Paragraphs X.A., Civil Rights, and B., Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subrecipients or subcontractors.

C. Employment Restrictions

1. Prohibited Activity

The Grantee is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; and lobbying, political patronage, and nepotism activities.

2. Labor Standards

The Grantee agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act, the Copeland "Anti-Kickback" Act (40 U.S.C. 276a-276a-5; 40 USC 327 and 40 USC 276c) and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this contract. The Grantee shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City for review upon request. The Grantee agrees that, except with respect to the rehabilitation or construction of residential property containing less than twelve(12) units, all contractors engaged under contracts in excess of $2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Grantee of its obligation, if any, to require payment of the higher wage. The Grantee shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

3. "Section 3" Clause

a. Compliance

Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the City, the Grantee and any of the Grantee's subrecipients and subcontractors. Failure to fulfill these requirements shall subject the City, the Grantee and any of the Grantee's subrecipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. The Grantee certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

The Grantee further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

> "The work to be performed under this contract is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to low- and very low-income residents of the project area, and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."

The Grantee further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the HOME-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the HOME-funded project is located; where feasible, priority should be given to business concerns which provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

The Grantee certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements.

b. Notifications

The Grantee agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause

and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

c. Subcontracts

The Grantee will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Grantee will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

D. Conduct

1. Assignability

The Grantee shall not assign or transfer any interest in this contract without the prior written consent of the City thereto; provided, however, that claims for money due or to become due to the Grantee from the City under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

2. Subcontracts

a. Approvals

The Grantee shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of the City prior to the execution of such agreement.

b. Monitoring

The Grantee will monitor all subcontracted services on a risk analysis basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content

The Grantee shall cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d. Selection Process

The Grantee shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the City along with documentation concerning the selection process.

e. Suspension / Disbarment

The Grantee shall not enter into any subcontracts with an agency, business or individual that has been suspended, disbarred or otherwise excluded from federal grants. The Grantee shall maintain records demonstrating that it has reviewed potential subcontractors against the debarred and excluded list prior to committing any grant funds to a subcontract.

3. Hatch Act

The Grantee agrees that no funds provided, nor personnel employed under this contract, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

4. Conflict of Interest

The Grantee shall maintain written codes of conduct that govern the performance of its employees engaged in the award and administration of contracts. Said codes of conduct shall be in compliance with 24 CFR 84.42.

Further, Grantee covenants that it presently has no financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Grantee further covenants that, in the performance of this Agreement, no person having such a financial interest shall be employed or retained by the Grantee hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the City, or of any designated public agencies or subrecipients which are receiving funds under the CDBG Entitlement program.

5. Lobbying

The Grantee hereby certifies that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any

cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

c. It will require that the language of paragraph (d) of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly; and

d. Lobbying Certification - Paragraph d

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

6. Copyright

If this contract results in any copyrightable material or inventions, the City and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

7. Religious Organization

The Grantee agrees that funds provided under this contract will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the Federal regulations specified in 24 CFR 92.257.

XI. ENVIRONMENTAL CONDITIONS

A. Air and Water

The Grantee agrees to comply with the following requirements insofar as they apply to the performance of this contract:

Clean Air Act, 42 U.S.C., 7401, et seq.
Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder. Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R., Part 50, as amended.

B. Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 USC 4001), the Grantee shall assure that, for activities located in an area identified by FEMA as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint

The Grantee agrees that any construction or rehabilitation of residential structures with assistance provided under this contract shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 92.355, and 24 CFR Part 35 as applicable.

D. Asbestos

The Grantee agrees to comply with the Texas Asbestos Health Protection Act set forth at Article 4477-3a Section 12 of the Texas Civil Statutes and the National Emission Standard for Asbestos Regulations set forth at 40 CFR Part 61.

E. Historic Preservation

The Grantee agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR, Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this contract.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty (50) years old or older or that are included on a Federal, state, or local historic property list.

XII. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby, and all other parts of this Agreement shall nevertheless be in full force and effect.

XIII. SECTION HEADINGS AND SUBHEADINGS

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

XIV. WAIVER

The Grantee's failure to act with respect to a breach by the Sub-recipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the Grantee to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

XV. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the Grantee and the Sub-recipient for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the Grantee and the Sub-recipient with respect to this Agreement.

IN WITNESS WHEREOF, the Parties have executed this contract as of the date first written above.

CITY OF LUBBOCK

GLEN C. ROBERTSON
MAYOR

COMMUNITY HOUSING RESOURCE BOARD

Maggie Trejo
Executive Director

D. A. Smith, President

FED. I.D. # 75-2052605

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Karen Murfee, CD Director

APPROVED AS TO FORM:

Justin Pruitt, Assistant City Attorney

Regular City Council Meeting **5. 29.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - Community Development: Consider a resolution authorizing and directing the Mayor to execute for and on behalf of the City of Lubbock a Community Development funding contract 12603 and all related documents between the City of Lubbock and Community Housing Resource Board (CHRB) from the HOME Investment Partnership Grant Program for the Community Housing Development Organization's (CHDO) elderly, disabled and handicapped program.

Item Summary

Grantee: CHRB

Program: Elderly, Disabled and Handicapped program

Funding Source: 2015-2016 HOME Investment Partnership Program Grant

Use of Funds: The funds will be used to assist with providing rental housing to the elderly, disabled and handicapped.

Amount: $101,946

Match: 25%

Return of Investment: Not required for CHDO operations

Terms: October 1, 2015 through September 30, 2016

Comments: Funding for this contract was approved by City Council at the June 25, 2015 council meeting.

Fiscal Impact

Federal funds will be used from the HOME Investment Partnership Program Grant. The maximum to be allocated to this project is $101,946.

Staff/Board Recommending

Bill Howerton, Assistant City Manager

Attachments

Resolution - Community Housing Resources Board

Agreement - Community Housing Resource Board

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, a Community Development funding contract and all related documents, between the City of Lubbock and the Community Housing Resources Board, to allocate funding from the HOME Investment Partnership Program Grant in order to provide rental housing assistance for the elderly, disabled, and handicapped through programs offered by the Community Housing Development Organization. Said funding contract is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Bill Howerton, Assistant City Manager

APPROVED AS TO FORM:

_____
Justin Pruitt, Assistant City Attorney

ccdocs/RES. Agreement – CHRB & CHDO Rental Housing Assistance – HOME Funds
November 11, 2015

COMMUNITY DEVELOPMENT HOME Investment Partnership Program
FUNDING AGREEMENT
BETWEEN
THE CITY OF LUBBOCK
AND
COMMUNITY HOUSING RESOURCE BOARD (CHRB)

STATE OF TEXAS §

COUNTY OF LUBBOCK §

THIS AGREEMENT entered this 1st day of October 2015 by and between the City of Lubbock (herein called the "City") and **Community Housing Resource Board (CHRB)**, (herein called the "Grantee").

WHEREAS, the City is obligated to do and perform certain services in its undertaking of the HOME Investment Partnership Program pursuant to Titles I and II of the Cranston-Gonzales National Affordable Housing Act; and

WHEREAS, the Grantee operates as a non-profit organization offering services to families throughout Lubbock; and

WHEREAS, the Grantee is recognized as a **Community Housing Development Organization (CHDO)** by the Department of Housing and Urban Development; and

WHEREAS, the Grantee proposes to provide a program called **Elderly/Handicapped Rental Housing Program** which will provide funds to construct a duplex that will be affordable and handicapped accessible and benefit the low to moderate income elderly persons on fixed income and

WHEREAS, the City Council of the City of Lubbock has declared the services provided by the Grantee to be a public purpose; and

WHEREAS, the Grantee and the services it provides have been found to meet the criteria for funding under 24 CFR Part 92; and

WHEREAS, the accomplishment of the above public purpose is the predominate purpose of this transaction; continuing supervision by the City together with statutory and contractual requirements provide sufficient assurance that the public purpose will be accomplished; the City Council has found that the Grantee has the special expertise, knowledge and experience necessary for the operation of the **Elderly/Handicapped Rental Housing Program** and that the City will receive adequate consideration in the form of substantial public benefit; and

NOW, THEREFORE, it is agreed between the parties hereto that:

I. SCOPE OF SERVICE

A. Activities

The Grantee will be responsible for administering a **HOME Program Elderly/ Handicapped Rental Housing Program** in a manner satisfactory to the City and consistent with any standards required as a condition of providing these funds. Such program will include the following activities eligible under the HOME Investment Partnership Program.

Specifically, the Grantee shall with the sum of **$101,946** pay for the construction of a duplex for low to moderate income, elderly or disabled households.

B. Objectives

The Grantee certifies the activities carried out with funds provided under this Agreement will meet the HOME program's eligible activities under 24 CFR Part 92 Subpart E.

C. City Responsibilities

1. City agrees to provide Grantee assistance from the Department of Housing and Urban Development funds in an amount not to exceed **$101,946** for the **CHDO Project - Elderly/Handicapped Rental Housing Program** in return for Grantee performing the activities set forth in this Agreement as consideration for said funds.

2. It is expressly understood and agreed by the parties hereto that City's responsibilities are contingent upon the actual receipt of adequate federal funds to meet City's liabilities under this agreement. If adequate funds are not available to make payments under this agreement, City shall notify Grantee in writing within a reasonable time after such fact is determined. City shall terminate this agreement and will not be liable for failure to make payments to Grantee under this agreement.

3. City shall not be liable for any incurred Grantee costs, Grantee reimbursements which have been paid to or subject to payment to Grantee by any source other than City or Grantee.

4. City shall not be liable to Grantee for any costs incurred by Grantee which are not allowable costs, as set forth in 24 CFR 92 Subpart E.

5. City shall not be liable to Grantee for any costs incurred by Grantee or for any performances rendered by Grantee which are not strictly in accordance with the terms of this agreement.

6. City shall not be liable to Grantee for any costs incurred by Grantee in the performance of this agreement which have not been billed to City by Grantee within ninety (90) days unless otherwise approved by the City.

7. City shall not be liable for costs incurred or performances rendered by Grantee before commencement of this agreement or after termination of this agreement.

8. City shall review all work specifications prior to the beginning of the procurement process.

9. City shall inspect all construction work for compliance with work specifications prior to the release of any funds.

D. Grantee's Responsibilities

1. Grantee shall perform all activities in accordance with their budget, the applicable laws and regulations set forth herein; the assurance, certifications, and all other terms, provisions, and requirements set forth in this agreement.

2. Grantee shall submit to City such reports on the operation and performance of this agreement during their program activity timeframe, as requested by the City.

3. In addition to the limitations on liability otherwise specified in this agreement, it is expressly understood and agreed by the parties hereto that if Grantee fails to submit to City in a timely and satisfactory manner any report required by this agreement, City may, at its sole option and in its sole discretion, withhold any or all payments otherwise due or requested by Grantee hereunder. If City withholds such payments, it shall notify Grantee in writing of its decision and the reasons therefor. Payments withheld pursuant to this paragraph may be held by City until such time as the delinquent obligations for which funds are withheld are fulfilled by Grantee.

4. Grantee shall refund to City any sum of money which has been paid to Grantee by City which City determines has resulted in overpayment to Grantee, or which City determines has not been spent by Grantee strictly in accordance with the terms of this agreement. Such refund shall be made by Grantee to City within thirty (30) working days after such refund is requested by City.

5. Grantee agrees to comply with the affordability requirements of 24 CFR 92.252 or 92.254. Grantee agrees to repay any funds during the time period wherein the housing does not meet the affordability requirements.

6. Grantee agrees to comply with the applicable uniform administrative requirements, as described in 24 CFR 92.505.

7. Grantee agrees to comply with project requirements in 24 CFR Part 92 Subpart F, as applicable with the type of project in the Agreement.

8. Grantee agrees to carry out each activity in the Agreement in compliance with all Federal laws and regulations described in 24 CFR Part 92 Subpart H, including responsibilities for environmental review in 24 CFR 92.352 and the intergovernmental review process in 24 CFR 92.359.

9. Grantee agrees to comply with Housing and Urban Development (HUD) Outcome Performance Measurement requirements and reporting.

10. Grantee agrees to comply with the affirmative marketing responsibilities specified in 24 CFR 92.351.

11. Grantee agrees that the units constructed under the HOME program shall be made available exclusively to eligible low and moderate income families whose gross household income does not exceed the income eligibility requirements as established by the Department of Housing and Urban Development.

12. Grantee shall submit to City a request for an environmental assessment to be prepared and approved on individual construction sites prior to beginning the project.

13. Grantee shall submit to City a request for a review of all work specifications prior to the beginning of the construction process.

14. Grantee shall notify City upon interim draws and upon work completion for inspection by the Community Development Department prior to the request for funds and approval by the Community Development Department to allow the home buyer to move into home.

15. Grantee will have the Match and/or Non-HOME funds ready and available prior to the start of the project, if applicable. Failure to do so may delay, and or cancel the project.

16. Grantee will construct a duplex (2 units) for low to moderate elderly or disabled households.

17. Grantee agrees that contracts, agreements and deed of trusts with homebuyers will include affordability requirements as defined in the HOME regulations.

18. Grantee agrees that any interests or assets obtained with HOME funding shall revert back to the City in the event that said Agency/Non-profit dissolves, files for bankruptcy or goes out of business for any reason.

E. Grantee's Match:

HOME funds used for administrative and planning costs (pursuant to 24 CFR 92.207) CHDO operating expenses (pursuant to 24 CFR 92.208) and capacity building (pursuant to 24 CFR 92.300(b)) of community housing development organizations are not required to be matched.

F. Levels of Accomplishment

In addition to the normal administrative services required as part of this Agreement, the

Grantee agrees to provide the following levels of program services:

HOME: Program	Timeline	Accomplishments
Elderly/Handicapped Rental Housing Program	October 1, 2014 - September 30, 2016	Construct a duplex for a low to moderate income household.

G. Staffing

Staff Member	Title
Maggie Trejo	Executive Director
June Rangel	Administrative Assistance
Edelmira "Bibi" Licon	Office Clerk

I. Performance Monitoring

1. General Statement:

The City will monitor the performance of the Grantee for compliance with goals and requirements as required or as it deems necessary in accordance with the regulations. Monitoring will be based on a risk analysis and a monitoring plan developed at the beginning of the fiscal year. Desk monitoring will take place on a monthly and quarterly basis as described below during grantees program activity timeframe. Substandard performance as determined by the City will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by the Grantee within a reasonable period of time after being notified by the City in writing, contract suspension or termination procedures will be initiated.

2. Desktop Monitoring

Monthly / Quarterly Desktop Monitoring	Minimum % of funding spent
October – December 2015	12.5%
January – March	12.5%
April – June	12.5%
July – September	12.5%
October – December 2016	12.5%
January – March	12.5%
April – June	12.5%
July – September	12.5%

3. On-site Monitoring

- The number of on-site Monitoring Visits will be determined by the Community Development department of the City of Lubbock.
- Notification letter sent to grantee at least 15 days before on-site monitoring visit.
- Monitoring letter sent to grantee identifying concerns and findings if any within thirty (30) days of on-site monitoring visit.
- Grantee must provide a written response within thirty (30) days to the monitoring letter that describes how the grantee will resolve any issues. If no deficiencies were noted grantee must confirm receipt of report within thirty (30) days of the date of the letter.
-

II. TIME OF PERFORMANCE

Services of the Grantee shall start on the 1st day of October 2015, and end on the 30th day of September 2016. The term of this Agreement and the provisions herein shall be extended to cover the period of affordability required as specified under 24 CFR 92.254 and any additional time period during which the Grantee remains in control of HOME funds or other assets, including program income.

III. BUDGET

Line Item:		**Amount:**
Elderly/Handicapped Rental Housing Construction		**$101,946**
	Total:	**$101,946**

Any indirect costs charged must be consistent with the conditions of Paragraph VIII (C) (2) of this Agreement. In addition, the City may require a more detailed budget breakdown than the one contained herein, and the Grantee shall provide such supplementary budget

information in a timely fashion in the form and content prescribed by the City. Any change to this budget must be approved in writing by the City and the Grantee.

IV. PAYMENT

All payments to grantees are on a monthly reimbursement basis. The Grantee will have incurred the expense or paid for the expense and submit detailed source documentation to the City when requesting payment.

It is expressly agreed and understood that the total amount to be paid by the City under this contract shall not exceed **$101,946.00** for the **CHDO Elderly/Handicapped Rental Housing Program.** Draw downs for the payment of eligible expenses shall be made against the line item budgets specified in Paragraph III herein and in accordance with performance. Expenses for general administration shall also be paid against the line item budgets specified in Paragraph III and in accordance with performance.

Payment requests must be submitted with back-up documentation such as time sheets, paycheck stubs, receipts, invoices, billing statements or other verification in support of all expenditures incurred and charged to the grant.

Payments may be contingent upon certification of the Grantee's financial management system in accordance with the standards specified in 24 CFR 84.

V. NOTICES

Communication and details concerning this contract shall be directed to the following contract representatives:

City	Grantee
Piata Bryant	Maggie Trejo
City of Lubbock	Community Housing Resource Board
P. O. Box 2000	1628 Main Street
Lubbock, TX 79457	Lubbock, TX 79401

VI. GENERAL CONDITIONS

A. General Compliance

The Grantee agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 92 for Home Investment Partnerships Program. The Grantee also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract. The Grantee further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available. The Grantee also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract. The

Grantee further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

The Grantee shall comply with all applicable Federal laws, regulations, and requirements and all provisions of this Agreement, which include compliance with the provisions of the HCD Act and all rules, regulations, guidelines, and circulars promulgated by the various Federal departments, agencies, administrations, and commissions relating to the CDBG Program. The applicable laws and regulations include, but are not limited to:

- Title 24 CFR, Part 92 for Home Investment Partnerships Program;
- OMB Circular A-87 "Cost Principles for State and Local Governments," or OMB Circular A-110, or OMB Circular A-122 "Cost Principles for Non-Profit Organizations," or OMB Circular A-21 "Cost Principles for Educational Institutions";
- OMB Circular A-128, "Audits of State and Local Governments" or OMB Circular A-133 Audits of Institutions of Higher Education and Other Non-Profit Institutions";
- The Contract Work Hours and Safety Standards Act of 1962;
- Copeland "Anti-Kickback" act of 1934;
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA);
- Title VI of the Civil Rights Act of 1964; (Public Law 88-352 implemented in 24 CFR Part 1)
- Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (Public Law 90-234 and Executive Order 11063 as amended by Executive Order 12259 (implemented in 24 CFR Part 107);
- Section 104(b) and 109 of the Housing and Community Development Act of 1974;
- Section 3 of the Housing and Urban Development Act of 1968;
- Equal employment opportunity and minority business enterprise regulations established in 24 CFR Part 570.904;
- Non-discrimination in employment, established by Executive Order 11246 (as amended by Executive Orders 11375 and 12086)
- Section 504 of the Rehabilitation Act of 1973 Uniform Federal accessibility Standards;
- The Architectural Barriers Act of 1968;
- The Americans With Disabilities Act (ADA) of 1990;
- The Age Discrimination Act of 1975, as amended;
- National Environmental Policy of 1969 (42 USC 4321 et seq.), as amended
- Lead Based paint regulations established in 24 CFR Parts 35, 570.608, &24 CFR982.401;
- Asbestos guidelines established in CPD Notice 90-44;
- HUD Environmental Criteria and Standards (24CFR Part 51);
- The Energy Policy and conservation Act (Public Law 94-163) and 24 CFR Part39;
- Historic Preservation Act of 1966, as amended, and related laws and Executive Orders;
- Executive Order 11988, floodplain management, 1977 (42 FR 26951 et seq.);
- Flood Disaster protection Act of 1973

B. "Independent Contractor"

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Grantee shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The City shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation insurance as the Grantee is an independent contractor.

C. Indemnity and Release

Grantee shall indemnify and hold harmless, to the fullest extent permitted by law, the City, and City's respective officers, employees, elected officials and agents, from and against any and all losses, damages, claims or liabilities, of any kind or nature, which arise directly or indirectly, or are related to, in any way, manner or form, the activities contemplated hereunder.

Grantee shall pay to the City, the City's respective officers, employees, elected officials and/or agents, as applicable, all attorneys' fees incurred by such parties in enforcing Grantee's indemnity in this section.

The City, and its respective officers, employees, elected officials and agents shall not be liable and Grantee hereby releases the City, and its respective officers, employees, elected officials and agents, for, from and/or against any losses, damages, claims or liabilities to Grantee.

The indemnity and release provided herein shall survive the termination or voidance of this agreement.

D. Right to Exercise

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

E. Workers' Compensation

The Grantee shall provide Workers' Compensation insurance coverage for all of its employees involved in the performance of this contract.

F. Insurance and Bonding

The Grantee shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and at a minimum, shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the City.

The Grantee shall comply with the bonding and insurance requirements of 24 CFR, Bonding and Insurance.

G. Grantor Recognition

The Grantee shall insure recognition of the role of the grantor agency in providing services through this contract. All activities, facilities, and items utilized pursuant to this contract shall be prominently labeled as to funding source. In addition, the Grantee will include a reference to the support provided herein in all publications made possible with funds made available under this contract.

H. Amendments

The City or Grantee may amend this Agreement at any time, provided that such amendments make specific reference to this Agreement and are executed in writing, signed by a duly authorized representative of both organizations and approved by the City's governing body. Such amendments shall not invalidate this Agreement nor relieve or release the City or Grantee from its obligations under this Agreement.

The City may, at its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both City and Grantee.

I. Suspension or Termination

Either party may terminate this contract at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least 30 days before the effective date of such termination. Partial termination of the Scope of Service in Paragraph I.A. above may only be undertaken with the prior approval of the City. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Grantee under this Agreement shall, at the option of the City, become the property of the City, and the Grantee shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

The City may also suspend or terminate this Agreement, in whole or in part, if the Grantee fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein; and the City may declare the Grantee ineligible for any further participation in the City's contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe the Grantee is in noncompliance with

any applicable rules or regulations, the City may withhold up to fifteen percent (15%) of said contract funds until such time as the Grantee is found to be in compliance by the City, or is otherwise adjudicated to be in compliance.

The City may also terminate this agreement in the event of an emergency or disaster, whether an act of God, natural or manmade, by giving twenty-four (24) hour notice. The City may give said notice verbally to Grantee. Any expenditures incurred prior to receiving notice will be reimbursed; however, in no event shall the City pay any expenses incurred after notice of termination is received by Grantee.

VII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards

The Grantee agrees to comply with 24 CFR 84 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles

The Grantee shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations." These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

B. Documentation and Record-Keeping

1. Records to be maintained

The Grantee shall maintain all records required by the Federal regulations specified in 24 CFR Part 92.508 that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

a. Records providing a full description of each activity undertaken;
b. Records demonstrating that each activity undertaken meets the eligible activities under the HOME program;
c. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with HOME assistance, as applicable;
d. Records documenting compliance with the fair housing and equal opportunity components of the HOME program;
e. Financial records as required by 24 CFR Part 92.505, and 24 CFR 84; and
f. Other records necessary to document compliance with Subpart H of 24 CFR Part 92.

g. Records documenting that each housing project meets the requirements of 24 CFR 92.252 for the required period of affordability. Records must be kept for each family assisted.

h. All records as required by 24 CFR Part 92.508.

2. Retention

The Grantee shall retain all records, as specified in 24 CFR 92.505, pertinent to expenditures incurred under this contract for a period of five (5) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with funds under this contract shall be retained for five (5) years after final disposition of such property. Records regarding project requirements (24 CFR 92 subpart F) and 24 CFR 92 subpart H requirements that apply for the duration of the period of affordability (24 CFR 92.350, 92.351, and 92.358), as well as the written agreement and inspection and monitoring reports must be maintained for five (5) years after the required period of affordability specified in 24 CFR 92.252 or 92.254, as applicable. Records for any displaced person must be kept for five (5) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the five-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the five-year period, whichever occurs later.

3. Client Data

The Grantee shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility and demographic information. Such information shall be furnished to the City monitors as the houses are leased and or sold.

4. Disclosure

The Grantee understands that client information collected under this contract is private, and the use or disclosure of such information, when not directly connected with the administration of the City's or Grantee's responsibilities with respect to services provided under this contract, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian, unless otherwise required by law.

5. Property Records

The Grantee shall maintain real property inventory records which clearly identify properties purchased, improved or sold. Properties retained shall continue to meet

eligibility criteria and affordability requirements of 24 CFR 92.252 or 92.254, as applicable.

6. Close-Outs

The Grantee's obligation to the City shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), final close-out reports and determining the custodianship of records.

Affordability and resale/recapture requirements, as applicable continue through the term of those requirements in the individual agreements with home buyers. The Grantee is required to continue monitoring those requirements until they expire.

7. Audits & Inspections

All Grantee records with respect to any matters covered by this Agreement shall be made available to the City, grantor agency, their designees or the Federal Government, at any time during normal business hours, as often as the City or grantor agency deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Grantee within 30 days after receipt by the Grantee. Failure of the Grantee to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The Grantee hereby agrees to have an annual agency audit conducted in accordance with current City policy concerning Grantee audits and, as applicable, OMB Circular A-133.

Grantees meeting the OMB Circular A-133 requirements must submit their audits to the audit clearing house within nine (9) months after the entities fiscal year end date.

C. Reporting and Payment Procedures

1. Payment Procedures

The City will pay to the Grantee funds available under this contract, based upon information submitted by the Grantee and consistent with any approved budget and City policy concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Grantee, and not to exceed actual cash requirements. Payments will be adjusted by the City in accordance with advance fund and program income balances available in Grantee accounts. In addition, the City reserves the right to liquidate funds available under this contract for costs incurred by the City on behalf of the Grantee.

2. Performance Reports

Grantee shall submit to City a Performance and Financial Report, monthly or during their program activity time frame as requested by the city, in a format prescribed by the City and shall include the amount of funds expended for each of the eligible activities.

The initial Performance and Financial Report is required by the **20th of the following month** after program activity starts. Grantee shall continue to submit the reports monthly no later than the 20th of each month, the final financial report and request for reimbursement must be in by September 30, 2016. The performance report will remain due by the 20th of the following month. Reporting will continue from the start of program activity until funding is completed and the houses are sold.

Along with the performance report grantee shall submit **narrative information** on progress of the funded activities to the City in the form, content, and frequency as required by the City.

Grantee will continue tracking and submitting reports to the City on project proceeds and its use into acquiring and rehabilitating additional homes for the Lease Purchase Program for eligible low income buyers even after this agreement expires.

D. Procurement

1. Compliance

The Grantee shall comply with current City policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets purchased with such funds (unexpended program income, property, equipment, etc.) shall revert to the City upon termination of this contract.

2. CFR Standards

The Grantee shall procure all materials, property, or services in accordance with the requirements of 24 CFR 84, Procurement Standards, and shall subsequently follow Property Management Standards covering utilization and disposal of property.

E. Use and Reversion of Assets

The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 24 CFR Part 84 and CFR 570.502, 570.503, and 570.504, as applicable, which include but are not limited to the following:

1. The Sub-recipient shall transfer to the Grantee any CDBG funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.

2. Real property under the Sub-recipient's control that was acquired or improved, in whole or in part, with funds under this Agreement in excess of $25,000 shall be used to meet one of the CDBG National Objectives pursuant to 24 CFR 570.208 until five (5) years after expiration of this Agreement [or such longer period of time as the Grantee deems appropriate]. If the Sub-recipient fails to use CDBG-assisted real property in a manner that meets a CDBG National Objective for the prescribed period of time, the Sub-recipient shall pay the Grantee an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property. Such payment shall constitute program income to the Grantee. The Sub-recipient may retain real property acquired or improved under this Agreement after the expiration of the five-year [or such longer period of time as the Grantee deems appropriate.

3. In all cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds shall be program income (prorated to reflect the extent to that funds received under this Agreement were used to acquire the equipment). Equipment not needed by the Sub-recipient for activities under this Agreement shall be (a) transferred to the Grantee for the CDBG program or (b) retained after compensating the Grantee [an amount equal to the current fair market value of the equipment less the percentage of non-CDBG funds used to acquire the equipment].

IX. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT

The Grantee agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 92.353; (b) the requirements of 24 CFR 570.606(c) governing the Residential Antidisplacement and Relocation Assistance Plan under Section 104(d) of the HCD Act; and (c) the requirements in 570.606(d) governing optional relocation policies. The Grantee shall provide relocation assistance to persons (families, individuals, businesses, nonprofit organizations and farms) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a HOME-assisted project. The Grantee also agrees to comply with applicable City ordinances, resolutions and policies concerning the displacement of persons from their residences.

X. PERSONNEL & PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

The Grantee agrees to comply and to require all subcontractors to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086.

2. Nondiscrimination

The Grantee will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital/familial status, or status with regard to public assistance. The Grantee will take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include, but are not limited to, the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Grantee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

3. Land Covenants

This contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 92.350. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Grantee shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City and the United States are beneficiaries of and entitled to enforce such covenants. The Grantee, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

4. Section 504

The Grantee agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), which prohibits discrimination against the handicapped in any Federally-assisted program. The City shall provide the Grantee with any guidelines necessary for compliance with that portion of the regulations in force during the term of this contract.

5. Reports

The Grantee shall maintain a report that documents the race/ethnicity of its employees. The Grantee shall provide the City a copy with said report upon execution of this Agreement.

6. Policies

The Grantee shall maintain current copies of its fair housing and equal opportunity policies. The Grantee shall provide a copy of said policies to the City immediately upon request.

B. Affirmative Action

1. Approved Plan

The Grantee agrees that it shall be committed to carry out pursuant to the City's specifications an Affirmative Action Program in keeping with the principles as provided in the President's Executive Order 11246 of September 24, 1965. The City shall provide Affirmative Action guidelines to the Grantee to assist in the formulation of such program. The Grantee shall submit a plan for an Affirmative Action Program for approval prior to the award of funds.

2. Women-and Minority-Owned Businesses

The Grantee will use its best efforts to afford minority and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the term "minority and female business enterprise" means a business at least fifty-one percent (51%) owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish-surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Grantee may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

3. Access to Records

The Grantee shall furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

4. Notifications

The Grantee will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or

worker's representative of the Grantee's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5. EEO/AA Statement

The Grantee will, in all solicitations or advertisements for employees placed by or on behalf of the Grantee, state that it is an Equal Opportunity or Affirmative Action employer.

6. Subcontract Provisions

The Grantee will include the provisions of Paragraphs X.A., Civil Rights, and B., Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subrecipients or subcontractors.

C. Employment Restrictions

1. Prohibited Activity

The Grantee is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; and lobbying political patronage, and nepotism activities.

2. Labor Standards

The Grantee agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act, the Copeland "Anti-Kickback" Act (40 U.S.C. 276a-276a-5; 40 USC 327 and 40 USC 276c) and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this contract. The Grantee shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City for review upon request. The Grantee agrees that, except with respect to the rehabilitation or construction of residential property containing less than twelve(12) units, all contractors engaged under contracts in excess of $2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Grantee of its obligation, if any, to require payment of the higher wage. The Grantee shall

cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

3. "Section 3" Clause

a. Compliance

Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the City, the Grantee and any of the Grantee's subrecipients and subcontractors. Failure to fulfill these requirements shall subject the City, the Grantee and any of the Grantee's subrecipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. The Grantee certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

The Grantee further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

> "The work to be performed under this contract is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to low- and very low-income residents of the project area, and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."

The Grantee further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the HOME-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to business concerns that provide

economic opportunities for low- and very low-income persons residing within the metropolitan area in which the HOME-funded project is located; where feasible, priority should be given to business concerns which provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

The Grantee certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements.

b. Notifications

The Grantee agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

c. Subcontracts

The Grantee will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Grantee will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

D. Conduct

1. Assignability

The Grantee shall not assign or transfer any interest in this contract without the prior written consent of the City thereto; provided, however, that claims for money due or to become due to the Grantee from the City under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

2. Subcontracts

a. Approvals

The Grantee shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of the City prior to the execution of such agreement.

b. Monitoring

The Grantee will monitor all subcontracted services on a risk analysis basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content

The Grantee shall cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d. Selection Process

The Grantee shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the City along with documentation concerning the selection process.

e. Suspension / Disbarment

The Grantee shall not enter into any subcontracts with an agency, business or individual that has been suspended, disbarred or otherwise excluded from federal grants. The Grantee shall maintain records demonstrating that it has reviewed potential subcontractors against the debarred and excluded list prior to committing any grant funds to a subcontract.

3. Hatch Act

The Grantee agrees that no funds provided, nor personnel employed under this contract, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

4. Conflict of Interest

The Grantee shall maintain written codes of conduct that govern the performance of its employees engaged in the award and administration of contracts. Said codes of conduct shall be in compliance with 24 CFR 84.42.

Further, Grantee covenants that it presently has no financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Grantee further covenants that, in the

performance of this Agreement, no person having such a financial interest shall be employed or retained by the Grantee hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the City, or of any designated public agencies or subrecipients which are receiving funds under the CDBG Entitlement program.

5. Lobbying

The Grantee hereby certifies that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

c. It will require that the language of paragraph (d) of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly; and

d. Lobbying Certification - Paragraph d

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

6. Copyright

If this contract results in any copyrightable material or inventions, the City and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

7. Religious Organization

The Grantee agrees that funds provided under this contract will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the Federal regulations specified in 24 CFR 92.257.

XI. ENVIRONMENTAL CONDITIONS

A. Air and Water

The Grantee agrees to comply with the following requirements insofar as they apply to the performance of this contract:

Clean Air Act, 42 U.S.C., 7401, et seq.
Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder. Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R., Part 50, as amended.

B. Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 USC 4001), the Grantee shall assure that, for activities located in an area identified by FEMA as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint

The Grantee agrees that any construction or rehabilitation of residential structures with assistance provided under this contract shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 92.355, and 24 CFR Part 35 as applicable.

D. Asbestos

The Grantee agrees to comply with the Texas Asbestos Health Protection Act set forth at Article 4477-3a Section 12 of the Texas Civil Statutes and the National Emission Standard for Asbestos Regulations set forth at 40 CFR Part 61.

E. Historic Preservation

The Grantee agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR, Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this contract.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty (50) years old or older or that are included on a Federal, state, or local historic property list.

XII. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby, and all other parts of this Agreement shall nevertheless be in full force and effect.

XIII. SECTION HEADINGS AND SUBHEADINGS

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

XIV. WAIVER

The Grantee's failure to act with respect to a breach by the Sub-recipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the Grantee to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

XV. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the Grantee and the Sub-recipient for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the Grantee and the Sub-recipient with respect to this Agreement.

IN WITNESS WHEREOF, the Parties have executed this contract as of the date first written above.

CITY OF LUBBOCK

GLEN C. ROBERTSON
MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Karen Murfee, CD Director

APPROVED AS TO FORM:

Justin Pruitt, Assistant City Attorney

COMMUNITY HOUSING RESOURCE BOARD

Maggie Trejo
Executive Director

D. A. Smith, President

FED. I.D. # 75-2052605

Regular City Council Meeting **5. 30.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - Community Development: Consider a resolution authorizing and directing the Mayor to execute for and on behalf of the City of Lubbock a Community Development funding contract 12604 and all related documents between the City of Lubbock and the North & East Lubbock Community Development Corporation (NELCDC) from the HOME Investment Partnership Program for new construction of homes.

Item Summary

Grantee: NELCDC

Program: New Construction

Funding Source: 2015-2016 HOME Investment Partnership Program

Use of Funds: The funds will be used to partially pay for operations associated with the administration of programs and assist first time homeowners establish housing in the target area.

Amount: $100,000

Match: 25%

Return of Investment: Not required for the HOME Investment Partnership Program

Terms: October 1, 2015 through September 30, 2016

Comments: Funding for this contract was approved by City Council at the June 25, 2015 council meeting.

Fiscal Impact

Federal funds will be used from the HOME Investment Partnership Program Grant. The maximum to be allocated to this program is $100,000.

Staff/Board Recommending

Bill Howerton, Assistant City Manager

Attachments

Resolution - North & East Lubbock Community Development

Agreement - North & East Lubbock Community Development

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, a Community Development funding contract and all related documents, between the City of Lubbock and the North & East Lubbock Community Development Corporation (NELCDC), to allocate funding from the HOME Investment Partnership Program Grant in order to provide partial payment for the administration of NELCDC programs designed to assist first time homeowners. Said funding contract is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

GLEN C. ROBERTSON, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Bill Howerton, Assistant City Manager

APPROVED AS TO FORM:

Justin Pruitt, Assistant City Attorney

ccdocs/RES. Agreement – NELCDC Housing Assistance – HOME Funds
November 11, 2015

AGREEMENT BETWEEN THE CITY OF LUBBOCK, TEXAS AND North & East Lubbock Community Development Corporation (NELCDC) FOR HOMEBUYER NEW CONSTRUCTION

THIS AGREEMENT MADE this **3rd** day of **December, 2015**, by and between the City of Lubbock Community Development Department, hereinafter referred to as the "GRANTEE", and the **North & East Lubbock Community Development Corp (NELCDC)**, a Texas Non-profit hereinafter referred to as the "SUBRECIPIENT" and which is located at: P. O. Box 3893, Lubbock, Texas 79452.

WITNESSETH

WHEREAS, the GRANTEE is the recipient of HOME Investment Partnerships Program (HOME) Program Funds from the U.S. Department of Housing and Urban Development (HUD); and

WHEREAS, the SUBRECIPIENT has submitted a proposal for use of HOME funds for an HOME-eligible PROJECT;

WHEREAS, the SUBRECIPIENT shall use HOME funds for the purpose of creating new single family homebuyer opportunities through the construction of new units in the City of Lubbock, which is an eligible activity under the rules and regulations regarding HOME Program funds; and

NOW, THEREFORE in consideration of the mutual covenants and obligations herein contained, including the Attachments, and subject to the terms and conditions hereinafter stated, the parties hereto understand and agree as follows:

I. Definitions

Unless specifically provided otherwise or the context otherwise requires, when used in this Agreement:

1. "Appraisal" means an appraisal which meets the criteria specified in the Uniform Relocation Assistance and Real Property Acquisition Policies Act ("URA"), as further defined in 49 CFR 24.103.
2. "Current market appraised value" means the value of a property that is established through an appraisal made in conformity with the appraisal requirements of the URA at 49 CFR 24.103 and completed within 60 days prior to a final offer made for the property by the Subrecipient, SUBRECIPIENT, or individual homebuyer; provided, however, if the anticipated value of the proposed acquisition is estimated at $25,000 or less, the current market appraised value of the property may be established by a valuation of the property that is based on a review of available data and is made by a person the Subrecipient (with GRANTEE approval) determines is qualified to make the valuation.
3. "Eligible Costs" means costs for the activities specified in Exhibit B of this Agreement for which HOME funds are budgeted, provided that such conform to all HOME requirements.

4. "Environmental Requirements" means the requirements described in 24 CFR Part 58.
5. "HUD" means the United States Department of Housing and Urban Development.
6. "HOME Funds" mean those funds to be provided by the GRANTEE pursuant to the terms of this Agreement, as specified in Section II of this Agreement.
7. "Program Income" means the HOME portion of any proceeds received by the SUBRECIPIENT and repaid to the GRANTEE.
8. "PROJECT" means the activities described in the Proposal and in Exhibit A of this Agreement which are to be carried out to meet the objectives of the HOME Program.
9. "Proposal" means the SUBRECIPIENT's response to the GRANTEE's HOME Request for Proposals or such other submittals, as are specified in Exhibit A of this Agreement.

II. Terms and Conditions of the Funding

A. Program Description—SUBRECIPIENT will undertake a HOME New Construction program designed to assist eligible low income households to purchase newly constructed homes. SUBRECIPIENT will market the program, take and screen applications from low income households, acquire buildable lots, procure homebuilders, oversee construction, facilitate the provision of direct homebuyer assistance to participating households, and coordinate the sale and closing for participating buyers' purchase of the homes. SUBRECIPIENT agrees to implement the program in compliance with all requirements of the GRANTEE's New Construction Program Guidelines attached hereto as Exhibit A.

B. Term of Agreement—This agreement take effect upon being signed and dated by both the SUBRECIPIENT and GRANTEE with the date of the last signature representing the beginning of the term. Unless otherwise extended by written agreement, the agreement will expire on **September 30, 2017**. Following the expiration of the term, SUBRECIPIENT shall not be entitled to receive any additional HOME funds but will continue to be obligated to fulfill any responsibilities to the GRANTEE related to reporting, maintenance of records, providing access to records for monitoring, other similar duties.

C. Funding Amount – HOME Funds (NOT TO EXCEED) in the amount of **$100,000** are committed for use in compliance with this agreement, as reflected in the budget in Exhibit B.

1. These amounts represent an allocation of the GRANTEE's total HOME funding contingent upon SUBRECIPIENT performance and not an entitlement to a certain grant amount, and shall only be disbursed for approved projects and costs.

2. Approved budget – The approved budget is attached to this agreement as Exhibit B. It is understood and agreed that funds will be used according to the approved budget. SUBRECIPIENT will request approval from GRANTEE for any line item budget change.

D. Use of Funds – HOME funds obligated under this agreement may be used as follows:

1. No Commitment or Expenditure Prior to Environmental Clearance – Notwithstanding any provision of this Agreement, the parties hereto agree and

acknowledge that this Agreement does not constitute a commitment of funds to any specific project or site approval, and that such commitment of funds or approval may occur only upon satisfactory completion of a site-specific environmental review under 24 CFR Part 58 as provided in Section VIII.B below, potentially including a receipt by GRANTEE of a release of funds from HUD.

The parties further agree that the provision of any funds to the project is conditioned on GRANTEE's determination to proceed with, modify or cancel any proposed project based on the results of environmental review. Further, the SUBRECIPIENT will not undertake or commit any funds to physical or choice-limiting actions, including property acquisition, demolition, movement, rehabilitation, conversion, repair or construction prior to the environmental clearance, and understands that violation of this provision may result in the denial of any project funds under the agreement and may, at the GRANTEE's option, be cause for termination of the agreement.

2. Eligible Activities – Funds may be used for the HOME eligible activities that are checked below:

☒	**New construction homeowner**	**__1__ single family home**
☒	**New construction rental**	**___0___ duplex or single family**

3. Eligible Properties – The SUBRECIPIENT may only utilize HOME funds for properties approved by the GRANTEE. The SUBRECIPIENT must prepare and submit a Property Approval Request Form attached in Exhibit C for each property to be assisted with HOME funds. Eligible properties must meet the following conditions for approval by GRANTEE:

   a. Must be located in the City of Lubbock.

   b. Must have no substantial adverse environmental factors as determined by an environmental review.

   c. Must otherwise be in suitable locations for marketing and sale to low-income homebuyers.

   d. Must not result in the displacement of existing residential or commercial tenants and otherwise be eligible for acquisition under HOME.

4. Activity Limitations – In implementing projects, SUBRECIPIENT shall undertake only those activities permitted by this agreement, and comply with all provisions of this agreement, including the project requirements in Section III, as they may be modified by HUD. In particular

   a. Acquisition – In order to ensure that only HOME-eligible properties are acquired, SUBRECIPIENT may acquire only those properties listed in Exhibit A or subsequently approved by GRANTEE. No acquisitions may occur without environmental clearance, and determination of the applicability of URA provisions.

b. Construction– SUBRECIPIENT may use HOME funds for the construction of properties as approved by the GRANTEE and permitted by this agreement, and shall implement the requirements in Section VII as applicable to all projects.

Specific limitations and budget items are included as part of Exhibit B.

E. Cost Limits – All uses of funds are subject to the approval of the GRANTEE.

1. Cost Limits on Individual Units – The cost and assistance limits checked below apply to every unit assisted with HOME funds under this agreement, unless approved by the GRANTEE

☒	Maximum HOME expenditure per dwelling unit	$ 150,000
☒	Average HOME expenditure per dwelling unit	$ 125,000
☒	Maximum HOME mortgage assistance per buyer	$ 35,000

In all cases, the SUBRECIPIENT must ensure that projects require a minimum HOME investment of $1,000 as required by §92.205(c). In no case may the total HOME investment in a project exceed the HOME Maximum Per-Unit Subsidy Limit as published by HUD. The applicable Maximum Per-Unit Subsidy is that in effect at the time of project commitment and varies based on the number of bedrooms in the unit.

F. Deadlines – Timely completion of the work specified in this agreement is an integral and essential part of performance. The HOME funds are subject to Federal deadlines and failure to comply could result in the loss of the Federal funds. By the acceptance and execution of this agreement, it is understood and agreed by the SUBRECIPIENT that the PROGRAM will be completed as expeditiously as possible and that the SUBRECIPIENT will make every effort to ensure that the project will proceed and will not be delayed. Failure to meet these deadlines can result in cancellation of this contract and the revocation of HOME funds.

1. Project Commitment Deadline – All projects funding provided by this agreement must be committed to specific projects on or before **September 30, 2016**.

Project Commitment Requirements – HOME funds committed to a specific project will be deemed committed upon GRANTEE's acceptance of the project and set-up of the project in HUD's IDIS System. In order to commit HOME funds to a project, the SUBRECIPIENT must meet the following standards:

a. No funds are obligated until the GRANTEE has completed environmental review and approval of the project as contained in Section VIII, and has obtained the release the funds.

b. SUBRECIPIENT has demonstrate site control evidenced by:

i. Prior to completion of a site specific environmental review, including a release of funds approved by HUD and the GRANTEE as applicable, the SUBRECIPIENT must have a valid option to purchase the property that is contingent upon successful environmental clearance; or

ii. If the specific site has been cleared by the GRANTEE pursuant to 24 CFR Part 58, by entering into a valid purchase and sales agreement with the seller of the property in compliance with all HOME requirements.

c. SUBRECIPIENT has completed a detailed set of plans and specifications (or work write-up) and completing a detailed construction/rehabilitation cost estimate based upon those specifications. Such cost estimate may include a contingency for construction change orders of up to 15% for rehabilitation and up to 5% for new construction.

d. SUBRECIPIENT has submitted to the GRANTEE a detailed budget for the project, identifying all

i. Hard and soft costs, including any project-related soft costs associated with SUBRECIPIENT's staff and overhead costs;

ii. Estimates of SUBRECIPIENT's future selling costs, including any realtor fees, transfer taxes, or seller's closing costs subject to the limitations in Exhibit B.

e. SUBRECIPIENT has provided written commitments for any non-HOME funds, including any required HOME Match, required to fully fund the project;

f. SUBRECIPIENT has obtained an "as completed" appraisal based on the plans and specifications from an independent state licensed appraiser;

g. SUBRECIPIENT has identified an income eligible buyer who has completed homeownership counseling, been prequalified for an acceptable first mortgage, and entered into a preliminary purchase agreement with the SUBRECIPIENT to purchase the completed home, and otherwise meets all requirements in the Program Statement.

h. SUBRECIPIENT must report fund obligations on a monthly basis or when requests for reimbursements are made, whichever occurs sooner.

2. Project Deadlines

a. SUBRECIPIENT must begin construction on each specific project within 12 months of committing HOME funds to the project. In any case, if construction does not commence within 12 months of commitment, the project will be cancelled.

b. SUBRECIPIENT shall ensure that construction on all projects is complete within 24 months of commitment.

c. In the event a pre-identified buyer is unable to complete the purchase of a home following construction completion, SUBRECIPIENT must identify an alternate buyer and enter into a binding sales agreement within nine (9) months of construction completion. Failure to enter into such an agreement within this deadline will result in a requirement that the SUBRECIPIENT convert the project to a HOME rental unit meeting the requirements of §92.252 or, in the GRANTEE's sole discretion, repay all HOME funds invested in the project.

d. Project completion is deemed to occur upon completion of all necessary construction activity, transfer of title to the assisted homebuyer, drawing all HOME funds against the project, and entry by the GRANTEE of all required demographic and project information in HUD's IDIS system. Failure of the subrecipient to complete a project within **Two (2) years** of the commitment of HOME funds will result in the project being terminated prior to completion, and SUBRECIPIENT shall repay all HOME funds invested in the project to the GRANTEE.

3. Project Expenditure Deadlines – All project activities and all expenditures of HOME funds must be completed by **September 30, 2017**. If checked the additional interim deadlines apply to project expenditures:

☒ 50% of HOME funds expended and drawn by 9/30/2016

☐ 75% of HOME funds expended and drawn by _____

☒ 100% of HOME funds expended and drawn by 9/30/2017

4. The SUBRECIPIENT expressly agrees to complete all work required by this agreement in accordance with the timetable set forth in Exhibit B and as provided above.

a. If SUBRECIPIENT fails to obligate or expend HOME funds as indicated in this agreement, GRANTEE in its sole discretion may cancel a portion or all of the SUBRECIPIENT's total HOME funding allocation.

b. Changes to the timetable may be approved by the GRANTEE, in the event the SUBRECIPIENT is unable to meet the above deadlines or complete the above services because of delays resulting from Acts of God, untimely review and approval by the GRANTEE and other governmental authorities having jurisdiction over the PROGRAM, or other delays that are not caused by the SUBRECIPIENT, the GRANTEE shall grant a reasonable extension of time for completion of the WORK. It shall be the responsibility of the SUBRECIPIENT to notify the GRANTEE promptly in writing whenever a delay is anticipated or experienced, and to inform the GRANTEE of all facts and details related to the delay. However, GRANTEE may not provide extensions beyond deadlines imposed by HUD.

5. Since it is mutually agreed that time is of the essence, the SUBRECIPIENT shall cause appropriate provisions to be inserted in all contracts or subcontracts relative to the work tasks required by this agreement, in order to ensure that the PROGRAM will be completed according to the timetable set forth in this agreement.

G. Sale to Buyers – All units constructed under this agreement shall be sold to eligible buyers in accordance with the provisions of this section.

1. Eligible Buyers – Eligible homebuyers must be have household incomes at or below 80% of the Area Median Income based upon the applicable HOME Income Limits as

published annually by HUD. Buyers must further meet all program requirements included in the Program Statement, including but not limited to the ability to obtain an acceptable first mortgage.

2. Sales Price – Sales prices must be set at the appraised value of the property based on an "as built" appraisal completed by an independent state licensed appraiser. In all cases, the value of the home must not exceed the applicable HOME Homeownership Value Limits published by HUD and updated annually. The sales price of each property, including any adjustments based on changing market values or differences in the market value estimated by an appraisal provided by a proposed buyer's first mortgage lenders, must be approved by GRANTEE.

3. Income Certification and Documentation – SUBRECIPIENT must utilize the definition of annual income defined in 24 CFR Part 5.609 (often referred to as the "Section 8" definition) and determine eligibility for every purchaser according to the requirements at §92.203. Pursuant to those requirements, SUBRECIPIENT must obtain and examine at least two months of source documents evidencing household income. If more than six (6) months have elapsed following completion of the income determination process at the time the SUBRECIPIENT enters into a sales contract with a buyer, SUBRECIPIENT must re-verify the buyer's income to ensure continued eligibility.

   As a reference, the SUBRECIPIENT should use the CPD Income Calculator available online at https://www.hudexchange.info/incomecalculator/ and consult the most recent version of the HUD publication: *Technical Guide for Determining Income and Allowances for the HOME Program.*

4. HOME Financing to Buyers – All buyers must have acceptable first mortgages from a mortgage lender. To further ensure the affordability of the home purchase, SUBRECIPIENT may offer direct homebuyer assistance in the form of a HOME-funded second mortgage. These funds are included in the amount of funding provided under this agreement, and not an additional amount, and represent a transfer of HOME funds used for the development of the project by SUBRECIPIENT to the eligible buyer. The terms of this assistance are as follows:

   a. Amount – The amount of the HOME buyer financing shall be determined as checked below:

      ☐ The gap between the sums of the approved sales price, buyer's closing costs and prepaid expenses, and any tax proration and the sum of buyer funds from the first mortgage, any non-HOME assistance provided from other sources, and buyer's cash investment for down payment and/or closing costs.

      ☒ Not to exceed **$ 35,000.00**

   b. Affordability Period – The term shall be at least **Ten (10) years**, forgivable at the end of the term, based on the amount of the HOME direct buyer assistance in the unit.

   c. Owner Occupancy—Assisted buyers must occupy the home as their primary

place of residence for the duration of the affordability period and may not vacate the property and convert it to rental or nonresidential use. Failure to maintain the home as the buyer's primary place of residence will result in a requirement that the buyer repay all outstanding HOME funds invested in the property, including any development costs not included in the HOME-funded second mortgage.

d. Transfer of Title During Affordability Period – If the buyer voluntarily or involuntarily transfers' title prior to the end of the affordability period, HOME funds will be recaptured by the GRANTEE out of the net proceeds of the sale according to the formula contained in the HOME recapture note and mortgage.

e. Buyer Note & Mortgage – All HOME-assisted properties are subject to ongoing compliance requirements for at least **Ten (10) years** from the date of project completion in IDIS, based on the required affordability period. At the sale of an HOME-funded home, SUBRECIPIENT will cause the homebuyer(s) to execute a promissory note and mortgage deed in favor of GRANTEE as mortgagee for the combined amount of the mortgage assistance and down payment assistance as defined herein.

   i. The note and mortgage documents must be approved by GRANTEE prior to their being executed by the homebuyer(s).

   ii. After each closing occurs, SUBRECIPIENT will provide the recorded note and mortgage to GRANTEE.

f. Written Agreement—In addition to the note and mortgage in favor of the GRANTEE, SUBRECIPIENT must enter into a separately enforceable written agreement with the buyer meeting all requirements of §92.504(c)(5) and enforcing the terms of this section. GRANTEE must approve the form of written agreement which shall, at minimum, provide GRANTEE with direct rights of enforcement in the event of noncompliance or default by an assisted buyer.

5. Net Proceeds of Sale – Upon sale of an HOME-funded home, from the net proceeds of the sale after payment of all closing costs and any approved SUBRECIPIENT costs not yet reimbursed by HOME funds, SUBRECIPIENT will return all net proceeds to the GRANTEE as Program Income.

III. Project Requirements

The SUBRECIPIENT agrees to comply with all requirements of the HOME Program as stated in the HOME regulations §92.504, including but not limited to the following:

A. HOME Eligible Use and Eligible Activities – The SUBRECIPIENT will ensure and document that its HOME activities meet eligible use, allowable cost, and eligible activity requirements of the HOME Regulations in 24 CFR Part 92, Subpart E, including §92.205-92.214. The SUBRECIPIENT will ensure that any expenditure of HOME funds will be in

compliance with the requirements, and acknowledges that HOME funds will only be provided as reimbursement for eligible costs incurred, including actual expenditures or invoices for work completed. Specific eligible cost are set forth in §92.206.

B. SUBRECIPIENT further agrees that all projects will be completed in compliance with 24 CFR Part 92, Subpart F, including but not limited to the affordability requirements of §92.254

C. Construction – For any construction in this project, SUBRECIPIENT will comply with the provisions of Section VII.

D. Property Standards – The SUBRECIPIENT will carry out all HOME-assisted activities in accordance with applicable laws, codes, and other requirements relating to housing safety, quality, and habitability, in order to sell, rent, or redevelop such homes and properties, §92.251.

1. Accessibility – The SUBRECIPIENT shall work with any participating household that includes a person with disabilities to provide accessibility modifications required under the policy of reasonable accommodations and reasonable modifications. All such modifications shall be considered to be eligible HOME costs under this agreement.

E. Sale and Occupancy – All of the funds made available under this Agreement shall be used with respect to.

1. Marketing and Selection – In the marketing, intake and selection of buyers for projects developed within the program, the SUBRECIPIENT shall comply with non-discrimination and fair housing requirements listed in Section VIII. Additionally, SUBRECIPIENT must develop and follow an affirmative marketing plan that identifies and makes special efforts to reach those deemed least likely to apply for program units.

2. Counseling Requirement – Each HOME-assisted homebuyer is required to complete at least eight hours of homebuyer counseling from a HUD-approved housing counseling agency or a counselor approved by the GRANTEE, §92.254 (a)(3).

F. Project Monitoring and Recordkeeping – The SUBRECIPIENT will be monitored by the GRANTEE for compliance with the HOME requirements and the applicable HOME regulations. The SUBRECIPIENT will provide reports and access to project files as requested by the GRANTEE during the PROGRAM and for Five (5) years after completion and closeout of the AGREEMENT as required under Section IX of this Agreement. SUBRECIPIENT will maintain records in compliance with §92.508 Recordkeeping requirements.

IV. GRANTEE Responsibilities

A. GRANTEE is responsible for the following tasks and deliverables.

B. The GRANTEE shall furnish the SUBRECIPIENT with information regarding requirements for the project, including any changes in HOME regulations or program limits that affect the project, including but not limited to income limits.

C. Environmental Review – GRANTEE will complete environmental assessments and provide clearances for all HOME target areas, as well as approvals of site-specific environmental reviews. SUBRECIPIENT will provide all information required by GRANTEE.

D. Property Approval – GRANTEE will provide prompt approval of any property selected by SUBRECIPIENT and submitted on the form with all required documentation for approval. Failure to provide all required information will result in a delay in approval. Approval can only be provided on completion of environmental review.

E. Inspections – The GRANTEE will conduct progress inspections of work completed and review of project files and information to protect its interests as lender and regulatory authority for the project, and will provide information to the SUBRECIPIENT regarding any progress inspections or monitoring to assist it in ensuring compliance. The GRANTEE's review and approval of the WORK will relate only to overall compliance with the general requirements of this Agreement and HOME requirements, and all GRANTEE regulations and ordinances.

F. Disbursements – GRANTEE will manage all draws of HOME funds from HUD and payment of valid and properly documented draw requests from SUBRECIPIENT. The GRANTEE will disburse funds as provided in Section IV of this Agreement. GRANTEE will process requests for disbursements of HOME funds, including necessary construction inspections, in a timely manner. GRANTEE will clearly and promptly describe any deficiencies identified by GRANTEE that prevent a disbursement or portion of a disbursement from being approved.

G. Reporting – GRANTEE will report to HUD via the Integrated Disbursement and Information System (IDIS) in a timely manner as required by HUD.

H. Monitoring – GRANTEE will monitor all program activities of SUBRECIPIENT to assure compliance with the terms of this Agreement including all HOME requirements and cross cutting federal requirements.

I. Nothing contained herein shall relieve the SUBRECIPIENT of any responsibility as provided under this Agreement.

V. Disbursement of Funds

A. Project expenses shall be paid based on vouchers for actual expenses incurred or paid. All such expenses shall be in conformance to the approved project budget. Budget revision and approval shall be required prior to payment of any expenses not conforming to the approved project budget.

B. Requests for payment must be submitted by the SUBRECIPIENT on forms specified by the GRANTEE, with adequate and proper documentation of eligible costs incurred in compliance with HOME rules. The SUBRECIPIENT agrees to submit requests for payment in a timely manner in the form and times directed by the GRANTEE. In all cases, SUBRECIPIENT may not request funds until they are needed for the payment of HOME-eligible costs, and requests for disbursement may not exceed the amount needed.

C. The GRANTEE will pay to the SUBRECIPIENT funds available under this Agreement based

upon information submitted by the SUBRECIPIENT and consistent with any approved budget and GRANTEE policy concerning payments. Payments will be made for eligible HOME related expenses actually incurred by the SUBRECIPIENT, and will not exceed actual cash requirements. Payments will be adjusted by the GRANTEE in accordance with advance fund and program income balances available in SUBRECIPIENT accounts, if any. In addition, the GRANTEE reserves the right to liquidate funds available under this contract for costs incurred by the GRANTEE on behalf of the SUBRECIPIENT.

D. Funds will be drawn through the Integrated Disbursement and Information System (IDIS) by the GRANTEE. To ensure expeditious implementation of activities, GRANTEE will draw funds from IDIS and make payment to the SUBRECIPIENT promptly on receipt of the SUBRECIPIENT's complete and properly submitted requests for payment for activities under this agreement, if feasible.

E. The HOME funds advanced to the Project will be secured by a note and mortgage on the property, which shall be released upon sale to an eligible buyer.

F. The GRANTEE reserves the right to inspect records and project sites to determine that reimbursement and compensation requests are reasonable. The GRANTEE also reserves the right to hold payment until adequate documentation has been provided, reviewed and approved.

G. The SUBRECIPIENT may submit a final invoice upon completion. Final payment shall be made after the GRANTEE has determined that all services have been rendered, files and documentation delivered, and units have been placed in service in full compliance with HOME regulations, including submission of a completion report and documentation of eligible occupancy, property standards and long-term use restrictions.

H. The SUBRECIPIENT shall report to GRANTEE at time of sale any net proceeds of sales, after the payment of all closing costs and approved SUBRECIPIENT fee, under this contract, and shall return the net proceeds of each sale to the GRANTEE at each closing. All net proceeds should be returned to:

City of Lubbock, Community Development
P. O. Box 2000
Lubbock, Texas, 79457

VI. Repayment of Funds

A. SUBRECIPIENT shall repay the GRANTEE for any HOME funds expended towards ineligible expenses including but not limited to funds expended on any project that fails to meet the requirements of §92.254 or the Project Requirements and Other Requirements as outlined in this Agreement, including deadlines. SUBRECIPIENT shall also repay any HOME funds expended without appropriate documentation or that are subsequently disallowed by an audit or monitoring conducted by the GRANTEE, HUD, the HUD Office of Inspector General, the GAO, or any other relevant authority.

B. It is understood that, upon the completion of this agreement, any HOME funds committed but not expended under this agreement will revert to the GRANTEE and any uncommitted funds will be similarly cancelled.

C. All net sales proceeds after payment of all development and closing costs, shall be returned to the GRANTEE.

D. Prior to each closing or sale to an eligible buyer, the SUBRECIPIENT will provide to the GRANTEE the estimated settlement statement, along with a reconciliation statement and the draft note and mortgage. The reconciliation statement shall account for use of HOME funds for the individual unit, and identify those funds that are to be lent to the buyer secured by the HOME homebuyer assistance note and mortgage, the use of sales proceeds for unreimbursed costs, and the amount of net sales proceeds to be returned to the GRANTEE.

VII. Contracting, Labor & Hiring Provisions

During the performance of this contract, the SUBRECIPIENT agrees as follows:

A. The SUBRECIPIENT will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin(s). The SUBRECIPIENT will take affirmative action to ensure the applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin(s). Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The SUBRECIPIENT agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer of the GRANTEE setting forth the provisions of this nondiscrimination clause.

B. The SUBRECIPIENT will, in all solicitations or advertisements for employees placed by or on behalf of the SUBRECIPIENT, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

C. The SUBRECIPIENT will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

D. The SUBRECIPIENT will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the AGENCY and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and order.

1. In the event the SUBRECIPIENT is found to be in noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part and the SUBRECIPIENT may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in

Executive Order 11246 of September 24, 1965 or by rule, regulations, or order of the Secretary of Labor or as otherwise provided by law.

E. The SUBRECIPIENT shall conduct all contracting and purchases with HOME funds to ensure that materials and services are obtained in a cost-effective manner. When procuring for services to be provided under this agreement, the SUBRECIPIENT shall adhere to the following requirements:

F. The SUBRECIPIENT will include the provisions of this Section in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The SUBRECIPIENT will take such action with respect to any subcontract or purchase order as the AGENCY may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event the SUBRECIPIENT becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the AGENCY, the SUBRECIPIENT may request the United States to enter into such litigation to protect the interest of the United States.

G. The SUBRECIPIENT agrees to comply with the non-discrimination in employment, disclosure requirements, debarment of contractor, and Drug-Free Workplace requirements as detailed in 24 CFR 5.105.

H. The SUBRECIPIENT agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act, as amended, the provisions of Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.) and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement.

I. The SUBRECIPIENT agrees to comply with the Copeland Anti-Kick Back Act (18 U.S.C. 874 et seq.) and it's implementing regulations of the U.S. Department of Labor at 29 CFR Part 5. The SUBRECIPIENT shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the GRANTEE for review upon request.

J. The SUBRECIPIENT will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the terms "small business" means a business that meets the criteria set forth in Section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group SUBRECIPIENTs or women. The SUBRECIPIENT may rely on written representations by businesses regarding their status as minority and women-owned business enterprises in lieu of an independent investigation.

K. Compliance with the provisions of Section 3 of the Housing and Urban Development Act of 1968, as amended, and as implemented by the regulations set forth in 24 CFR 135, and

all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the GRANTEE, the SUBRECIPIENT and any of the SUBRECIPIENT's contractors and subcontractors. The SUBRECIPIENT certifies and agrees that no contractual or other disability exists that would prevent compliance with these requirements.

1. The SUBRECIPIENT further agrees to comply with these Section 3 requirements and to include the following language in all subcontracts executed under this Agreement: "The work to be performed under this Agreement is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701). Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."

2. The SUBRECIPIENT further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the HOME-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the HOME-funded project is located; where feasible, priority should be given to business concerns that provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

3. The SUBRECIPIENT further warrants and agrees to include or cause to be included the criteria and requirements of this Section in every non-exempt subcontract in excess of $100,000. The SUBRECIPIENT also agrees to take such action as the federal, state or local government may direct to enforce aforesaid provisions.

VIII. Compliance with Other Federal, State & Local Laws

A. The SUBRECIPIENT covenants and warrants that it will comply with all applicable laws, ordinances, codes, rules and regulations of the state local and federal governments, and all amendments thereto.

B. Environmental review – All HOME assistance is subject to the National Environmental Policy Act of 1969 and related federal environmental authorities and regulations at 24 CFR Part 58.

1. No HOME project funds will be advanced, and no costs can be incurred, until the GRANTEE has conducted an environmental review of the proposed project site as required under 24 CFR Part 58. The environmental review may result in a decision to proceed with, modify or cancel the project. Notwithstanding any provision of this Agreement, the parties hereto agree and acknowledge that this Agreement does not constitute a commitment of funds or site approval, and that such commitment of funds or approval may occur only upon satisfactory completion of environmental review and receipt by the GRANTEE of a release of funds from the U.S. Department of Housing and Urban Development [or the State of Texas] under 24 CFR Part 58.

2. Further, the SUBRECIPIENT will not undertake or commit any funds to physical or choice-limiting actions, including property acquisition, demolition, movement, rehabilitation, conversion, repair or construction prior to the environmental clearance, and must indicate that the violation of this provision may result in the denial of any funds under the agreement.

3. A copy of the Environmental Review Record shall be maintained by both the SUBRECIPIENT and the GRANTEE.

C. Flood Disaster Protection – In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), the SUBRECIPIENT shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation.)

D. Historic Preservation – The SUBRECIPIENT agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this agreement.

E. Relocation – The SUBRECIPIENT agrees to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24; 24 CFR Part 42 – Displacement, Relocation Assistance and Real Property Acquisition for HUD and HUD Assisted Programs; and 24 CFR 570.606 – Displacement, relocation acquisition, and replacement of housing, as may be amended by the HOME NOFA. The SUBRECIPIENT also agrees to comply with applicable GRANTEE or local ordinances, resolutions and policies concerning the displacement of persons.

1. To meet these requirements, the owner of record must be notified in writing that Federal financial assistance will be used in the transaction and that if agreement cannot be reached through negotiation, that the acquisition will not take place. There are specific URA voluntary acquisition requirements that must be met

depending on whether or not the buyer has the power of eminent domain and will not use it (see 49 CFR 24.101(b)(1)(i)-(iv)) or if the buyer does not have the power of eminent domain (see 49 CFR 24.101(b)(2)). Any acquisition under possible threat of eminent domain, cannot be considered a "voluntary acquisition" (even if the seller is willing to negotiate).

2. The relocation provisions of the Uniform Relocation Act apply to HOME funds. An unlawful occupant (see 49 CFR 24.2(a) (29)) who is displaced for an HOME-funded acquisition will not be entitled to relocation assistance and payments. However, a lawful occupant displaced for an HOME-funded acquisition will generally be eligible for relocation assistance and payments under URA. The SUBRECIPIENT shall provide appropriate relocation assistance (URA or Section 104(d)) to eligible displaced persons as defined by applicable HUD and/or URA regulations that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for an HOME-assisted project.

F. The SUBRECIPIENT agrees to comply with applicable state, The Fair Housing Act (42 U.S.C. 3601-19,) and local civil rights ordinances and with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended (the HCDA), Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107 and 12086, and will include the provisions in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its contractors and subcontractors.

G. SUBRECIPIENT agrees to comply with the requirements of 24 CFR 5.105(a)(2) requiring that HUD-assisted housing be made available without regard to actual or perceived sexual orientation, gender identity, or marital status and prohibiting owners (or their agents) from inquiring about the sexual orientation or gender identity of an applicant for, or occupant of, HUD-assisted housing for the purpose of determining eligibility for the housing or otherwise making such housing available. This prohibition on inquiries regarding sexual orientation or gender identity does not prohibit any individual from voluntarily self-identifying sexual orientation or gender identity;

H. The SUBRECIPIENT agrees to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).

I. The SUBRECIPIENT agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the United States Code. The SUBRECIPIENT is prohibited from using funds provided herein or personnel employed in the administration of the program for inherently religious activities, lobbying, political patronage, and nepotism activities. The Authority certifies that it will not and, to the best

of its knowledge, has not used Federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award. The Authority further agrees that it shall disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

J. Conflict of Interest – The provisions of 24 CFR 92.356, apply to the award of any contracts under the agreement and the selection of buyers for HOME-assisted units. This section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of this section who exercise or have exercised any functions or responsibilities with respect to activities assisted with HOME funds or who are in a position to participate in a decision making process or gain inside information with regard to these activities, may obtain a financial interest or benefit from a HOME-assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

IX. Reporting, Monitoring & Access to Records

A. The SUBRECIPIENT agrees to submit any and all reports required by HUD or the GRANTEE. Initially the GRANTEE will require the submission of the following reports:

1. The SUBRECIPIENT shall submit to GRANTEE, quarterly progress reports, no later than 10 business days after quarter ending. These reports shall include: pipeline of applicants, status of commitments and expenditures, status of construction on housing units, and barriers to progress.

B. The GRANTEE reserves the right to unilaterally alter, supplement, or otherwise modify the frequency or content of required reports as needed to maintain adequate oversight of the program, address changes to HOME regulations, or to address findings related to noncompliance by the SUBRECIPIENT.

C. The SUBRECIPIENT shall collect and maintain Project beneficiary information pertaining to household size, income levels, racial characteristics, and the presence of Female Headed Households in order to determine low and moderate-income benefit in a cumulative and individual manner. Income documentation shall be in a form consistent with HOME requirements.

D. The SUBRECIPIENT agrees to provide the GRANTEE access to records and projects at any time during project implementation or for five years after project closeout for purposes of verifying compliance with HOME requirements and this agreement. Access shall be immediately granted to the GRANTEE, HUD, the Comptroller General of the United States (commonly known as the GAO), or any of their duly authorized representatives to any books, documents, papers, and records of the SUBRECIPIENT or its contractors which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

E. The GRANTEE reserves the right to audit the records of the SUBRECIPIENT any time during the performance of this Agreement and for a period of five years after final payment is made under this Agreement. If required by 2 CFR Part 200 Subpart F, A-133, the SUBRECIPIENT will provide the AGENCY with a certified audit of the SUBRECIPIENT's records representing the all Fiscal Years during which the PROGRAM takes place.

F. Project Closeout – The SUBRECIPIENT's obligation to the GRANTEE shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, accounting for use of funds, provision of all reports and records required by the GRANTEE.

X. Suspension & Termination

Suspension or termination may occur if the SUBRECIPIENT materially fails to comply with any term of this agreement. Further, the award may be terminated for convenience in accordance with 2 CFR 200, Appendix II (B).

A. If the SUBRECIPIENT fails in any manner to fully perform and carry out any of the terms, covenants, and conditions of the agreement, or if the SUBRECIPIENT refuses or fails to proceed with the work with such diligence as will insure its completion within the time fixed by the schedule set forth in this agreement, the SUBRECIPIENT shall be in default and notice in writing shall be given to the SUBRECIPIENT of such default by the AGENCY or an agent of the AGENCY. If the SUBRECIPIENT fails to cure such default within such time as may be required by such notice, the GRANTEE, acting by and through the AGENCY, may at its option suspend, terminate, or cancel the contract.

1. In the event of such termination, all funds awarded to the SUBRECIPIENT pursuant to this agreement shall be immediately revoked and any approvals related to the PROGRAM shall immediately be deemed revoked and canceled. In such event, the SUBRECIPIENT will no longer be entitled to receive any compensation for work undertaken after the date of the termination of this agreement, as the grant funds will no longer be available for this project.

2. In such event, the SUBRECIPIENT shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder to the date of said termination.

3. Notwithstanding the above, the SUBRECIPIENT shall not be relieved of liability to the GRANTEE for damages sustained by the GRANTEE by virtue of any breach of the contract by the SUBRECIPIENT and the GRANTEE may withhold any payments to the SUBRECIPIENT for the purpose of setoff until such time as the exact amount of damages due the GRANTEE from the SUBRECIPIENT is determined whether by court of competent jurisdiction or otherwise.

4. Such termination shall not effect or terminate any of the rights of the GRANTEE as against the SUBRECIPIENT then existing, or which may thereafter accrue because of such default, and the foregoing provision shall be in addition to all other rights and remedies available to the GRANTEE under the law and the note and mortgage (if in

effect), including but not limited to compelling the SUBRECIPIENT to complete the project in accordance with the terms of this agreement, in a court of equity.

5. The waiver of a breach of any term, covenant or condition hereof shall not operate as a waiver of any subsequent breach of the same or any other term, covenant, or condition hereof.

B. The GRANTEE may terminate for its convenience this contract at any time by giving at least thirty (30) days notice in writing to the SUBRECIPIENT. If the contract is terminated by the GRANTEE, as provided herein, the GRANTEE will reimburse for any actual and approved expenses incurred, including those costs involved in terminating the contracts and shutting down the work as of the date of notice, less payments of compensation previously made. Claims and disputes between the parties will be submitted to the American Arbitration Association for resolution. Award or judgment may be entered in any court having jurisdiction thereof.

XI. General Conditions

A. All notices or other communication which shall or may be given pursuant to this Agreement shall be in writing and shall be delivered by personal service, or by registered mail addressed to the other party at the address indicated herein or as the same may be changed from time to time. Such notice shall be deemed given on the day on which personally served; or, if by mail, on the fifth day after being posted or the date of actual receipt, whichever is earlier.

GRANTEE	**SUBRECIPIENT**
City of Lubbock, Community Development	**NELCDC**
Karen Murfee, Director	**Monique Coleman, Executive Director**
P. O. Box 2000	**P. O. Box 3893**
Lubbock, Texas 79457	**Lubbock, Texas 79452**

B. Title and paragraph headings are for convenient reference and are not a part of this Agreement.

C. In the event of conflict between the terms of this Agreement and any terms or conditions contained in any attached documents, the terms in this Agreement shall rule.

D. No waiver or breach of any provision of this Agreement shall constitute a waiver of a subsequent breach of the same or any other provision hereof, and no waiver shall be effective unless made in writing.

E. The GRANTEE's failure to act with respect to a breach by the SUBRECIPIENT does not waive its right to act with respect to subsequent or similar breaches. The failure of the GRANTEE to exercise or enforce any right or provision shall not constitute a waiver of

such right or provision.

F. The parties hereto agree that this Agreement shall be construed and enforced according to the laws of the State of Texas.

G. Should any provisions, paragraphs, sentences, words or phrases contained in this Agreement be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Texas or the GRANTEE, such provisions, paragraphs, sentences, words or phrases shall be deemed modified to the extent necessary in order to conform with such laws, or if not modifiable to conform with such laws, then same shall be deemed severable, and in either event, the remaining terms and provisions of this Agreement shall remain unmodified and in full force and effect.

H. The obligations undertaken by SUBRECIPIENT pursuant to this Agreement shall not be delegated or assigned to any other person or agency unless GRANTEE shall first consent to the performance or assignment of such service or any part thereof by another person or agency.

I. The Agreement shall be binding upon the parties hereto, their heirs, executors, legal representative, successors and assigns.

J. SUBRECIPIENT shall indemnify and save GRANTEE harmless from and against any negligent claims, liabilities, losses and causes of action which may arise out of SUBRECIPIENT's activities under this Agreement, including all other acts or omissions to act on the part of SUBRECIPIENT, including any person acting for or on its behalf, and, from and against any orders, judgments, or decrees which may be entered and from and against all costs, attorneys fees, expenses and liabilities incurred in the defense of any such claims, or in the investigation thereof.

K. SUBRECIPIENT and its employees and agents shall be deemed to be independent contractors, and not agents or employees of the GRANTEE, and shall not attain any rights or benefits under the civil service or pension ordinances of the GRANTEE, or any rights generally afforded classified or unclassified employee; further they shall not be deemed entitled to state Compensation benefits as an employee of the GRANTEE.

L. Funding for this Agreement is contingent on the availability of funds and continued authorization for program activities and is subject to amendment or termination due to lack of funds, or authorization, reduction of funds, and/or change in regulations.

Exhibit B. Project Budget & Schedule

This exhibit should contain the entire project budget, including all funding sources and uses. It should also show deadlines for selection, construction and completion of units. A sample budget and schedule is in an attached MS Excel file (Exhibit_B_Project_Budget.xls).

Exhibit C. HOME Project Approval Request Form

IN WITNESS WHEREOF, the Parties have executed this contract as of the date first written above.

CITY OF LUBBOCK

GLEN C. ROBERTSON
MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Karen Murfee, Community Development Director

APPROVED AS TO FORM:

Justin Pruitt, Assistant City Attorney

NORTH& EAST LUBBOCK CDC

Monique Coleman, Executive Director

W. David Haynes, Board Chairman

FED. I.D. # 71-0961103

Regular City Council Meeting **5. 31.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - Community Development: Consider a resolution authorizing and directing the Mayor to execute for and on behalf of the City of Lubbock a Community Development funding contract 12605 and all related documents between the City of Lubbock and Guadalupe Economic Services Corporation (GESC) from the HOME Investment Partnership Program for Mahon Neighborhood revitalization.

Item Summary

Grantee: GESC

Program: Mahon Neighborhood Revitalization

Funding Source: 2015-2016 HOME Investment Partnership Program Grant

Use of Funds: The funds will be used to partially pay for operations associated with the administration of programs and new construction projects of single family housing.

Amount: $85,000

Match: 25%

Return of Investment: Not required for the HOME Investment Partnership Program

Terms: October 1, 2015 through September 30, 2016

Comments: Funding for this contract was approved by City Council at the June 25, 2015 council meeting.

Fiscal Impact

Federal funds will be used from the HOME Investment Partnership Program Grant. The maximum to be allocated to this program is $85,000.

Staff/Board Recommending

Bill Howerton, Assistant City Manager

Attachments

Resolution - Guadalupe Economic Services Corporation

CD Contract - Guadalupe Services

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, a Community Development funding contract and all related documents, between the City of Lubbock and the Guadalupe Economic Services Corporation (GESC), to allocate funding from the HOME Investment Partnership Program Grant in order to provide partial payment for the administration of GESC programs designed to assist single family housing construction in the Mahon Neighborhood. Said funding contract is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Bill Howerton, Assistant City Manager

APPROVED AS TO FORM:

_____
Justin Pruitt, Assistant City Attorney

ccdocs/RES. Agreement – Guadalupe Economic Services Corporation – HOME Funds
November 11, 2015

AGREEMENT BETWEEN THE CITY OF LUBBOCK, TEXAS AND THE GUADALUPE ECONOMIC SERVICES CORP.

THIS AGREEMENT MADE this **3rd** day of **December, 2015** by and between the City of Lubbock Community Development Department, hereinafter referred to as the "GRANTEE", and the **Guadalupe Economic Services Corp.**, a Texas Non-profit hereinafter referred to as the "SUBRECIPIENT" and which is located at: **1502 Erskine Street, Lubbock, Texas 79403.**

WITNESSETH

WHEREAS, the GRANTEE is the recipient of HOME Investment Partnerships Program (HOME) Program Funds from the U.S. Department of Housing and Urban Development (HUD); and

WHEREAS, the SUBRECIPIENT has submitted a proposal for use of HOME funds for an HOME-eligible PROJECT;

WHEREAS, the SUBRECIPIENT shall use HOME funds for the purpose of creating new single family homebuyer opportunities through the construction of new units in the City of Lubbock, which is an eligible activity under the rules and regulations regarding HOME Program funds; and

NOW, THEREFORE in consideration of the mutual covenants and obligations herein contained, including the Attachments, and subject to the terms and conditions hereinafter stated, the parties hereto understand and agree as follows:

I. Definitions

Unless specifically provided otherwise or the context otherwise requires, when used in this Agreement:

1. "Appraisal" means an appraisal which meets the criteria specified in the Uniform Relocation Assistance and Real Property Acquisition Policies Act ("URA"), as further defined in 49 CFR 24.103.
2. "Current market appraised value" means the value of a property that is established through an appraisal made in conformity with the appraisal requirements of the URA at 49 CFR 24.103 and completed within 60 days prior to a final offer made for the property by the Subrecipient, SUBRECIPIENT, or individual homebuyer; provided, however, if the anticipated value of the proposed acquisition is estimated at $25,000 or less, the current market appraised value of the property may be established by a valuation of the property that is based on a review of available data and is made by a person the Subrecipient (with GRANTEE approval) determines is qualified to make the valuation.
3. "Eligible Costs" means costs for the activities specified in Exhibit B of this Agreement for which HOME funds are budgeted, provided that such conform to all HOME requirements.
4. "Environmental Requirements" means the requirements described in 24 CFR Part 58.
5. "HUD" means the United States Department of Housing and Urban Development.

6. "HOME Funds" mean those funds to be provided by the GRANTEE pursuant to the terms of this Agreement, as specified in Section II of this Agreement.
7. "Program Income" means the HOME portion of any proceeds received by the SUBRECIPIENT and repaid to the GRANTEE.
8. "PROJECT" means the activities described in the Proposal and in Exhibit A of this Agreement which are to be carried out to meet the objectives of the HOME Program.
9. "Proposal" means the SUBRECIPIENT's response to the GRANTEE's HOME Request for Proposals or such other submittals, as are specified in Exhibit A of this Agreement.

II. Terms and Conditions of the Funding

A. Program Description—SUBRECIPIENT will undertake a HOME New Construction program designed to assist eligible low income households to purchase newly constructed homes. SUBRECIPIENT will market the program, take and screen applications from low income households, acquire buildable lots, procure homebuilders, oversee construction, facilitate the provision of direct homebuyer assistance to participating households, and coordinate the sale and closing for participating buyers' purchase of the homes. SUBRECIPIENT agrees to implement the program in compliance with all requirements of the GRANTEE's New Construction Program Guidelines attached hereto as Exhibit A.

B. Term of Agreement—This agreement take effect upon being signed and dated by both the SUBRECIPIENT and GRANTEE with the date of the last signature representing the beginning of the term. Unless otherwise extended by written agreement, the agreement will expire on **September 30, 2017**. Following the expiration of the term, SUBRECIPIENT shall not be entitled to receive any additional HOME funds but will continue to be obligated to fulfill any responsibilities to the GRANTEE related to reporting, maintenance of records, providing access to records for monitoring, other similar duties.

C. Funding Amount – HOME Funds (NOT TO EXCEED) in the amount of **$85,000** are committed for use in compliance with this agreement, as reflected in the budget in Exhibit B.

1. These amounts represent an allocation of the GRANTEE's total HOME funding contingent upon SUBRECIPIENT performance and not an entitlement to a certain grant amount, and shall only be disbursed for approved projects and costs.

2. Approved budget – The approved budget is attached to this agreement as Exhibit B. It is understood and agreed that funds will be used according to the approved budget. SUBRECIPIENT will request approval from GRANTEE for any line item budget change.

D. Use of Funds – HOME funds obligated under this agreement may be used as follows:

1. No Commitment or Expenditure Prior to Environmental Clearance – Notwithstanding any provision of this Agreement, the parties hereto agree and acknowledge that this Agreement does not constitute a commitment of funds to any specific project or site approval, and that such commitment of funds or approval may occur only upon satisfactory completion of a site-specific

environmental review under 24 CFR Part 58 as provided in Section VIII.B below, potentially including a receipt by GRANTEE of a release of funds from HUD.

The parties further agree that the provision of any funds to the project is conditioned on GRANTEE's determination to proceed with, modify or cancel any proposed project based on the results of environmental review. Further, the SUBRECIPIENT will not undertake or commit any funds to physical or choice-limiting actions, including property acquisition, demolition, movement, rehabilitation, conversion, repair or construction prior to the environmental clearance, and understands that violation of this provision may result in the denial of any project funds under the agreement and may, at the GRANTEE's option, be cause for termination of the agreement.

2. Eligible Activities – Funds may be used for the HOME eligible activities that are checked below:

☒ **New construction homeowner** **1 single family home**

☐ **New construction rental** **0 duplex or single family**

3. Eligible Properties – The SUBRECIPIENT may only utilize HOME funds for properties approved by the GRANTEE. The SUBRECIPIENT must prepare and submit a Property Approval Request Form attached in Exhibit C for each property to be assisted with HOME funds. Eligible properties must meet the following conditions for approval by GRANTEE:

   a. Must be located in the City of Lubbock.

   b. Must have no substantial adverse environmental factors as determined by an environmental review.

   c. Must otherwise be in suitable locations for marketing and sale to low-income homebuyers.

   d. Must not result in the displacement of existing residential or commercial tenants and otherwise be eligible for acquisition under HOME.

4. Activity Limitations – In implementing projects, SUBRECIPIENT shall undertake only those activities permitted by this agreement, and comply with all provisions of this agreement, including the project requirements in Section III, as they may be modified by HUD. In particular

   a. Acquisition – In order to ensure that only HOME-eligible properties are acquired, SUBRECIPIENT may acquire only those properties listed in Exhibit A or subsequently approved by GRANTEE. No acquisitions may occur without environmental clearance, and determination of the applicability of URA provisions.

   b. Construction– SUBRECIPIENT may use HOME funds for the construction of properties as approved by the GRANTEE and permitted by this agreement, and shall implement the requirements in Section VII as applicable to all

projects.

Specific limitations and budget items are included as part of Exhibit B.

E. Cost Limits – All uses of funds are subject to the approval of the GRANTEE.

1. Cost Limits on Individual Units – The cost and assistance limits checked below apply to every unit assisted with HOME funds under this agreement, unless approved by the GRANTEE

☒	Maximum HOME expenditure per dwelling unit	$ 150,000
☒	Average HOME expenditure per dwelling unit	$ 125,000
☒	Maximum HOME mortgage assistance per buyer	$ 35,000

In all cases, the SUBRECIPIENT must ensure that projects require a minimum HOME investment of $1,000 as required by §92.205(c). In no case may the total HOME investment in a project exceed the HOME Maximum Per-Unit Subsidy Limit as published by HUD. The applicable Maximum Per-Unit Subsidy is that in effect at the time of project commitment and varies based on the number of bedrooms in the unit.

F. Deadlines – Timely completion of the work specified in this agreement is an integral and essential part of performance. The HOME funds are subject to Federal deadlines and failure to comply could result in the loss of the Federal funds. By the acceptance and execution of this agreement, it is understood and agreed by the SUBRECIPIENT that the PROGRAM will be completed as expeditiously as possible and that the SUBRECIPIENT will make every effort to ensure that the project will proceed and will not be delayed. Failure to meet these deadlines can result in cancellation of this contract and the revocation of HOME funds.

1. Project Commitment Deadline – All projects funding provided by this agreement must be committed to specific projects on or before **September 30, 2016**.

Project Commitment Requirements – HOME funds committed to a specific project will be deemed committed upon GRANTEE's acceptance of the project and set-up of the project in HUD's IDIS System. In order to commit HOME funds to a project, the SUBRECIPIENT must meet the following standards:

a. No funds are obligated until the GRANTEE has completed environmental review and approval of the project as contained in Section VIII, and has obtained the release the funds.

b. SUBRECIPIENT has demonstrate site control evidenced by:

i. Prior to completion of a site specific environmental review, including a release of funds approved by HUD and the GRANTEE as applicable, the SUBRECIPIENT must have a valid option to purchase the property that is contingent upon successful environmental clearance; or

ii. If the specific site has been cleared by the GRANTEE pursuant to 24 CFR Part 58, by entering into a valid purchase and sales agreement with the seller of the property in compliance with all HOME requirements.

c. SUBRECIPIENT has completed a detailed set of plans and specifications (or work write-up) and completing a detailed construction/rehabilitation cost estimate based upon those specifications. Such cost estimate may include a contingency for construction change orders of up to 15% for rehabilitation and up to 5% for new construction.

d. SUBRECIPIENT has submitted to the GRANTEE a detailed budget for the project, identifying all

i. Hard and soft costs, including any project-related soft costs associated with SUBRECIPIENT's staff and overhead costs;

ii. Estimates of SUBRECIPIENT's future selling costs, including any realtor fees, transfer taxes, or seller's closing costs subject to the limitations in Exhibit B.

e. SUBRECIPIENT has provided written commitments for any non-HOME funds, including any required HOME Match, required to fully fund the project;

f. SUBRECIPIENT has obtained an "as completed" appraisal based on the plans and specifications from an independent state licensed appraiser;

g. SUBRECIPIENT has identified an income eligible buyer who has completed homeownership counseling, been prequalified for an acceptable first mortgage, and entered into a preliminary purchase agreement with the SUBRECIPIENT to purchase the completed home, and otherwise meets all requirements in the Program Statement.

h. SUBRECIPIENT must report fund obligations on a monthly basis or when requests for reimbursements are made, whichever occurs sooner.

2. Project Deadlines

a. SUBRECIPIENT must begin construction on each specific project within 12 months of committing HOME funds to the project. In any case, if construction does not commence within 12 months of commitment, the project will be cancelled.

b. SUBRECIPIENT shall ensure that construction on all projects is complete within 24 months of commitment.

c. In the event a pre-identified buyer is unable to complete the purchase of a home following construction completion, SUBRECIPIENT must identify an alternate buyer and enter into a binding sales agreement within nine (9) months of construction completion. Failure to enter into such an agreement within this deadline will result in a requirement that the SUBRECIPIENT convert the project to a HOME rental unit meeting the requirements of §92.252 or, in the GRANTEE's sole discretion, repay all HOME funds invested in the project.

d. Project completion is deemed to occur upon completion of all necessary construction activity, transfer of title to the assisted homebuyer, drawing all HOME funds against the project, and entry by the GRANTEE of all required

demographic and project information in HUD's IDIS system. Failure of the subrecipient to complete a project within **Two (2) years** of the commitment of HOME funds will result in the project being terminated prior to completion, and SUBRECIPIENT shall repay all HOME funds invested in the project to the GRANTEE.

3. Project Expenditure Deadlines – All project activities and all expenditures of HOME funds must be completed by **September 30, 2017**. If checked the additional interim deadlines apply to project expenditures:

   ☒ 50% of HOME funds expended and drawn by 9/30/2016

   ☐ 75% of HOME funds expended and drawn by _____

   ☒ 100% of HOME funds expended and drawn by 9/30/2017

4. The SUBRECIPIENT expressly agrees to complete all work required by this agreement in accordance with the timetable set forth in Exhibit B and as provided above.

   a. If SUBRECIPIENT fails to obligate or expend HOME funds as indicated in this agreement, GRANTEE in its sole discretion may cancel a portion or all of the SUBRECIPIENT's total HOME funding allocation.

   b. Changes to the timetable may be approved by the GRANTEE, in the event the SUBRECIPIENT is unable to meet the above deadlines or complete the above services because of delays resulting from Acts of God, untimely review and approval by the GRANTEE and other governmental authorities having jurisdiction over the PROGRAM, or other delays that are not caused by the SUBRECIPIENT, the GRANTEE shall grant a reasonable extension of time for completion of the WORK. It shall be the responsibility of the SUBRECIPIENT to notify the GRANTEE promptly in writing whenever a delay is anticipated or experienced, and to inform the GRANTEE of all facts and details related to the delay. However, GRANTEE may not provide extensions beyond deadlines imposed by HUD.

5. Since it is mutually agreed that time is of the essence, the SUBRECIPIENT shall cause appropriate provisions to be inserted in all contracts or subcontracts relative to the work tasks required by this agreement, in order to ensure that the PROGRAM will be completed according to the timetable set forth in this agreement.

G. Sale to Buyers – All units constructed under this agreement shall be sold to eligible buyers in accordance with the provisions of this section.

1. Eligible Buyers – Eligible homebuyers must be have household incomes at or below 80% of the Area Median Income based upon the applicable HOME Income Limits as published annually by HUD. Buyers must further meet all program requirements included in the Program Statement, including but not limited to the ability to obtain an acceptable first mortgage.

2. Sales Price – Sales prices must be set at the appraised value of the property based on an "as built" appraisal completed by an independent state licensed appraiser. In all cases, the value of the home must not exceed the applicable HOME Homeownership Value Limits published by HUD and updated annually. The sales price of each property, including any adjustments based on changing market values or differences in the market value estimated by an appraisal provided by a proposed buyer's first mortgage lenders, must be approved by GRANTEE.

3. Income Certification and Documentation – SUBRECIPIENT must utilize the definition of annual income defined in 24 CFR Part 5.609 (often referred to as the "Section 8" definition) and determine eligibility for every purchaser according to the requirements at §92.203. Pursuant to those requirements, SUBRECIPIENT must obtain and examine at least two months of source documents evidencing household income. If more than six (6) months have elapsed following completion of the income determination process at the time the SUBRECIPIENT enters into a sales contract with a buyer, SUBRECIPIENT must re-verify the buyer's income to ensure continued eligibility.

   As a reference, the SUBRECIPIENT should use the CPD Income Calculator available online at https://www.hudexchange.info/incomecalculator/ and consult the most recent version of the HUD publication: *Technical Guide for Determining Income and Allowances for the HOME Program.*

4. HOME Financing to Buyers – All buyers must have acceptable first mortgages from a mortgage lender. To further ensure the affordability of the home purchase, SUBRECIPIENT may offer direct homebuyer assistance in the form of a HOME-funded second mortgage. These funds are included in the amount of funding provided under this agreement, and not an additional amount, and represent a transfer of HOME funds used for the development of the project by SUBRECIPIENT to the eligible buyer. The terms of this assistance are as follows:

   a. Amount – The amount of the HOME buyer financing shall be determined as checked below:

      ☐ The gap between the sums of the approved sales price, buyer's closing costs and prepaid expenses, and any tax proration and the sum of buyer funds from the first mortgage, any non-HOME assistance provided from other sources, and buyer's cash investment for down payment and/or closing costs.

      ☒ Not to exceed **$ 35,000.00**

   b. Affordability Period – The term shall be at least **Ten (10) years**, forgivable at the end of the term, based on the amount of the HOME direct buyer assistance in the unit.

   c. Owner Occupancy—Assisted buyers must occupy the home as their primary place of residence for the duration of the affordability period and may not vacate the property and convert it to rental or nonresidential use. Failure to maintain the home as the buyer's primary place of residence will result in a

requirement that the buyer repay all outstanding HOME funds invested in the property, including any development costs not included in the HOME-funded second mortgage.

d. Transfer of Title During Affordability Period – If the buyer voluntarily or involuntarily transfers' title prior to the end of the affordability period, HOME funds will be recaptured by the GRANTEE out of the net proceeds of the sale according to the formula contained in the HOME recapture note and mortgage.

e. Buyer Note & Mortgage – All HOME-assisted properties are subject to ongoing compliance requirements for at least **Ten (10) years** from the date of project completion in IDIS, based on the required affordability period. At the sale of an HOME-funded home, SUBRECIPIENT will cause the homebuyer(s) to execute a promissory note and mortgage deed in favor of GRANTEE as mortgagee for the combined amount of the mortgage assistance and down payment assistance as defined herein.

   i. The note and mortgage documents must be approved by GRANTEE prior to their being executed by the homebuyer(s).

   ii. After each closing occurs, SUBRECIPIENT will provide the recorded note and mortgage to GRANTEE.

f. Written Agreement—In addition to the note and mortgage in favor of the GRANTEE, SUBRECIPIENT must enter into a separately enforceable written agreement with the buyer meeting all requirements of §92.504(c)(5) and enforcing the terms of this section. GRANTEE must approve the form of written agreement which shall, at minimum, provide GRANTEE with direct rights of enforcement in the event of noncompliance or default by an assisted buyer.

5. Net Proceeds of Sale – Upon sale of an HOME-funded home, from the net proceeds of the sale after payment of all closing costs and any approved SUBRECIPIENT costs not yet reimbursed by HOME funds, SUBRECIPIENT will return all net proceeds to the GRANTEE as Program Income.

III. Project Requirements

The SUBRECIPIENT agrees to comply with all requirements of the HOME Program as stated in the HOME regulations §92.504, including but not limited to the following:

A. HOME Eligible Use and Eligible Activities – The SUBRECIPIENT will ensure and document that its HOME activities meet eligible use, allowable cost, and eligible activity requirements of the HOME Regulations in 24 CFR Part 92, Subpart E, including §92.205-92.214. The SUBRECIPIENT will ensure that any expenditure of HOME funds will be in compliance with the requirements, and acknowledges that HOME funds will only be provided as reimbursement for eligible costs incurred, including actual expenditures or invoices for work completed. Specific eligible cost are set forth in §92.206.

B. SUBRECIPIENT further agrees that all projects will be completed in compliance with 24 CFR Part 92, Subpart F, including but not limited to the affordability requirements of §92.254

C. Construction – For any construction in this project, SUBRECIPIENT will comply with the provisions of Section VII.

D. Property Standards – The SUBRECIPIENT will carry out all HOME-assisted activities in accordance with applicable laws, codes, and other requirements relating to housing safety, quality, and habitability, in order to sell, rent, or redevelop such homes and properties, §92.251.

1. Accessibility – The SUBRECIPIENT shall work with any participating household that includes a person with disabilities to provide accessibility modifications required under the policy of reasonable accommodations and reasonable modifications. All such modifications shall be considered to be eligible HOME costs under this agreement.

E. Sale and Occupancy – All of the funds made available under this Agreement shall be used with respect to.

1. Marketing and Selection – In the marketing, intake and selection of buyers for projects developed within the program, the SUBRECIPIENT shall comply with non-discrimination and fair housing requirements listed in Section VIII. Additionally, SUBRECIPIENT must develop and follow an affirmative marketing plan that identifies and makes special efforts to reach those deemed least likely to apply for program units.

2. Counseling Requirement – Each HOME-assisted homebuyer is required to complete at least eight hours of homebuyer counseling from a HUD-approved housing counseling agency or a counselor approved by the GRANTEE, §92.254 (a)(3).

F. Project Monitoring and Recordkeeping – The SUBRECIPIENT will be monitored by the GRANTEE for compliance with the HOME requirements and the applicable HOME regulations. The SUBRECIPIENT will provide reports and access to project files as requested by the GRANTEE during the PROGRAM and for Five (5) years after completion and closeout of the AGREEMENT as required under Section IX of this Agreement. SUBRECIPIENT will maintain records in compliance with §92.508 Recordkeeping requirements.

IV. GRANTEE Responsibilities

A. GRANTEE is responsible for the following tasks and deliverables.

B. The GRANTEE shall furnish the SUBRECIPIENT with information regarding requirements for the project, including any changes in HOME regulations or program limits that affect the project, including but not limited to income limits.

C. Environmental Review – GRANTEE will complete environmental assessments and provide clearances for all HOME target areas, as well as approvals of site-specific environmental reviews. SUBRECIPIENT will provide all information required by GRANTEE.

D. Property Approval – GRANTEE will provide prompt approval of any property selected by SUBRECIPIENT and submitted on the form with all required documentation for approval. Failure to provide all required information will result in a delay in approval. Approval can only be provided on completion of environmental review.

E. Inspections – The GRANTEE will conduct progress inspections of work completed and review of project files and information to protect its interests as lender and regulatory authority for the project, and will provide information to the SUBRECIPIENT regarding any progress inspections or monitoring to assist it in ensuring compliance. The GRANTEE's review and approval of the WORK will relate only to overall compliance with the general requirements of this Agreement and HOME requirements, and all GRANTEE regulations and ordinances.

F. Disbursements – GRANTEE will manage all draws of HOME funds from HUD and payment of valid and properly documented draw requests from SUBRECIPIENT. The GRANTEE will disburse funds as provided in Section IV of this Agreement. GRANTEE will process requests for disbursements of HOME funds, including necessary construction inspections, in a timely manner. GRANTEE will clearly and promptly describe any deficiencies identified by GRANTEE that prevent a disbursement or portion of a disbursement from being approved.

G. Reporting – GRANTEE will report to HUD via the Integrated Disbursement and Information System (IDIS) in a timely manner as required by HUD.

H. Monitoring – GRANTEE will monitor all program activities of SUBRECIPIENT to assure compliance with the terms of this Agreement including all HOME requirements and cross cutting federal requirements.

I. Nothing contained herein shall relieve the SUBRECIPIENT of any responsibility as provided under this Agreement.

V. Disbursement of Funds

A. Project expenses shall be paid based on vouchers for actual expenses incurred or paid. All such expenses shall be in conformance to the approved project budget. Budget revision and approval shall be required prior to payment of any expenses not conforming to the approved project budget.

B. Requests for payment must be submitted by the SUBRECIPIENT on forms specified by the GRANTEE, with adequate and proper documentation of eligible costs incurred in compliance with HOME rules. The SUBRECIPIENT agrees to submit requests for payment in a timely manner in the form and times directed by the GRANTEE. In all cases, SUBRECIPIENT may not request funds until they are needed for the payment of HOME-eligible costs, and requests for disbursement may not exceed the amount needed.

C. The GRANTEE will pay to the SUBRECIPIENT funds available under this Agreement based upon information submitted by the SUBRECIPIENT and consistent with any approved budget and GRANTEE policy concerning payments. Payments will be made for eligible HOME related expenses actually incurred by the SUBRECIPIENT, and will not exceed actual cash requirements. Payments will be adjusted by the GRANTEE in accordance with

advance fund and program income balances available in SUBRECIPIENT accounts, if any. In addition, the GRANTEE reserves the right to liquidate funds available under this contract for costs incurred by the GRANTEE on behalf of the SUBRECIPIENT.

D. Funds will be drawn through the Integrated Disbursement and Information System (IDIS) by the GRANTEE. To ensure expeditious implementation of activities, GRANTEE will draw funds from IDIS and make payment to the SUBRECIPIENT promptly on receipt of the SUBRECIPIENT's complete and properly submitted requests for payment for activities under this agreement, if feasible.

E. The HOME funds advanced to the Project will be secured by a note and mortgage on the property, which shall be released upon sale to an eligible buyer.

F. The GRANTEE reserves the right to inspect records and project sites to determine that reimbursement and compensation requests are reasonable. The GRANTEE also reserves the right to hold payment until adequate documentation has been provided, reviewed and approved.

G. The SUBRECIPIENT may submit a final invoice upon completion. Final payment shall be made after the GRANTEE has determined that all services have been rendered, files and documentation delivered, and units have been placed in service in full compliance with HOME regulations, including submission of a completion report and documentation of eligible occupancy, property standards and long-term use restrictions.

H. The SUBRECIPIENT shall report to GRANTEE at time of sale any net proceeds of sales, after the payment of all closing costs and approved SUBRECIPIENT fee, under this contract, and shall return the net proceeds of each sale to the GRANTEE at each closing. All net proceeds should be returned to:

City of Lubbock, Community Development
P. O. Box 2000
Lubbock, Texas, 79457

VI. Repayment of Funds

A. SUBRECIPIENT shall repay the GRANTEE for any HOME funds expended towards ineligible expenses including but not limited to funds expended on any project that fails to meet the requirements of §92.254 or the Project Requirements and Other Requirements as outlined in this Agreement, including deadlines. SUBRECIPIENT shall also repay any HOME funds expended without appropriate documentation or that are subsequently disallowed by an audit or monitoring conducted by the GRANTEE, HUD, the HUD Office of Inspector General, the GAO, or any other relevant authority.

B. It is understood that, upon the completion of this agreement, any HOME funds committed but not expended under this agreement will revert to the GRANTEE and any uncommitted funds will be similarly cancelled.

C. All net sales proceeds after payment of all development and closing costs, shall be returned to the GRANTEE.

D. Prior to each closing or sale to an eligible buyer, the SUBRECIPIENT will provide to the

GRANTEE the estimated settlement statement, along with a reconciliation statement and the draft note and mortgage. The reconciliation statement shall account for use of HOME funds for the individual unit, and identify those funds that are to be lent to the buyer secured by the HOME homebuyer assistance note and mortgage, the use of sales proceeds for unreimbursed costs, and the amount of net sales proceeds to be returned to the GRANTEE.

VII. Contracting, Labor & Hiring Provisions

During the performance of this contract, the SUBRECIPIENT agrees as follows:

A. The SUBRECIPIENT will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin(s). The SUBRECIPIENT will take affirmative action to ensure the applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin(s). Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The SUBRECIPIENT agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer of the GRANTEE setting forth the provisions of this nondiscrimination clause.

B. The SUBRECIPIENT will, in all solicitations or advertisements for employees placed by or on behalf of the SUBRECIPIENT, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

C. The SUBRECIPIENT will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

D. The SUBRECIPIENT will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the AGENCY and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and order.

1. In the event the SUBRECIPIENT is found to be in noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part and the SUBRECIPIENT may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965 or by rule, regulations, or order of the Secretary of Labor or as otherwise provided by law.

E. The SUBRECIPIENT shall conduct all contracting and purchases with HOME funds to ensure that materials and services are obtained in a cost-effective manner. When procuring for services to be provided under this agreement, the SUBRECIPIENT shall adhere to the following requirements:

F. The SUBRECIPIENT will include the provisions of this Section in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The SUBRECIPIENT will take such action with respect to any subcontract or purchase order as the AGENCY may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event the SUBRECIPIENT becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the AGENCY, the SUBRECIPIENT may request the United States to enter into such litigation to protect the interest of the United States.

G. The SUBRECIPIENT agrees to comply with the non-discrimination in employment, disclosure requirements, debarment of contractor, and Drug-Free Workplace requirements as detailed in 24 CFR 5.105.

H. The SUBRECIPIENT agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act, as amended, the provisions of Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.) and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement.

I. The SUBRECIPIENT agrees to comply with the Copeland Anti-Kick Back Act (18 U.S.C. 874 et seq.) and it's implementing regulations of the U.S. Department of Labor at 29 CFR Part 5. The SUBRECIPIENT shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the GRANTEE for review upon request.

J. The SUBRECIPIENT will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the terms "small business" means a business that meets the criteria set forth in Section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group SUBRECIPIENTs or women. The SUBRECIPIENT may rely on written representations by businesses regarding their status as minority and women-owned business enterprises in lieu of an independent investigation.

K. Compliance with the provisions of Section 3 of the Housing and Urban Development Act of 1968, as amended, and as implemented by the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the GRANTEE, the SUBRECIPIENT and any of the SUBRECIPIENT's

contractors and subcontractors. The SUBRECIPIENT certifies and agrees that no contractual or other disability exists that would prevent compliance with these requirements.

1. The SUBRECIPIENT further agrees to comply with these Section 3 requirements and to include the following language in all subcontracts executed under this Agreement: "The work to be performed under this Agreement is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701). Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."

2. The SUBRECIPIENT further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the HOME-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the HOME-funded project is located; where feasible, priority should be given to business concerns that provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

3. The SUBRECIPIENT further warrants and agrees to include or cause to be included the criteria and requirements of this Section in every non-exempt subcontract in excess of $100,000. The SUBRECIPIENT also agrees to take such action as the federal, state or local government may direct to enforce aforesaid provisions.

VIII. Compliance with Other Federal, State & Local Laws

A. The SUBRECIPIENT covenants and warrants that it will comply with all applicable laws, ordinances, codes, rules and regulations of the state local and federal governments, and all amendments thereto.

B. Environmental review – All HOME assistance is subject to the National Environmental Policy Act of 1969 and related federal environmental authorities and regulations at 24 CFR Part 58.

1. No HOME project funds will be advanced, and no costs can be incurred, until the GRANTEE has conducted an environmental review of the proposed project site as required under 24 CFR Part 58. The environmental review may result in a decision to proceed with, modify or cancel the project. Notwithstanding any provision of this Agreement, the parties hereto agree and acknowledge that this Agreement does not constitute a commitment of funds or site approval, and that such commitment of funds or approval may occur only upon satisfactory completion of environmental review and receipt by the GRANTEE of a release of funds from the U.S. Department of Housing and Urban Development [or the State of Texas] under 24 CFR Part 58.

2. Further, the SUBRECIPIENT will not undertake or commit any funds to physical or choice-limiting actions, including property acquisition, demolition, movement, rehabilitation, conversion, repair or construction prior to the environmental clearance, and must indicate that the violation of this provision may result in the denial of any funds under the agreement.

3. A copy of the Environmental Review Record shall be maintained by both the SUBRECIPIENT and the GRANTEE.

C. Flood Disaster Protection – In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), the SUBRECIPIENT shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation.)

D. Historic Preservation – The SUBRECIPIENT agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this agreement.

E. Relocation – The SUBRECIPIENT agrees to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24; 24 CFR Part 42 – Displacement, Relocation Assistance and Real Property Acquisition for HUD and HUD Assisted Programs; and 24 CFR 570.606 – Displacement, relocation acquisition, and replacement of housing, as may be amended by the HOME NOFA. The SUBRECIPIENT also agrees to comply with applicable GRANTEE or local ordinances, resolutions and policies concerning the displacement of persons.

1. To meet these requirements, the owner of record must be notified in writing that Federal financial assistance will be used in the transaction and that if agreement cannot be reached through negotiation, that the acquisition will not take place. There are specific URA voluntary acquisition requirements that must be met depending on whether or not the buyer has the power of eminent domain and will not use it (see 49 CFR 24.101(b)(1)(i)-(iv)) or if the buyer does not have the power of eminent domain (see 49 CFR 24.101(b)(2)). Any acquisition under possible threat of

eminent domain, cannot be considered a "voluntary acquisition" (even if the seller is willing to negotiate).

2. The relocation provisions of the Uniform Relocation Act apply to HOME funds. An unlawful occupant (see 49 CFR 24.2(a) (29)) who is displaced for an HOME-funded acquisition will not be entitled to relocation assistance and payments. However, a lawful occupant displaced for an HOME-funded acquisition will generally be eligible for relocation assistance and payments under URA. The SUBRECIPIENT shall provide appropriate relocation assistance (URA or Section 104(d)) to eligible displaced persons as defined by applicable HUD and/or URA regulations that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for an HOME-assisted project.

F. The SUBRECIPIENT agrees to comply with applicable state, The Fair Housing Act (42 U.S.C. 3601-19,) and local civil rights ordinances and with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended (the HCDA), Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107 and 12086, and will include the provisions in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its contractors and subcontractors.

G. SUBRECIPIENT agrees to comply with the requirements of 24 CFR 5.105(a)(2) requiring that HUD-assisted housing be made available without regard to actual or perceived sexual orientation, gender identity, or marital status and prohibiting owners (or their agents) from inquiring about the sexual orientation or gender identity of an applicant for, or occupant of, HUD-assisted housing for the purpose of determining eligibility for the housing or otherwise making such housing available. This prohibition on inquiries regarding sexual orientation or gender identity does not prohibit any individual from voluntarily self-identifying sexual orientation or gender identity;

H. The SUBRECIPIENT agrees to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).

I. The SUBRECIPIENT agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the United States Code. The SUBRECIPIENT is prohibited from using funds provided herein or personnel employed in the administration of the program for inherently religious activities, lobbying, political patronage, and nepotism activities. The Authority certifies that it will not and, to the best of its knowledge, has not used Federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, officer or employee of Congress, or an employee

of a member of Congress in connection with obtaining any Federal contract, grant or any other award. The Authority further agrees that it shall disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

J. Conflict of Interest – The provisions of 24 CFR 92.356, apply to the award of any contracts under the agreement and the selection of buyers for HOME-assisted units. This section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of this section who exercise or have exercised any functions or responsibilities with respect to activities assisted with HOME funds or who are in a position to participate in a decision making process or gain inside information with regard to these activities, may obtain a financial interest or benefit from a HOME-assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

IX. Reporting, Monitoring & Access to Records

A. The SUBRECIPIENT agrees to submit any and all reports required by HUD or the GRANTEE. Initially the GRANTEE will require the submission of the following reports:

1. The SUBRECIPIENT shall submit to GRANTEE, quarterly progress reports, no later than 10 business days after quarter ending. These reports shall include: pipeline of applicants, status of commitments and expenditures, status of construction on housing units, and barriers to progress.

B. The GRANTEE reserves the right to unilaterally alter, supplement, or otherwise modify the frequency or content of required reports as needed to maintain adequate oversight of the program, address changes to HOME regulations, or to address findings related to noncompliance by the SUBRECIPIENT.

C. The SUBRECIPIENT shall collect and maintain Project beneficiary information pertaining to household size, income levels, racial characteristics, and the presence of Female Headed Households in order to determine low and moderate-income benefit in a cumulative and individual manner. Income documentation shall be in a form consistent with HOME requirements.

D. The SUBRECIPIENT agrees to provide the GRANTEE access to records and projects at any time during project implementation or for five years after project closeout for purposes of verifying compliance with HOME requirements and this agreement. Access shall be immediately granted to the GRANTEE, HUD, the Comptroller General of the United States (commonly known as the GAO), or any of their duly authorized representatives to any books, documents, papers, and records of the SUBRECIPIENT or its contractors which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

E. The GRANTEE reserves the right to audit the records of the SUBRECIPIENT any time during the performance of this Agreement and for a period of five years after final payment is made under this Agreement. If required by 2 CFR Part 200 Subpart F, A-133,

the SUBRECIPIENT will provide the AGENCY with a certified audit of the SUBRECIPIENT's records representing the all Fiscal Years during which the PROGRAM takes place.

F. Project Closeout – The SUBRECIPIENT's obligation to the GRANTEE shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, accounting for use of funds, provision of all reports and records required by the GRANTEE.

X. Suspension & Termination

Suspension or termination may occur if the SUBRECIPIENT materially fails to comply with any term of this agreement. Further, the award may be terminated for convenience in accordance with 2 CFR 200, Appendix II (B).

A. If the SUBRECIPIENT fails in any manner to fully perform and carry out any of the terms, covenants, and conditions of the agreement, or if the SUBRECIPIENT refuses or fails to proceed with the work with such diligence as will insure its completion within the time fixed by the schedule set forth in this agreement, the SUBRECIPIENT shall be in default and notice in writing shall be given to the SUBRECIPIENT of such default by the AGENCY or an agent of the AGENCY. If the SUBRECIPIENT fails to cure such default within such time as may be required by such notice, the GRANTEE, acting by and through the AGENCY, may at its option suspend, terminate, or cancel the contract.

1. In the event of such termination, all funds awarded to the SUBRECIPIENT pursuant to this agreement shall be immediately revoked and any approvals related to the PROGRAM shall immediately be deemed revoked and canceled. In such event, the SUBRECIPIENT will no longer be entitled to receive any compensation for work undertaken after the date of the termination of this agreement, as the grant funds will no longer be available for this project.

2. In such event, the SUBRECIPIENT shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder to the date of said termination.

3. Notwithstanding the above, the SUBRECIPIENT shall not be relieved of liability to the GRANTEE for damages sustained by the GRANTEE by virtue of any breach of the contract by the SUBRECIPIENT and the GRANTEE may withhold any payments to the SUBRECIPIENT for the purpose of setoff until such time as the exact amount of damages due the GRANTEE from the SUBRECIPIENT is determined whether by court of competent jurisdiction or otherwise.

4. Such termination shall not effect or terminate any of the rights of the GRANTEE as against the SUBRECIPIENT then existing, or which may thereafter accrue because of such default, and the foregoing provision shall be in addition to all other rights and remedies available to the GRANTEE under the law and the note and mortgage (if in effect), including but not limited to compelling the SUBRECIPIENT to complete the project in accordance with the terms of this agreement, in a court of equity.

5. The waiver of a breach of any term, covenant or condition hereof shall not operate as a waiver of any subsequent breach of the same or any other term, covenant, or condition hereof.

B. The GRANTEE may terminate for its convenience this contract at any time by giving at least thirty (30) days notice in writing to the SUBRECIPIENT. If the contract is terminated by the GRANTEE, as provided herein, the GRANTEE will reimburse for any actual and approved expenses incurred, including those costs involved in terminating the contracts and shutting down the work as of the date of notice, less payments of compensation previously made. Claims and disputes between the parties will be submitted to the American Arbitration Association for resolution. Award or judgment may be entered in any court having jurisdiction thereof.

XI. General Conditions

A. All notices or other communication which shall or may be given pursuant to this Agreement shall be in writing and shall be delivered by personal service, or by registered mail addressed to the other party at the address indicated herein or as the same may be changed from time to time. Such notice shall be deemed given on the day on which personally served; or, if by mail, on the fifth day after being posted or the date of actual receipt, whichever is earlier.

GRANTEE
City of Lubbock, Community Development
Karen Murfee, Director
P. O. Box 2000
Lubbock, Texas 79457

SUBRECIPIENT
Guadalupe Economic Services Corp.
Diana Lopez, Executive Director
1502 Erskine
Lubbock, Texas 79403

B. Title and paragraph headings are for convenient reference and are not a part of this Agreement.

C. In the event of conflict between the terms of this Agreement and any terms or conditions contained in any attached documents, the terms in this Agreement shall rule.

D. No waiver or breach of any provision of this Agreement shall constitute a waiver of a subsequent breach of the same or any other provision hereof, and no waiver shall be effective unless made in writing.

E. The GRANTEE's failure to act with respect to a breach by the SUBRECIPIENT does not waive its right to act with respect to subsequent or similar breaches. The failure of the GRANTEE to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

F. The parties hereto agree that this Agreement shall be construed and enforced according to the laws of the State of Texas.

G. Should any provisions, paragraphs, sentences, words or phrases contained in this Agreement be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Texas or the GRANTEE, such provisions, paragraphs, sentences, words or phrases shall be deemed modified to the extent necessary in order to conform with such laws, or if not modifiable to conform with such laws, then same shall be deemed severable, and in either event, the remaining terms and provisions of this Agreement shall remain unmodified and in full force and effect.

H. The obligations undertaken by SUBRECIPIENT pursuant to this Agreement shall not be delegated or assigned to any other person or agency unless GRANTEE shall first consent to the performance or assignment of such service or any part thereof by another person or agency.

I. The Agreement shall be binding upon the parties hereto, their heirs, executors, legal representative, successors and assigns.

J. SUBRECIPIENT shall indemnify and save GRANTEE harmless from and against any negligent claims, liabilities, losses and causes of action which may arise out of SUBRECIPIENT's activities under this Agreement, including all other acts or omissions to act on the part of SUBRECIPIENT, including any person acting for or on its behalf, and, from and against any orders, judgments, or decrees which may be entered and from and against all costs, attorneys fees, expenses and liabilities incurred in the defense of any such claims, or in the investigation thereof.

K. SUBRECIPIENT and its employees and agents shall be deemed to be independent contractors, and not agents or employees of the GRANTEE, and shall not attain any rights or benefits under the civil service or pension ordinances of the GRANTEE, or any rights generally afforded classified or unclassified employee; further they shall not be deemed entitled to state Compensation benefits as an employee of the GRANTEE.

L. Funding for this Agreement is contingent on the availability of funds and continued authorization for program activities and is subject to amendment or termination due to lack of funds, or authorization, reduction of funds, and/or change in regulations.

IN WITNESS WHEREOF, the Parties have executed this contract as of the date first written above.

CITY OF LUBBOCK

GLEN C. ROBERTSON
MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Karen Murfee, CD Director

APPROVED AS TO FORM:

Justin Pruitt, Assistant City Attorney

GUADALUPE ECONOMICS SERVICES CORPORATION

Diana Lopez
Executive Director

Benny Aguilar
Board Chair

FED. I.D. # 75-1867465

Exhibit A. Project Description & Requirements

- Attach Program Guidelines here

Exhibit B. Project Budget & Schedule

This exhibit should contain the entire project budget, including all funding sources and uses. It should also show deadlines for selection, construction and completion of units. A sample budget and schedule is in an attached MS Excel file (Exhibit_B_Project_Budget.xls).

Exhibit C. HOME Project Approval Request Form

Regular City Council Meeting **5. 32.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - Community Services: Consider a resolution authorizing and directing the Mayor to execute for and on behalf of the City of Lubbock a Community Development funding contract 12606 and all related documents between the City of Lubbock and the Alcoholic Recovery Center (ARC) from the Emergency Solutions Grant (ESG) for emergency shelter operations.

Item Summary

Grantee: ARC

Program: Emergency Shelter Operations

Funding Source: 2015-2016 ESG

Use of Funds: Funds will be used to assist in the operation of the shelter, specifically with the facility's utilities, telephone bill, maintenance and repairs.

Amount: $18,000

Match: 100%

Return of Investment: Not required for Emergency Solutions Grant

Terms: October 1, 2015 through September 30, 2016

Comments: Funding for this contract was approved by City Council at the June 25, 2015 council meeting.

Fiscal Impact

Federal funds will be used from the Emergency Solutions Grant. The maximum to be allocated to this project is $18,000.

Staff/Board Recommending

Bill Howerton, Assistant City Manager

Attachments

Resolution - Alcoholic Recovery Center

CD Contract - Alcoholic Recovery Center

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, a Community Development funding contract and all related documents, between the City of Lubbock and the Alcoholic Recovery Center (ARC), to allocate funding from the Emergency Solutions Grant to provide payment assistance for the operation of the ARC shelter's utilities, telephone bill, maintenance, and repairs. Said funding contract is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

GLEN C. ROBERTSON, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Bill Howerton, Assistant City Manager

APPROVED AS TO FORM:

Justin Pruitt, Assistant City Attorney

ccdocs/RES Agreement – Alcoholic Recovery Center– ESG Funds
November 11, 2015

COMMUNITY DEVELOPMENT EMERGENCY SOLUTIONS GRANT (ESG)
FUNDING AGREEMENT
BETWEEN
THE CITY OF LUBBOCK
AND
ALCOHOLIC RECOVERY CENTER

STATE OF TEXAS §

COUNTY OF LUBBOCK §

This Agreement entered into on this 1st day of October 2015, by and between the CITY OF LUBBOCK (herein called "City") and **Alcoholic Recovery Center** a non-profit center (herein called "Grantee").

WHEREAS, the City is obligated to do and perform certain services in its undertaking of an Emergency Solutions Grant Program pursuant to Subpart B of Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11371-11378), as amended by the Homeless Emergency and Rapid Transition to Housing Act of 2009 (Public Law 111-22) (HEARTH Act) and

WHEREAS, the Grantee operates a non-profit center offering services to the homeless; and

WHEREAS, the Corporation and the services it provides have been found to meet the criteria for funding under provisions 24 CFR §576.23 of the Emergency Solutions Regulation for Nonprofit Recipients; and

WHEREAS, Emergency Shelter and Homeless Management Information System are fundable by the Department of Housing and Urban Development; and

WHEREAS, the accomplishment of the above public purpose is the predominant purpose of this transaction, continuing supervision by the City together with statutory and contractual requirements provide sufficient assurance that this purpose will be accomplished and an audit provides sufficient protection of the handling of public money; and

WHEREAS, the City Council has found that the Grantee has the special expertise, knowledge and experience necessary for the Emergency Shelter program and that the city will receive adequate consideration in the form of substantial public benefit; and

WHEREAS, the City desires to contract with the Grantee to make available assistance for the **Alcoholic Recovery Center Emergency Shelter Program**

NOW, THEREFORE, it is agreed between the parties hereto that:

I. SCOPE OF SERVICE

A. Activities

The Grantee will be responsible for administering an Emergency Solutions Grant Year 2015-2016 Emergency Shelter program in a manner satisfactory to the City and consistent with any standards required as a condition of providing these funds. Such program will include the activities eligible under the Emergency Solutions Grant Program.

Program Delivery

Activity #1 – This project will provide funds to operate the shelter located at 608 17th Street.

Activity #2 - It will assist with the facility's utilities, telephone bill, maintenance and insurance.

The facility will serve approximately 66 men who are recovering from substance abuse.

B. Objective

The Grantee certifies that the activities carried out with funds provided under this Agreement will meet the objective to provide activities that benefit communities, families, or individuals by addressing issues in their living environment under the Emergency Solutions Grant program - as defined in 24 CFR §576.21 as amended by the HEARTH Act.

C. City Responsibilities

1. City agrees to provide Grantee assistance from U.S. Department of Housing and Urban Development funds in an amount not to exceed **$18,000** in return for Grantee performing the activities set forth in this Agreement as consideration for said funds.

2. It is expressly understood and agreed by the parties hereto that City's responsibilities are contingent upon the actual receipt of adequate federal funds to meet City's liabilities under this agreement. If adequate funds are not available to make payments under this agreement, City shall notify Grantee in writing within a reasonable time after such fact is determined. City shall terminate this agreement and will not be liable for failure to make payments to Grantee under this agreement.

3. City shall not be liable to Grantee for any costs incurred by Grantee, or any portions thereof, which have been paid to Grantee or which are subject to payment to Grantee, or which have been reimbursed to Grantee or which are subject to reimbursement to Grantee by any source other than City or Grantee.

4. City shall not be liable to Grantee for any costs incurred by Grantee which are not allowable costs, as set forth in 24 CFR §576.21 as amended by the HEARTH Act.

5. City shall not be liable to Grantee for any costs incurred by Grantee or for any performances rendered by Grantee which are not strictly in accordance with the terms of this agreement.

6. City shall not be liable to Grantee for any costs incurred by Grantee in the performance of this agreement which have not been billed to City by Grantee within ninety (90) days following termination of this agreement.

7. City shall not be liable for costs incurred or performances rendered by Grantee before commencement of this agreement or after termination of this agreement.

8. City shall review all work specifications prior to the beginning of the procurement process.

9. City shall inspect work for compliance prior to any release of funds.

D. Grantee's Responsibilities

1. Grantee shall conduct, in a satisfactory manner as determined by City, an Emergency Solutions Grants Program pursuant to Subpart B of Title IV of the Stewart B. McKinney Homeless Assistance Act (42 USC §§11371-11378), as amended by the HEARTH Act.

2. Grantee shall perform all activities in accordance with their budget, all applicable Federal, state, and local laws, ordinances, statutes, rules, and regulations set forth herein; the assurance, certifications, and all other terms, provisions, and requirements set forth in this agreement.

3. Grantee agrees to comply with Housing and Urban Development (HUD) Outcome Performance Measurement requirements and reporting.

4. Grantee shall submit to city such reports on the operation and performance of this agreement during their program activity timeframe, as required by the City.

5. In addition to the limitations on liability otherwise specified in this agreement, it is expressly understood and agreed by the parties hereto that if Grantee fails to submit to City in a timely and satisfactory manner any report required by this agreement, City may, at its sole option and in its sole discretion, withhold any or all payments otherwise due or requested by Grantee hereunder. If City withholds such payments, it shall notify Grantee in writing of its decision and the reasons therefor. Payments withheld pursuant to this paragraph may be held by City until such time as the delinquent obligations for which funds are withheld are fulfilled by Grantee.

6. Grantee shall refund to City the money which has been paid to Grantee by City which City determines has resulted in overpayment to Grantee, or which City determines has not been spent by Grantee strictly in accordance with the terms of this agreement. Such refund shall be made by Grantee to City within thirty (30) working days after such refund is requested by City.

7. Grantee shall submit to City for review all work specifications prior to the beginning of the procurement process. Grantee shall notify City upon work completion for inspection prior to release of funds.

8. Grantee will verify and certify eligibility when the activity is a Low-mod Clientele program by signing and dating the Self Certification form.

E. Grantee's Match

1. Grantee agrees to provide as match an amount of funds equal to the amount of funds provided by City under this agreement for performances hereunder. Such funds must be provided from sources other than under this agreement. This amount shall be referred to hereinafter as Grantee's match. Match is subject to review and approval by the City of Lubbock.

2. Amounts may be counted toward Grantee's match only if such amounts are costs or resources of a type and amount as computed in accordance with this subsection and as set forth in 42 USC §11375. In calculating the amount of grantee's match, grantee may include the value of any donated material or building; the value of any lease on a building; any salary paid to staff of Grantee in carrying out the activities required under this agreement; and the time and services contributed by volunteers to carry out such activities, determined at the rate as determined by HUD and approved by the City. Grantee shall determine the value of any donated material or building, or any lease using any method reasonably calculated to establish a fair market value.

F. Levels of Accomplishment – Goals and Performance Measures

In addition to the normal administrative services required as part of this Agreement, the Grantee agrees to provide the following levels of program services:

Activity	Units Per Month*	Total Units/Year
Screen and admit clients, counseling, job referral and provide room and board	5-6 (individuals)	66

*Residential and Non-Residential Individuals served.

G. Staffing

Staff Member	General Program Duties
Ross Crabtree, Director	Overall oversight of center
Emilio Garcia, House Manager	Day to day operations
Alicia Lawler	Reports
Robert Peterson	Data Entry

H. Performance Monitoring

1. General Statement:

The City will monitor the performance of the Grantee for compliance with goals and requirements as required or as it deems necessary in accordance with the regulations. Monitoring will be based on a risk analysis and a monitoring plan developed at the beginning of the fiscal year. Desk monitoring will take place on a monthly and quarterly basis as described below during grantees program activity timeframe. Substandard performance as determined by the City will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by the Grantee within a reasonable period of time after being notified by the City in writing, contract suspension or termination procedures will be initiated.

2. On-site Monitoring

- The number of on-site Monitoring Visits will be determined by the Community Development department of the City of Lubbock.
- Notification letter sent to grantee at least 15 days before on-site monitoring visit.
- Monitoring letter sent to grantee identifying concerns and findings if any within thirty (30) days of on-site monitoring visit.
- Grantee must provide a written response within thirty (30) days to the monitoring letter that describes how the grantee will resolve any issues. If no deficiencies were noted grantee must confirm receipt of report within thirty (30) days of the date of the letter.

II. TIME OF PERFORMANCE

This Agreement shall commence October 1, 2015 and shall terminate September 30, 2016. The term of the Agreement and the provisions herein may be extended to cover any additional time period during which the Grantee remains in control of ESG funds or other assets, including program income.

III. **BUDGET**

Line Item:	Amount:
Emergency Shelter Operations	
Telephone	$ 2,700
Utilities	$10,000
Repairs and Maintenance	$ 3,800
Insurance	$ 1,500
TOTAL	**$18,000**

Specific Description of Activities:

The City may require a more detailed budget breakdown than the one contained herein, and the Grantee shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the City. Any changes to this budget must be approved in writing by the City.

IV. **PAYMENT**

All payments to grantees are on a monthly reimbursement basis. The Grantee will have incurred the expense or paid for the expense and submit detailed source documentation to the City when requesting payment.

It is expressly agreed and understood that the total amount to be paid by the City under this contract shall not exceed **$18,000**. Requests for payment of eligible expenses shall be made against the line item budgets specified in Paragraph III herein and in accordance with performance. Expenses for general administration shall also be paid against the line item budgets specified in Paragraph III and in accordance with performance.

Payment request must be submitted with back-up documentation such as time sheets, paycheck stubs, receipts, invoices, billing statements or other verification in support of all expenditures incurred and charged to the grant.

Payments may be contingent upon certification of the Grantee's financial management system in accordance with the standards specified in 24 CFR 84.

V. **NOTICES**

Communication and details concerning this Agreement shall be directed to the following contract representatives:

City Grantee

Piata Bryant
City of Lubbock
P. O. Box 2000
Lubbock, TX 79457

Ross Crabtree
Alcoholic Recovery Center
P. O. Box 1084
Lubbock, TX 79408

VI. SPECIAL CONDITIONS

Use as an Emergency Shelter

Any building for which activities described in 24 CFR 576.21 (a)(2) or (a)(3) must be maintained as a shelter for the homeless for the period during which such assistance is provided and the building's use shall be governed by the provisions set forth in 24 CFR §576.53. A substitute site or shelter may be used during this period, so long as the same general population is served. For purposes of this contract, the term "same general population" means either the same types of homeless persons originally served with this Emergency Solutions Grant assistance (i.e. battered spouses) or persons in the same geographic area.

VII. GENERAL CONDITIONS

A. General Compliance

The Grantee agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the U. S. Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)) including subpart J and subpart K of these regulations, except that (1) the Grantee does not assume the recipient's environmental responsibilities described in 24 CFR 570.604 and (2) the Grantee does not assume the recipient's responsibility for initiating the review process under the provisions of 24 CFR Part 52. The Grantee also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract. The Grantee further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

The Grantee shall comply with all applicable Federal laws, regulations, and requirements and all provisions of this Agreement, which include compliance with the provisions of the HCD Act and all rules, regulations, guidelines, and circulars promulgated by the various Federal departments, agencies, administrations, and commissions relating to the CDBG Program. The applicable laws and regulations include, but are not limited to:

- 24 CFR Part 576.21 as amended by the HEARTH Act;
- OMB Circular A-87 "Cost Principles for State and Local Governments," or OMB Circular A-110, or OMB Circular A-122 "Cost Principles for Non-Profit Organizations," or OMB Circular A-21 "Cost Principles for Educational Institutions";
- OMB Circular A-128, "Audits of State and Local Governments" or OMB Circular A-133 Audits of Institutions of Higher Education and Other Non-Profit Institutions";
- The Davis-Bacon Fair Labor Standards Act;
- The Contract Work Hours and Safety Standards Act of 1962;
- Copeland "Anti-Kickback" act of 1934;

- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA);
- Title VI of the Civil Rights Act of 1964; (Public Law 88-352 implemented in 24 CFR Part 1)
- Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (Public Law 90-234 and Executive Order 11063 as amended by Executive Order 12259 (implemented in 24 CFR Part 107);
- Section 104(b) and 109 of the Housing and Community Development Act of 1974;
- Section 3 of the Housing and Urban Development Act of 1968;
- Equal employment opportunity and minority business enterprise regulations established in 24 CFR Part 570.904;
- Non-discrimination in employment, established by Executive Order 11246 (as amended by Executive Orders 11375 and 12086)
- Section 504 of the Rehabilitation Act of 1973 Uniform Federal accessibility Standards;
- The Architectural Barriers Act of 1968;
- The Americans With Disabilities Act (ADA) of 1990;
- The Age Discrimination Act of 1975, as amended;
- National Environmental Policy of 1969 (42 USC 4321 et seq.), as amended
- Lead Based paint regulations established in 24 CFR Parts 35, 570.608, &24 CFR982.401;
- Asbestos guidelines established in CPD Notice 90-44;
- HUD Environmental Criteria and Standards (24CFR Part 51);
- The Energy Policy and conservation Act (Public Law 94-163) and 24 CFR Part39;
- Historic Preservation Act of 1966, as amended, and related laws and Executive Orders;
- Executive Order 11988, floodplain management, 1977 (42 FR 26951 et seq.);
- Flood Disaster protection Act of 1973

B. "Independent Contractor"

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. Grantee shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. City shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Worker's Compensation insurance as the Grantee is an independent contractor.

C. Indemnity and Release

Grantee shall indemnify and hold harmless, to the fullest extent permitted by law, the City, and City's respective officers, employees, elected officials and agents, from and against any and all losses, damages, claims or liabilities, of any kind or nature, which arise directly or indirectly, or are related to, in any way, manner or form, the activities contemplated hereunder.

Grantee shall pay to the City, the City's respective officers, employees, elected officials and/or agents, as applicable, all attorney's fees incurred by such parties in enforcing Grantee's indemnity in this section.

The City, and its respective officers, employees, elected officials and agents shall not be liable and Grantee hereby releases the City, and its respective officers, employees, elected officials and agents, for, from and/or against any losses, damages, claims or liabilities to Grantee

The indemnity and release provided herein shall survive the termination or voidance of this agreement.

D. Right to Exercise

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

E. Worker's Compensation

Grantee shall provide Worker's Compensation Insurance coverage for all of its employees involved in the performance of this contract.

F. Insurance and Bonding

Grantee shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum, shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from City.

Grantee shall comply with the bonding and insurance requirements of 24 CFR 84, Bonding and Insurance.

G. Grantor Recognition

Grantee shall insure recognition of the role of City's Emergency Solutions Grant program in providing funding through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, Grantee will include a reference to the support provided herein in all publications made possible with funds made available under this Agreement.

H. Amendments

City or Grantee may amend this Agreement at any time, provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly-authorized representative of both organizations and approved by the City Council if required by law. Such amendments shall not invalidate this Agreement, nor relieve nor release City or Grantee from its obligations under this Agreement.

City may, in its discretion, amend this Agreement to conform with federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both City and Grantee.

I. Suspension or Termination

Either party may terminate this Agreement at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least **thirty (30) days** before the effective date of such termination. Partial termination of the Scope of Service in Paragraph "I.A" above may only be undertaken with the prior written approval of the City. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports, or other materials prepared by Grantee under this Agreement shall at the option of City, become the property of City, and Grantee shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

City may also suspend or terminate this Agreement, in whole or in part, if Grantee materially fails to comply with any term of this Agreement, or with any of the rules, regulations, or provisions referred to herein and the City may declare the Grantee ineligible for any further participation in City contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe Grantee is in noncompliance with any applicable rules or regulations, City may withhold up to fifteen percent (15%) of said contract funds until such time as Grantee is found to be in compliance by City or is otherwise adjudicated to be in compliance.

The City may terminate this agreement in the event of an emergency or disaster, whether an act of God or manmade, by giving twenty-four (24) hour notice. This City may give said notice verbally to Grantee. Any expenditure incurred prior to receiving notice will be reimbursed; however, in no event shall the City pay any expenses incurred after notice of termination is received by Grantee.

J. Relocation and Acquisition

Grantee agrees to abide by the provisions relocation and assistance as set forth in 24 CFR §576.59 when applicable.

VIII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards

Grantee agrees to comply with 24 CFR 84 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles

Grantee shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations" for all costs incurred whether charged on a direct or indirect basis. The grantee shall also comply with the applicable sections of 24 CFR Part 85, "Uniform Administrative Requirements for grants and cooperative agreements to state and local governments", and OMB Circular A-87.

B. Documentation and Record-Keeping

1. Records to be maintained

Grantee shall maintain all records required by federal regulations specified, and that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

a. Records providing a full description of each activity undertaken;
b. Records demonstrating that each activity undertaken meets one of the eligible activities of the ESG program;
c. Records required to determine the eligibility of activities;
d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with ESG assistance;
e. Records documenting compliance with the fair housing and equal opportunity components of the ESG program;
f. Financial records as required by 24 CFR Part 576 Subpart G and 24 CFR 84.
g. Other records necessary to document compliance with Subpart G of 24 CFR 576.

2. Retention

Grantee shall retain all records pertinent to expenditures incurred under this Agreement for a period of **four (4) years.** Records for non-expendable property acquired with funds under this contract shall be retained for four (4) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the four-year period, whichever occurs later.

3. Client Data

Grantee shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to City monitors or their designees for review upon request.

4. Disclosure

Grantee understands that client information collected under this contract is private and the use or disclosure of such information, when not directly connected with the administration of the City's or Grantee's responsibilities with respect to services provided under this contract, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian, unless otherwise required by law. All disclosures retained by Grantee relating to the Federal funds shall be governed by the provisions of the Texas Public Information Act (Texas Government Code Chapter 552).

5. Property Records

Grantee shall maintain real property inventory records which clearly identify properties purchased, improved or sold.

6. Close-Outs

Grantee's obligation to the City shall not end until all close-out requirements are completed. Activities during this close-out period shall include but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the Grantee), final close-out report and determining the custodianship of records.

7. Audits and Inspections

All Grantee records with respect to any matters covered by this Agreement shall be made available to City, their designees or the Federal Government, at any time during normal business hours, as often as City deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by Grantee within **thirty (30) days** after receipt by the Grantee. Failure to comply with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of future payments. Grantee shall hereby agree to have an annual agency audit conducted in accordance with current City policy concerning Grantee audits and, as applicable, OMB Circular A-133.

Grantees meeting the OMB Circular A-133 requirements must submit their audits to the audit clearing house within nine (9) months after the entities fiscal year end date.

C. Reporting and Payment Procedures

1. Payment Procedures

The City will pay to the Grantee funds available under this contract based upon information submitted by the Grantee and consistent with any approved budget and City

policy concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Grantee, and not to exceed actual cash requirements. Payments will be adjusted by the City in accordance with advance fund and program income balances available in Grantee accounts. In addition, the City reserves the right to liquidate funds available under this contract for costs incurred by the City on behalf of the Grantee.

2. Progress Reports

Grantee shall submit to City a Performance, Financial Report, and narrative information monthly or during their program activity time frame as requested by the city, in a format prescribed by the City and shall include the amount of funds expended for each of the eligible activities. Grantee shall submit the reports monthly no later than the 20th of each month.

The September financial and narrative reports must submitted by September 30. The performance report will remain due by the 20th of the following month. Reporting will continue from the start of program activity till the end of the program year. End of year reports are required.

D. Procurement

1. Compliance

The Grantee shall comply with current City policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets purchased with such funds (unexpended program income, property, equipment, etc.) shall revert to the City upon termination of this contract.

2. CFR Standards

Grantee shall procure all materials, property, or services in accordance with the requirements of 24 CFR 84, Procurement Standards, and shall subsequently follow the Property Management Standards as modified by 24 CFR 570.502(b)(6), covering utilization and disposal of property.

3. Travel

Grantee shall obtain written approval from the City for any travel outside the metropolitan area with funds provided under this contract.

E. Use and Reversion of Assets

The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 24 CFR Part 84 and CFR 570.502, 570.503, and 570.504, as applicable, which include but are not limited to the following:

1. The Sub-recipient shall transfer to the Grantee any CDBG funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.

2. Real property under the Sub-recipient's control that was acquired or improved, in whole or in part, with funds under this Agreement in excess of $25,000 shall be used to meet one of the CDBG National Objectives pursuant to 24 CFR 570.208 until five (5) years after expiration of this Agreement [or such longer period of time as the Grantee deems appropriate]. If the Sub-recipient fails to use CDBG-assisted real property in a manner that meets a CDBG National Objective for the prescribed period of time, the Sub-recipient shall pay the Grantee an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property. Such payment shall constitute program income to the Grantee. The Sub-recipient may retain real property acquired or improved under this Agreement after the expiration of the five-year [or such longer period of time as the Grantee deems appropriate.

3. In all cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds shall be program income (prorated to reflect the extent to that funds received under this Agreement were used to acquire the equipment). Equipment not needed by the Sub-recipient for activities under this Agreement shall be (a) transferred to the Grantee for the CDBG program or (b) retained after compensating the Grantee [an amount equal to the current fair market value of the equipment less the percentage of non-CDBG funds used to acquire the equipment].

IX. PERSONNEL AND PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

Grantee agrees to comply and to require all subcontractors to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 109 of Title I of the Housing and Community Development Act of 1974, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086 and Executive Order 13279 and the regulations issued under the Order at 41 CFR Chapter 60.

2. Nondiscrimination

Grantee will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital/familial status, or status with regard to public assistance. Grantee will take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Grantee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provision of this nondiscrimination clause.

3. Section 504

Grantee agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), and all related regulations, which prohibits discrimination against the handicapped in any Federally assisted program. The City shall provide the Grantee with any guidelines necessary for compliance with that portion of the regulations in force during the term of this contract.

4. Reports

The Grantee shall maintain a report that documents the race/ethnicity of its employees. The Grantee shall provide the City a copy with said report upon execution of this Agreement.

5. Policies

The Grantee shall maintain current copies of its fair housing ad equal opportunity policies. The Grantee shall provide a copy of said policies to the City immediately upon request.

B. Affirmative Action

1. Approved Plan

The Grantee agrees that it shall be committed to carry out pursuant to the City's specifications an Affirmative Action Program in keeping with the principles as provided in the President's Executive Order 11246 of September 24, 1965. Grantees receiving federal funds through the City are required to develop a written

affirmative action program to insure that equal opportunity is provided in all aspects of their employment.

2. Women-and Minority-Owned Businesses

Grantee will use its best efforts to afford minority- and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the term "minority and female business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Grantee may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

3. Access to Records

Grantee shall furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

4. Notifications

Grantee will send to each labor union or representative of works with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Grantee's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5. EEO/AA Statement

Grantee will, in all solicitations or advertisements for employees placed by or on behalf of the Grantee, state that it is an Equal Opportunity and Affirmative Action employer.

6. Subcontractors

Grantee will include the provisions of Paragraph IX A, Civil Rights, and B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subrecipients or subcontractors.

C. Employment Restrictions

1. Prohibited Activity

Grantee is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; lobbying, political patronage, and nepotism activities.

2. Labor Standards

Grantee agrees to comply and require all subcontractors to comply with the requirements of the Secretary of Labor in accordance with the Davis Bacon Act as amended, the provisions of Contract Work Hours, the Safety Standards Act, the Copeland "Anti-Kickback" Act, and all other applicable federal, state, and local laws pertaining to labor standards insofar as those acts apply to the performance of this Agreement. Grantee will maintain documentation which demonstrates compliance with hour and wage requirements of this part; this documentation shall be made available to the City for review upon request.

3. "Section 3" Clause

a. Compliance

Grantee agrees to comply with the provisions of Section 3 of the Housing and Urban Development Act, as amended (12 USC §1701, et al.) and to include the following clause in all subcontracts executed under this Agreement:

> "The work to be performed under this Contract is a project assisted under a program providing direct federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."

Grantee certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements.

b. Notifications

The Sub-recipient agrees to send to each labor organization or representative of worker with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under

this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

c. Subcontracts

The Sub-recipient will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Sub-recipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

D. Conduct

1. Assignability

Grantee shall not assign or transfer any interest in this contract without the prior written consent of the City thereto; provided, however, that claims for money due or to become due to the Grantee from the City under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

2. Subcontracts

a. Approvals

Grantee shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of the City prior to the execution of such agreement.

b. Monitoring

Grantee will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content

Grantee shall cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d. Selection Process

Grantee shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the Grantee along with documentation concerning the selection process.

e. Suspension/Disbarment

The Grantee shall not enter into any subcontracts with an agency, business or individual that has been suspended, disbarred or otherwise excluded from federal grants. The Grantee shall maintain records demonstrating that it has reviewed potential subcontractors against the debarred and excluded list prior to committing any grant funds to a subcontract.

3. Hatch Act

Grantee agrees that no funds provided, nor personnel employed under this contract, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

4. Conflict of Interest

a. The Grantee shall maintain written codes of conduct that govern the performance of it employees engaged in the award and administration of contracts. Said codes of conduct shall be in compliance with 24 CFR 84.42.

b. Grantee and City agree to abide by the provisions of 24 CFR § 576.57 (d) with respect to conflicts of interest, and Grantee covenants that it presently has no financial interest, direct or indirect, which would conflict in any manner or degree with the performance of the services required under this Agreement.

c. Grantee further covenants that in the performance of this Agreement no person having such a financial interest shall be employed or retained by the Grantee hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the City, or of any designed public agencies or subrecipients which are receiving funds under the ESG Program.

5. Lobbying

Grantee hereby certifies that it is in compliance with the provisions of the Byrd Amendment (42 USC § 3537, and § 3545, and 31 USC 1352) and the implementing regulations at 24 CFR Parts 4 and 87 as follows:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract grant, loan or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions;

c. It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly; and

d. Lobbying Certification

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 31 USC §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

6. Copyright

If this contract results in any copyrightable material or inventions, the City reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

7. Religious Organization

Grantee agrees that funds provided under this contract will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the Federal regulations specified in 24 CFR 576.22(b).

X. ENVIRONMENTAL CONDITIONS

A. Air and Water

Grantee agrees to comply with the following requirement insofar as they apply to the performance of this contract:

> Clean Air Act, 42 U.S.C., 7401, et seq. Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder. Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R., Part 50, as amended, and any and all Federal, state, and local laws and regulations and guidelines relating to or pertaining to environmental matters.

B. Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 USC 4001), the Grantee shall assure that for activities located in an area identified by FEMA as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation), and any or all related Federal, State, or local laws, regulations and guidelines.

C. Lead-Based Paint

Grantee agrees that any construction or rehabilitation of residential structures with assistance provided under this contract shall be subject to the Lead-Based Paint Poisoning Prevention Act (42 USC 4821 through 4846) and 24 CFR Part 35, and any or all related Federal, state, or local laws, regulations or guidelines as applicable.

D. Asbestos

Grantee agrees to comply with the Texas Asbestos Health Protection Act set forth at Article 4477-3a Section 12 of the Texas Civil Statutes and the National Emission Standard for Asbestos Regulations set forth at 40 CFR Part 61, and any or all related Federal, state, or local laws, regulations or guidelines.

E. Historic Preservation

Grantee agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR, Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this contract, and any or all related Federal, state or local laws, regulations or guidelines.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

XI. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

XII. SECTION HEADINGS AND SUBHEADINGS

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

XIII. WAIVER

The Grantee's failure to act with respect to a breach by the Sub-recipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the Grantee to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

XIV. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the Grantee and the Sub-recipient for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the Grantee and the Sub-recipient with respect to this Agreement.

IN WITNESS WHEREOF, the Parties have executed this contract as of the date first written above.

CITY OF LUBBOCK

GLEN C. ROBERTSON
Mayor

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Karen Murfee, CD Director

APPROVED AS TO FORM:

Justin Pruitt, Assistant City Attorney

ALCOHOLIC RECOVERY CENTER

Ross Crabtree
Director

FED. I.D. #75-814024

Dwayne McInroe
Board President

Regular City Council Meeting **5. 33.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - Community Development: Consider a resolution authorizing and directing the Mayor to execute for and on behalf of the City of Lubbock a Community Development funding contract 12607 and all related documents between the City of Lubbock and the Family Promise of Lubbock from the Emergency Solutions Grant (ESG) for the emergency shelter operations and rapid rehousing.

Item Summary

Grantee: Family Promise of Lubbock

Program: Emergency Shelter Operations
Rapid Re-housing

Funding Source: 2015-2016 ESG

Use of Funds: The funds for this program will pay for the daily operations of the center which provides shelter for homeless families and their children, rapid re-housing including financial assistance to clients and for relocation & stabilization (case managers) services.

Amount: $16,000 Emergency Shelter Operations
$21,000 Rapid Re-housing

Match: 100%

Return of Investment: Not required for Emergency Solutions Grant

Terms: October 1, 2015 through September 30, 2016

Comments: Funding for this contract was approved by City Council at the June 25, 2015 council meeting.

Fiscal Impact

Federal funds will be used from the Emergency Solutions Grant. The maximum to be allocated to this project is $37,000.

Staff/Board Recommending

Bill Howerton, Assistant City Manager

Attachments

Resolution - Family Promise
CD Contract - Family Promise

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, a Community Development funding contract and all related documents, between the City of Lubbock and Family Promise of Lubbock, to allocate funding from the Emergency Solutions Grant to provide payment assistance for the operation of the Family Promise Center that provides shelter for homeless families and financial assistance to Family Promise clients. Said funding contract is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Bill Howerton, Assistant City Manager

APPROVED AS TO FORM:

_____
Justin Pruitt, Assistant City Attorney

ccdocs/RES Agreement – Family Promise of Lubbock – ESG Funds
November 11, 2015

COMMUNITY DEVELOPMENT EMERGENCY SOLUTIONS GRANT (ESG)
FUNDING AGREEMENT
BETWEEN
THE CITY OF LUBBOCK
AND
FAMILY PROMISE OF LUBBOCK, INC.

STATE OF TEXAS §

COUNTY OF LUBBOCK §

This Agreement entered into on this 1st day of October 2015, by and between the CITY OF LUBBOCK (herein called "City") and **Family Promise of Lubbock, Inc.,** a non-profit center (herein called "Grantee").

WHEREAS, the City is obligated to do and perform certain services in its undertaking of an Emergency Solutions Grant Program pursuant to Subpart B of Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11371-11378), as amended by the Homeless Emergency and Rapid Transition to Housing Act of 2009 (Public Law 111-22) (HEARTH Act) and

WHEREAS, the Grantee operates a non-profit center offering services to the homeless; and

WHEREAS, the Corporation and the services it provides have been found to meet the criteria for funding under provisions 24 CFR §576.23 of the Emergency Solutions Regulation for Nonprofit Recipients; and

WHEREAS, the Emergency Shelter, Rapid Re-housing and Homeless Management Information System are fundable by the Department of Housing and Urban Development; and

WHEREAS, the accomplishment of the above public purpose is the predominant purpose of this transaction, continuing supervision by the City together with statutory and contractual requirements provide sufficient assurance that this purpose will be accomplished and an audit provides sufficient protection of the handling of public money; and

WHEREAS, the City Council has found that the Grantee has the special expertise, knowledge and experience necessary for the Emergency Shelter program and that the city will receive adequate consideration in the form of substantial public benefit; and

WHEREAS, the City desires to contract with the Grantee, to make available assistance for both the **Family Promise Emergency Shelter Operations and Rapid Re-housing Programs**

NOW, THEREFORE, it is agreed between the parties hereto that:

I. SCOPE OF SERVICE

A. Activities

The Grantee will be responsible for administering an Emergency Solutions Grant Year 2014-2015 Emergency Shelter Operations and Rapid Re-housing Program in a manner satisfactory to the City and consistent with any standards required as a condition of providing these funds. Such program will include the activities eligible under the Emergency Solutions Grant Program.

Program Delivery

Activity #1 - This project will provide funds to operate the day shelter located at 1319 15th Street and to re-house homeless individuals and families.

Activity #2 - Specifically under operations component it will assist with the facility's utilities, telephone bill and vehicle fuel, maintenance and insurance.

Activity #3 - Under the rapid re-housing component it will assist with direct assistance to clients including rent, utilities, security and utility deposits, last month's rent, legal services and credit repair.

The facility will serve approximately 56 individuals who are homeless.

B. Objective

The Grantee certifies that the activities carried out with funds provided under this Agreement will meet the suitable living environment objective by providing eligible activities that benefit communities, families or individuals by addressing issues in their living environment under the Emergency Solutions Grant program - as defined in 24 CFR §576.21 as amended by the HEARTH Act.

C. City Responsibilities

1. City agrees to provide Grantee assistance from U.S. Department of Housing and Urban Development funds in an amount not to exceed **$16,000** for Operations and **$21,000** for Rapid Re-Housing in return for Grantee performing the activities set forth in this Agreement as consideration for said funds.

2. It is expressly understood and agreed by the parties hereto that City's responsibilities are contingent upon the actual receipt of adequate federal funds to meet City's liabilities under this agreement. If adequate funds are not available to make payments under this agreement, City shall notify Grantee in writing within a reasonable time after such fact is determined. City shall terminate this agreement and will not be liable for failure to make payments to Grantee under this agreement.

3. City shall not be liable to Grantee for any costs incurred by Grantee, or any portions thereof, which have been paid to Grantee or which are subject to payment to Grantee, or which have been reimbursed to Grantee or which are subject to reimbursement to Grantee by any source other than City or Grantee.

4. City shall not be liable to Grantee for any costs incurred by Grantee which are not allowable costs, as set forth in 24 CFR §576.21 as amended by the HEARTH Act.

5. City shall not be liable to Grantee for any costs incurred by Grantee or for any performances rendered by Grantee which are not strictly in accordance with the terms of this agreement.

6. City shall not be liable to Grantee for any costs incurred by Grantee in the performance of this agreement which have not been billed to City by Grantee within ninety (90) days following termination of this agreement.

7. City shall not be liable for costs incurred or performances rendered by Grantee before commencement of this agreement or after termination of this agreement.

8. City shall review all work specifications prior to the beginning of the procurement process.

9. City shall inspect work for compliance prior to any release of funds.

D. Grantee's Responsibilities

1. Grantee shall conduct, in a satisfactory manner as determined by City, an Emergency Solutions Grants Program pursuant to Subpart B of Title IV of the Stewart B. McKinney Homeless Assistance Act (42 USC §§11371-11378), as amended by the HEARTH Act.

2. Grantee shall perform all activities in accordance with their budget, all applicable Federal, state, and local laws, ordinances, statutes, rules, and regulations set forth herein; the assurance, certifications, and all other terms, provisions, and requirements set forth in this agreement.

3. Grantee agrees to comply with Housing and Urban Development (HUD) Outcome Performance Measurement requirements and reporting.

4. Grantee shall submit to city such reports on the operation and performance of this agreement during their program activity timeframe, as required by the City.

5. In addition to the limitations on liability otherwise specified in this agreement, it is expressly understood and agreed by the parties hereto that if Grantee fails to submit to City in a timely and satisfactory manner any report required by this agreement, City may, at its sole option and in its sole discretion, withhold any or all payments otherwise due or requested by Grantee hereunder. If City

withholds such payments, it shall notify Grantee in writing of its decision and the reasons therefor. Payments withheld pursuant to this paragraph may be held by City until such time as the delinquent obligations for which funds are withheld are fulfilled by Grantee.

6. Grantee shall refund to City the money which has been paid to Grantee by City which City determines has resulted in overpayment to Grantee, or which City determines has not been spent by Grantee strictly in accordance with the terms of this agreement. Such refund shall be made by Grantee to City within thirty (30) working days after such refund is requested by City.

7. Grantee shall submit to City for review all work specifications prior to the beginning of the procurement process. Grantee shall notify City upon work completion for inspection prior to release of funds.

8. Grantee will verify and certify eligibility when the activity is a Low-mod Clientele program by signing and dating the Self Certification form.

E. Grantee's Match

1. Grantee agrees to provide as match an amount of funds equal to the amount of funds provided by City under this agreement for performances hereunder. Such funds must be provided from sources other than under this agreement. This amount shall be referred to hereinafter as Grantee's match. Match is subject to review and approval by the City of Lubbock.

2. Amounts may be counted toward Grantee's match only if such amounts are costs or resources of a type and amount as computed in accordance with this subsection and as set forth in 42 USC §11375. In calculating the amount of grantee's match, grantee may include the value of any donated material or building; the value of any lease on a building; any salary paid to staff of Grantee in carrying out the activities required under this agreement; and the time and services contributed by volunteers to carry out such activities, determined at the rate as determined by HUD and approved by the City. Grantee shall determine the value of any donated material or building, or any lease using any method reasonably calculated to establish a fair market value.

F. Levels of Accomplishment / Goals and Performance Measures

In addition to the normal administrative services required as part of this Agreement, the Grantee agrees to provide the following levels of program services:

Activity	**Units Per Month***	Total Units/Quarter
Screen and admit clients; counseling and job referrals	4 individuals	56

*Residential and Non-Residential Individuals served.

G. Staffing

Staff Member	General Program Duties
Doug Morris, Executive Director	Overall oversight of center
Hannah Dunaway, Case Manager	Day to day operations
Chavela Barrera, Van Driver	Transportation Coordinator
Elpidia Paniagua, Volunteer Coordinator	Coordinates with participating churches

H. Performance Monitoring

1. General Statement:

The City will monitor the performance of the Grantee for compliance with goals and requirements as required or as it deems necessary in accordance with the regulations. Monitoring will be based on a risk analysis and a monitoring plan developed at the beginning of the fiscal year. Desk monitoring will take place on a monthly and quarterly basis as described below during grantees program activity timeframe. Substandard performance as determined by the City will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by the Grantee within a reasonable period of time after being notified by the City in writing, contract suspension or termination procedures will be initiated.

2. On-site Monitoring

- The number of on-site Monitoring Visits will be determined by the Community Development department of the City of Lubbock.
- Notification letter sent to grantee at least 15 days before on-site monitoring visit.
- Monitoring letter sent to grantee identifying concerns and findings if any within thirty (30) days of on-site monitoring visit.
- Grantee must provide a written response within thirty (30) days to the monitoring letter that describes how the grantee will resolve any issues. If no deficiencies were noted grantee must confirm receipt of report within thirty (30) days of the date of the letter.

II. TIME OF PERFORMANCE

This Agreement shall commence October 1, 2015, and shall terminate September 30, 2016. The term of the Agreement and the provisions herein may be extended to cover any additional time period during which the Grantee remains in control of ESG funds or other assets, including program income.

III. BUDGET

Line Item:	Amount
Emergency Shelter Operations	
Telephone	$ 2,000
Vehicle Fuel/Mileage	$ 2,500
Other: Utilities	$ 5,000
Vehicle Maintenance	$ 1,500
Insurance	$ 5,000
	Total $16,000
Rapid Re-Housing	
Relocation & Stabilization (Case Manager)	$ 8,000
Financial Assistance (Direct Assistance to clients)	$13,000
	Total $21,000

Specific Description of Activities:

The City may require a more detailed budget breakdown than the one contained herein, and the Grantee shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the City. Any changes to this budget must be approved in writing by the City.

IV. PAYMENT

All payments to grantees are on a monthly reimbursement basis. The Grantee will have incurred the expense or paid for the expense and submit detailed source documentation to the City when requesting payment.

It is expressly agreed and understood that the total amount to be paid by the City under this contract shall not exceed **$37,000**. Requests for payment of eligible expenses shall be made against the line item budgets specified in Paragraph III herein and in accordance with performance. Expenses for general administration shall also be paid against the line item budgets specified in Paragraph III and in accordance with performance.

Payment request must be submitted with back-up documentation such as time sheets, paycheck stubs, receipts, invoices, billing statements or other verification in support of all expenditures incurred and charged to the grant.

Payments may be contingent upon certification of the Grantee's financial management system in accordance with the standards specified in 24 CFR 84.

V. NOTICES

Communication and details concerning this Agreement shall be in writing and delivered via mail (postage prepaid) Commercial courier, or personal delivery or sent by facsimile or other electronic means. All notices and other written communications under the Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice. Communication and details concerning this contract shall be directed to the following contract representatives:

City	Grantee
Piata Bryant	Doug Morris, Executive Director
City of Lubbock	Family Promise of Lubbock, Inc.
P. O. Box 2000	P. O. Box 1258
Lubbock, TX 79457	Lubbock, TX 79408

VI. SPECIAL CONDITIONS

Use as an Emergency Shelter

Any building for which activities described in 24 CFR 576.21 (a)(2) or (a)(3) must be maintained as a shelter for the homeless for the period during which such assistance is provided and the building's use shall be governed by the provisions set forth in 24 CFR §576.53. A substitute site or shelter may be used during this period, so long as the same general population is served. For purposes of this contract, the term "same general population" means either the same types of homeless persons originally served with this Emergency Solutions Grant assistance (i.e. battered spouses) or persons in the same geographic area.

VII. GENERAL CONDITIONS

A. General Compliance

The Grantee agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the U. S. Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)) including subpart J and subpart K of these regulations, except that (1) the Grantee does not assume the recipient's environmental responsibilities described in 24 CFR 570.604 and (2) the Grantee does not assume the recipient's responsibility for initiating the review process under the provisions of 24 CFR Part 52. The Grantee also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this

contract. The Grantee further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

The Grantee shall comply with all applicable Federal laws, regulations, and requirements and all provisions of this Agreement, which include compliance with the provisions of the HCD Act and all rules, regulations, guidelines, and circulars promulgated by the various Federal departments, agencies, administrations, and commissions relating to the CDBG Program. The applicable laws and regulations include, but are not limited to:

- 24 CFR Part 576.21 as amended by the HEARTH Act;
- OMB Circular A-87 "Cost Principles for State and Local Governments," or OMB Circular A-110, or OMB Circular A-122 "Cost Principles for Non-Profit Organizations," or OMB Circular A-21 "Cost Principles for Educational Institutions";
- OMB Circular A-128, "Audits of State and Local Governments" or OMB Circular A-133 Audits of Institutions of Higher Education and Other Non-Profit Institutions";
- The Davis-Bacon Fair Labor Standards Act;
- The Contract Work Hours and Safety Standards Act of 1962;
- Copeland "Anti-Kickback" act of 1934;
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA);
- Title VI of the Civil Rights Act of 1964; (Public Law 88-352 implemented in 24 CFR Part 1)
- Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (Public Law 90-234 and Executive Order 11063 as amended by Executive Order 12259 (implemented in 24 CFR Part 107);
- Section 104(b) and 109 of the Housing and Community Development Act of 1974;
- Section 3 of the Housing and Urban Development Act of 1968;
- Equal employment opportunity and minority business enterprise regulations established in 24 CFR Part 570.904;
- Non-discrimination in employment, established by Executive Order 11246 (as amended by Executive Orders 11375 and 12086)
- Section 504 of the Rehabilitation Act of 1973 Uniform Federal accessibility Standards;
- The Architectural Barriers Act of 1968;
- The Americans With Disabilities Act (ADA) of 1990;
- The Age Discrimination Act of 1975, as amended;
- National Environmental Policy of 1969 (42 USC 4321 et seq.), as amended
- Lead Based paint regulations established in 24 CFR Parts 35, 570.608, &24 CFR982.401;
- Asbestos guidelines established in CPD Notice 90-44;
- HUD Environmental Criteria and Standards (24CFR Part 51);
- The Energy Policy and conservation Act (Public Law 94-163) and 24 CFR Part39;
- Historic Preservation Act of 1966, as amended, and related laws and Executive Orders;
- Executive Order 11988, floodplain management, 1977 (42 FR 26951 et seq.);
- Flood Disaster protection Act of 1973

B. "Independent Contractor"

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. Grantee shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. City shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Worker's Compensation insurance as the Grantee is an independent contractor.

C. Indemnity and Release

Grantee shall indemnify and hold harmless, to the fullest extent permitted by law, the City, and City's respective officers, employees, elected officials and agents, from and against any and all losses, damages, claims or liabilities, of any kind or nature, which arise directly or indirectly, or are related to, in any way, manner or form, the activities contemplated hereunder.

Grantee shall pay to the City, the City's respective officers, employees, elected officials and/or agents, as applicable, all attorney's fees incurred by such parties in enforcing Grantee's indemnity in this section.

The City, and its respective officers, employees, elected officials and agents shall not be liable and Grantee hereby releases the City, and its respective officers, employees, elected officials and agents, for, from and/or against any losses, damages, claims or liabilities to Grantee

The indemnity and release provided herein shall survive the termination or voidance of this agreement.

D. Right to Exercise

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

E. Worker's Compensation

Grantee shall provide Worker's Compensation Insurance coverage for all of its employees involved in the performance of this contract.

F. Insurance and Bonding

Grantee shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum, shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from City.

Grantee shall comply with the bonding and insurance requirements of 24 CFR 84, Bonding and Insurance.

G. Grantee Recognition

Grantee shall insure recognition of the role of City's Emergency Solutions Grant program in providing funding through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, Grantee will include a reference to the support provided herein in all publications made possible with funds made available under this Agreement.

H. Amendments

City or Grantee may amend this Agreement at any time, provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly-authorized representative of both organizations and approved by the City Council if required by law. Such amendments shall not invalidate this Agreement, nor relieve nor release City or Grantee from its obligations under this Agreement.

City may, in its discretion, amend this Agreement to conform with federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both City and Grantee.

I. Suspension or Termination

Either party may terminate this Agreement at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least **thirty (30) days** before the effective date of such termination. Partial termination of the Scope of Service in Paragraph "I.A" above may only be undertaken with the prior written approval of the City. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports, or other materials prepared by Grantee under this Agreement shall at the option of City, become the property of City, and Grantee shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

City may also suspend or terminate this Agreement, in whole or in part, if Grantee materially fails to comply with any term of this Agreement, or with any of the rules, regulations, or provisions referred to herein and the City may declare the Grantee ineligible for any further participation in City contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe Grantee is in noncompliance with any applicable rules or regulations, City may withhold up to fifteen

percent (15%) of said contract funds until such time as Grantee is found to be in compliance by City or is otherwise adjudicated to be in compliance.

The City may terminate this agreement in the event of an emergency or disaster, whether an act of God or manmade, by giving twenty-four (24) hour notice. This City may give said notice verbally to Grantee. Any expenditure incurred prior to receiving notice will be reimbursed; however, in no event shall the City pay any expenses incurred after notice of termination is received by Grantee.

J. Relocation and Acquisition

Grantee agrees to abide by the provisions relocation and assistance as set forth in 24 CFR §576.59 when applicable.

VIII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards

Grantee agrees to comply with 24 CFR 84 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles

Grantee shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations" for all costs incurred whether charged on a direct or indirect basis. The grantee shall also comply with the applicable sections of 24 CFR Part 85, "Uniform Administrative Requirements for grants and cooperative agreements to state and local governments", and OMB Circular A-87.

B. Documentation and Record-Keeping

1. Records to be maintained

Grantee shall maintain all records required by federal regulations specified, and that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

a. Records providing a full description of each activity undertaken;
b. Records demonstrating that each activity undertaken meets one of the eligible activities of the ESG program;
c. Records required to determine the eligibility of activities;
d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with ESG assistance;

e. Records documenting compliance with the fair housing and equal opportunity components of the ESG program;
f. Financial records as required by 24 CFR Part 576 Subpart G and 24 CFR 84.
g. Other records necessary to document compliance with Subpart G of 24 CFR 576.

2. Retention

Grantee shall retain all records pertinent to expenditures incurred under this Agreement for a period of **four (4) years.** Records for non-expendable property acquired with funds under this contract shall be retained for four (4) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the four-year period, whichever occurs later.

3. Client Data

Grantee shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to City monitors or their designees for review upon request.

4. Disclosure

Grantee understands that client information collected under this contract is private and the use or disclosure of such information, when not directly connected with the administration of the City's or Grantee's responsibilities with respect to services provided under this contract, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian, unless otherwise required by law. All disclosures retained by Grantee relating to the Federal funds shall be governed by the provisions of the Texas Public Information Act (Texas Government Code Chapter 552).

5. Property Records

Grantee shall maintain real property inventory records which clearly identify properties purchased, improved or sold.

6. Close-Outs

Grantee's obligation to the City shall not end until all close-out requirements are completed. Activities during this close-out period shall include but are not limited to: making final payments, disposing of program assets (including the return of

all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the Grantee), final close-out report and determining the custodianship of records.

7. Audits and Inspections

All Grantee records with respect to any matters covered by this Agreement shall be made available to City, their designees or the Federal Government, at any time during normal business hours, as often as City deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by Grantee within **thirty (30) days** after receipt by the Grantee. Failure to comply with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of future payments. Grantee shall hereby agree to have an annual agency audit conducted in accordance with current City policy concerning Grantee audits and, as applicable, OMB Circular A-133.

Grantees meeting the OMB Circular A-133 requirements must submit their audits to the audit clearing house within nine (9) months after the entities fiscal year end date.

C. Reporting and Payment Procedures

1. Payment Procedures

The City will pay to the Grantee funds available under this contract based upon information submitted by the Grantee and consistent with any approved budget and City policy concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Grantee, and not to exceed actual cash requirements. Payments will be adjusted by the City in accordance with advance fund and program income balances available in Grantee accounts. In addition, the City reserves the right to liquidate funds available under this contract for costs incurred by the City on behalf of the Grantee.

2. Performance Reports

Grantee shall submit to City a Performance, Financial Report, and narrative information monthly or during their program activity time frame as requested by the city, in a format prescribed by the City and shall include the amount of funds expended for each of the eligible activities. Grantee shall submit the reports monthly no later than the 20th of each month.

The September financial and narrative reports must submitted by September 30. The performance report will remain due by the 20th of the following month. Reporting will continue from the start of program activity till the end of the program year. End of year reports are required.

D. Procurement

1. Compliance

The Grantee shall comply with current City policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets purchased with such funds (unexpended program income, property, equipment, etc.) shall revert to the City upon termination of this contract.

2. CFR Standards

Grantee shall procure all materials, property, or services in accordance with the requirements of 24 CFR 84, Procurement Standards, and shall subsequently follow the Property Management Standards as modified by 24 CFR 570.502(b)(6), covering utilization and disposal of property.

3. Travel

Grantee shall obtain written approval from the City for any travel outside the metropolitan area with funds provided under this contract.

E. Use and Reversion of Assets

The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 24 CFR Part 84 and CFR 570.502, 570.503, and 570.504, as applicable, which include but are not limited to the following:

1. The Sub-recipient shall transfer to the Grantee any CDBG funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.

2. Real property under the Sub-recipient's control that was acquired or improved, in whole or in part, with funds under this Agreement in excess of $25,000 shall be used to meet one of the CDBG National Objectives pursuant to 24 CFR 570.208 until five (5) years after expiration of this Agreement [or such longer period of time as the Grantee deems appropriate]. If the Sub-recipient fails to use CDBG-assisted real property in a manner that meets a CDBG National Objective for the prescribed period of time, the Sub-recipient shall pay the Grantee an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property. Such payment shall constitute program income to the Grantee. The Sub-recipient may retain real property acquired or improved under this Agreement after the expiration of the five-year [or such longer period of time as the Grantee deems appropriate.

3. In all cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds shall be program income (prorated to reflect the extent to that funds received under this Agreement were used to acquire the equipment). Equipment not needed by the Sub-recipient for activities under this Agreement shall be (a) transferred to the Grantee for the CDBG program or (b) retained after compensating the Grantee [an amount equal to the current fair market value of the equipment less the percentage of non-CDBG funds used to acquire the equipment].

IX. RELOCATION, REAL PROPERTY A CQUISITION AND ONE FOR ONE HOUSING REPLACEMENT

The Sub-recipient agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in 24 CFR 570.606(d) governing optional relocation policies. [The Grantee may preempt the optional policies.] The Sub-recipient shall provide relocation assistance to displaced persons as defined by 24 CFR 570.606(b)(2) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project. The Sub-recipient also agrees to comply with applicable Grantee ordinances, resolutions and policies concerning the displacement of persons from their residences.

X. PERSONNEL AND PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

Grantee agrees to comply and to require all subcontractors to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 109 of Title I of the Housing and Community Development Act of 1974, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086 and Executive Order 13279 and the regulations issued under the Order at 41 CFR Chapter 60.

2. Nondiscrimination

Grantee will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital/familial status, or status with regard to public assistance. Grantee will take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include

but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Grantee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provision of this nondiscrimination clause.

3. Section 504

Grantee agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), and all related regulations, which prohibits discrimination against the handicapped in any Federally assisted program. The City shall provide the Grantee with any guidelines necessary for compliance with that portion of the regulations in force during the term of this contract.

4. Reports

The Grantee shall maintain a report that documents the race/ethnicity of its employees. The Grantee shall provide the City a copy with said report upon execution of this Agreement.

5. Policies

The Grantee shall maintain current copies of its fair housing ad equal opportunity policies. The Grantee shall provide a copy of said policies to the City immediately upon request.

B. Affirmative Action

1. Approved Plan

The Grantee agrees that it shall be committed to carry out pursuant to the City's specifications an Affirmative Action Program in keeping with the principles as provided in the President's Executive Order 11246 of September 24, 1965. Grantees receiving federal funds through the City are required to develop a written affirmative action program to insure that equal opportunity is provided in all aspects of their employment.

2. Women-and Minority –Owned Businesses

Grantee will use its best efforts to afford minority- and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the term "minority and female business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American

Indians. The Grantee may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

3. Access to Records

Grantee shall furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

4. Notifications

Grantee will send to each labor union or representative of works with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Grantee's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5. EEO/AA Statement

Grantee will, in all solicitations or advertisements for employees placed by or on behalf of the Grantee, state that it is an Equal Opportunity and Affirmative Action employer.

6. Subcontractors

Grantee will include the provisions of Paragraph IX A, Civil Rights, and B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subrecipients or subcontractors.

C. Employment Restrictions

1. Prohibited Activity

Grantee is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; lobbying, political patronage, and nepotism activities.

2. Labor Standards

Grantee agrees to comply and require all subcontractors to comply with the requirements of the Secretary of Labor in accordance with the Davis Bacon Act as amended, the provisions of Contract Work Hours, the Safety Standards Act, the Copeland "Anti-Kickback" Act, and all other applicable federal, state, and local laws pertaining to labor standards insofar as those acts apply to the performance

of this Agreement. Grantee will maintain documentation which demonstrates compliance with hour and wage requirements of this part; this documentation shall be made available to the City for review upon request.

3. "Section 3" Clause

a. Compliance

Grantee agrees to comply with the provisions of Section 3 of the Housing and Urban Development Act, as amended (12 USC §1701, et al.) and to include the following clause in all subcontracts executed under this Agreement:

> "The work to be performed under this Contract is a project assisted under a program providing direct federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."

Grantee certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements.

D. Conduct

1. Assignability

Grantee shall not assign or transfer any interest in this contract without the prior written consent of the City thereto; provided, however, that claims for money due or to become due to the Grantee from the City under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

2. Subcontracts

a. Approvals

Grantee shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of the City prior to the execution of such agreement.

b. Monitoring

Grantee will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content

Grantee shall cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d. Selection Process

Grantee shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the Grantee along with documentation concerning the selection process.

e. Suspension/Disbarment

The Grantee shall not enter into any subcontracts with an agency, business or individual that has been suspended, disbarred or otherwise excluded from federal grants. The Grantee shall maintain records demonstrating that it has reviewed potential subcontractors against the debarred and excluded list prior to committing any grant funds to a subcontract.

3. Hatch Act

Grantee agrees that no funds provided, nor personnel employed under this contract, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

4. Conflict of Interest

The Grantee shall maintain written codes of conduct that govern the performance of it employees engaged in the award and administration of contracts. Said codes of conduct shall be in compliance with 24 CFR 84.42.

Grantee and City agree to abide by the provisions of 24 CFR § 576.57 (d) with respect to conflicts of interest, and Grantee covenants that it presently has no financial interest, direct or indirect, which would conflict in any manner or degree with the performance of the services required under this Agreement. Grantee further covenants that in the performance of this Agreement no person having such a financial interest shall be employed or retained by the Grantee hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the City, or of any designed public agencies or subrecipients which are receiving funds under the ESG Program.

5. Lobbying

Grantee hereby certifies that it is in compliance with the provisions of the Byrd Amendment (42 USC § 3537, and § 3545, and 31 USC 1352) and the implementing regulations at 24 CFR Parts 4 and 87 as follows:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract grant, loan or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions;

c. It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly; and

d. Lobbying Certification

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 31 USC §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

6. Copyright

If this contract results in any copyrightable material or inventions, the City reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

7. Religious Organization

Grantee agrees that funds provided under this contract will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the Federal regulations specified in 24 CFR 576.22(b).

X. ENVIRONMENTAL CONDITIONS

A. Air and Water

Grantee agrees to comply with the following requirement insofar as they apply to the performance of this contract:

Clean Air Act, 42 U.S.C., 7401, et seq. Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder. Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R., Part 50, as amended, and any and all Federal, state, and local laws and regulations and guidelines relating to or pertaining to environmental matters.

B. Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 USC 4001), the Grantee shall assure that for activities located in an area identified by FEMA as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation), and any or all related Federal, State, or local laws, regulations and guidelines.

C. Lead-Based Paint

Grantee agrees that any construction or rehabilitation of residential structures with assistance provided under this contract shall be subject to the Lead-Based Paint Poisoning Prevention Act (42 USC 4821 through 4846) and 24 CFR Part 35, and any or all related Federal, state, or local laws, regulations or guidelines as applicable.

D. Asbestos

Grantee agrees to comply with the Texas Asbestos Health Protection Act set forth at Article 4477-3a Section 12 of the Texas Civil Statutes and the National Emission Standard for Asbestos Regulations set forth at 40 CFR Part 61, and any or all related Federal, state, or local laws, regulations or guidelines.

E. Historic Preservation

Grantee agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR, Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this contract, and any or all related Federal, state or local laws, regulations or guidelines.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

XI. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

XIII. SECTION HEADINGS AND SUBHEADINGS

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

XIV. WAIVER

The Grantee's failure to act with respect to a breach by the Sub-recipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the Grantee to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

XV. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the Grantee and the Sub-recipient for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the Grantee and the Sub-recipient with respect to this Agreement.

XIV. WAIVER

The Grantee's failure to act with respect to a breach by the Sub-recipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the Grantee to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

XV. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the Grantee and the Sub-recipient for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the Grantee and the Sub-recipient with respect to this Agreement.

IN WITNESS WHEREOF, the Parties have executed this contract as of the date first written above.

CITY OF LUBBOCK

GLEN C. ROBERTSON
MAYOR

ATTEST:

Rebecca Garza, City Secretary

FAMILY PROMISE OF LUBBOCK, INC.

Doug Morris
Executive Director

FED. I.D. # 75-2758106

Board Chair, Mike King

APPROVED AS TO CONTENT:

Karen Murfee, CD Director

APPROVED AS TO FORM:

Justin Pruitt, Assistant City Attorney

Regular City Council Meeting **5. 34.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - Community Development: Consider a resolution authorizing and directing the Mayor to execute for and on behalf of the City of Lubbock a Community Development funding contract 12608 and all related documents between the City of Lubbock and the Salvation Army of Lubbock from the Emergency Solutions Grant (ESG) for essential services, emergency shelter operations, rapid re-housing and homeless prevention.

Item Summary

Grantee: Salvation Army of Lubbock

Program: Emergency Shelter Operations
Essential Services
Homeless Prevention
Rapid Re-housing

Funding Source: 2015-2016 ESG

Use of Funds: The funds for this program will pay for the daily operations of the center which provides shelter for homeless families and their children, rapid re-housing including financial assistance to clients and for relocation & stabilization (case managers) services.

Amount: $15,804 Emergency Shelter Operations
$14,000 Essential Services
$10,000 Homeless Prevention
$10,000 Rapid Re-housing

Match: 100%

Return of Investment: Not required for Emergency Solutions Grant

Terms: October 1, 2015 through September 30, 2016

Comments: Funding for this contract was approved by City Council at the June 25, 2015 council meeting.

Fiscal Impact

Federal funds will be used from the Emergency Solutions Grant. The maximum to be allocated to this project is $49,804.

Staff/Board Recommending

Bill Howerton, Assistant City Manager

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, a Community Development funding contract and all related documents, between the City of Lubbock and Salvation Army of Lubbock, to allocate funding from the Emergency Solutions Grant to provide payment assistance for the operation of the Salvation Army Center that provides shelter for homeless families and financial assistance to Salvation Army clients. Said funding contract is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Bill Howerton, Assistant City Manager

APPROVED AS TO FORM:

_____
Justin Pruitt, Assistant City Attorney

ccdocs/RES. Agreement – Salvation Army of Lubbock – ESG Funds
November 11, 2015

COMMUNITY DEVELOPMENT EMERGENCY SOLUTIONS GRANT (ESG)
FUNDING AGREEMENT
BETWEEN
THE CITY OF LUBBOCK
AND
THE SALVATION ARMY A GEORGIA CORPORATION

STATE OF TEXAS §

COUNTY OF LUBBOCK §

This Agreement entered into on this 1st day of October 2015, by and between the CITY OF LUBBOCK (herein called "City") and **The Salvation Army,** A Georgia Corporation for the Salvation Army Lubbock, Texas, a non-profit center (herein called "Grantee").

WHEREAS, the City is obligated to do and perform certain services in its undertaking of an Emergency Solutions Grant Program pursuant to Subpart B of Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11371-11378), as amended by the Homeless Emergency and Rapid Transition to Housing Act of 2009 (Public Law 111-22) (HEARTH Act) and

WHEREAS, the Grantee operates a non-profit center offering services to the homeless; and

WHEREAS, the Corporation and the services it provides have been found to meet the criteria for funding under provisions 24 CFR §576.23 of the Emergency Solutions Regulation for Nonprofit Recipients; and

WHEREAS, the Emergency Shelter, Homeless Prevention, Rapid Re-Housing and Homeless Management Information System are fundable by the Department of Housing and Urban Development; and

WHEREAS, the accomplishment of the above public purpose is the predominant purpose of this transaction, continuing supervision by the City together with statutory and contractual requirements provide sufficient assurance that this purpose will be accomplished and an audit provides sufficient protection of the handling of public money; and

WHEREAS, the City Council has found that the Grantee has the special expertise, knowledge and experience necessary for the Emergency Shelter and Homeless Prevention programs and that the city will receive adequate consideration in the form of substantial public benefit; and

WHEREAS, the City desires to contract with the Grantee to make available assistance for both the **Essential Services, Emergency Shelter Operations and Homeless Prevention/Rapid Re-Housing Programs**

NOW, THEREFORE, it is agreed between the parties hereto that:

I. SCOPE OF SERVICE

A. Activities

The Grantee will be responsible for administering an **Emergency Solutions Grant Year 2015-2016, Essential Services, Emergency Shelter Operations and Homeless Prevention/Rapid Re-Housing Programs** in a manner satisfactory to the City and consistent with any standards required as a condition of providing these funds. Such program will include the activities eligible under the Emergency Shelter Operations and Homeless Prevention programs.

Program Delivery

Activity #1 - Essential Services funds will pay for case managers' services to clients who are homeless or at risk of becoming homeless. Services include case management, childcare, job training, legal services, and transportation.

Activity #2 - This project will provide funds for operations of facility at 1111 16th Street. Services include maintenance, insurance, and utilities for the shelter.

Activity #3- Rapid Re-Housing funds will provide direct assistance for client's last month's rent, past due utility bills, utility deposits, rental application fees, moving costs, credit repair, housing search and placement, housing stability case management, landlord-tenant mediation, tenant legal services and security deposits for those who are homeless or coming out of an emergency shelter.

Activity #4- Homeless Prevention funds will provide utilities, rental application fees, security deposits, last month's rent, utility deposits and payments, moving costs, housing search and placement, housing stability case management, landlord-tenant mediation, tenant legal services and credit repair. Clients must have a court-ordered eviction notice. Utility services must not be disconnected. Client must be at or below 30% of median.

B. Objective

The Grantee certifies that the activities carried out with funds provided under this Agreement will meet the suitable living environment, decent affordable housing and economic opportunity objectives by providing eligible activities that benefit communities, families or individuals by addressing issues in their living environment under the Emergency Solutions Grant program - as defined in 24 CFR §576.21 as amended by the HEARTH Act.

C. City Responsibilities

1. City agrees to provide Grantee assistance from U.S. Department of Housing and Urban Development funds in an amount not to exceed **$14,000** for

Essential Services, **$15,804** for Operations and **$20,000** for Homeless Prevention/Rapid Re-Housing in return for Grantee performing the activities set forth in this Agreement as consideration for said funds.

2. It is expressly understood and agreed by the parties hereto that City's responsibilities are contingent upon the actual receipt of adequate federal funds to meet City's liabilities under this agreement. If adequate funds are not available to make payments under this agreement, City shall notify Grantee in writing within a reasonable time after such fact is determined. City shall terminate this agreement and will not be liable for failure to make payments to Grantee under this agreement.

3. City shall not be liable to Grantee for any costs incurred by Grantee, or any portions thereof, which have been paid to Grantee or which are subject to payment to Grantee, or which have been reimbursed to Grantee or which are subject to reimbursement to Grantee by any source other than City or Grantee.

4. City shall not be liable to Grantee for any costs incurred by Grantee which are not allowable costs, as set forth in 24 CFR §576.21 as amended by the HEARTH Act.

5. City shall not be liable to Grantee for any costs incurred by Grantee or for any performances rendered by Grantee which are not strictly in accordance with the terms of this agreement.

6. City shall not be liable to Grantee for any costs incurred by Grantee in the performance of this agreement which have not been billed to City by Grantee within ninety (90) days following termination of this agreement.

7. City shall not be liable for costs incurred or performances rendered by Grantee before commencement of this agreement or after termination of this agreement.

8. City shall review all work specifications prior to the beginning of the procurement process.

9. City shall inspect work for compliance prior to any release of funds.

D. <u>Grantee's Responsibilities</u>

1. Grantee shall conduct, in a satisfactory manner as determined by City, an Emergency Solutions Grants Program pursuant to Subpart B of Title IV of the Stewart B. McKinney Homeless Assistance Act (42 USC §§11371-11378), as amended by the HEARTH Act.

2. Grantee shall perform all activities in accordance with their budget, all applicable Federal, state, and local laws, ordinances, statutes, rules, and regulations set forth herein; the assurance, certifications, and all other terms, provisions, and requirements set forth in this agreement.

3. Grantee agrees to comply with Housing and Urban Development (HUD) Outcome Performance Measurement requirements and reporting.

4. Grantee shall submit to city such reports on the operation and performance of this agreement during their program activity timeframe, as required by the City.

5. In addition to the limitations on liability otherwise specified in this agreement, it is expressly understood and agreed by the parties hereto that if Grantee fails to submit to City in a timely and satisfactory manner any report required by this agreement, City may, at its sole option and in its sole discretion, withhold any or all payments otherwise due or requested by Grantee hereunder. If City withholds such payments, it shall notify Grantee in writing of its decision and the reasons therefor. Payments withheld pursuant to this paragraph may be held by City until such time as the delinquent obligations for which funds are withheld are fulfilled by Grantee.

6. Grantee shall refund to City the money which has been paid to Grantee by City which City determines has resulted in overpayment to Grantee, or which City determines has not been spent by Grantee strictly in accordance with the terms of this agreement. Such refund shall be made by Grantee to City within thirty (30) working days after such refund is requested by City.

7. Grantee shall submit to City for review all work specifications prior to the beginning of the procurement process. Grantee shall notify City upon work completion for inspection prior to release of funds.

8. Grantee will verify and certify eligibility when the activity is a Low-mod Clientele program by signing and dating the Self Certification form.

E. Grantee's Match

1. Grantee agrees to provide as match an amount of funds equal to the amount of funds provided by City under this agreement for performances hereunder. Such funds must be provided from sources other than under this agreement. This amount shall be referred to hereinafter as Grantee's match. Match is subject to review and approval by the City of Lubbock.

2. Amounts may be counted toward Grantee's match only if such amounts are costs or resources of a type and amount as computed in accordance with this subsection and as set forth in 42 USC §11375. In calculating the amount of grantee's match, grantee may include the value of any donated material or building; the value of any lease on a building; any salary paid to staff of Grantee in carrying out the activities required under this agreement; and the time and services contributed by volunteers to carry out such activities, determined at the rate as determined by HUD and approved by the City. Grantee shall determine the value of any donated material or building, or any lease using any method reasonably calculated to establish a fair market value.

F. Levels of Accomplishment/Goals and Performance Measures

In addition to the normal administrative services required as part of this Agreement, the Grantee agrees to provide the following levels of program services:

Activity	Units Per Month*	Total Units/Year
Screen and admit clients, counseling, job referral, and provide room and board	208 (individuals)	2,490

*Residential and Non-Residential Individuals served.

G. Staffing

Staff Member	General Program Duties
Captain Bobby Parker	Overall oversight of center
Dianne Taylor, Social Service Director	Day to day operations
Gracie Perez, Case Manager	Project Management
Jemay Olivarez, Case Manager	Project Management

H. Performance Monitoring

1. General Statement:

The City will monitor the performance of the Grantee for compliance with goals and requirements as required or as it deems necessary in accordance with the regulations. Monitoring will be based on a risk analysis and a monitoring plan developed at the beginning of the fiscal year. Desk monitoring will take place on a monthly and quarterly basis as described below during grantees program activity timeframe. Substandard performance as determined by the City will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by the Grantee within a reasonable period of time after being notified by the City in writing, contract suspension or termination procedures will be initiated.

2. On-site Monitoring

- The number of on-site Monitoring Visits will be determined by the Community Development department of the City of Lubbock.
- Notification letter sent to grantee at least 15 days before on-site monitoring visit.

- Monitoring letter sent to grantee identifying concerns and findings if any within thirty (30) days of on-site monitoring visit.
- Grantee must provide a written response within thirty (30) days to the monitoring letter that describes how the grantee will resolve any issues. If no deficiencies were noted grantee must confirm receipt of report within thirty (30) days of the date of the letter.

II. TIME OF PERFORMANCE

This Agreement shall commence October 1, 2015, and shall terminate September 30, 2016. The term of the Agreement and the provisions herein may be extended to cover any additional time period during which the Grantee remains in control of ESG funds or other assets, including program income.

III. BUDGET

Line Item:	$ Amount:
Essential Services -	
Case Management	$14,000
Total Essential Services	**$14,000**
Operations -	
Utilities for Shelter	$5,804
Maintenance for Shelter	10,000
Total Operations	**$15,804**
Homeless Prevention/Rapid Re-Housing –	
Homeless Prevention	$10,000
Rapid Re-Housing	$10,000
Total Homeless Prevention / Rapid Re-Housing	**$20,000**
Total	**$49,804**

Specific Description of Activities:

The City may require a more detailed budget breakdown than the one contained herein, and the Grantee shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the City. Any changes to this budget must be approved in writing by the City.

IV. PAYMENT

All payments to grantees are on a monthly reimbursement basis. The Grantee will have incurred the expense or paid for the expense and submit detailed source documentation to the City when requesting payment.

It is expressly agreed and understood that the total amount to be paid by the City under this contract shall not exceed **$49,804.** Payment request must be submitted with back-up documentation such as time sheets, paycheck stubs, receipts, invoices, billing statements or other verification in support of all expenditures incurred and charged to the grant.

Payments may be contingent upon certification of the Grantee's financial management system in accordance with the standards specified in 24 CFR 84.

V. NOTICES

Communication and details concerning this Agreement shall be directed to the following contract representatives:

City	Grantee
Piata Bryant	Captain Bobby Parker
City of Lubbock	Salvation Army
P. O. Box 2000	P. O. Box 2785
Lubbock, TX 79457	Lubbock, TX 79408

VI. SPECIAL CONDITIONS

Use as an Emergency Shelter

Any building for which activities described in 24 CFR 576.21 (a)(2) or (a)(3) must be maintained as a shelter for the homeless for the period during which such assistance is provided and the building's use shall be governed by the provisions set forth in 24 CFR §576.53. A substitute site or shelter may be used during this period, so long as the same general population is served. For purposes of this contract, the term "same general population" means either the same types of homeless persons originally served with this Emergency Solutions Grant assistance (i.e. battered spouses) or persons in the same geographic area.

VII. GENERAL CONDITIONS

A. General Compliance

The Grantee agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the U. S. Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)) including subpart J and subpart K of these regulations, except that (1) the Grantee does not assume the recipient's environmental responsibilities described in 24 CFR 570.604 and (2) the Grantee does not assume the recipient's responsibility for initiating the review process under the provisions of 24 CFR Part 52. The Grantee also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract. The Grantee further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

The Grantee shall comply with all applicable Federal laws, regulations, and requirements and all provisions of this Agreement, which include compliance with the provisions of the HCD Act and all rules, regulations, guidelines, and circulars promulgated by the various Federal departments, agencies, administrations, and commissions relating to the CDBG Program. The applicable laws and regulations include, but are not limited to:

- 24 CFR Part 576.21 as amended by the HEARTH Act;
- OMB Circular A-87 "Cost Principles for State and Local Governments," or OMB Circular A-110, or OMB Circular A-122 "Cost Principles for Non-Profit Organizations," or OMB Circular A-21 "Cost Principles for Educational Institutions";
- OMB Circular A-128, "Audits of State and Local Governments" or OMB Circular A-133 Audits of Institutions of Higher Education and Other Non-Profit Institutions";
- The Davis-Bacon Fair Labor Standards Act;
- The Contract Work Hours and Safety Standards Act of 1962;
- Copeland "Anti-Kickback" act of 1934;
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA);
- Title VI of the Civil Rights Act of 1964; (Public Law 88-352 implemented in 24 CFR Part 1)
- Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (Public Law 90-234 and Executive Order 11063 as amended by Executive Order 12259 (implemented in 24 CFR Part 107);
- Section 104(b) and 109 of the Housing and Community Development Act of 1974;
- Section 3 of the Housing and Urban Development Act of 1968;
- Equal employment opportunity and minority business enterprise regulations established in 24 CFR Part 570.904;
- Non-discrimination in employment, established by Executive Order 11246 (as amended by Executive Orders 11375 and 12086)
- Section 504 of the Rehabilitation Act of 1973 Uniform Federal accessibility Standards;
- The Architectural Barriers Act of 1968;
- The Americans With Disabilities Act (ADA) of 1990;
- The Age Discrimination Act of 1975, as amended;
- National Environmental Policy of 1969 (42 USC 4321 et seq.), as amended
- Lead Based paint regulations established in 24 CFR Parts 35, 570.608, &24 CFR982.401;
- Asbestos guidelines established in CPD Notice 90-44;
- HUD Environmental Criteria and Standards (24CFR Part 51);
- The Energy Policy and conservation Act (Public Law 94-163) and 24 CFR Part39;
- Historic Preservation Act of 1966, as amended, and related laws and Executive Orders;
- Executive Order 11988, floodplain management, 1977 (42 FR 26951 et seq.);
- Flood Disaster protection Act of 1973

B. "Independent Contractor"

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. Grantee shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. City shall be exempt from payment of all

Unemployment Compensation, FICA, retirement, life and/or medical insurance and Worker's Compensation insurance as the Grantee is an independent contractor.

C. Indemnity and Release

Grantee shall indemnify and hold harmless, to the fullest extent permitted by law, the City, and City's respective officers, employees, elected officials and agents, from and against any and all losses, damages, claims or liabilities, of any kind or nature, which arise directly or indirectly, or are related to, in any way, manner or form, the activities contemplated hereunder.

Grantee shall pay to the City, the City's respective officers, employees, elected officials and/or agents, as applicable, all attorney's fees incurred by such parties in enforcing Grantee's indemnity in this section.

The City, and its respective officers, employees, elected officials and agents shall not be liable and Grantee hereby releases the City, and its respective officers, employees, elected officials and agents, for, from and/or against any losses, damages, claims or liabilities to Grantee

The indemnity and release provided herein shall survive the termination or voidance of this agreement.

D. Right to Exercise

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

E. Worker's Compensation

Grantee shall provide Worker's Compensation Insurance coverage for all of its employees involved in the performance of this contract.

F. Insurance and Bonding

Grantee shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum, shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from City.

Grantee shall comply with the bonding and insurance requirements of 24 CFR 84, Bonding and Insurance.

G. Grantor Recognition

Grantee shall insure recognition of the role of City's Emergency Solutions Grant program in providing funding through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, Grantee will include a reference to the support provided herein in all publications made possible with funds made available under this Agreement.

H. Amendments

City or Grantee may amend this Agreement at any time, provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly-authorized representative of both organizations and approved by the City Council if required by law. Such amendments shall not invalidate this Agreement, nor relieve nor release City or Grantee from its obligations under this Agreement.

City may, in its discretion, amend this Agreement to conform with federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both City and Grantee.

I. Suspension or Termination

Either party may terminate this Agreement at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least **thirty (30) days** before the effective date of such termination. Partial termination of the Scope of Service in Paragraph "I.A" above may only be undertaken with the prior written approval of the City. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports, or other materials prepared by Grantee under this Agreement shall at the option of City, become the property of City, and Grantee shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

City may also suspend or terminate this Agreement, in whole or in part, if Grantee materially fails to comply with any term of this Agreement, or with any of the rules, regulations, or provisions referred to herein and the City may declare the Grantee ineligible for any further participation in City contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe Grantee is in noncompliance with any applicable rules or regulations, City may withhold up to fifteen percent (15%) of said contract funds until such time as Grantee is found to be in compliance by City or is otherwise adjudicated to be in compliance.

The City may terminate this agreement in the event of an emergency or disaster, whether an act of God or manmade, by giving twenty-four (24) hour notice. This City may give said notice verbally to Grantee. Any expenditure incurred prior to receiving notice will be reimbursed; however, in no event shall the City pay any expenses incurred after notice of termination is received by Grantee.

J. Relocation and Acquisition

Grantee agrees to abide by the provisions relocation and assistance as set forth in 24 CFR §576.59 when applicable.

VIII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards

Grantee agrees to comply with 24 CFR 84 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles

Grantee shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations" for all costs incurred whether charged on a direct or indirect basis. The grantee shall also comply with the applicable sections of 24 CFR Part 85, "Uniform Administrative Requirements for grants and cooperative agreements to state and local governments", and OMB Circular A-87.

B. Documentation and Record-Keeping

1. Records to be maintained

Grantee shall maintain all records required by federal regulations specified, and that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

a. Records providing a full description of each activity undertaken;
b. Records demonstrating that each activity undertaken meets one of the eligible activities of the ESG program;
c. Records required to determine the eligibility of activities;
d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with ESG assistance;
e. Records documenting compliance with the fair housing and equal opportunity components of the ESG program;
f. Financial records as required by 24 CFR Part 576 Subpart G and 24 CFR 84.
g. Other records necessary to document compliance with Subpart G of 24 CFR 576.

2. Retention

Grantee shall retain all records pertinent to expenditures incurred under this Agreement for a period of **four (4) years.** Records for non-expendable property acquired with funds under this contract shall be retained for four (4) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the four-year period, whichever occurs later.

3. Client Data

Grantee shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to City monitors or their designees for review upon request.

4. Disclosure

Grantee understands that client information collected under this contract is private and the use or disclosure of such information, when not directly connected with the administration of the City's or Grantee's responsibilities with respect to services provided under this contract, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian, unless otherwise required by law. All disclosures retained by Grantee relating to the Federal funds shall be governed by the provisions of the Texas Public Information Act (Texas Government Code Chapter 552).

5. Property Records

Grantee shall maintain real property inventory records which clearly identify properties purchased, improved or sold.

6. Close-Outs

Grantee's obligation to the City shall not end until all close-out requirements are completed. Activities during this close-out period shall include but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the Grantee), final close-out report and determining the custodianship of records.

7. Audits and Inspections

All Grantee records with respect to any matters covered by this Agreement shall be made available to City, their designees or the Federal Government, at any time during normal business hours, as often as City deems necessary, to audit,

examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by Grantee within **thirty (30) days** after receipt by the Grantee. Failure to comply with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of future payments. Grantee shall hereby agree to have an annual agency audit conducted in accordance with current City policy concerning Grantee audits and, as applicable, OMB Circular A-133.

Grantees meeting the OMB Circular A-133 requirements must submit their audits to the audit clearing house within nine (9) months after the entities fiscal year end date.

C. Reporting and Payment Procedures

1. Payment Procedures

The City will pay to the Grantee funds available under this contract based upon information submitted by the Grantee and consistent with any approved budget and City policy concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Grantee, and not to exceed actual cash requirements. Payments will be adjusted by the City in accordance with advance fund and program income balances available in Grantee accounts. In addition, the City reserves the right to liquidate funds available under this contract for costs incurred by the City on behalf of the Grantee.

2. Performance Reports

Grantee shall submit to City a Performance, Financial report, and narrative information monthly or during their program activity time frame as requested by the city, in a format prescribed by the City and shall include the amount of funds expended for each of the eligible activities. Grantee shall submit the reports monthly no later than the 20th of each month.

The September financial and narrative reports must submitted by September 30. The performance report will remain due by the 20th of the following month. End of year reports are required.

D. Procurement

1. Compliance

The Grantee shall comply with current City policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets purchased with such funds (unexpended program income, property, equipment, etc.) shall revert to the City upon termination of this contract.

2. CFR Standards

Grantee shall procure all materials, property, or services in accordance with the requirements of 24 CFR 84, Procurement Standards, and shall subsequently follow the Property Management Standards as modified by 24 CFR 570.502(b)(6), covering utilization and disposal of property.

3. Travel

Grantee shall obtain written approval from the City for any travel outside the metropolitan area with funds provided under this contract.

E. Use and Reversion of Assets

The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 24 CFR Part 84 and CFR 570.502, 570.503, and 570.504, as applicable, which include but are not limited to the following:

1. The Sub-recipient shall transfer to the Grantee any CDBG funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.

2. Real property under the Sub-recipient's control that was acquired or improved, in whole or in part, with funds under this Agreement in excess of $25,000 shall be used to meet one of the CDBG National Objectives pursuant to 24 CFR 570.208 until five (5) years after expiration of this Agreement [or such longer period of time as the Grantee deems appropriate]. If the Sub-recipient fails to use CDBG-assisted real property in a manner that meets a CDBG National Objective for the prescribed period of time, the Sub-recipient shall pay the Grantee an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property. Such payment shall constitute program income to the Grantee. The Sub-recipient may retain real property acquired or improved under this Agreement after the expiration of the five-year [or such longer period of time as the Grantee deems appropriate.

3. In all cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds shall be program income (prorated to reflect the extent to that funds received under this Agreement were used to acquire the equipment). Equipment not needed by the Sub-recipient for activities under this Agreement shall be (a) transferred to the Grantee for the CDBG program or (b) retained after compensating the Grantee [an amount equal to the current fair market value of the equipment less the percentage of non-CDBG funds used to acquire the equipment].

IX. RELOCATION, REAL PROPERTY ACQUISITION AND ONE FOR ONE HOUSING REPLACEMENT

The Sub-recipient agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in 24 CFR 570.606(d) governing optional relocation policies. [The Grantee may preempt the optional policies.] The Sub-recipient shall provide relocation assistance to displaced persons as defined by 24 CFR 570.606(b) (2) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project. The Sub-recipient also agrees to comply with applicable Grantee ordinances, resolutions and policies concerning the displacement of persons from their residences.

X. PERSONNEL AND PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

Grantee agrees to comply and to require all subcontractors to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 109 of Title I of the Housing and Community Development Act of 1974, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086 and Executive Order 13279 and the regulations issued under the Order at 41 CFR Chapter 60.

2. Nondiscrimination

Grantee will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital/familial status, or status with regard to public assistance. Grantee will take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Grantee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provision of this nondiscrimination clause.

3. Section 504

Grantee agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706),

and all related regulations, which prohibits discrimination against the handicapped in any Federally assisted program. The City shall provide the Grantee with any guidelines necessary for compliance with that portion of the regulations in force during the term of this contract.

4. Reports

The Grantee shall maintain a report that documents the race/ethnicity of its employees. The Grantee shall provide the City a copy with said report upon execution of this Agreement.

5. Policies

The Grantee shall maintain current copies of its fair housing ad equal opportunity policies. The Grantee shall provide a copy of said policies to the City immediately upon request.

B. Affirmative Action

1. Approved Plan

The Grantee agrees that it shall be committed to carry out pursuant to the City's specifications an Affirmative Action Program in keeping with the principles as provided in the President's Executive Order 11246 of September 24, 1965. Grantees receiving federal funds through the City are required to develop a written affirmative action program to insure that equal opportunity is provided in all aspects of their employment.

2. Women-and Minority-Owned Businesses

Grantee will use its best efforts to afford minority- and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the term "minority and female business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Grantee may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

3. Access to Records

Grantee shall furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

4. Notification

Grantee will send to each labor union or representative of works with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Grantee's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5. EEO/AA Statement

Grantee will, in all solicitations or advertisements for employees placed by or on behalf of the Grantee, state that it is an Equal Opportunity and Affirmative Action employer.

6. Subcontractors

Grantee will include the provisions of Paragraph IX A, Civil Rights, and B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subrecipients or subcontractors.

C. Employment Restrictions

1. Prohibited Activity

Grantee is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; lobbying, political patronage, and nepotism activities.

2. Labor Standards

Grantee agrees to comply and require all subcontractors to comply with the requirements of the Secretary of Labor in accordance with the Davis Bacon Act as amended, the provisions of Contract Work Hours, the Safety Standards Act, the Copeland "Anti-Kickback" Act, and all other applicable federal, state, and local laws pertaining to labor standards insofar as those acts apply to the performance of this Agreement. Grantee will maintain documentation which demonstrates compliance with hour and wage requirements of this part; this documentation shall be made available to the City for review upon request.

3. "Section 3" Clause

a. Compliance

Grantee agrees to comply with the provisions of Section 3 of the Housing and Urban Development Act, as amended (12 USC §1701, et al.) and to include the following clause in all subcontracts executed under this Agreement:

"The work to be performed under this Contract is a project assisted under a program providing direct federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."

Grantee certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements.

b. Notifications

The Sub-recipient agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

c. Subcontracts

The Sub-recipient will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Sub-recipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the entity has first provided it with a preliminary states of ability to comply with the requirement of these regulations.

D. Conduct

1. Assignability

Grantee shall not assign or transfer any interest in this contract without the prior written consent of the City thereto; provided, however, that claims for money due or to become due to the Grantee from the City under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

2. Subcontracts

a. Approvals

Grantee shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of the City prior to the execution of such agreement.

b. Monitoring

Grantee will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content

Grantee shall cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d. Selection Process

Grantee shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the Grantee along with documentation concerning the selection process.

e. Suspension/Disbarment

The Grantee shall not enter into any subcontracts with an agency, business or individual that has been suspended, disbarred or otherwise excluded from federal grants. The Grantee shall maintain records demonstrating that it has reviewed potential subcontractors against the debarred and excluded list prior to committing any grant funds to a subcontract.

3. Hatch Act

Grantee agrees that no funds provided, nor personnel employed under this contract, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

4. Conflict of Interest

The Grantee shall maintain written codes of conduct that govern the performance of it employees engaged in the award and administration of contracts. Said codes of conduct shall be in compliance with 24 CFR 84.42 and 570.611.

Grantee and City agree to abide by the provisions of 24 CFR § 576.57 (d) with respect to conflicts of interest, and Grantee covenants that it presently has no financial interest, direct or indirect, which would conflict in any manner or degree with the performance of the services required under this Agreement. Grantee further covenants that in the performance of this Agreement no person having

such a financial interest shall be employed or retained by the Grantee hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the City, or of any designed public agencies or subrecipients which are receiving funds under the ESG Program.

5. Lobbying

Grantee hereby certifies that it is in compliance with the provisions of the Byrd Amendment (42 USC § 3537, and § 3545, and 31 USC 1352) and the implementing regulations at 24 CFR Parts 4 and 87 as follows:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract grant, loan or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions;

c. It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly; and

d. Lobbying Certification

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 31 USC §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

6. Copyright

If this contract results in any copyrightable material or inventions, the City reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

7. Religious Organization

Grantee agrees that funds provided under this contract will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the Federal regulations specified in 24 CFR 576.22(b).

XI. ENVIRONMENTAL CONDITIONS

A. Air and Water

Grantee agrees to comply with the following requirement insofar as they apply to the performance of this contract:

Clean Air Act, 42 U.S.C., 7401, et seq. Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder. Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R., Part 50, as amended, and any and all Federal, state, and local laws and regulations and guidelines relating to or pertaining to environmental matters.

B. Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 USC 4001), the Grantee shall assure that for activities located in an area identified by FEMA as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation), and any or all related Federal, State, or local laws, regulations and guidelines.

C. Lead-Based Paint

Grantee agrees that any construction or rehabilitation of residential structures with assistance provided under this contract shall be subject to the Lead-Based Paint Poisoning Prevention Act (42 USC 4821 through 4846) and 24 CFR Part 35, and any or all related Federal, state, or local laws, regulations or guidelines as applicable.

D. Asbestos

Grantee agrees to comply with the Texas Asbestos Health Protection Act set forth at Article 4477-3a Section 12 of the Texas Civil Statutes and the National Emission

Standard for Asbestos Regulations set forth at 40 CFR Part 61, and any or all related Federal, state, or local laws, regulations or guidelines.

E. Historic Preservation

Grantee agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR, Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this contract, and any or all related Federal, state or local laws, regulations or guidelines.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

XII. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

XIII. SECTION HEADINGS AND SUBHEADINGS

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

XIV. WAIVER

The Grantee's failure to act with respect to a breach by the Sub-recipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the Grantee to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

XV. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the Grantee and the Sub-recipient for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the Grantee and the Sub-recipient with respect to this Agreement.

IN WITNESS WHEREOF, the Parties have executed this contract as of the date first written above.

CITY OF LUBBOCK

GLEN C. ROBERTSON
MAYOR

ATTEST:

Rebecca Garza, City Secretary

THE SALVATION ARMY
A GEORGIA CORPORATION

Captain Anthony Juliana
Authorized Representative

FED. I.D. # 58-0660607

Board Chair

APPROVED AS TO CONTENT:

Karen Murfee, CD Director

APPROVED AS TO FORM:

Justin Pruitt, Assistant City Attorney

Regular City Council Meeting **5. 35.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - Community Development: Consider a resolution authorizing and directing the Mayor to execute for and on behalf of the City of Lubbock a Community Development funding contract 12609 and all related documents between the City of Lubbock and the Women's Protective Services (WPS) from the Emergency Solutions Grant (ESG) for essential services, emergency shelter operations and rapid re-housing.

Item Summary

Grantee: WPS

Programs: Emergency Shelter Operations
Essential Services
Rapid Re-housing

Funding Source: 2015-2016 ESG

Use of Funds: The funds for this program will be used to pay for an Essential Services Coordinator to provide support services and referrals for the purpose of assisting women, children and families of domestic violence to become and remain self-sufficient and free from violence; and to provide financial assistance and relocation & stabilization services.

Amount: $5,000 Emergency Shelter Operations
$15,000 Essential Services
$26,000 Rapid Re-housing

Match: 100%

Return of Investment: Not required for Emergency Solutions Grant

Terms: October 1, 2015 through September 30, 2016

Comments: Funding for this contract was approved by City Council at the June 25, 2015 council meeting.

Fiscal Impact

Federal funds will be used from the Emergency Solutions Grant. The maximum to be allocated to this project is $46,000.

Staff/Board Recommending

Bill Howerton, Assistant City Manager

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, a Community Development funding contract and all related documents, between the City of Lubbock and Women's Protective Services (WPS), to allocate funding from the Emergency Solutions Grant to provide payment for an Essential Services Coordinator, emergency shelter operations, and a rapid re-housing program for WPS. Said funding contract is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Bill Howerton, Assistant City Manager

APPROVED AS TO FORM:

_____
Justin Pruitt, Assistant City Attorney

ccdocs/RES. Agreement – Women's Protective Services – ESG Funds
November 11, 2015

COMMUNITY DEVELOPMENT EMERGENCY SOLUTIONS GRANT (ESG)
FUNDING AGREEMENT
BETWEEN
THE CITY OF LUBBOCK
AND
WOMEN'S PROTECTIVE SERVICES (WPS)

STATE OF TEXAS §

COUNTY OF LUBBOCK §

This Agreement entered into on this 1st day of October 2015, by and between the CITY OF LUBBOCK (herein called "City") and **Women's Protective Services (WPS)**, a non-profit center (herein called "Grantee").

WHEREAS, the City is obligated to do and perform certain services in its undertaking of an Emergency Solutions Grant Program pursuant to Subpart B of Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11371-11378), as amended by the Homeless Emergency and Rapid Transition to Housing Act of 2009 (Public Law 111-22) (HEARTH Act) and

WHEREAS, the Grantee operates a non-profit center offering services to the homeless; and

WHEREAS, the Corporation and the services it provides have been found to meet the criteria for funding under provisions 24 CFR §576.23 of the Emergency Solutions Regulation for Nonprofit Recipients; and

WHEREAS, the Emergency Shelter, Homeless Prevention, Rapid Re-Housing and Homeless Management Information System are fundable by the Department of Housing and Urban Development; and

WHEREAS, the accomplishment of the above public purpose is the predominant purpose of this transaction, continuing supervision by the City together with statutory and contractual requirements provide sufficient assurance that this purpose will be accomplished and an audit provides sufficient protection of the handling of public money; and

WHEREAS, the City Council has found that the Grantee has the special expertise, knowledge and experience necessary for the Emergency Shelter and Rapid Re-Housing programs and that the city will receive adequate consideration in the form of substantial public benefit; and

WHEREAS, the City desires to contract with the Grantee to make available assistance for the **Women's Protective Services Emergency Shelter Essential Services and Rapid Re-Housing Programs**

NOW, THEREFORE, it is agreed between the parties hereto that:

I. **SCOPE OF SERVICE**

A. Activities

The Grantee will be responsible for administering an Emergency Solutions Grant Year 2015-2016 Emergency Shelter Essential Services and Rapid Re-Housing programs in a manner satisfactory to the City and consistent with any standards required as a condition of providing these funds. Such program will include the activities eligible under the Emergency Solutions Grant Program.

Program Delivery

Activity #1 - The funds will assist with the facility's Essential Services Coordinator and direct services cost in the form of transportation and prescriptions for clients.

Activity #2 - Under rapid Re-Housing it will assist with direct assistance to clients including rent, utilities, and security deposits and for facility staff case managers.

The facility will serve approximately 1000 individuals who have experienced recent domestic violence.

B. Objective

The Grantee certifies that the activities carried out with funds provided under this Agreement will meet the economic opportunity objective by providing eligible activities related to economic development, commercial revitalization, and job creation under the Emergency Solutions Grant program - as defined in 24 CFR §576.21 as amended by the HEARTH Act.

C. City Responsibilities

1. City agrees to provide Grantee assistance from U.S. Department of Housing and Urban Development funds in an amount not to exceed **$15,000** for Essential Services, **$26,000** for Rapid Re-Housing and **$5,000** for Operations in return for Grantee performing the activities set forth in this Agreement as consideration for said funds.

2. It is expressly understood and agreed by the parties hereto that City's responsibilities are contingent upon the actual receipt of adequate federal funds to meet City's liabilities under this agreement. If adequate funds are not available to make payments under this agreement, City shall notify Grantee in writing within a reasonable time after such fact is determined. City shall terminate this agreement and will not be liable for failure to make payments to Grantee under this agreement.

3. City shall not be liable to Grantee for any costs incurred by Grantee, or any portions thereof, which have been paid to Grantee or which are subject to

payment to Grantee, or which have been reimbursed to Grantee or which are subject to reimbursement to Grantee by any source other than City or Grantee.

4. City shall not be liable to Grantee for any costs incurred by Grantee which are not allowable costs, as set forth in 24 CFR §576.21 as amended by the HEARTH Act.

5. City shall not be liable to Grantee for any costs incurred by Grantee or for any performances rendered by Grantee which are not strictly in accordance with the terms of this agreement.

6. City shall not be liable to Grantee for any costs incurred by Grantee in the performance of this agreement which have not been billed to City by Grantee within ninety (90) days following termination of this agreement.

7. City shall not be liable for costs incurred or performances rendered by Grantee before commencement of this agreement or after termination of this agreement.

8. City shall review all work specifications prior to the beginning of the procurement process.

9. City shall inspect work for compliance prior to any release of funds.

D. Grantee's Responsibilities

1. Grantee shall conduct, in a satisfactory manner as determined by City, an Emergency Solutions Grants Program pursuant to Subpart B of Title IV of the Stewart B. McKinney Homeless Assistance Act (42 USC §§11371-11378), as amended by the HEARTH Act.

2. Grantee shall perform all activities in accordance with their budget, all applicable Federal, state, and local laws, ordinances, statutes, rules, and regulations set forth herein; the assurance, certifications, and all other terms, provisions, and requirements set forth in this agreement.

3. Grantee agrees to comply with Housing and Urban Development (HUD) Outcome Performance Measurement requirements and reporting.

4. Grantee shall submit to city such reports on the operation and performance of this agreement during their program activity timeframe, as required by the City.

5. In addition to the limitations on liability otherwise specified in this agreement, it is expressly understood and agreed by the parties hereto that if Grantee fails to submit to City in a timely and satisfactory manner any report required by this agreement, City may, at its sole option and in its sole discretion, withhold any or all payments otherwise due or requested by Grantee hereunder. If City withholds such payments, it shall notify Grantee in writing of its decision and the reasons therefor. Payments withheld pursuant to this paragraph may be

held by City until such time as the delinquent obligations for which funds are withheld are fulfilled by Grantee.

6. Grantee shall refund to City the money which has been paid to Grantee by City which City determines has resulted in overpayment to Grantee, or which City determines has not been spent by Grantee strictly in accordance with the terms of this agreement. Such refund shall be made by Grantee to City within thirty (30) working days after such refund is requested by City.

7. Grantee shall submit to City for review all work specifications prior to the beginning of the procurement process. Grantee shall notify City upon work completion for inspection prior to release of funds.

8. Grantee will verify and certify eligibility when the activity is a Low-mod Clientele program by signing and dating the Self Certification form.

E. Grantee's Match

1. Grantee agrees to provide as match an amount of funds equal to the amount of funds provided by City under this agreement for performances hereunder. Such funds must be provided from sources other than under this agreement. This amount shall be referred to hereinafter as Grantee's match. Match is subject to review and approval by the City of Lubbock.

2. Amounts may be counted toward Grantee's match only if such amounts are costs or resources of a type and amount as computed in accordance with this subsection and as set forth in 42 USC §11375. In calculating the amount of grantee's match, grantee may include the value of any donated material or building; the value of any lease on a building; any salary paid to staff of Grantee in carrying out the activities required under this agreement; and the time and services contributed by volunteers to carry out such activities, determined at the rate as determined by HUD and approved by the City. Grantee shall determine the value of any donated material or building, or any lease using any method reasonably calculated to establish a fair market value.

F. Levels of Accomplishment/Goals and Performance Measures

In addition to the normal administrative services required as part of this Agreement, the Grantee agrees to provide the following levels of program services:

Activity	Units Per Month*	Total Units/Year
Screen and admit clients, counseling, job referral and provide room and board	**115 (individuals)**	**1,382**

*Residential and Non-Residential Individuals served.

G. Staffing

Staff Member	General Program Duties
Jason Henry, Director	Overall oversight of center
Monica Montelongo, Essential Services Coordinator	Case management
Amanda McPeak, Financial Administrator	Bookkeeping and clerical duties

H. Performance Monitoring

1. General Statement:

The City will monitor the performance of the Grantee for compliance with goals and requirements as required or as it deems necessary in accordance with the regulations. Monitoring will be based on a risk analysis and a monitoring plan developed at the beginning of the fiscal year. Desk monitoring will take place on a monthly and quarterly basis as described below during grantees program activity timeframe. Substandard performance as determined by the City will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by the Grantee within a reasonable period of time after being notified by the City in writing, contract suspension or termination procedures will be initiated.

2. On-site Monitoring

- The number of on-site Monitoring Visits will be determined by the Community Development department of the City of Lubbock.
- Notification letter sent to grantee at least 15 days before on-site monitoring visit.
- Monitoring letter sent to grantee identifying concerns and findings if any within thirty (30) days of on-site monitoring visit.
- Grantee must provide a written response within thirty (30) days to the monitoring letter that describes how the grantee will resolve any issues. If no deficiencies were noted grantee must confirm receipt of report within thirty (30) days of the date of the letter.

II. TIME OF PERFORMANCE

This Agreement shall commence October 1, 2015, and shall terminate September 30, 2016. The term of the Agreement and the provisions herein may be extended to cover

any additional time period during which the Grantee remains in control of ESG funds or other assets, including program income.

III. BUDGET

Line Item:	$ Amount:
Emergency Shelter	
Essential Services Coordinator Personnel	$13,800
Payroll Taxes	$ 1,200
Total Emergency Shelter Essential Services	**$15,000**
Rapid Re-Housing	
Financial Assistance (direct assistance to clients)	$18,000
Relocation & Stabilization (case managers)	$ 8,000
Total Rapid Re-Housing	**$26,000**
Emergency Shelter	
Operations	
Office Supplies	$ 166
Copy Supplies	$ 166
Postage	$ 168
Telephone	$2,500
Vehicle Fuel/Mileage	$2,000
Total Operations	**$5,000**
*Rental of Equipment not included in budget	
Total of Emergency Shelter & Rapid Re-Housing	**$46,000**

Specific Description of Activities:

The City may require a more detailed budget breakdown than the one contained herein, and the Grantee shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the City. Any changes to this budget must be approved in writing by the City.

IV. PAYMENT

All payments to grantees are on a monthly reimbursement basis. The Grantee will have incurred the expense or paid for the expense and submit detailed source documentation to the City when requesting payment.

It is expressly agreed and understood that the total amount to be paid by the City under this contract shall not exceed **$46,000**. Requests for payment of eligible expenses shall be made against the line item budgets specified in Paragraph III herein and in accordance with performance. Expenses for general administration shall also be paid against the line item budgets specified in Paragraph III and in accordance with performance.

Payment request must be submitted with back-up documentation such as time sheets, paycheck stubs, receipts, invoices, billing statements or other verification in support of all expenditures incurred and charged to the grant.

Payments may be contingent upon certification of the Grantee's financial management system in accordance with the standards specified in 24 CFR 84.

V. NOTICES

Communication and details concerning this Agreement shall be directed to the following contract representatives:

City	Grantee
Piata Bryant	Jason Henry, Director
City of Lubbock	Women's Protective Services
P. O. Box 2000	P. O. Box 54089
Lubbock, TX 79457	Lubbock, TX 79453

VI. SPECIAL CONDITIONS

Use as an Emergency Shelter

Any building for which activities described in 24 CFR 576.21 (a)(2) or (a)(3) must be maintained as a shelter for the homeless for the period during which such assistance is provided and the building's use shall be governed by the provisions set forth in 24 CFR §576.53. A substitute site or shelter may be used during this period, so long as the same general population is served. For purposes of this contract, the term "same general population" means either the same types of homeless persons originally served with this Emergency Solutions Grant assistance (i.e. battered spouses) or persons in the same geographic area.

VII. GENERAL CONDITIONS

A. General Compliance

The Grantee agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the U. S. Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)) including subpart J and subpart K of these regulations, except that (1) the Grantee does not assume the recipient's environmental responsibilities described in 24 CFR 570.604 and (2) the Grantee does not assume the recipient's responsibility for initiating the review process under the provisions of 24 CFR Part 52. The Grantee also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract. The Grantee further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

The Grantee shall comply with all applicable Federal laws, regulations, and requirements and all provisions of this Agreement, which include compliance with the provisions of

the HCD Act and all rules, regulations, guidelines, and circulars promulgated by the various Federal departments, agencies, administrations, and commissions relating to the CDBG Program. The applicable laws and regulations include, but are not limited to:

- 24 CFR Part 576.21 as amended by the HEARTH Act;
- OMB Circular A-87 "Cost Principles for State and Local Governments," or OMB Circular A-110, or OMB Circular A-122 "Cost Principles for Non-Profit Organizations," or OMB Circular A-21 "Cost Principles for Educational Institutions";
- OMB Circular A-128, "Audits of State and Local Governments" or OMB Circular A-133 Audits of Institutions of Higher Education and Other Non-Profit Institutions";
- The Davis-Bacon Fair Labor Standards Act;
- The Contract Work Hours and Safety Standards Act of 1962;
- Copeland "Anti-Kickback" act of 1934;
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA);
- Title VI of the Civil Rights Act of 1964; (Public Law 88-352 implemented in 24 CFR Part 1)
- Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (Public Law 90-234 and Executive Order 11063 as amended by Executive Order 12259 (implemented in 24 CFR Part 107);
- Section 104(b) and 109 of the Housing and Community Development Act of 1974;
- Section 3 of the Housing and Urban Development Act of 1968;
- Equal employment opportunity and minority business enterprise regulations established in 24 CFR Part 570.904;
- Non-discrimination in employment, established by Executive Order 11246 (as amended by Executive Orders 11375 and 12086)
- Section 504 of the Rehabilitation Act of 1973 Uniform Federal accessibility Standards;
- The Architectural Barriers Act of 1968;
- The Americans With Disabilities Act (ADA) of 1990;
- The Age Discrimination Act of 1975, as amended;
- National Environmental Policy of 1969 (42 USC 4321 et seq.), as amended
- Lead Based paint regulations established in 24 CFR Parts 35, 570.608, &24 CFR982.401;
- Asbestos guidelines established in CPD Notice 90-44;
- HUD Environmental Criteria and Standards (24CFR Part 51);
- The Energy Policy and conservation Act (Public Law 94-163) and 24 CFR Part39;
- Historic Preservation Act of 1966, as amended, and related laws and Executive Orders;
- Executive Order 11988, floodplain management, 1977 (42 FR 26951 et seq.);
- Flood Disaster protection Act of 1973

B. "Independent Contractor"

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. Grantee shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. City shall be exempt from payment of all

Unemployment Compensation, FICA, retirement, life and/or medical insurance and Worker's Compensation insurance as the Grantee is an independent contractor.

C. Indemnity and Release

Grantee shall indemnify and hold harmless, to the fullest extent permitted by law, the City, and City's respective officers, employees, elected officials and agents, from and against any and all losses, damages, claims or liabilities, of any kind or nature, which arise directly or indirectly, or are related to, in any way, manner or form, the activities contemplated hereunder.

Grantee shall pay to the City, the City's respective officers, employees, elected officials and/or agents, as applicable, all attorney's fees incurred by such parties in enforcing Grantee's indemnity in this section.

The City, and its respective officers, employees, elected officials and agents shall not be liable and Grantee hereby releases the City, and its respective officers, employees, elected officials and agents, for, from and/or against any losses, damages, claims or liabilities to Grantee

The indemnity and release provided herein shall survive the termination or voidance of this agreement.

D. Right to Exercise

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

E. Worker's Compensation

Grantee shall provide Worker's Compensation Insurance coverage for all of its employees involved in the performance of this contract.

F. Insurance and Bonding

Grantee shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum, shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from City.

Grantee shall comply with the bonding and insurance requirements of 24 CFR 84, Bonding and Insurance.

G. Grantor Recognition

Grantee shall insure recognition of the role of City's Emergency Solutions Grant program in providing funding through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, Grantee will include a reference to the support provided herein in all publications made possible with funds made available under this Agreement.

H. Amendments

City or Grantee may amend this Agreement at any time, provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly-authorized representative of both organizations and approved by the City Council if required by law. Such amendments shall not invalidate this Agreement, nor relieve nor release City or Grantee from its obligations under this Agreement.

City may, in its discretion, amend this Agreement to conform with federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both City and Grantee.

I. Suspension or Termination

Either party may terminate this Agreement at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least **thirty (30) days** before the effective date of such termination. Partial termination of the Scope of Service in Paragraph "I.A" above may only be undertaken with the prior written approval of the City. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports, or other materials prepared by Grantee under this Agreement shall at the option of City, become the property of City, and Grantee shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

City may also suspend or terminate this Agreement, in whole or in part, if Grantee materially fails to comply with any term of this Agreement, or with any of the rules, regulations, or provisions referred to herein and the City may declare the Grantee ineligible for any further participation in City contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe Grantee is in noncompliance with any applicable rules or regulations, City may withhold up to fifteen percent (15%) of said contract funds until such time as Grantee is found to be in compliance by City or is otherwise adjudicated to be in compliance.

The City may terminate this agreement in the event of an emergency or disaster, whether an act of God or manmade, by giving twenty-four (24) hour notice. This City may give said notice verbally to Grantee. Any expenditure incurred prior to receiving notice will

be reimbursed; however, in no event shall the City pay any expenses incurred after notice of termination is received by Grantee.

J. Relocation and Acquisition

Grantee agrees to abide by the provisions relocation and assistance as set forth in 24 CFR §576.59 when applicable.

VIII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards

Grantee agrees to comply with 24 CFR 84 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles

Grantee shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations" for all costs incurred whether charged on a direct or indirect basis. The grantee shall also comply with the applicable sections of 24 CFR Part 85, "Uniform Administrative Requirements for grants and cooperative agreements to state and local governments", and OMB Circular A-87.

B. Documentation and Record-Keeping

1. Records to be maintained

Grantee shall maintain all records required by federal regulations specified, and that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

a. Records providing a full description of each activity undertaken;
b. Records demonstrating that each activity undertaken meets one of the eligible activities of the ESG program;
c. Records required to determine the eligibility of activities;
d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with ESG assistance;
e. Records documenting compliance with the fair housing and equal opportunity components of the ESG program;
f. Financial records as required by 24 CFR Part 576 Subpart G and 24 CFR 84.
g. Other records necessary to document compliance with Subpart G of 24CFR 576.

2. Retention

Grantee shall retain all records pertinent to expenditures incurred under this Agreement for a period of **four (4) years.** Records for non-expendable property acquired with funds under this contract shall be retained for four (4) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the four-year period, whichever occurs later.

3. Client Data

Grantee shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to City monitors or their designees for review upon request.

4. Disclosure

Grantee understands that client information collected under this contract is private and the use or disclosure of such information, when not directly connected with the administration of the City's or Grantee's responsibilities with respect to services provided under this contract, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian, unless otherwise required by law. All disclosures retained by Grantee relating to the Federal funds shall be governed by the provisions of the Texas Public Information Act (Texas Government Code Chapter 552).

5. Property Records

Grantee shall maintain real property inventory records which clearly identify properties purchased, improved or sold.

6. Close-Outs

Grantee's obligation to the City shall not end until all close-out requirements are completed. Activities during this close-out period shall include but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the Grantee), final close-out report and determining the custodianship of records.

7. Audits and Inspections

All Grantee records with respect to any matters covered by this Agreement shall be made available to City, their designees or the Federal Government, at any time during normal business hours, as often as City deems necessary, to audit,

examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by Grantee within **thirty (30) days** after receipt by the Grantee. Failure to comply with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of future payments. Grantee shall hereby agree to have an annual agency audit conducted in accordance with current City policy concerning Grantee audits and, as applicable, OMB Circular A-133.

Grantees meeting the OMB Circular A-133 requirements must submit their audits to the audit clearing house within nine (9) months after the entities fiscal year end date.

C. Reporting and Payment Procedures

1. Payment Procedures

The City will pay to the Grantee funds available under this contract based upon information submitted by the Grantee and consistent with any approved budget and City policy concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Grantee, and not to exceed actual cash requirements. Payments will be adjusted by the City in accordance with advance fund and program income balances available in Grantee accounts. In addition, the City reserves the right to liquidate funds available under this contract for costs incurred by the City on behalf of the Grantee.

2. Performance Reports

Grantee shall submit to City a Performance, Financial Report, and narrative information monthly or during their program activity time frame as requested by the city, in a format prescribed by the City and shall include the amount of funds expended for each of the eligible activities. Grantee shall submit the reports monthly no later than the 20th of each month.

The September financial and narrative reports must submitted by September 30. The performance report will remain due by the 20th of the following month. Reporting will continue from the start of program activity till the end of the program year. End of year reports are required.

D. Procurement

1. Compliance

The Grantee shall comply with current City policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets purchased with such funds (unexpended program income, property, equipment, etc.) shall revert to the City upon termination of this contract.

2. CFR Standards

Grantee shall procure all materials, property, or services in accordance with the requirements of 24 CFR 84, Procurement Standards, and shall subsequently follow the Property Management Standards as modified by 24 CFR 570.502(b)(6), covering utilization and disposal of property.

3. Travel

Grantee shall obtain written approval from the City for any travel outside the metropolitan area with funds provided under this contract.

E. Use and Reversion of Assets

The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 24 CFR Part 84 and CFR 570.502, 570.503, and 570.504, as applicable, which include but are not limited to the following:

1. The Sub-recipient shall transfer to the Grantee any ESG funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.

2. Real property under the Sub-recipient's control that was acquired or improved, in whole or in part, with funds under this Agreement in excess of $25,000 shall be used to meet one of the CDBG National Objectives pursuant to 24 CFR 570.208 until five (5) years after expiration of this Agreement [or such longer period of time as the Grantee deems appropriate]. If the Sub-recipient fails to use CDBG-assisted real property in a manner that meets a CDBG National Objective for the prescribed period of time, the Sub-recipient shall pay the Grantee an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property. Such payment shall constitute program income to the Grantee. The Sub-recipient may retain real property acquired or improved under this Agreement after the expiration of the five-year [or such longer period of time as the Grantee deems appropriate.

3. In all cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds shall be program income (prorated to reflect the extent to that funds received under this Agreement were used to acquire the equipment). Equipment not needed by the Sub-recipient for activities under this Agreement shall be (a) transferred to the Grantee for the CDBG program or (b) retained after compensating the Grantee [an amount equal to the current fair market value of the equipment less the percentage of non-CDBG funds used to acquire the equipment].

X. PERSONNEL AND PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

Grantee agrees to comply and to require all subcontractors to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 109 of Title I of the Housing and Community Development Act of 1974, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086 and Executive Order 13279 and the regulations issued under the Order at 41 CFR Chapter 60.

2. Nondiscrimination

Grantee will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital/familial status, or status with regard to public assistance. Grantee will take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Grantee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provision of this nondiscrimination clause.

3. Section 504

Grantee agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 706), and all related regulations, which prohibits discrimination against the handicapped in any Federally assisted program. The City shall provide the Grantee with any guidelines necessary for compliance with that portion of the regulations in force during the term of this contract.

4. Reports

The Grantee shall maintain a report that documents the race/ethnicity of its employees. The Grantee shall provide the City a copy with said report upon execution of this Agreement.

5. Policies

The Grantee shall maintain current copies of its fair housing ad equal opportunity policies. The Grantee shall provide a copy of said policies to the City immediately upon request.

B. Affirmative Action

1. Approved Plan

The Grantee agrees that it shall be committed to carry out pursuant to the City's specifications an Affirmative Action Program in keeping with the principles as provided in the President's Executive Order 11246 of September 24, 1965. Grantees receiving federal funds through the City are required to develop a written affirmative action program to insure that equal opportunity is provided in all aspects of their employment.

2. Women-and Minority-Owned Businesses

Grantee will use its best efforts to afford minority- and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the term "minority and female business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Grantee may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

3. Access to Records

Grantee shall furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

4. Notification

Grantee will send to each labor union or representative of works with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Grantee's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5. EEO/AA Statement

Grantee will, in all solicitations or advertisements for employees placed by or on behalf of the Grantee, state that it is an Equal Opportunity and Affirmative Action employer.

6. Subcontractors

Grantee will include the provisions of Paragraph IX A, Civil Rights, and B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subrecipients or subcontractors.

C. Employment Restrictions

1. Prohibited Activity

Grantee is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; lobbying, political patronage, and nepotism activities.

2. Labor Standards

Grantee agrees to comply and require all subcontractors to comply with the requirements of the Secretary of Labor in accordance with the Davis Bacon Act as amended, the provisions of Contract Work Hours, the Safety Standards Act, the Copeland "Anti-Kickback" Act, and all other applicable federal, state, and local laws pertaining to labor standards insofar as those acts apply to the performance of this Agreement. Grantee will maintain documentation which demonstrates compliance with hour and wage requirements of this part; this documentation shall be made available to the City for review upon request.

3. "Section 3" Clause

a. Compliance

Grantee agrees to comply with the provisions of Section 3 of the Housing and Urban Development Act, as amended (12 USC §1701, et al.) and to include the following clause in all subcontracts executed under this Agreement:

> "The work to be performed under this Contract is a project assisted under a program providing direct federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very

low-income persons residing in the metropolitan area in which the project is located."

Grantee certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements.

D. Conduct

1. Assignability

Grantee shall not assign or transfer any interest in this contract without the prior written consent of the City thereto; provided, however, that claims for money due or to become due to the Grantee from the City under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

2. Subcontracts

a. Approvals

Grantee shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of the City prior to the execution of such agreement.

b. Monitoring

Grantee will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content

Grantee shall cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d. Selection Process

Grantee shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the Grantee along with documentation concerning the selection process.

e. Suspension/Disbarment

The Grantee shall not enter into any subcontracts with an agency, business or individual that has been suspended, disbarred or otherwise excluded from federal grants. The Grantee shall maintain records demonstrating that it has reviewed potential subcontractors against the debarred and excluded list prior to committing any grant funds to a subcontract.

3. Hatch Act

Grantee agrees that no funds provided, nor personnel employed under this contract, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

4. Conflict of Interest

The Grantee shall maintain written codes of conduct that govern the performance of it employees engaged in the award and administration of contracts. Said codes of conduct shall be in compliance with 24 CFR 84.42.

Grantee and City agree to abide by the provisions of 24 CFR § 576.57 (d) with respect to conflicts of interest, and Grantee covenants that it presently has no financial interest, direct or indirect, which would conflict in any manner or degree with the performance of the services required under this Agreement. Grantee further covenants that in the performance of this Agreement no person having such a financial interest shall be employed or retained by the Grantee hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the City, or of any designed public agencies or subrecipients which are receiving funds under the ESG Program.

5. Lobbying

Grantee hereby certifies that it is in compliance with the provisions of the Byrd Amendment (42 USC § 3537, and § 3545, and 31 USC 1352) and the implementing regulations at 24 CFR Parts 4 and 87 as follows:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract grant, loan or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions;

c. It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly; and

d. Lobbying Certification

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 31 USC §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

6. Copyright

If this contract results in any copyrightable material or inventions, the City reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

7. Religious Organization

Grantee agrees that funds provided under this contract will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the Federal regulations specified in 24 CFR 576.22(b).

XI. ENVIRONMENTAL CONDITIONS

A. Air and Water

Grantee agrees to comply with the following requirement insofar as they apply to the performance of this contract:

Clean Air Act, 42 U.S.C., 7401, et seq. Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued there under. Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R., Part 50, as amended, and any and all Federal, state, and local laws and regulations and guidelines relating to or pertaining to environmental matters.

B. Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 USC 4001), the Grantee shall assure that for activities located in an area identified by FEMA as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation), and any or all related Federal, State, or local laws, regulations and guidelines.

C. Lead-Based Paint

Grantee agrees that any construction or rehabilitation of residential structures with assistance provided under this contract shall be subject to the Lead-Based Paint Poisoning Prevention Act (42 USC 4821 through 4846) and 24 CFR Part 35, and any or all related Federal, state, or local laws, regulations or guidelines as applicable.

D. Asbestos

Grantee agrees to comply with the Texas Asbestos Health Protection Act set forth at Article 4477-3a Section 12 of the Texas Civil Statutes and the National Emission Standard for Asbestos Regulations set forth at 40 CFR Part 61, and any or all related Federal, state, or local laws, regulations or guidelines.

E. Historic Preservation

Grantee agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR, Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this contract, and any or all related Federal, state or local laws, regulations or guidelines.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

XII. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

XIII. SECTION HEADINGS AND SUBHEADINGS

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

XIV. WAIVER

The Grantee's failure to act with respect to a breach by the Sub-recipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the Grantee to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

XV. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the Grantee and the Sub-recipient for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the Grantee and the Sub-recipient with respect to this Agreement.

IN WITNESS WHEREOF, the Parties have executed this contract as of the date first written above.

CITY OF LUBBOCK

GLEN C. ROBERTSON
MAYOR

ATTEST:

Rebecca Garza, City Secretary

WOMEN'S PROTECTIVE SERVICES

Jason Henry,
Director

FED. I.D. # 75-1633066

Board Chair

APPROVED AS TO CONTENT:

Karen Murfee, CD Director

APPROVED AS TO FORM:

Justin Pruitt, Assistant City Attorney

Regular City Council Meeting **5. 36.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - Municipal Court: Consider a resolution authorizing the Mayor to execute contract 12637, an Interlocal Agreement between the City of Lubbock, Lubbock Independent School District and Lubbock County to approve continued funding of the Specialized Treatment and Rehabilitation (STAR) Program for FY 2015-16.

Item Summary

The STAR Program provides regimented discipline and education for children ages 11 to 16 who demonstrate adverse behavior in school or commit Class C misdemeanors. Children are referred to STAR from LISD, Municipal Court and Lubbock County Justice of Peace courts.

The City, LISD and Lubbock County each will contribute $179,178 to the program.

Fiscal Impact

The City of Lubbock's portion of the STAR budget for 2015-16 is $179,178. This funding amount has already been included in 2015-16 Proposed Municipal Court General Fund budget, subject to pending approval by the City Council.

Staff/Board Recommending

Robert A. Doty, Presiding Judge of Municipal Court

Attachments

Resolution - STAR Program

Interlocal Agreement - STAR Program

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock an Interlocal Agreement for the Specialized Treatment and Rehabilitation (STAR) Program and any associated documents with Lubbock Independent School system and Lubbock County for addressing the needs of school children, ages 11-16, whom the Juvenile Justice Center and/or a court have determined would benefit from placement in a program that combines education with a regimented discipline with Lubbock Independent School System and Lubbock County, a copy of which Interlocal Agreement is attached hereto and incorporated in this Resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council this _____ day of _____, 2015.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Robert Doty, Municipal Judge

APPROVED AS TO FORM:

_____
Amy L. Sims, Deputy City Attorney

RES.STAR Prog. 2015
11-10-15

STATE OF TEXAS)(

COUNTY OF LUBBOCK)(

INTER-LOCAL AGREEMENT

SPECIALIZED TREATMENT AND REHABILITATION PROGRAM (STAR) FOR FISCAL YEAR 2015-2016

This Inter-Local Agreement (Agreement), is made and entered into pursuant to the Inter-Local Cooperation Act (Chapter 791, Government Code), by and among LUBBOCK INDEPENDENT SCHOOL DISTRICT, hereinafter referred to as "LISD", the CITY OF LUBBOCK, hereinafter referred to as "CITY", and COUNTY OF LUBBOCK through the LUBBOCK COUNTY JUVENILE JUSTICE CENTER, hereinafter referred to as "COUNTY".

WHEREAS, the SPECIALIZED TREATMENT AND REHABILITATION project, hereinafter referred to as "STAR", is a cooperative venture between LISD, CITY, and COUNTY that will address the needs of school children, ages 11-17, who have committed offenses agreed upon by all parties, and whom the Lubbock County Juvenile Justice Center and/or the court has determined would benefit from placement in a program that combines education with a regimented discipline.

WHEREAS, LISD will provide the education component of STAR II, III, and IV.

WHEREAS, COUNTY will provide: (1) the regimented drill and exercise and; (2) some counseling and; (3) probation supervision to portions of the STAR program.

WITNESSETH:

I.
TERM

1.1 Term. Regardless of the date of execution, the term of this contract is for a period of one (1) year commencing on October 1, 2015, and ending on September 30, 2016.

1.2 Option to Renew. The parties have the option to renew this contract for three (3) successive one-year-terms, if thirty (30) days prior to the end of the term, the parties agree in writing to renew the contract.

II.
CONSIDERATION

2.1 The CITY, LISD, and the COUNTY each will contribute **ONE HUNDRED SEVENTY NINE THOUSAND, ONE HUNDRED AND SEVENTY EIGHT DOLLARS ($179,178).** Each party paying for the performance of governmental functions or services hereunder must make those payments from current revenues available to the paying party as required by Section 791.011 of the Texas Government Code.

2.2 In addition to the funding described in 2.1. herein above, LISD will provide offices for the Juvenile Supervision Officers, classrooms for instructions, the field on which the students will drill,

and exercise (a gym will be used during days of inclement weather), showers for the students before school and at the end of the day, and the meals for the students. LISD will also contribute to the COUNTY the sum of the wages, including overtime cost, benefits and expenses incurred by each STAR officer within 30 days of receiving notification by the COUNTY of such expenses. The above described expenses are a separate item form the original STAR contracted amount and are the sole expenses of LISD.

2.3 The COUNTY will provide travel and training for the Juvenile Supervision Officers assigned to the project, and arrange for court hearings for placement of the students into the program.

2.4. The COUNTY will provide quarterly reports to the LISD and the CITY regarding progress of the program, expenditures, and a census of students enrolled and dismissed during the quarter.

2.5. As subdivisions of the State of Texas, CITY, COUNTY, AND LISD are exempt under the Internal Revenue Code Section 170 (b)(A)(iii).

2.6. Positions to be funded by this Agreement, with the funds being deposited and dispersed by the COUNTY, include a Supervisor, a Assistant Supervisor, and seven Juvenile Supervision Officers.

2.61 The Supervisor will report to the Director of the Lubbock County Juvenile Justice Center, and serve as the coordinator of the regimented close order drill and exercise portion of the program. The Supervisor will perform duties including, but not limited to the following:

1. Assure that all participants have had physical examinations, and have been cleared by a physician for participation in the program;

2. Assure exercises and regimented drill activities are appropriate for age and maturity level of participants;

3. Serve as the liaison among CITY, COUNTY, and LISD, on matters related to the STAR Program;

4. Supervise and evaluate performance of Juvenile Supervision Officer;

5. Provide to assigned probation officer progress reports on program participants;

6. Maintain data necessary for evaluative purposes;

7. Provide quarterly reports that include: number of juveniles enrolled in STAR III and IV Programs; number and type of criminal offenses committed by each juvenile prior to enrollment in STAR III and IV Program; criminal offenses committed by juveniles during STAR III and IV Programs participation; number and type of any criminal offense committed by a juvenile six months after completing the STAR Program.

8. Perform other duties as they are assigned by the Director of the Lubbock County Juvenile Justice Center.

2.62 The Assistant Supervisor and Juvenile Supervision Officer will perform duties including, but not limited to the following:

1. Assure exercises and regimented drill activities are appropriate for age and maturity level of participants;

2. Provide to assigned probation officer, progress reports on program participants;

3. Maintain data necessary for evaluative purposes;

4. Complete attendance reports on all individuals assigned to program;

5. Develop standards of behavior expected of the program participants;

6. Perform other duties as they are assigned by the Supervisor.

III.
METHODOLOGY

A child's placement into the program occurs as a condition of probation, or upon a referral from LISD, Justice of the Peace Court, and/or the Municipal Court.

3.1 Condition of probation. The court may require participation in the STAR Program as a condition of probation.

3.11 Referral from LISD. Referrals will be made to the STAR Program by principals, or their designees, from Junior High and High Schools in LISD, and Project Intercept Unit II. With the approval of the Supervisor, a student will be eligible for the STAR Program if the child demonstrates adverse behavior in school, and school officials deem it in the best interest of the child to participate in the program.

3.12 Referrals from Justice of the Peace and Municipal Courts. Referrals may be made to the STAR Program by Justice of the Peace and Municipal Court Judges. Those juvenile offenders who have been found to have committed Class C misdemeanors, as specified in the Texas Penal Code, may be eligible for participation in the STAR Program as part of a disposition imposed by the court.

3.2 Physical examination. Prior to starting the STAR Program, students must have a physical examination, at the student's expense, to determine the physical fitness of the student. The physical examination must be performed by a licensed physician. In addition, female students must undergo a pregnancy examination prior to participation in the STAR Program. Those testing positive will not be considered for admittance to STAR.

3.3 Each participant in the STAR Program will be required to report to school at a time designated by the Supervisor. The parents of children placed in the program as a condition of probation will be ordered by the court to transport the child to and from the STAR Program. Children placed in to the program by LISD will be transported to and from the program by their parents.

3.31 During weekdays, the student will participate in the close order drill and exercise portion of STAR Program which occurs at Project Intercept II before and after school. Students from LISD

enrolled in STAR IV, who are court ordered to participate, will receive their class room instruction in Project Intercept II.

3.32 On non-school days (Saturdays, Sundays, and possibly some holidays) children may perform community service work as designated, or instructed by the Supervisor.

3.4 Once the court ordered participant has completed the STAR Program, the Supervisor and assigned probation officer will meet with the child and his/her parents to determine a supervision plan for the remainder of the period of probation. LISD and COUNTY representatives will continue to work with the child to assist the child in maintaining the self-discipline and appropriate behaviors learned during the twelve week aftercare program.

Parents will be encouraged to participate in the programming provided by COUNTY and/or LISD which includes classes on parenting, communications, etc.

IV.
TERMINATION

4.1 This Agreement may be terminated by mutual agreement of LISD, CITY, AND COUNTY, at any time upon the giving of a thirty (30) day written notice of intent to terminate. Mutual agreement is defined as parties consenting in writing to the unconditional dissolution of the Inter-Local Agreement. All notices shall be in writing and sent by registered or certified mail addressed as follows:

TO LISD: Superintendent
LUBBOCK INDEPENDENT SCHOOL DISTRICT
1628 19th Street
Lubbock, Texas 79401

TO CITY: City Manager
CITY OF LUBBOCK
1625 13th Street
Lubbock, Texas 79401

TO COUNTY: County Judge
LUBBOCK COUNTY COURTHOUSE
P.O. Box 10536
Lubbock, Texas 79408

V.
VENUE

5.1 Venue will be in Lubbock, Lubbock County, Texas.

LUBBOCK INDEPENDENT SCHOOL DISTRICT

By: _____
Dr. Berhl Robertson, Superintendent

Date:_____

CITY OF LUBBOCK

By: _____
Glen Robertson, Mayor

Date:_____

LUBBOCK COUNTY

By: _____
Thomas V. Head, County Judge

Date:_____

LUBBOCK COUNTY JUVENILE BOARD

By: _____
Les Hatch, Juvenile Board Chairman, County Judge

Date:_____

Approved as to form:

_____
Ashley Davis
Civil Division,
Lubbock County District Attorney's Office


City of
Lubbock
TEXAS

Regular City Council Meeting **6. 1.**

Meeting Date: 12/03/2015

Information

Agenda Item

Public Hearing 5:30 p.m. – Planning: Consider a request for Zone Case 2821-A, a request of Ralph Carlisle, for Carlisle Motors, for a zoning change from R-1 to C-4 on Lot 3, Block 8, Southport Addition, 1706 43rd Street, and consider an ordinance.

Item Summary

General comments:
The request is to change a residential zoned property to commercial zoning for additional parking spaces for a car lot.

Staff explained that the a similar case on the property had been presented to the Zoning Board of Adjustment which requested R-1 zoning be allowed to park commercial vehicles from the Auto Dealership. The previous request was adamantly opposed by the neighborhood, citing that there had been numerous complaints to code enforcement regarding the parking of vehicles and maintenance of the property up and down the street. There was no one in opposition to the case who was present at this Planning and Zoning Commission meeting.

Adjacent land uses:
N: R-3 – (A-2) Chiropractor's office
S: R-1 Residential single family homes
E: C-4 Automobile dealership
W: R-1 Residential single family homes

Comprehensive Land Use Plan (CLUP):
The requested parcel will extend the C-4 zoning into the residentially zoned properties and would be a slight deviation from our CLUP. It would extend the width of an average city lot, 50 feet, into the residential zoned district to the west.

Zoning Policy:
Based on our Zoning policies, there should be a buffer between heavy commercial and residential areas. The fact that there are cars lining up and down the street is mainly due to the commercial area encroaching within the residential zoning to the west. It is up to the commission and City Council to decide whether this case will hinder or help the neighborhood.

Effect on the adjacent street and thoroughfare system:
As has already been demonstrated through concerns voiced at the ZBA hearing and with a neighbor who has submitted a letter in opposition, the congestion along 43rd Street is already an issue and is being caused by the dealership. The owners are wanting to use this property as overflow for their existing cars, but this may not necessarily take care of the issue.

Staff Recommendations:
If the Commission feels the case will not affect the neighborhood, please add the following conditions:

1. Tied to the proposed site plan, including:
   a. C-4 guidelines (landscaping, buffering, etc)
   b. Must only be used for parking in conjunction with the existing carlot to the east, no buildings.
   c. A solid 6 foot screening fence adjacent to the residential to the west is required. The screening fence must start to taper down 25 feet back from 4-1/2 feet and taper to 3 feet 10 inches away from the property line to allow for landscaping.
2. Must only be used for parking and storage of inventory.

On November 3, 2015, the Planning and Zoning Commission recommended the request with a unanimous vote with the following conditions:
1. That the zone change be tied to the proposed site plan.
2. That the zone change shall be used for parking and storage of inventory only.

Fiscal Impact

None.

Staff/Board Recommending

Bill Howerton, Assistant City Manager
Planning and Zoning Commission

Attachments

Ordinance 2821-A
Site Plan 2821-A
2821-A Backup

ORDINANCE NO._____

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 7084 AND THE OFFICIAL MAP OF THE CITY OF LUBBOCK MAKING THE FOLLOWING CHANGES: **ZONE CASE NO. 2821-A;** A ZONING CHANGE FROM **R-1** TO **C-4** ZONING DISTRICT ON **LOT 3, BLOCK 8, SOUTHPORT ADDITION,** LUBBOCK, TEXAS; PROVIDING A PENALTY; SUBJECT TO CONDITIONS; PROVIDING A SAVINGS CLAUSE AND PROVIDING FOR PUBLICATION.

WHEREAS, the proposed changes in zoning as hereinafter made have been duly presented to the Planning and Zoning Commission for its recommendation which was received by the City Council and, after due consideration, the City Council found that due to changed conditions, it would be expedient and in the interest of the public health, safety and general welfare to make those proposed changes in zoning; and

WHEREAS, the 1986 Comprehensive Land Use Plan as amended is a guide to help the Lubbock Planning and Zoning Commission and City Council determine the physical development of the community; however, planning is a continuous process and change is inevitable; and

WHEREAS, the Lubbock Planning and Zoning Commission and City Council recognize that the zone change is a minor deviation from the 1986 Comprehensive Land Use Plan as amended, which protects public and private commitments that have been previously based on the Plan; and

WHEREAS, all conditions precedent required by law for a valid amendment to the Zoning Ordinance and Map have been fully compiled with, including giving notices in compliance with Section 40.01.005 of the Code of Ordinances, City of Lubbock, Texas, and the notices provided by the Texas Local Government Code §211.007 (Vernon, 1990), and notice was duly published in the Lubbock Avalanche-Journal more than fifteen (15) days prior to the date of the public hearing before the City Council on such proposed amendment, and the public hearing according to said notice, was held in the City Council Chamber of the Municipal Building, Lubbock, Texas, at which time persons appeared in support of the proposal; and after said hearing, it was by the City Council determined that it would be in the public interest, due to changed conditions, that the Zoning Ordinance and the Zoning Map be amended in the manner hereinafter set forth in the body of this Ordinances and this Ordinance having been introduced prior to first reading hereof; NOW THEREFORE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

ZONE CASE NO. 2821-A

SECTION 1. THAT Ordinance No. 7084 and the Official Zoning Map are amended as follows:

A change of zoning under the provisions of Section 40.01.005 of the Code of Ordinances of the City of Lubbock from **R-1** to **C-4** zoning district on **Lot 3,**

Block 8, Southport Addition, City of Lubbock, Lubbock County, Texas located at **1706 43rd Street,** subject to conditions;

SUBJECT TO THE FOLLOWING CONDITIONS:

1. **THAT the zone change be tied to the proposed site plan.**

2. **THAT the zone change shall be used for parking and storage of inventory only.**

SECTION 2. THAT violation of any provisions of this Ordinance shall be deemed a misdemeanor punishable by a fine not to exceed Two Thousand and No/100 Dollars ($2,000.00) as provided in Section 40.01.006 of the Zoning Ordinance of the City of Lubbock.

SECTION 3. THAT should any paragraph, sentence, clause, phrase or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

SECTION 4. THAT the City Secretary is hereby authorized to cause publication of the descriptive caption of this Ordinance as an alternative method provided by law.

AND IT IS SO ORDERED.

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

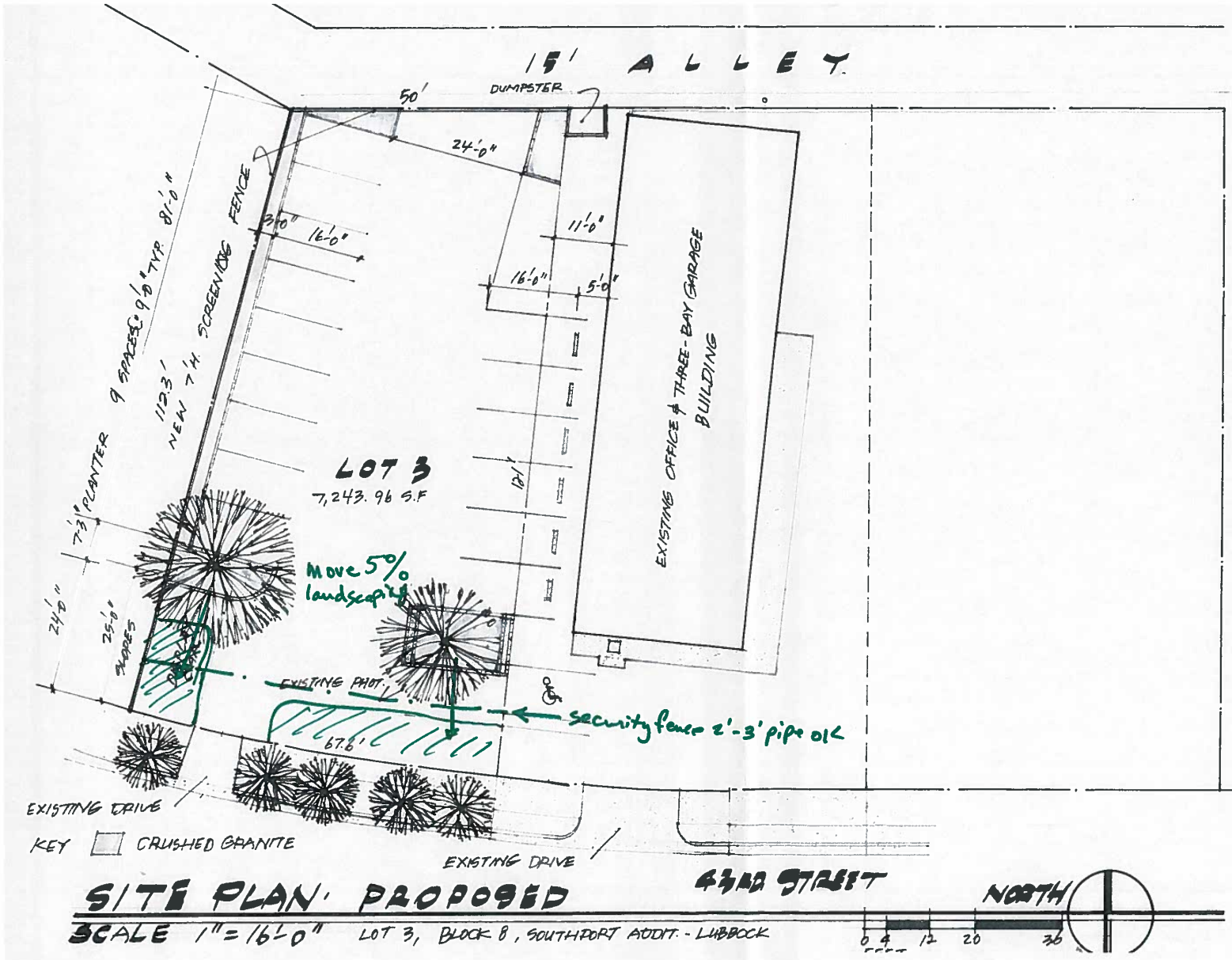
APPROVED AS TO CONTENT:

Andrew Paxton, Director of Planning

APPROVED AS TO FORM:

Justin D. Pruitt, Assistant City Attorney

vw/CityAtt/Justin/Zones/ZC2821-A
November 3, 2015



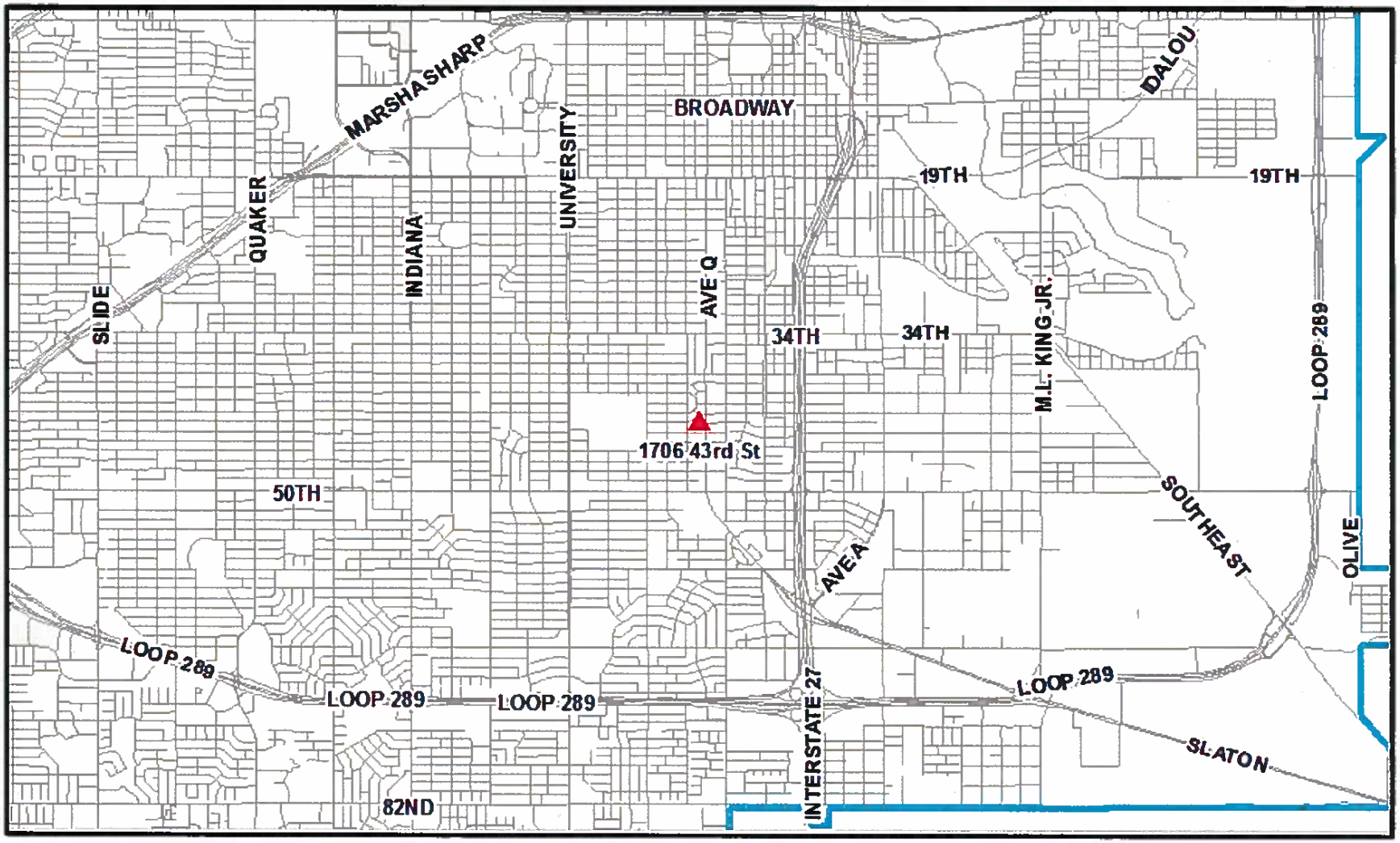
Michael T. Martin
Architect

PROJECT:
R. Carlisle Motors,
Parking Expansion

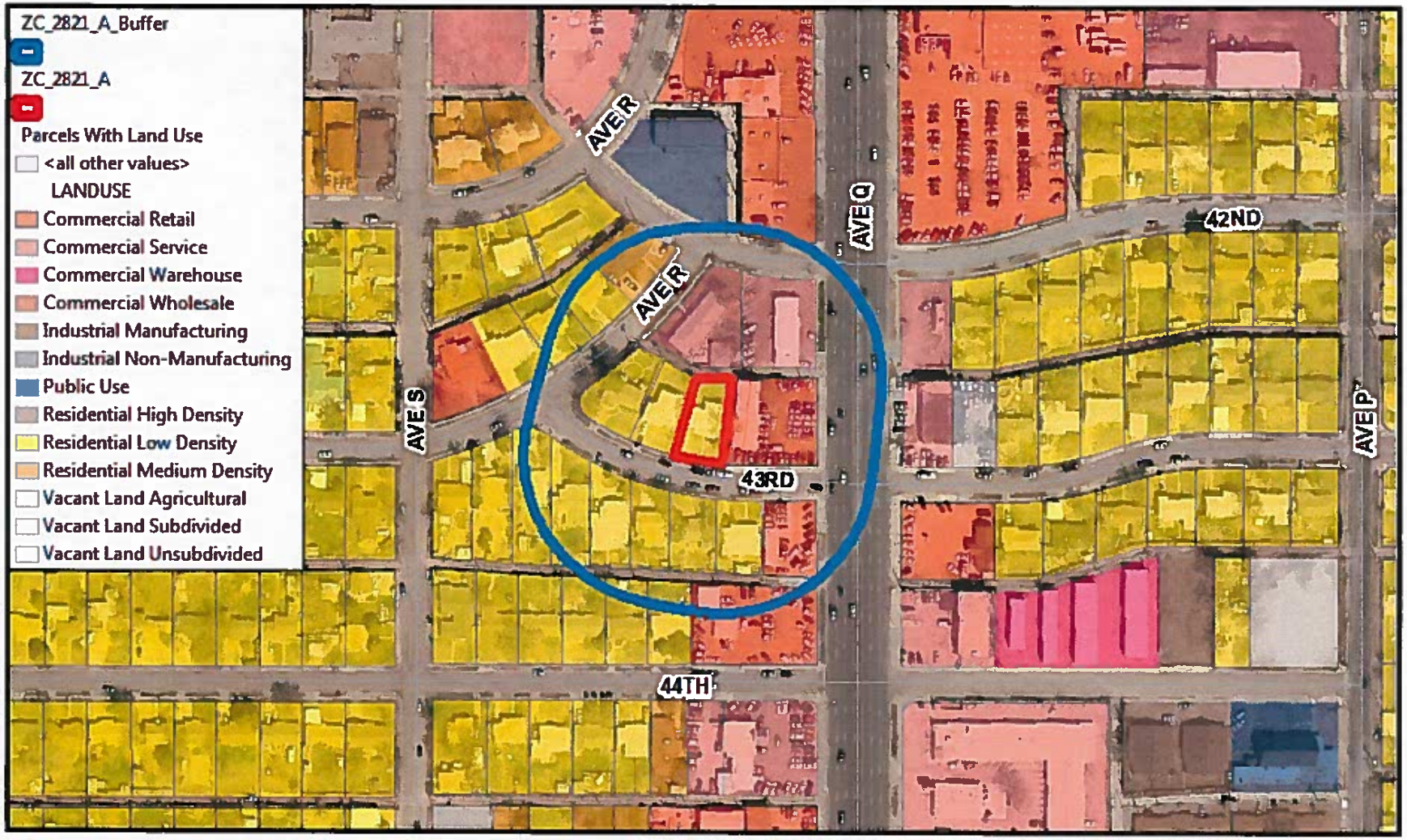
REVISIONS

DATE:

SHEET:
0001

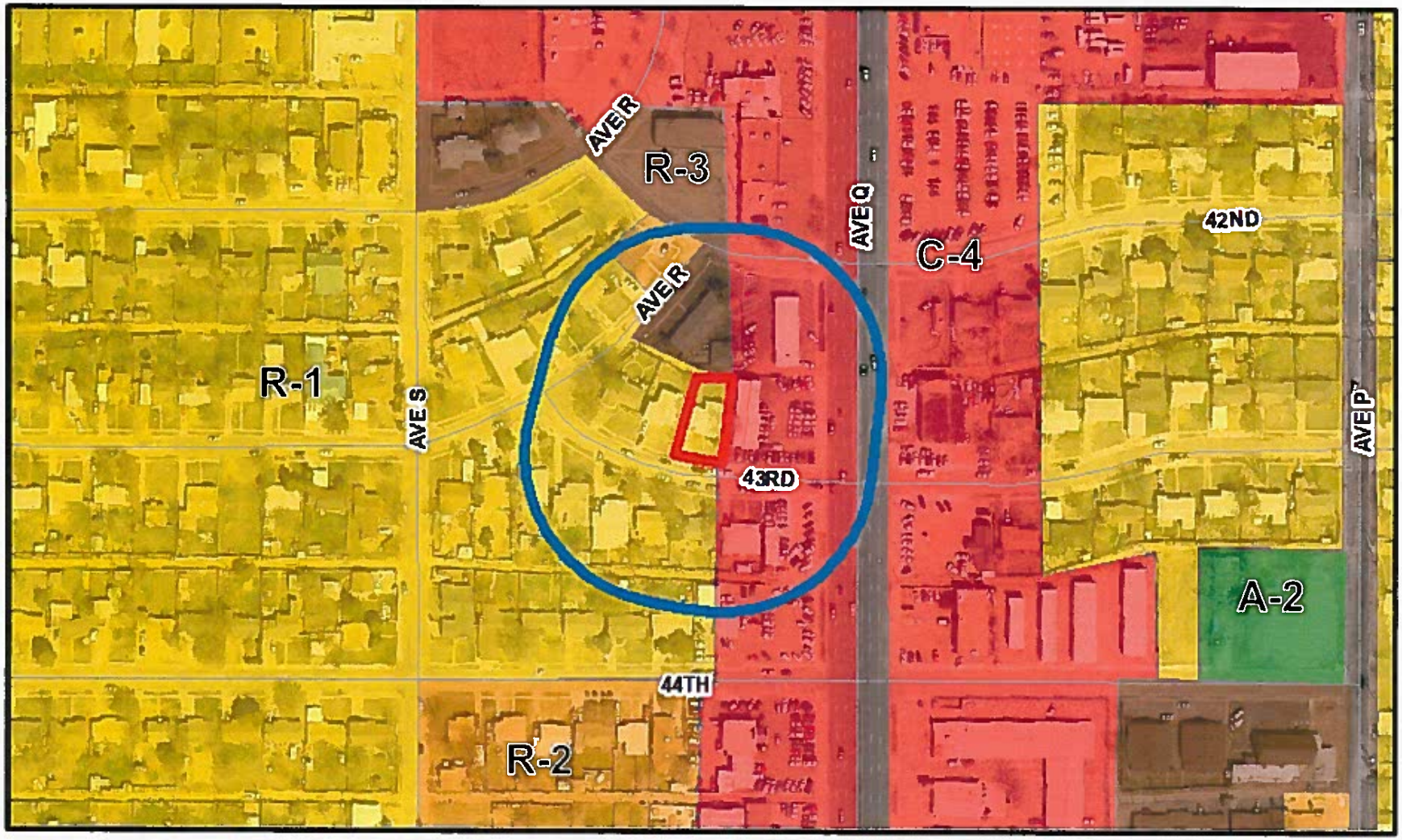


P.Z.C. Case 2821-A



P.Z.C. Case 2821-A

Request of Ralph Carlisle (for Carlisle Motors) for a zoning change from R-1 to C-4, 1706 43rd Street



P.Z.C. Case 2821-A Zoning

city of lubbock TEXAS

APPLICATION FOR ZONE CHANGE

Lubbock Planning & Zoning Commission
PO Box 2000 / 1625 13th St
Lubbock, TX 79457

Applicant (Please Print) Ralph Carlisle
4220 Ave Q
Street/Post Office Box
Lubbock Tx 79412
City State Zip
(806) 777-1042
Telephone

For Carlisle Motors
Street/Post Office Box
City State Zip
( )
Telephone

Location or Address: 1706 -43rd

Legal Description:*

Existing Land Use: Residental **Existing Zoning:**

Acreage or Square Footage of Property: 7243.96

Zoning Requested: C-4

Proposed Development: Carlot

If property is not subdivided, will preliminary plat be submitted? **Yes** _____ **No** _____

Karen K Jones
Applicant's Signature **Date**

Filing Fee: _____
($475.00 for the first acre; $3.00 for each additional acre; $165 for Non-Profit)

***There must be a separate legal description for each unplatted tract having different zoning. If the Planning & Zoning Commission or City Council amends a zone case as a condition for approval and if there is no appeal, an amended legal description must be received promptly or the zone case may be delayed.**

For City Use Only

PIN: 57057 map 6

Zone Case No.: 2821-A **Agenda No.:** _____

Request for zoning change from: R-1 **To:** C-4

on Lot(s): 3 **Block(s):** 8

Subdivision: SouthPort **Address:** 1706 43rd St

KS KC

1

We support Carlisle Motors with their proposal for a parking lot to help with the parking problems on 43rd St.

Crystal Parks

Ellie Pass

57060

4201 Ave R

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1

We support Carlisle Motors with their proposal for a parking lot to help with the parking problems on 43rd St.

Bonnie S. Young + Larry J Young

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PLANNING DEPARTMENT

1

We support Carlisle Motors with their proposal for a parking lot to help with the parking problems on 43rd St.

Jamy Hendrick

Area Insurance Associates
4202 Ave Q
Lubbock TX 79412
806-747-2400

~~1708~~

D1

I believe Carlisle Motors Plans will reduce congestion at 43rd & Q and allow easier travel on 43rd for all concerned!

Danny Sr (owner)
Danny's Paint + Body
4207 Ave Q

Karen K Jones
Notary

KAREN K. JONES
Notary Public, State of Texas
My Commission Expires
October 15, 2016

RECEIVED
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PLANNING DEPARTMENT

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

(1)

If for any reason you will be unable to attend the public hearing advertised by this notice, and wish to present your comments regarding the case, please complete this form and return it to the Secretary of the Planning and Zoning Commission, c/o Planning Department, P.O. Box 2000, Lubbock, TX, 79457, or fax to (806) 775-2100.

If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 775-2120.

Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by: **P&Z Case No.: 2821-A**

In Favor of ___

Opposed ✓

Reasons and/or Comments:

CARLISLE MOTORS ALREADY CREATED A TRAFFIC CONGESTION PROBLEM FOR TRAFFIC TRYING TO ENTER OR EXIT 43RD STREET FROM O-TO AVE Q. IF THIS ZONE CHANGE IS GRANTED THE PROBLEM WILL ONLY GET WORSE. FOR THE SAFETY OF RESIDENTS & PROPERTY OWNERS ON 43RD PLEASE DENY THIS REQUEST.

Print Name MICHAEL A. CARTER.

Signature: Michael A. Carter

Address: 14816 N FM 179 SHALLOWATER, TX 79363

Address of Property Owned: 1711-43RD

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PLANNING DEPARTMENT

17 of 21

Zone Case Number: **2821-A** 57072
CARTER, CLETA ALENE ESTATE
Attn: MICHAEL ALLEN CARTER
14816 N FM 179 ST
SHALLOWATER TX 79363

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

1

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Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by: **P&Z Case No.:** ***2821-A***

In Favor of ✓

Opposed ___

Reasons and/or Comments:

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PLANNING DEPARTMENT

Print Name Roy MAKAREM

Signature: [signature]

Address: 4320 Ave Q Lubbock TX 79423

Address of Property Owned: Same

12 of 21

Zone Case Number: **2821-A** 57062
MAKAREM RIAD S
4320 AVENUE Q

LUBBOCK TX 79412-1710

1

To Whom It May Concern 9-13-15

Greetings we are the Galicia's. We resicle at 1713 43rd st Lubbock Tx, 79412 for the last 17 years. We have been informed of the new porposal to extend the parking lot on the North, West corner behind the Carlisle main office. We are in cigreement for the New parking structure to go forward.

Sincerely
The Galicia's

Angela Galicia

KAREN K. JONES
Notary Public, State of Texas
My Commission Expires
October 15, 2016

Karen K Jones

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PLANNING DEPARTMENT

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

1

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Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by: **P&Z Case No.:** ***2821-A***

In Favor of ✓

Opposed ____

Reasons and/or Comments:

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Print Name Angela Galicia

Signature: Angela Galicia

Address: 1713 43rd st Lubbock Tx 79412

Address of Property Owned: Same

16 of 21

Zone Case Number: **2821-A** 57071
GALICIA SAMUEL &
ANGELA C
1713 43RD ST
LUBBOCK TX 79412-1715

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

(1)

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Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by: P&Z Case No.: 2821-A

In Favor of ✓

Opposed ____

Reasons and/or Comments:

Will Reduce Parking ON 43rd and Solve Problems with Neighbors.

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PLANNING DEPARTMENT

Print Name Ralph Carlisle

Signature: Ralph Carlisle

Address: 13 W Lakeshore Ransom Canyon TX 79366

Address of Property Owned: 1708-43rd Lubbock Ty

8 of 21

Zone Case Number: 2821-A 57057
CARLISLE, BERTHA L
13 W LAKESHORE DR

RANSOM CANYON TX 79366-2517

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

1

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Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by: P&Z Case No.: 2821-A

In Favor of ✓

Opposed ___

Reasons and/or Comments:

Will Reduce Parking on 43rd St
And will stop Problems with Neighbors

RECEIVED
OCT 30 RFC'D
PLANNING DEPARTMENT

Print Name Ralph Carlisle

Signature: Ralph Carlisle

Address: 13 W. Lakeshore Ransom Canyon Tx 79366

Address of Property Owned: 4302 Ave Q Lubbock Tx

8 of 21

Zone Case Number: 2821-A 57057
CARLISLE, BERTHA L
13 W LAKESHORE DR

RANSOM CANYON TX 79366-2517

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

1

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If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 775-2120.

Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by: **P&Z Case No.: 2821-A**

In Favor of ✓

Opposed ____

Reasons and/or Comments:

Will Reduce Parking Problems
At the ORON 43rd St at Ave Q

RECEIVED
OCT 29 REC'D
PLANNING DEPARTMENT

Print Name RALPH CARLISLE

Signature: Ralph Carlisle

Address: 130 LAKESHORE RANSOM CANYON TX 79366

Address of Property Owned: 4302 Ave Q Lubbock, TX.

21 of 21

Zone Case Number: 2821-A 57077
CARLISLE RALPH
4302 AVE Q

LUBBOCK TX 79412-1710

(1)

To whom it may concern.

our Names are James and Earnestine Barrett. We live at 1703 43rd St We live behind the Carlisle Motors car lot at 4302 ave Q and across the street from Carlisle Motors car lot at 4220 ave Q. We have heard of the Proposal to Make a Parking lot behind the 4220 ave Q address. We agree to the Proposal so we can free up more Parking Space in front of our home.

Thank You

James Barrett
Earnestine Barrett

Karen K. Jones
Notary

KAREN K. JONES
Notary Public, State of Texas
My Commission Expires
October 15, 2016

RECEIVED
OCT 30 REC'D
PLANNING DEPARTMENT

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

(1)

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If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 775-2120.

Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by: P&Z Case No.: 2821-A

In Favor of V

Opposed ____

Reasons and/or Comments:

will Reduce Parking Problems on 43rd and Problems with Neighbors.

RECEIVED
OCT 30 REC'D
PLANNING DEPARTMENT

Print Name RALPH CARLISLE

Signature: Ralph Carlisle

Address: 13 W. LAKESHORE Ransom Canyon TX 79366

Address of Property Owned: 1703-43rd Lubbock, TX

8 of 21

Zone Case Number: 2821-A 57057
CARLISLE, BERTHA L
13 W LAKESHORE DR

RANSOM CANYON TX 79366-2517

(1)

We support Carlisle Motors with their proposal for a parking lot to help with the parking problems on 43rd St.

1706 43rd St.

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

(1)

If for any reason you will be unable to attend the public hearing advertised by this notice, and wish to present your comments regarding the case, please complete this form and return it to the Secretary of the Planning and Zoning Commission, c/o Planning Department, P.O. Box 2000, Lubbock, TX, 79457, or fax to (806) 775-2100.

If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 775-2120.

Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by: **P&Z Case No.: 2821-A**

In Favor of ✓

Opposed ____

Reasons and/or Comments:

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OCT 30 REC'D
PLANNING DEPARTMENT

Print Name BERTHA CARLISLE

Signature: Bertha Carlisle by Kayne Carlisle

Address: 13 W LAKESHORE

Address of Property Owned: 1706 - 4321

8 of 21

Zone Case Number: 2821-A 57057
CARLISLE, BERTHA L
13 W LAKESHORE DR

RANSOM CANYON TX 79366-2517

3.1

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

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If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 775-2120.

Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by: **P&Z Case No.:** ***2821-A***

In Favor of X

Opposed ____

Reasons and/or Comments:

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OCT 26 REC'D
PLANNING DEPARTMENT

Print Name James P. McNulty, JR.

Signature: [signature]

Address: 2706 E Slaton, Rd Lubbock

Address of Property Owned: 3701 Ave Q & 4110 Ave Q

1 of 21

Zone Case Number: 2821-A 57046
MCNULTY, JAMES P, Jr.
2706 E SLATON RD

LUBBOCK TX 79404

2/2 10-26-2015 09:37:56 a.m. Lone Star Auto Auction 8067459280

Regular City Council Meeting **6. 2.**

Meeting Date: 12/03/2015

Information

Agenda Item

Public Hearing 5:30 p.m. – Planning: Consider a request for Zone Case 3266, a request of Day & Company, Inc. for a zoning change from T to C-3 on 9.16 acres of unplatted land out of Block E2, Section 21, 3101 114th Street, and consider an ordinance.

Item Summary

General comments:
This request is for C-3 zoning on 9.16 acres of land at 118th Street and Indiana Avenue.

Adjacent land uses:
To the north is an existing and grandfathered indoor sport facility, zoned Transitional. East of this property is a baseball field complex, also grandfathered and zoned Transitional. To the south is a Huntington Business Park, zoned Interstate Highway Commercial (IHC). The business park originally was started outside of the city limits and when annexed requested the IHC zoning in order to complete the development. West, across Indiana Avenue, is vacant C-3 commercial.

Comprehensive Land Use Plan (CLUP):
Many of the adjacent uses and current zoning do not follow the standard CLUP. The zoning to the west was justified due to the impact of the drainage in the immediate area which heavily impacted the traditional ten acre corner. The business park to the south, along with the other adjacent non-conforming uses, have also changed the expectation of acceptable land uses consistent with the policy, to be developed in the future.

Although this is a minor change to the CLUP, staff recommends the change based on the existing conditions of the area.

Zoning Policy:
This nine acre parcel is situated between other commercial properties, making the request consistent with zoning policy.

Effect on the adjacent street and thoroughfare system:
With the commercial zoning further away from the controlled intersection of the two thoroughfares, there is potential for an increased effect on traffic in this area.

Recommendations:
On November 3, 2015, the Planning and Zoning Commission recommended the request with a unanimous vote.

Fiscal Impact

None.

Staff/Board Recommending

Bill Howerton, Assistant City Manager
Planning and Zoning Commission

Attachments

3266 Ordinance
Backup 3266

ORDINANCE NO._____

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 7084 AND THE OFFICIAL MAP OF THE CITY OF LUBBOCK MAKING THE FOLLOWING CHANGES: **ZONE CASE NO. 3266;** A ZONING CHANGE FROM **T** TO **C-3** ZONING DISTRICT ON **9.16 ACRES OF UNPLATTED LAND OUT OF BLOCK E2, SECTION 21,** LUBBOCK, TEXAS; PROVIDING A PENALTY; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR PUBLICATION.

WHEREAS, the proposed changes in zoning as hereinafter made have been duly presented to the Planning and Zoning Commission for its recommendation which was received by the City Council and, after due consideration, the City Council found that due to changed conditions, it would be expedient and in the interest of the public health, safety and general welfare to make those proposed changes in zoning; and

WHEREAS, the 1986 Comprehensive Land Use Plan as amended is a guide to help the Lubbock Planning and Zoning Commission and City Council determine the physical development of the community; however, planning is a continuous process and change is inevitable; and

WHEREAS, the Lubbock Planning and Zoning Commission and City Council recognize that the zone change is a minor deviation from the 1986 Comprehensive Land Use Plan as amended, which protects public and private commitments that have been previously based on the Plan; and

WHEREAS, all conditions precedent required by law for a valid amendment to the Zoning Ordinance and Map have been fully complied with, including giving notices in compliance with Section 40.01.005 of the Code of Ordinances, City of Lubbock, Texas, and the notices provided by the Texas Local Government Code §211.007 (Vernon, 1990), and notice was duly published in the Lubbock Avalanche-Journal more than fifteen (15) days prior to the date of the public hearing before the City Council on such proposed amendment, and the public hearing according to said notice, was held in the City Council Chamber of the Municipal Building, Lubbock, Texas, at which time persons appeared in support of the proposal; and after said hearing, it was by the City Council determined that it would be in the public interest, due to changed conditions, that the Zoning Ordinance and the Zoning Map be amended in the manner hereinafter set forth in the body of this Ordinance and this Ordinance having been introduced prior to first reading hereof; NOW THEREFORE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

ZONE CASE NO. 3266

SECTION 1. THAT Ordinance No. 7084 and the Official Zoning Map are amended as follows:

A change of zoning under the provisions of Section 40.01.005 of the Code of Ordinances of the City of Lubbock from **T** to **C-3** zoning district on **9.16 acres of**

unplatted land out of Block E-2, Section 21, City of Lubbock, Lubbock County, Texas, located at **3101 114th Street**, and being further described as follows:

METES AND BOUNDS DESCRIPTION: Attached as Exhibit "A".

SECTION 2. THAT violation of any provision of this Ordinance shall be deemed a misdemeanor punishable by fine not to exceed Two Thousand and No/100 Dollars ($2,000.00) as provided in Section 40.01.006 of the Zoning Ordinance of the City of Lubbock.

SECTION 3. THAT should any paragraph, sentence, clause, phrase or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

SECTION 4. THAT the City Secretary is hereby authorized to cause publication of the descriptive caption of this Ordinance as an alternative method provided by law.

AND IT IS SO ORDERED.

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

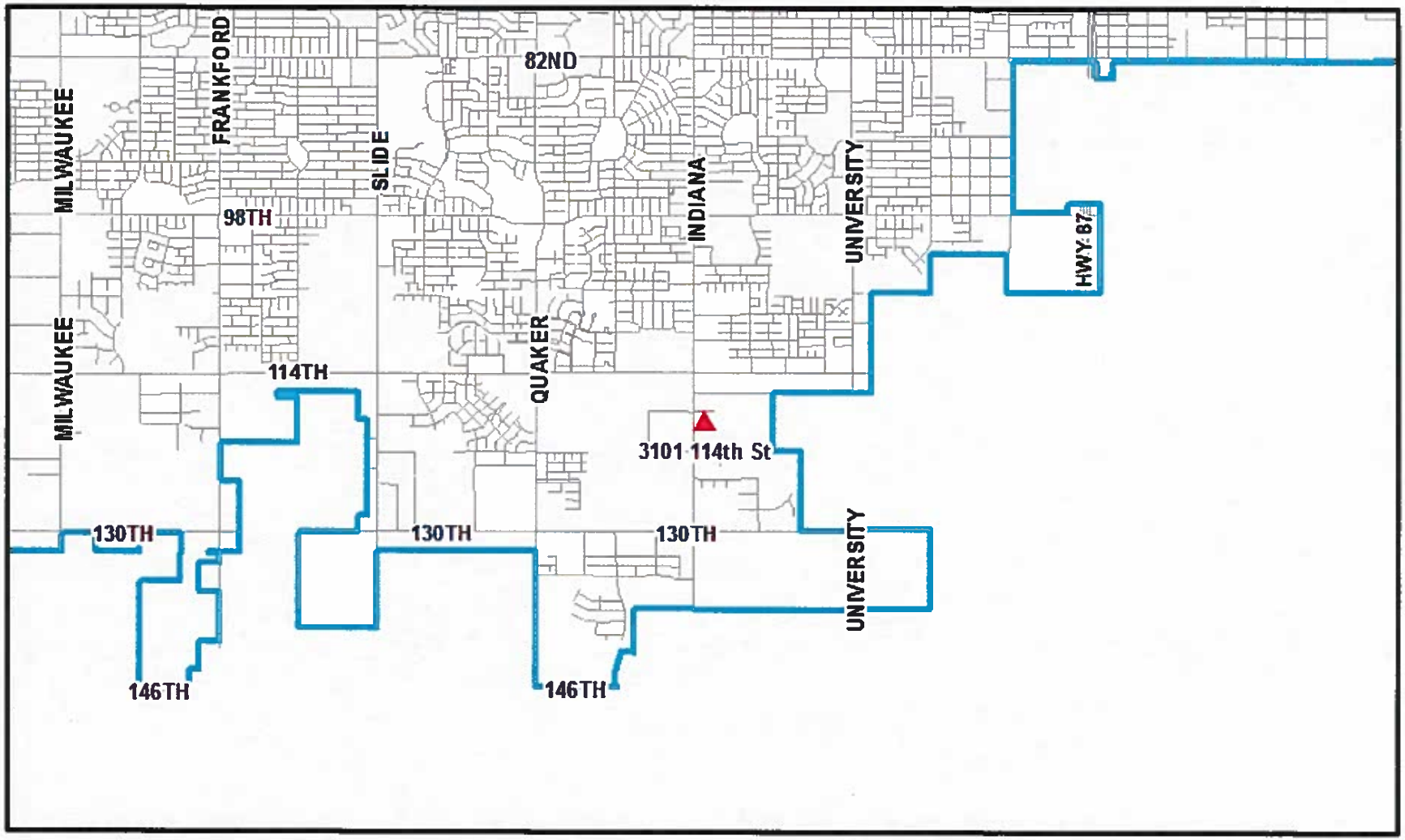
APPROVED AS TO CONTENT:

_____
Andrew Paxton, Director of Planning

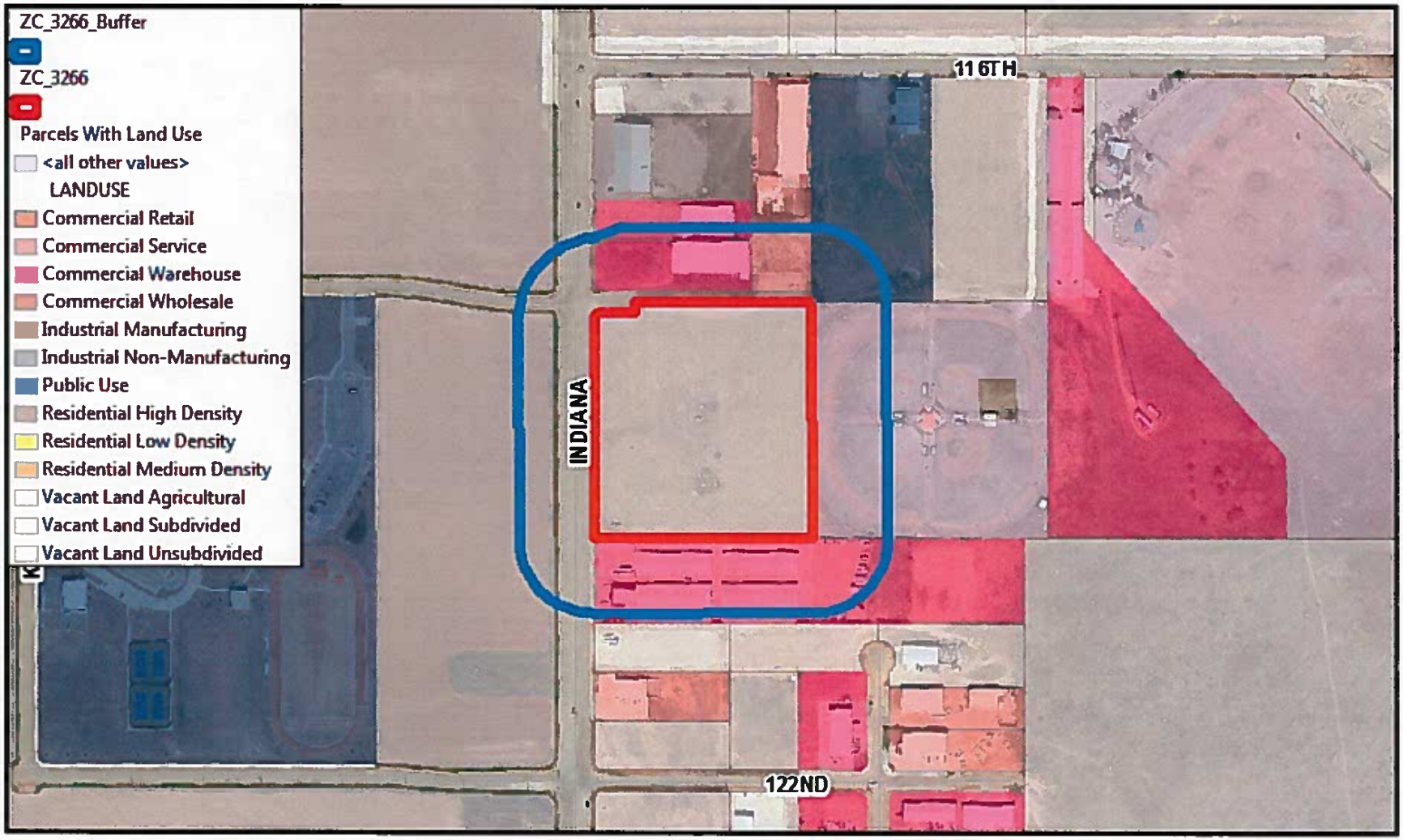
APPROVED AS TO FORM:

_____
Justin D. Pruitt, Assistant City Attorney

vw/cityatt/Justin/ZoneCase/ZC3266
November 3, 2015

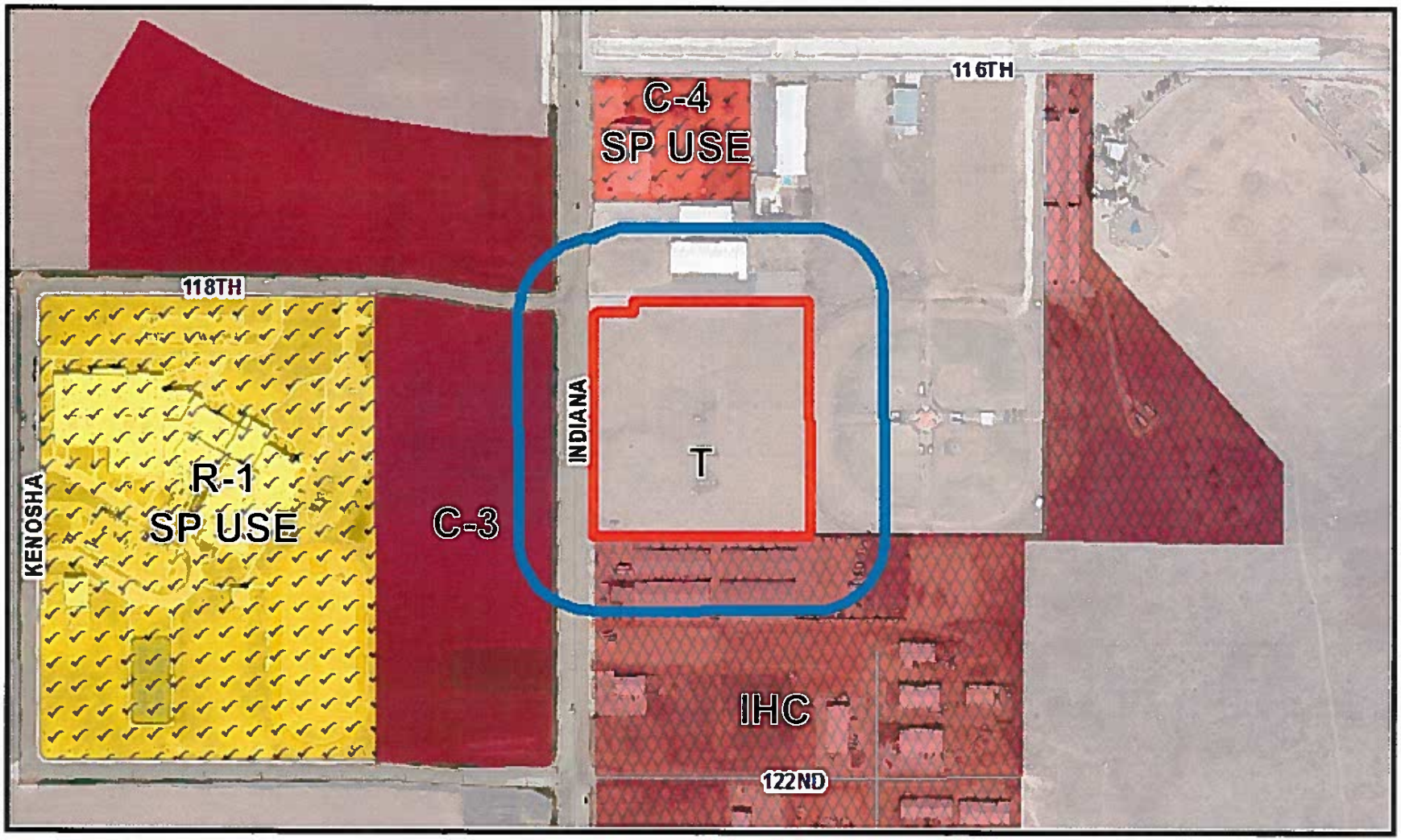


P.Z.C. Case 3266



P.Z.C. Case 3266

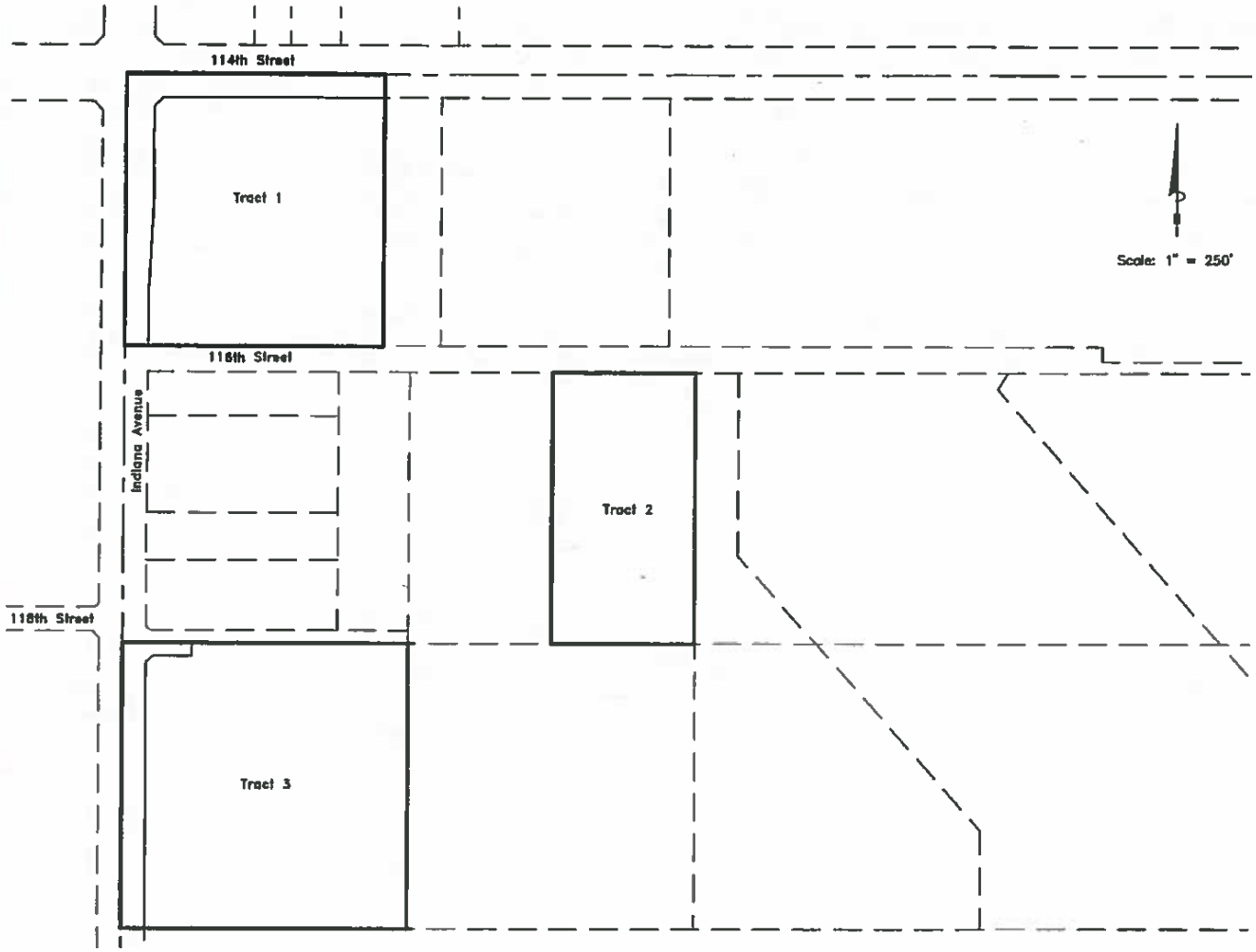
Request of Day & Company, Inc. for a zoning change from T to C-3, 3101 114th Street



P.Z.C. Case 3266 Zoning

Proposed Zoning

Sketch Showing Proposed Zoning for Section 21, Block E-2, Lubbock County, Texas.



Prepared for Zoning Purposes Only. Not Based on a Survey

ABACUS ENGINEERING SURVEYING
2737 81st Street
LUBBOCK, TEXAS
806-745-7670
Count on It
TEXAS SURVEYING FIRM NO. 101153-00
TEXAS ENGINEERING FIRM NO. 4368

S:\COORDINATES\SECTIONBLOCK\BLOCKE-2\SECTION 21\Sec21BlkE 2 Zoning-TC.dwg, 10/29/2015 7:31:08 PM, SHARP MX-2300N PCL611=17.pc3

2

ABACUS ENGINEERING SURVEYING

2737 81ST STREET LUBBOCK, TEXAS 79423
(806) 745-7670

"Count on it"

Tract 3

Metes and Bounds Description prepared for Zone Change Purposes only on a tract out of Section 21, Block E-2, Lubbock County, Texas and further described as follows:

BEGINNING at the Northeast corner of this tract from which the Northwest corner of Section 21, Block E-2 bears North, a distance of 1320 feet and West, 660 feet;

THENCE South, a distance of 660 feet;

THENCE West, a distance of 660 feet;

THENCE North, with the West line of Section 21, a distance of 660 feet;

THENCE East, a distance of 660 feet to the Point of BEGINNING containing 10.00 acres.

For Zone Change Purposes Only, Does not Represent a Survey.

APPLICATION FOR ZONE CHANGE

Lubbock Planning & Zoning Commission
PO Box 2000 / 1625 13th St
Lubbock, TX 79457

Applicant (Please Print) Day & Company, Inc.

6309 Indiana Ave Ste. B
Street/Post Office Box

Lubbock TX 79413
City State Zip

(806) 785-7300
Telephone

For _____

Street/Post Office Box

City State Zip

( )
Telephone

Location or Address: 114th & Indiana Ave.

Legal Description:* A 9.16 acres tract out of BLK E2 SEC 21 AB 270 TR A

Existing Land Use: Farm **Existing Zoning:** _____

Acreage or Square Footage of Property: 9.16

Zoning Requested: C3

Proposed Development: Shopping Center

If property is not subdivided, will preliminary plat be submitted? Yes _____ No _____

Bobby Day
Applicant's Signature

9-14-15
Date

Filing Fee: _____
($475.00 for the first acre; $3.00 for each additional acre; $165 for Non-Profit)

***There must be a separate legal description for each unplatted tract having different zoning. If the Planning & Zoning Commission or City Council amends a zone case as a condition for approval and if there is no appeal, an amended legal description must be received promptly or the zone case may be delayed.**

For City Use Only

mHB Map 4/0

Zone Case No.: 3266 **Agenda No.:** _____

Request for zoning change from: T **To:** C-3

9.16 acres of unplatted land out of block E 2 Section 21

on Lot(s): — **Block(s):** —

Subdivision: — **Address:** 3101 114th St

VSKC

Regular City Council Meeting **6. 3.**

Meeting Date: 12/03/2015

Information

Agenda Item

Public Hearing 5:30 p.m. – Planning: Consider a request for Zone Case 3267, a request of Day & Company, Inc. for a zoning change from T to C-2 on 5 acres of unplatted land out of Block E2, Section 21, 3101 114th Street, and consider an ordinance.

Item Summary

General comments:
This request is for C-2 zoning on 5 acres of land on 116th Street east of Indiana Avenue.

Adjacent land uses:
To the west is an existing grandfathered church facility, zoned Transitional. East of this property is a mini warehouse complex zoned C-4 Specific Use. East of the mini warehouses is a golf driving range, also grandfathered and zoned Transitional. To the south is grandfathered baseball field complex, zoned Transitional. North of this property is vacant land zoned Transitional.

Comprehensive Land Use Plan (CLUP):
Many of the adjacent uses along with current zoning do not follow the standard CLUP. The specific use for the mini warehouses was requested as a low impact use on the same property as the television and communications tower on the same property. All of the other existing land uses were annexed into the city.

Although this is a minor change to the CLUP, staff recommends the change based on the existing conditions of the area.

Zoning Policy:
This five acre parcel is situated between other commercial land uses, making the request consistent with zoning policy.

Effect on the adjacent street and thoroughfare system:
With this property fronting on 116th Street, a non-thoroughfare street, although the volume may increase, the traffic will access the thoroughfare from an existing street and there should be minimal increased effect on the system.

Recommendations:
On November 3, 2015, the Planning and Zoning Commission recommended the request with a unanimous vote.

Fiscal Impact

None.

Staff/Board Recommending

Bill Howerton, Assistant City Manager
Planning and Zoning Commission

Attachments

Ordinance 3267
3267 Backup

ORDINANCE NO._____

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 7084 AND THE OFFICIAL MAP OF THE CITY OF LUBBOCK MAKING THE FOLLOWING CHANGES: **ZONE CASE NO. 3267;** A ZONING CHANGE FROM **T** TO **C-2** ZONING DISTRICT ON **5 ACRES OF UNPLATTED LAND OUT OF BLOCK E2, SECTION 21,** LUBBOCK, TEXAS; PROVIDING A PENALTY; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR PUBLICATION.

WHEREAS, the proposed changes in zoning as hereinafter made have been duly presented to the Planning and Zoning Commission for its recommendation which was received by the City Council and, after due consideration, the City Council found that due to changed conditions, it would be expedient and in the interest of the public health, safety and general welfare to make those proposed changes in zoning; and

WHEREAS, the 1986 Comprehensive Land Use Plan as amended is a guide to help the Lubbock Planning and Zoning Commission and City Council determine the physical development of the community; however, planning is a continuous process and change is inevitable; and

WHEREAS, the Lubbock Planning and Zoning Commission and City Council recognize that the zone change is a minor deviation from the 1986 Comprehensive Land Use Plan as amended, which protects public and private commitments that have been previously based on the Plan; and

WHEREAS, all conditions precedent required by law for a valid amendment to the Zoning Ordinance and Map have been fully complied with, including giving notices in compliance with Section 40.01.005 of the Code of Ordinances, City of Lubbock, Texas, and the notices provided by the Texas Local Government Code §211.007 (Vernon, 1990), and notice was duly published in the Lubbock Avalanche-Journal more than fifteen (15) days prior to the date of the public hearing before the City Council on such proposed amendment, and the public hearing according to said notice, was held in the City Council Chamber of the Municipal Building, Lubbock, Texas, at which time persons appeared in support of the proposal; and after said hearing, it was by the City Council determined that it would be in the public interest, due to changed conditions, that the Zoning Ordinance and the Zoning Map be amended in the manner hereinafter set forth in the body of this Ordinance and this Ordinance having been introduced prior to first reading hereof; NOW THEREFORE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

ZONE CASE NO. 3267

SECTION 1. THAT Ordinance No. 7084 and the Official Zoning Map are amended as follows:

A change of zoning under the provisions of Section 40.01.005 of the Code of Ordinances of the City of Lubbock from **T** to **C-2** zoning district on **5 acres of**

unplatted land out of Block E2, Section 21, City of Lubbock, Lubbock County, Texas, located at **3101 114th Street**, and being further described as follows:

METES AND BOUNDS DESCRIPTION: Attached as Exhibit "A".

SECTION 2. THAT violation of any provision of this Ordinance shall be deemed a misdemeanor punishable by fine not to exceed Two Thousand and No/100 Dollars ($2,000.00) as provided in Section 40.01.006 of the Zoning Ordinance of the City of Lubbock.

SECTION 3. THAT should any paragraph, sentence, clause, phrase or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

SECTION 4. THAT the City Secretary is hereby authorized to cause publication of the descriptive caption of this Ordinance as an alternative method provided by law.

AND IT IS SO ORDERED.

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

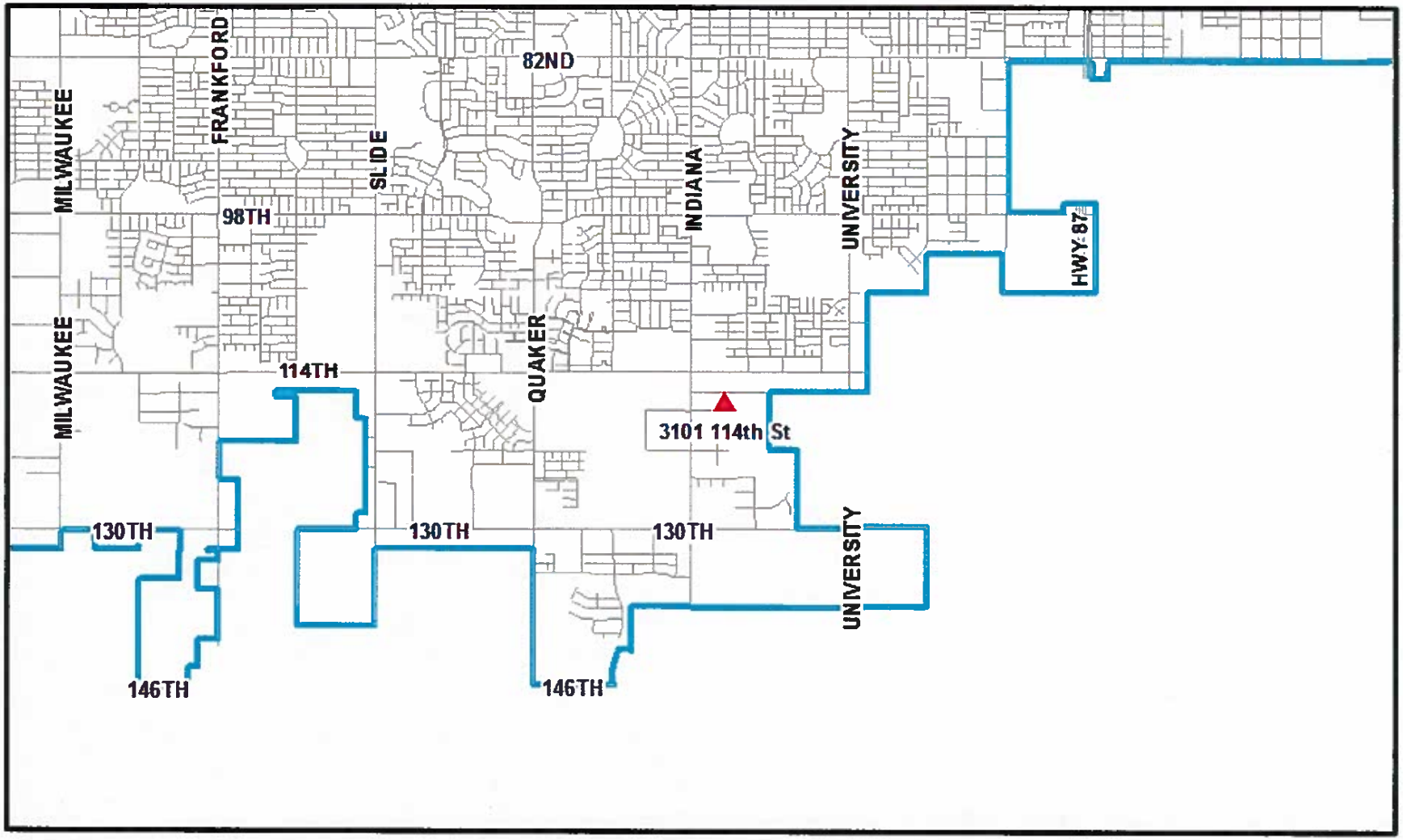
APPROVED AS TO CONTENT:

_____
Andrew Paxton, Director of Planning

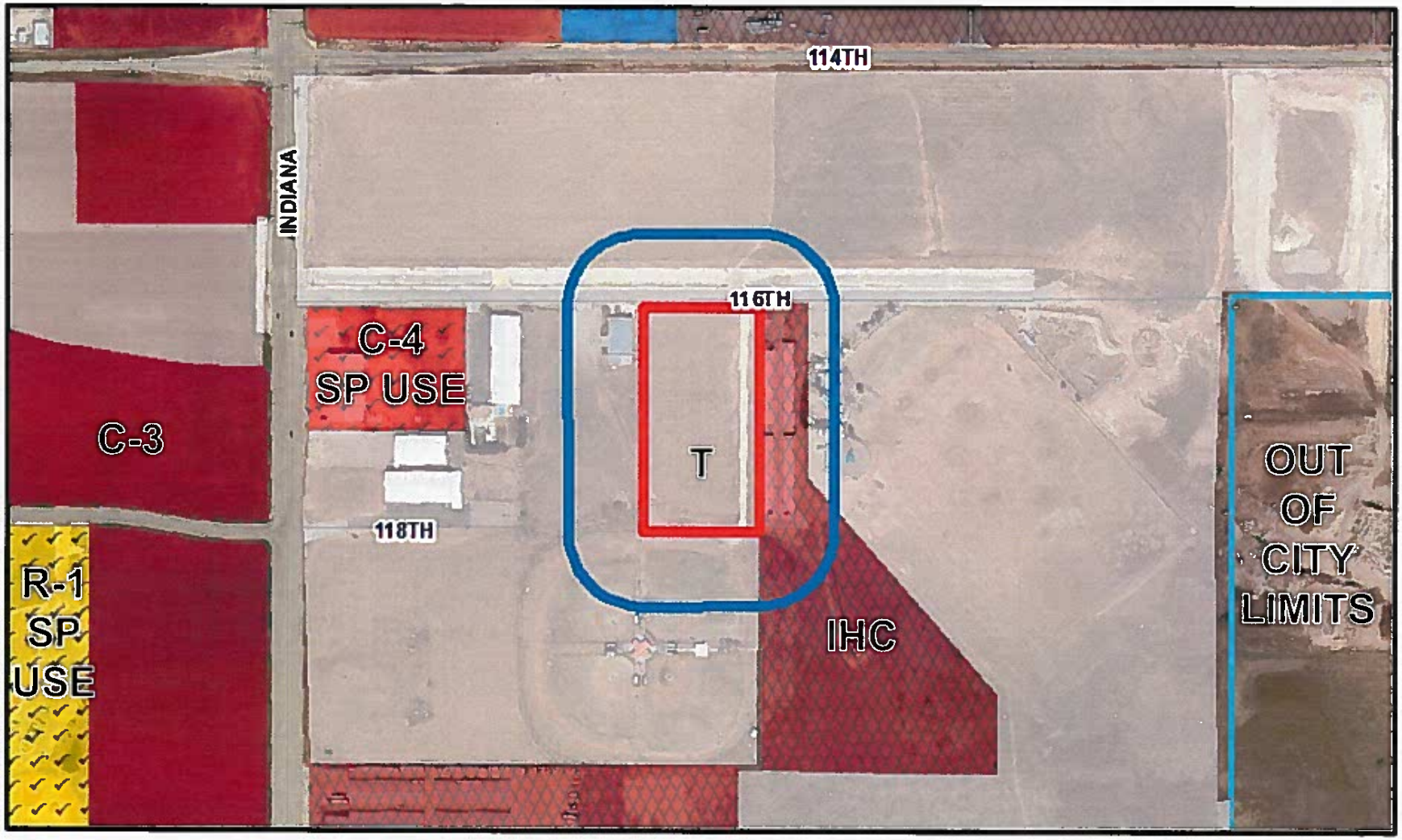
APPROVED AS TO FORM:

_____
Justin D. Pruitt, Assistant City Attorney

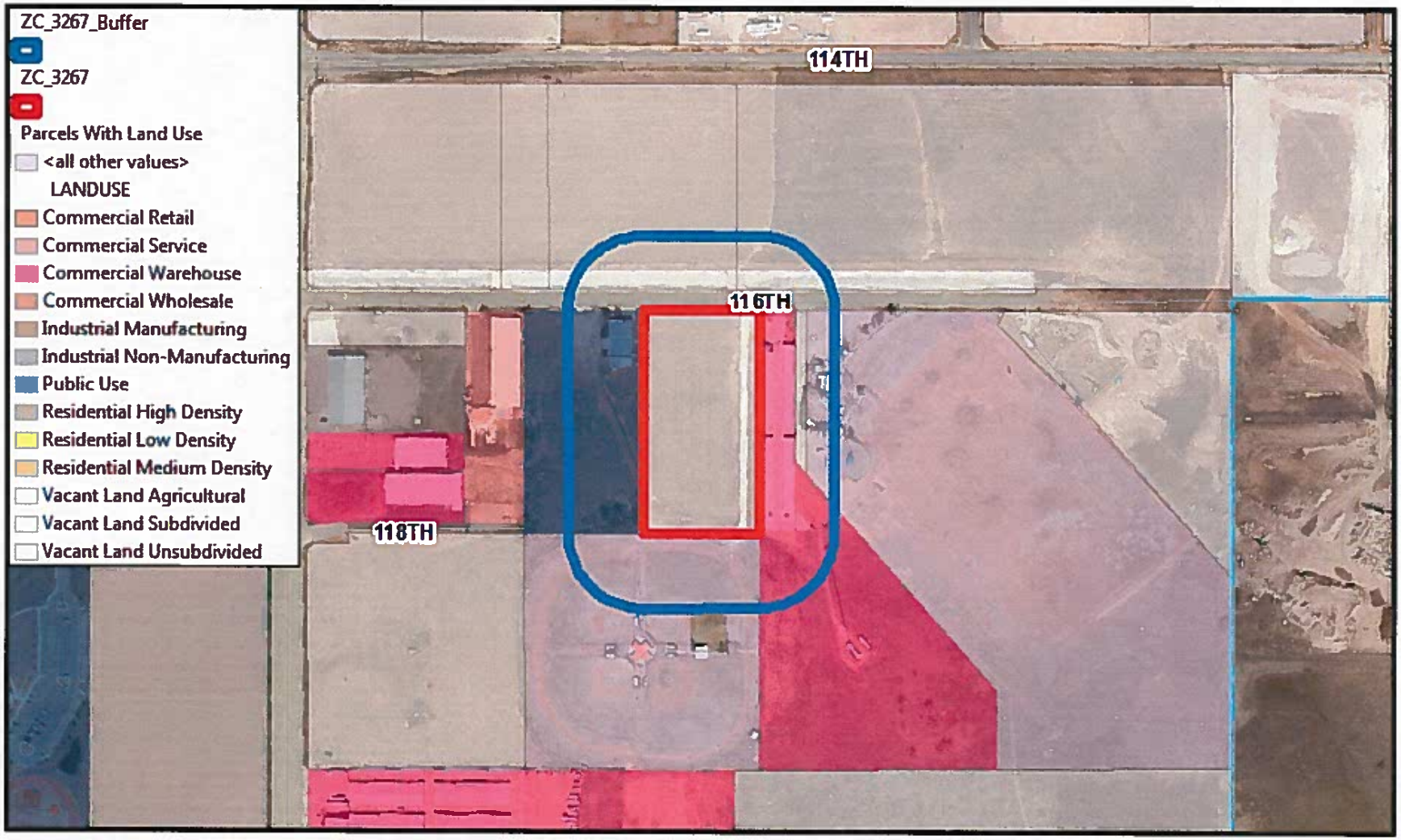
vw/cityatt/Justin/ZoneCase/ZC3267
November 3, 2015



P.Z.C. Case 3267



P.Z.C. Case 3267 Zoning

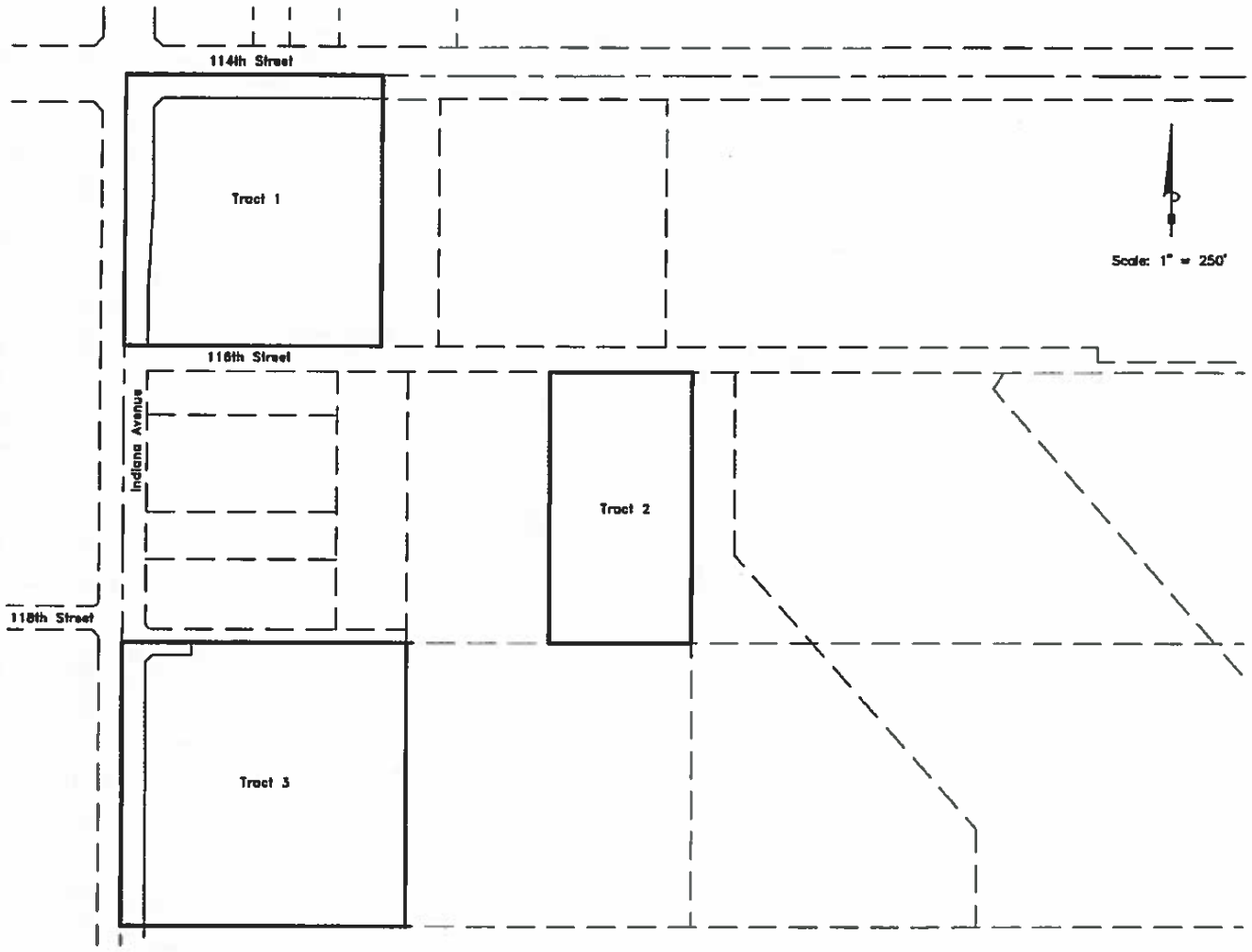


P.Z.C. Case 3267

Request of Day & Company, Inc. for a zoning change from T to C-2, 3101 114th Street

Proposed Zoning

Sketch Showing Proposed Zoning for Section 21, Block E-2, Lubbock County, Texas.



Prepared for Zoning Purposes Only. Not Based on a Survey

ABACUS ENGINEERING SURVEYING
2737 81st Street
LUBBOCK, TEXAS
806-745-7670
Count on It
TEXAS SURVEYING FIRM NO. 101153-00
TEXAS ENGINEERING FIRM NO. 4368

S:\COORDINATES\SECTIONBLOCK\BLOCKE-2\SECTION 21\Sec21BlkE 2-Zoning TC.dwg, 10/29/2015 2:31:08 PM, SHARP MX-2300N PCL611x17.pc3

(3)

(1)

ABACUS ENGINEERING SURVEYING

2737 81ST STREET LUBBOCK, TEXAS 79423
(806) 745-7670

"Count on it"

Tract 2

Metes and Bounds Description prepared for Zone Change Purposes only on a tract out of Section 21, Block E-2, Lubbock County, Texas and further described as follows:

BEGINNING at the Northeast corner of this tract from which the Northwest corner of Section 21, Block E-2 bears North, a distance of 690 feet and West, 1320 feet;

THENCE South, with the West line of Tract A, Stenocall Addition, a distance of 630 feet;

THENCE West, a distance of 330 feet;

THENCE North, a distance of 630 feet;

THENCE East, with the South line of 116th Street, a distance of 330 feet to the Place of BEGINNING containing 4.773 acres.

For Zone Change Purposes Only, Does not Represent a Survey.

APPLICATION FOR ZONE CHANGE

Lubbock Planning & Zoning Commission
PO Box 2000 / 1625 13th St
Lubbock, TX 79457

Applicant (Please Print) Day & Company, Inc.

6309 Indiana Ave Ste. B
Street/Post Office Box

Lubbock TX 79413
City State Zip

(806) 785-7300
Telephone

For _____

Street/Post Office Box

City State Zip

( )
Telephone

Location or Address: 114th & Indiana Ave.

Legal Description:* A 5 acres tract out of BLK E2 SEC 21 AB 270 TR A

Existing Land Use: Farm **Existing Zoning:** _____

Acreage or Square Footage of Property: 5

Zoning Requested: C2

Proposed Development: Shopping Center

If property is not subdivided, will preliminary plat be submitted? Yes _____ No _____

Bobby Day
Applicant's Signature

9-14-15
Date

Filing Fee: _____
($475.00 for the first acre; $3.00 for each additional acre; $165 for Non-Profit)

***There must be a separate legal description for each unplatted tract having different zoning. If the Planning & Zoning Commission or City Council amends a zone case as a condition for approval and if there is no appeal, an amended legal description must be received promptly or the zone case may be delayed.**

For City Use Only

M+B map 40

Zone Case No.: 3267 **Agenda No.:** _____

Request for zoning change from: T **To:** C-2

5 acres of Unplatted land out of Block E2 Section 21

on Lot(s): — **Block(s):** —

Subdivision: _____ **Address:** 3101 114th St

KS TCC

Bobby G. Day
6309 Indiana Ave. Suite B
Lubbock, TX 79413
(806) 785-7300
(806) 778-4616 Cell

Monday September 14, 2015

City of Lubbock
Planning and Zoning Commission
PO Box 2000
1625 13th Street
Lubbock, TX 79457

To Whom it May Concern:

I have included three applications of zone change, and the corresponding payments for each.

If any have any question please do not hesitate to contact me at (806) 778-4616.

Sincerely,

Bobby G. Day
Day & Company, Inc.

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

33

If for any reason you will be unable to attend the public hearing advertised by this notice, and wish to present your comments regarding the case, please complete this form and return it to the Secretary of the Planning and Zoning Commission, c/o Planning Department, P.O. Box 2000, Lubbock, TX, 79457, or fax to (806) 775-2100.

If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 775-2120.

Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by: **P&Z Case No.: 3267**

In Favor of ✓

Opposed ____

Reasons and/or Comments:

RECEIVED
OCT
PLANNING DEPARTMENT

Print Name RUSTAM J. MEHDIABADI

Signature: _____

Address: 4606 8th St. Lubbock. Tx 79416.

Address of Property Owned: Block E2 Section 21 AB270 TRB ACS

2 of 6

Zone Case Number: **3267** 1835
MEHDIABADI, RUSTAM J
4606 8TH ST

LUBBOCK TX 79416-4705

Regular City Council Meeting **6. 4.**

Meeting Date: 12/03/2015

Information

Agenda Item

Public Hearing 5:30 p.m. – Planning: Consider a request for Zone Case 3268, a request of Day & Company, Inc. for a zoning change from T to C-3 on 6.41 acres of unplatted land out of Block E2, Section 21, 3101 114th Street, and consider an ordinance.

Item Summary

General comments:
This request is for C-3 zoning on 6.41 acres of land on 114th Street and Indiana Avenue.

Adjacent land uses:
To the north, northwest, and west of this parcel is primarily vacant commercially zoned property. South, across 116th Street, is also commercial property, an indoor baseball facility. East of the site is vacant land zoned Transitional.

Comprehensive Land Use Plan (CLUP):
Many of the adjacent uses and current zoning in the nearby area are not consistent with the CLUP, however this case is consistent.

Zoning Policy:
As a parcel ten acres or less at the hard corner of two thoroughfares, this case is a policy zone case.

Effect on the adjacent street and thoroughfare system:
Once 114th is built out as a full width thoroughfare, there should be little to no negative impact on the thoroughfare system generated from this case.

Recommendations:
On November 3, 2015, the Planning and Zoning Commission recommended the request with a unanimous vote.

Fiscal Impact

None.

Staff/Board Recommending

Bill Howerton, Assistant City Manager
Planning and Zoning Commission

Attachments

3268 Ordinance
3268 Backup

ORDINANCE NO._____

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 7084 AND THE OFFICIAL MAP OF THE CITY OF LUBBOCK MAKING THE FOLLOWING CHANGES: **ZONE CASE NO. 3268;** A ZONING CHANGE FROM **T** TO **C-3** ZONING DISTRICT ON **6.41 ACRES OF UNPLATTED LAND OUT OF BLOCK E2, SECTON 21,** LUBBOCK, TEXAS; PROVIDING A PENALTY; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR PUBLICATION.

WHEREAS, the proposed changes in zoning as hereinafter made have been duly presented to the Planning and Zoning Commission for its recommendation which was received by the City Council and, after due consideration, the City Council found that due to changed conditions, it would be expedient and in the interest of the public health, safety and general welfare to make those proposed changes in zoning; and

WHEREAS, all conditions precedent required by law for a valid amendment to the Zoning Ordinance and Map have been fully complied with, including giving notices in compliance with Section 40.01.005 of the Code of Ordinances, City of Lubbock, Texas, and the notices provided by the Texas Local Government Code §211.007 (Vernon, 1990), and notice was duly published in the Lubbock Avalanche-Journal more than fifteen (15) days prior to the date of the public hearing before the City Council on such proposed amendment, and the public hearing according to said notice, was held in the City Council Chamber of the Municipal Building, Lubbock, Texas, at which time persons appeared in support of the proposal; and after said hearing, it was by the City Council determined that it would be in the public interest, due to changed conditions, that the Zoning Ordinance and the Zoning Map be amended in the manner hereinafter set forth in the body of this Ordinance and this Ordinance having been introduced prior to first reading hereof; NOW THEREFORE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

ZONE CASE NO. 3268

SECTION 1. THAT Ordinance No. 7084 and the Official Zoning Map are amended as follows:

A change of zoning under the provisions of Section 40.01.005 of the Code of Ordinances of the City of Lubbock from **T** to **C-3** zoning district on **6.41 acres of unplatted land out of Block E2, Section 21**, City of Lubbock, Lubbock County, Texas, located at **3101 114th Street**, and being further described as follows:

METES AND BOUNDS DESCRIPTION: Attached as Exhibit "A".

SECTION 2. THAT violation of any provision of this Ordinance shall be deemed a misdemeanor punishable by fine not to exceed Two Thousand and No/100 Dollars

($2,000.00) as provided in Section 40.01.006 of the Zoning Ordinance of the City of Lubbock.

SECTION 3. THAT should any paragraph, sentence, clause, phrase or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

SECTION 4. THAT the City Secretary is hereby authorized to cause publication of the descriptive caption of this Ordinance as an alternative method provided by law.

AND IT IS SO ORDERED.

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

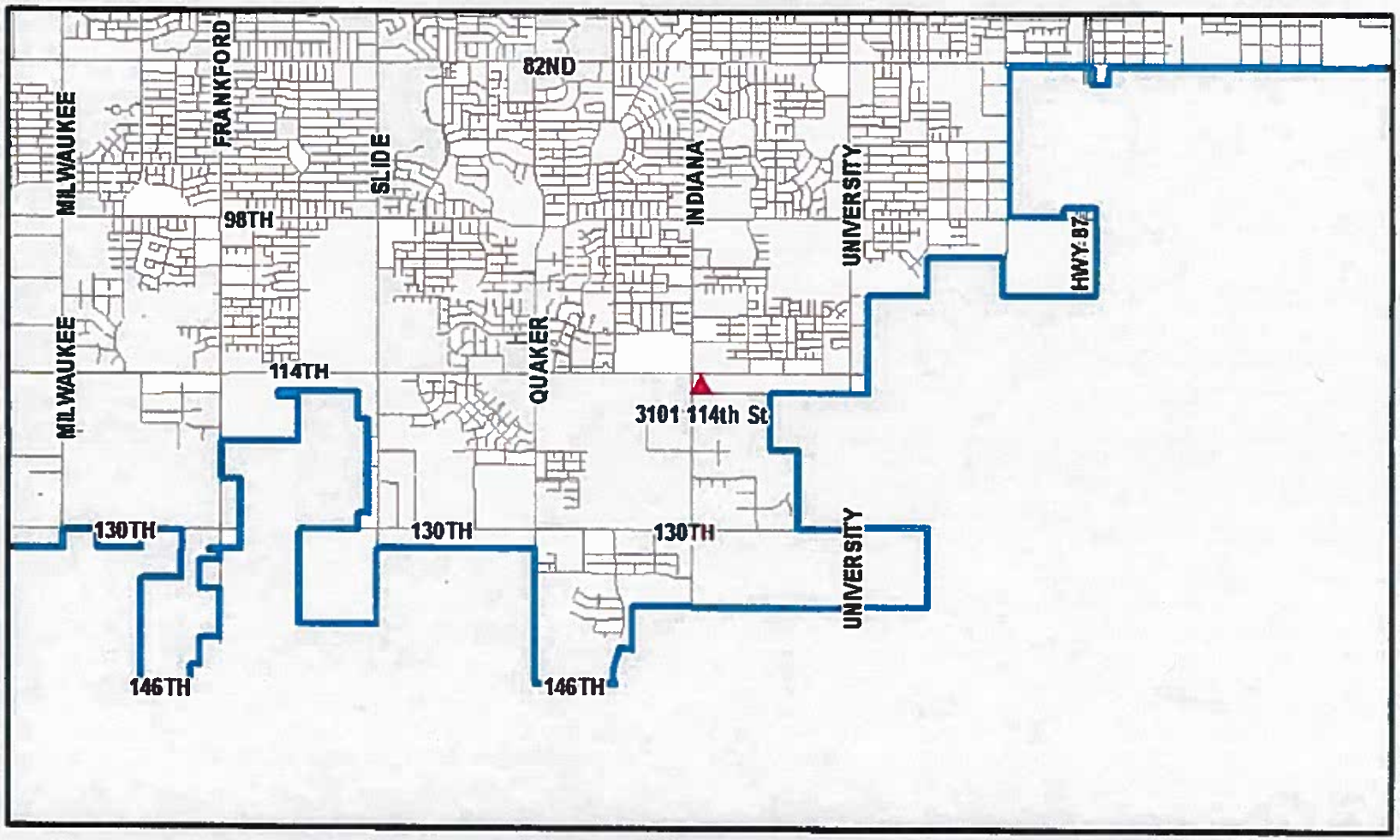
APPROVED AS TO CONTENT:

_____
Andrew Paxton, Director of Planning

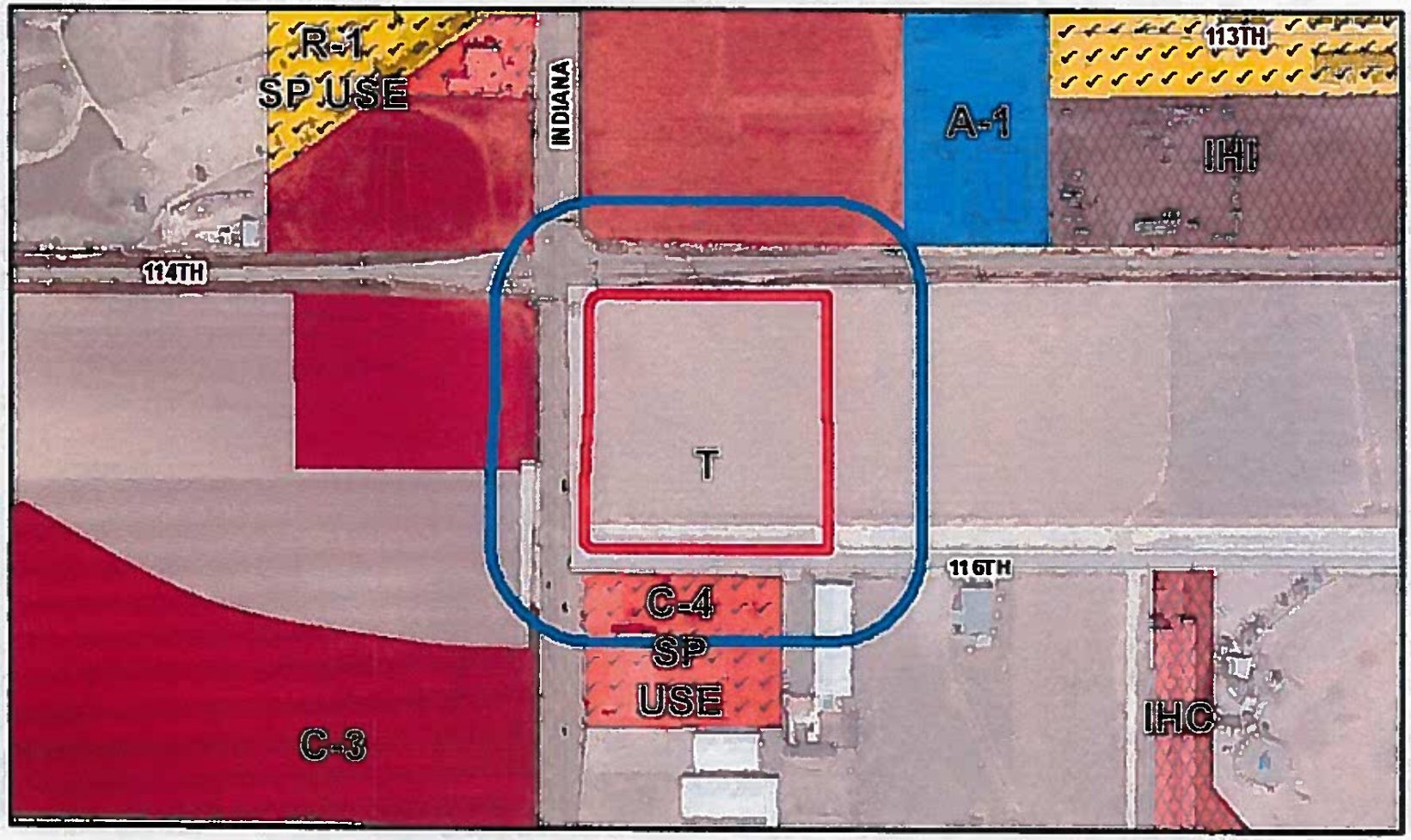
APPROVED AS TO FORM:

_____
Justin D. Pruitt, Assistant City Attorney

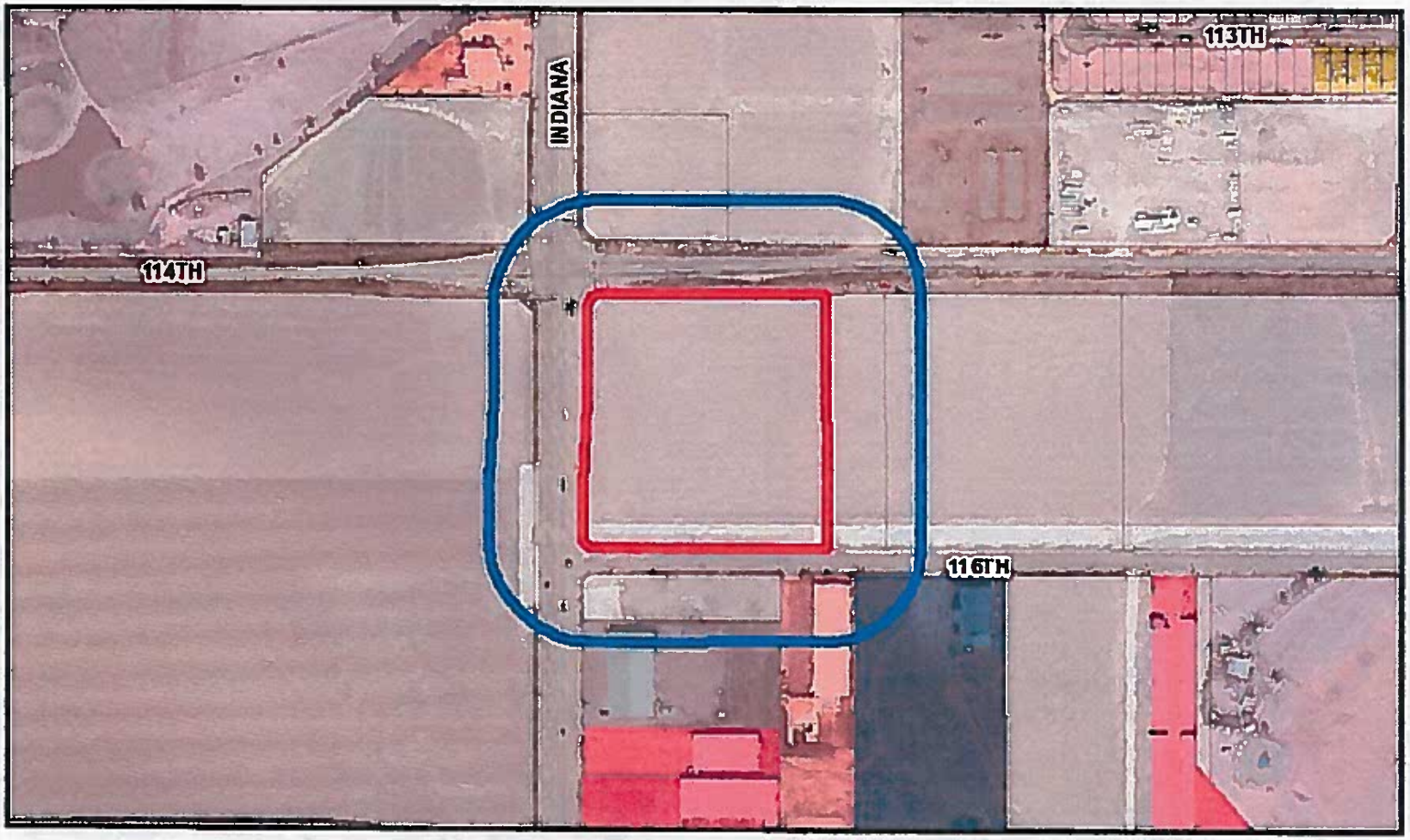
vw/cityatt/Justin/ZoneCase/ZC3268
November 3, 2015



P.Z.C. Case 3268

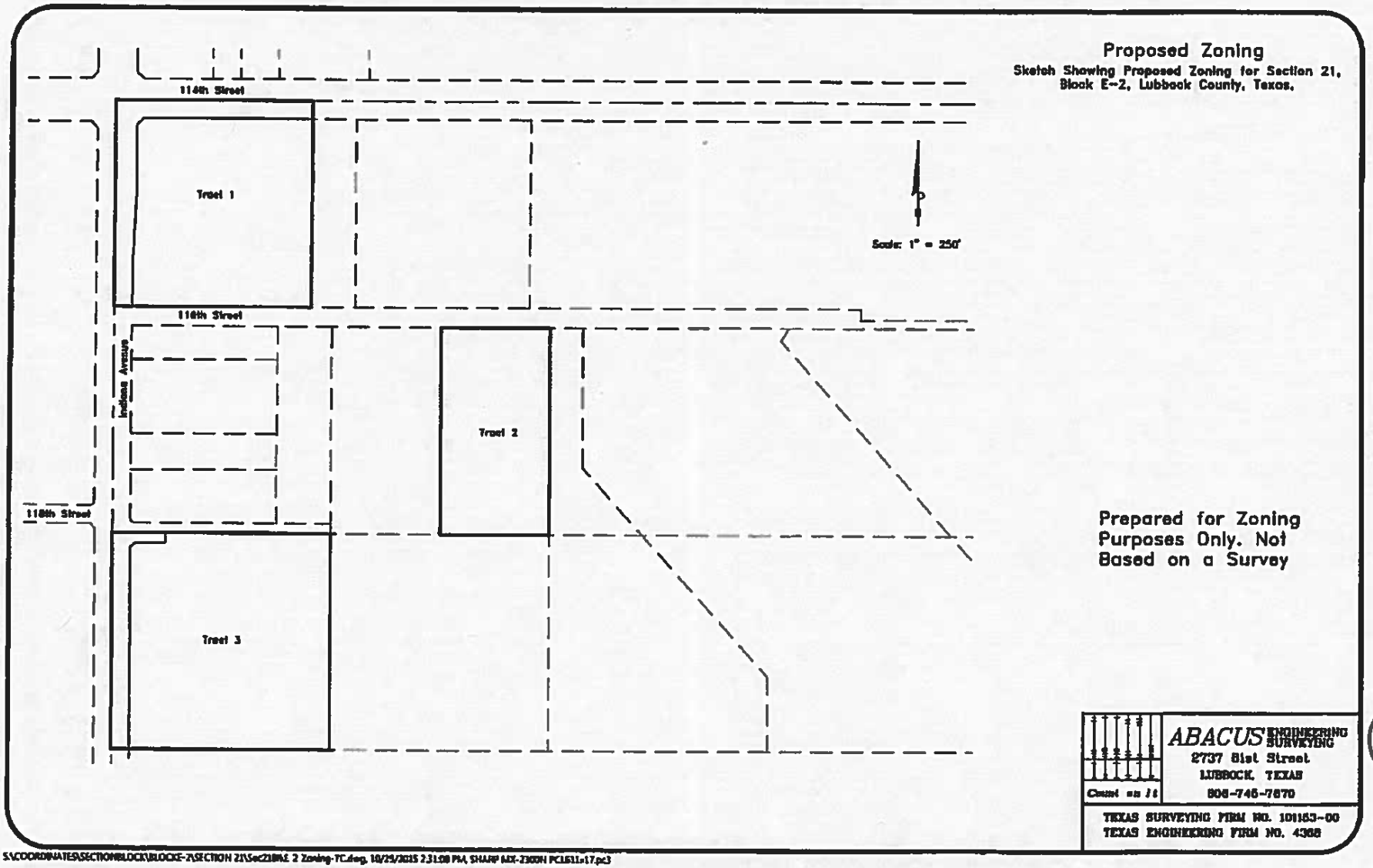


P.Z.C. Case 3268 Zoning



P.Z.C. Case 3268

Request of Day & Company, Inc. for a zoning change from T to C-3, 3101 114th Street


114th Street
Tract 1
116th Street
Indiana Avenue
Tract 2
118th Street
Tract 3
Scale: 1" = 250'
Proposed Zoning
Sketch Showing Proposed Zoning for Section 21, Block E--2, Lubbock County, Texas.
Prepared for Zoning Purposes Only. Not Based on a Survey
ABACUS ENGINEERING SURVEYING
2737 81st Street
LUBBOCK, TEXAS
806-745-7870
TEXAS SURVEYING FIRM NO. 101153-00
TEXAS ENGINEERING FIRM NO. 4368
S:\COORDINATES\SECTIONBLOCK\BLOCKE-2\SECTION 21\Sec21BLK E 2 Zoning-TC.dwg, 10/29/2015 2:31:08 PM, SHARP MX-2300N PC1611x17.pc3

(17)

(4)

ABACUS ENGINEERING SURVEYING

2737 81ST STREET LUBBOCK, TEXAS 79423
(806) 745-7670

"Count on it"

Tract 1

Metes and Bounds Description prepared for Zone Change Purposes only on a tract out of Section 21, Block E-2, Lubbock County, Texas and further described as follows:

BEGINNING at the Northwest corner of Section 21, Block E-2;

THENCE East along the North line of Section 21, a distance of 597 feet;

THENCE South, a distance of 630 feet;

THENCE West, along the North line of 116th Street a distance of 597 feet;

THENCE North, along the West line of Section 21, a distance of 630 feet to the Place of BEGINNING containing 8.634 Acres.

For Zone Change Purposes Only, Does not Represent a Survey.

APPLICATION FOR ZONE CHANGE

Lubbock Planning & Zoning Commission
PO Box 2000 / 1625 13th St
Lubbock, TX 79457

Applicant (Please Print) Day & Company, Inc.

6309 Indiana Ave Ste. B
Street/Post Office Box

Lubbock TX 79413
City State Zip

(806) 785-7300
Telephone

For _____

Street/Post Office Box

City State Zip

( )
Telephone

Location or Address: 114th & Indiana Ave.

Legal Description:* A 6.41 acres tract out of BLK E2 SEC 21 AB 270 TR A

Existing Land Use: Farm **Existing Zoning:** _____

Acreage or Square Footage of Property: 6.41

Zoning Requested: C3

Proposed Development: Shopping Center

If property is not subdivided, will preliminary plat be submitted? Yes _____ No _____

Bobby Day
Applicant's Signature

9-14-15
Date

Filing Fee: _____
($475.00 for the first acre; $3.00 for each additional acre; $165 for Non-Profit)

***There must be a separate legal description for each unplatted tract having different zoning. If the Planning & Zoning Commission or City Council amends a zone case as a condition for approval and if there is no appeal, an amended legal description must be received promptly or the zone case may be delayed.**

For City Use Only

MAB map 40

Zone Case No.: 3268 **Agenda No.:** _____

Request for zoning change from: T **To:** C-3

6.41 acres of un platted land out of Block E2 Section 21

on Lot(s): — **Block(s):** —

Subdivision: — **Address:** 3101 114th St

VC XC

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

3.4

If for any reason you will be unable to attend the public hearing advertised by this notice, and wish to present your comments regarding the case, please complete this form and return it to the Secretary of the Planning and Zoning Commission, c/o Planning Department, P.O. Box 2000, Lubbock, TX, 79457, or fax to (806) 775-2100.

If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 775-2120.

Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by: **P&Z Case No.: 3268**

In Favor of X

Opposed ___

Reasons and/or Comments:

RECEIVED
OCT 20 REC'D
PLANNING DEPARTMENT

Print Name RANdy Egenbacher

Signature: [signature]

Address: P.O. Box 94537 Lubbock, Tx 79493

Address of Property Owned: Adjoins to the East

Zone Case Number: 3268 1836
EGENBACHER, JOHN RANDY
PO BOX 94337

LUBBOCK TX 79493-4337

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

3.4

If for any reason you will be unable to attend the public hearing advertised by this notice, and wish to present your comments regarding the case, please complete this form and return it to the Secretary of the Planning and Zoning Commission, c/o Planning Department, P.O. Box 2000, Lubbock, TX, 79457, or fax to (806) 775-2100.

If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 775-2120.

Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by: **P&Z Case No.: 3268**

In Favor of ✓

Opposed ____

Reasons and/or Comments:

RECEIVED
OCT 03 2017
PLANNING DEPARTMENT

Print Name RUSTAM J. MEHDIABADI

Signature: [signature]

Address: 4606 8th St. Lubbock Tx. 79416

Address of Property Owned: Block E 2 Section 21 AB 270 TR B ACS

Zone Case Number: 3268 1835
MEHDIABADI, RUSTAM J
4606 8TH ST

LUBBOCK TX 79416-4705

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

4

If for any reason you will be unable to attend the public hearing advertised by this notice, and wish to present your comments regarding the case, please complete this form and return it to the Secretary of the Planning and Zoning Commission, c/o Planning Department, P.O. Box 2000, Lubbock, TX, 79457, or fax to (806) 775-2100.

If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 775-2120.

Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by: **P&Z Case No.:** ***3268***

In Favor of ✓

Opposed ____

Reasons and/or Comments:

RECEIVED
OCT 26 REC'D
PLANNING DEPARTMENT

Print Name PNCT LAND LLC BY TERRY CROFOOT

Signature: Terry Crofoot

Address: P.O. BOX 53188 LBB, TX 79453

Address of Property Owned: 3102 114 ST ?

10 of 11

Zone Case Number: 3268 95326
PNCT LAND LLC
PO BOX 53188

LUBBOCK TX 79453

Regular City Council Meeting **6. 5.**

Meeting Date: 12/03/2015

Information

Agenda Item

Public Hearing 5:30 p.m. – Planning: Consider a request for Zone Case 3269, a request of AMD Engineering, LLC., for MRXNO, for a zoning change from R-1 to C-3 on 7.27 acres of unplatted land out of Block AK, Section 44, 3206 West Loop 289, and consider an ordinance.

Item Summary

General comments:
This request is to rezone a little more than seven acres of land from R-1 to C-3. These seven acres are located at the northeast corner of Kewanee Avenue and 34th Street, approximately 2000 feet west of Loop 289. The developer is proposing to build a three or four story office complex on this property.

The applicant is proposing a 120 foot landscape buffer, including a screening fence along the west edge of this proposed development. He has also requested one curb cut access to Kewanee Avenue.

In May 2015, the P&Z Commission approved a case for 15 acres of C-3 northeast of this location. Those 15 acres were a minor change to the CLUP, but were supported based on the location and the separation from the adjacent existing residential district. This separation was created by the amount of land that could not be developed due to the neighboring playa lake. Including the 15 acres approved in May, this accounts for approximately 100 acres of commercially zoned property around west Loop 289 and 34th Street.

Due to the playa lake and drainage requirements, development of this seven acres will most likely lessen the acreage of land that can be developed north and east of the existing playa lake.

Adjacent land uses:
To the west of the requested zoning change is an existing single family neighborhood. There is a playa lake north and east of the property with vacant commercially zoned property beyond that. Across 34th Street to the south is another established single family neighborhood.

CLUP:
This request is not consistent with the CLUP. Approval of this case will be a minor change to the CLUP. Any commercial zoning beyond 660 feet from the intersection of two thoroughfares or expressway is considered strip zoning and is discouraged by the CLUP. With the conditions limiting the uses and curb cuts, as recommended by the P&Z Commission, the minor change to the CLUP is supported by staff.

Zoning Policy:
The City of Lubbock zoning policies discourage commercial zoning adjacent to residential zoned areas. A zoning district with a lower impact is preferred as a buffer adjacent to neighborhoods. With the condition requiring a large landscape buffer area, the case is consistent with the intent of the zoning policy. Additionally, the condition limiting the allowed uses in the building, the request follows the intent of the code.

Effect on the adjacent street and thoroughfare system:

The continued expansion of commercial zoning along the length of 34th Street could have a negative impact on traffic along this corridor. However, with the condition limiting the project to one curb cut on Kewanee Avenue and one curb cut on 34th Street, the overall impact on the thoroughfare system should be limited.

Recommendations:
On November 3, 2015, the Planning and Zoning Commission recommended the request with a unanimous vote, with the following conditions:
1. That the uses shall be limited to professional offices and restaurants as an incidental use;
2. That a 120 foot landscape buffer, including a screening fence, shall be required on the west property line;
3. That one curb cut shall be allowed on Kewanee Avenue and one curb cut shall be allowed on 34th Street; and
4. That the screening fence requirement be waived for the north and east property lines.

Fiscal Impact

None.

Staff/Board Recommending

Bill Howerton, Assistant City Manager
Planning and Zoning Commission

Attachments

Ordinance 3269
3269 Backup

ORDINANCE NO._____

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 7084 AND THE OFFICIAL MAP OF THE CITY OF LUBBOCK MAKING THE FOLLOWING CHANGES: **ZONE CASE NO. 3269;** A ZONING CHANGE FROM **R-1** TO **C-3** ZONING DISTRICT ON **7.27 ACRES OF UNPLATTED LAND OUT OF BLOCK AK, SECTION 44,** LUBBOCK, TEXAS; PROVIDING A PENALTY; SUBJECT TO CONDITIONS; PROVIDING A SAVINGS CLAUSE AND PROVIDING FOR PUBLICATION.

WHEREAS, the proposed changes in zoning as hereinafter made have been duly presented to the Planning and Zoning Commission for its recommendation which was received by the City Council and, after due consideration, the City Council found that due to changed conditions, it would be expedient and in the interest of the public health, safety and general welfare to make those proposed changes in zoning; and

WHEREAS, the 1986 Comprehensive Land Use Plan as amended is a guide to help the Lubbock Planning and Zoning Commission and City Council determine the physical development of the community; however, planning is a continuous process and change is inevitable; and

WHEREAS, the Lubbock Planning and Zoning Commission and City Council recognize that the zone change is a minor deviation from the 1986 Comprehensive Land Use Plan as amended, which protects public and private commitments that have been previously based on the Plan; and

WHEREAS, all conditions precedent required by law for a valid amendment to the Zoning Ordinance and Map have been fully compiled with, including giving notices in compliance with Section 40.01.005 of the Code of Ordinances, City of Lubbock, Texas, and the notices provided by the Texas Local Government Code §211.007 (Vernon, 1990), and notice was duly published in the Lubbock Avalanche-Journal more than fifteen (15) days prior to the date of the public hearing before the City Council on such proposed amendment, and the public hearing according to said notice, was held in the City Council Chamber of the Municipal Building, Lubbock, Texas, at which time persons appeared in support of the proposal; and after said hearing, it was by the City Council determined that it would be in the public interest, due to changed conditions, that the Zoning Ordinance and the Zoning Map be amended in the manner hereinafter set forth in the body of this Ordinances and this Ordinance having been introduced prior to first reading hereof; NOW THEREFORE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

ZONE CASE NO. 3269

SECTION 1. THAT Ordinance No. 7084 and the Official Zoning Map are amended as follows:

A change of zoning under the provisions of Section 40.01.005 of the Code of Ordinances of the City of Lubbock from **T** to **C-3** zoning district on **7.27 acres of**

unplatted land out of Block AK, Section 44, City of Lubbock, Lubbock County, Texas located at **3206 West Loop 289,** subject to conditions:

SUBJECT TO THE FOLLOWING CONDITIONS:

1. **THAT the uses shall be limited to professional offices and restaurants as an incidental use.**

2. **THAT a 120 foot landscape buffer, including a screening fence shall be required on the west property line.**

3. **THAT one curb cut shall be allowed on Kewanee Avenue and one curb cut shall be allowed on 34th street.**

4. **THAT the screening fence requirement be waived for the north and east property lines.**

SECTION 2. THAT violation of any provisions of this Ordinance shall be deemed a misdemeanor punishable by a fine not to exceed Two Thousand and No/100 Dollars ($2,000.00) as provided in Section 40.01.006 of the Zoning Ordinance of the City of Lubbock.

SECTION 3. THAT should any paragraph, sentence, clause, phrase or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

SECTION 4. THAT the City Secretary is hereby authorized to cause publication of the descriptive caption of this Ordinance as an alternative method provided by law.

AND IT IS SO ORDERED.

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

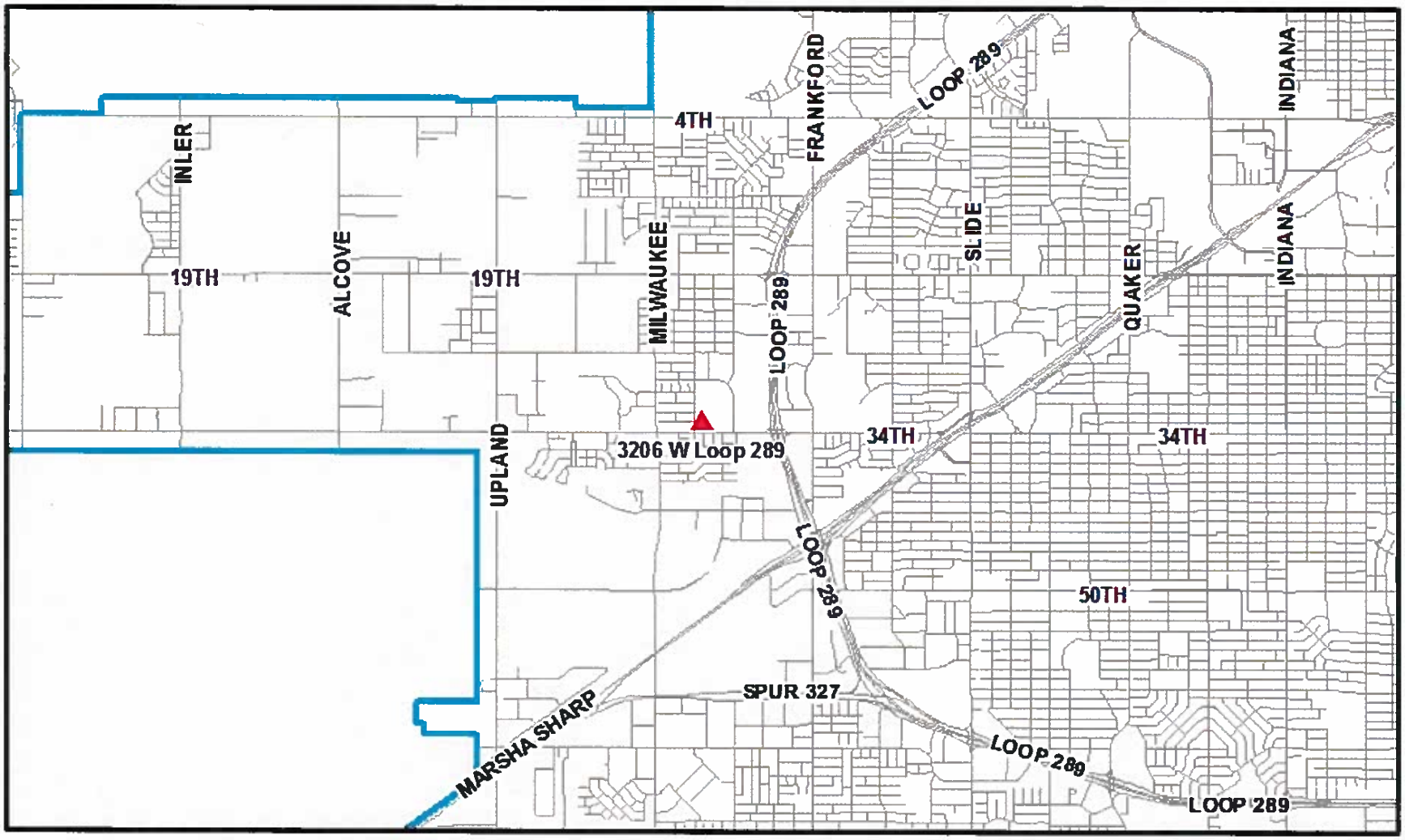
APPROVED AS TO CONTENT:

Andrew Paxton, Director of Planning

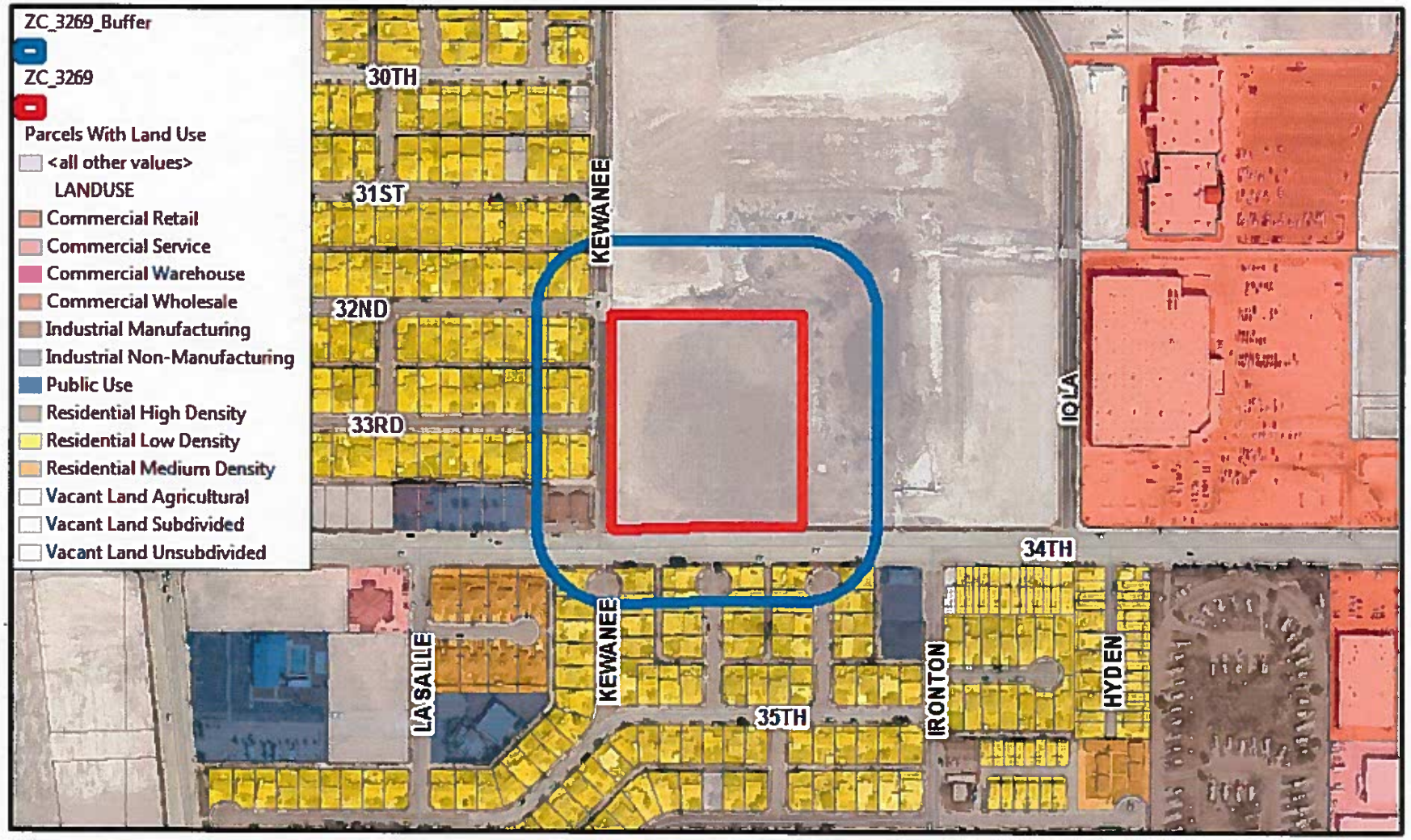
APPROVED AS TO FORM:

Justin D. Pruitt, Assistant City Attorney

vw/CityAtt/Justin/Zones/ZC3269
November 3, 2015

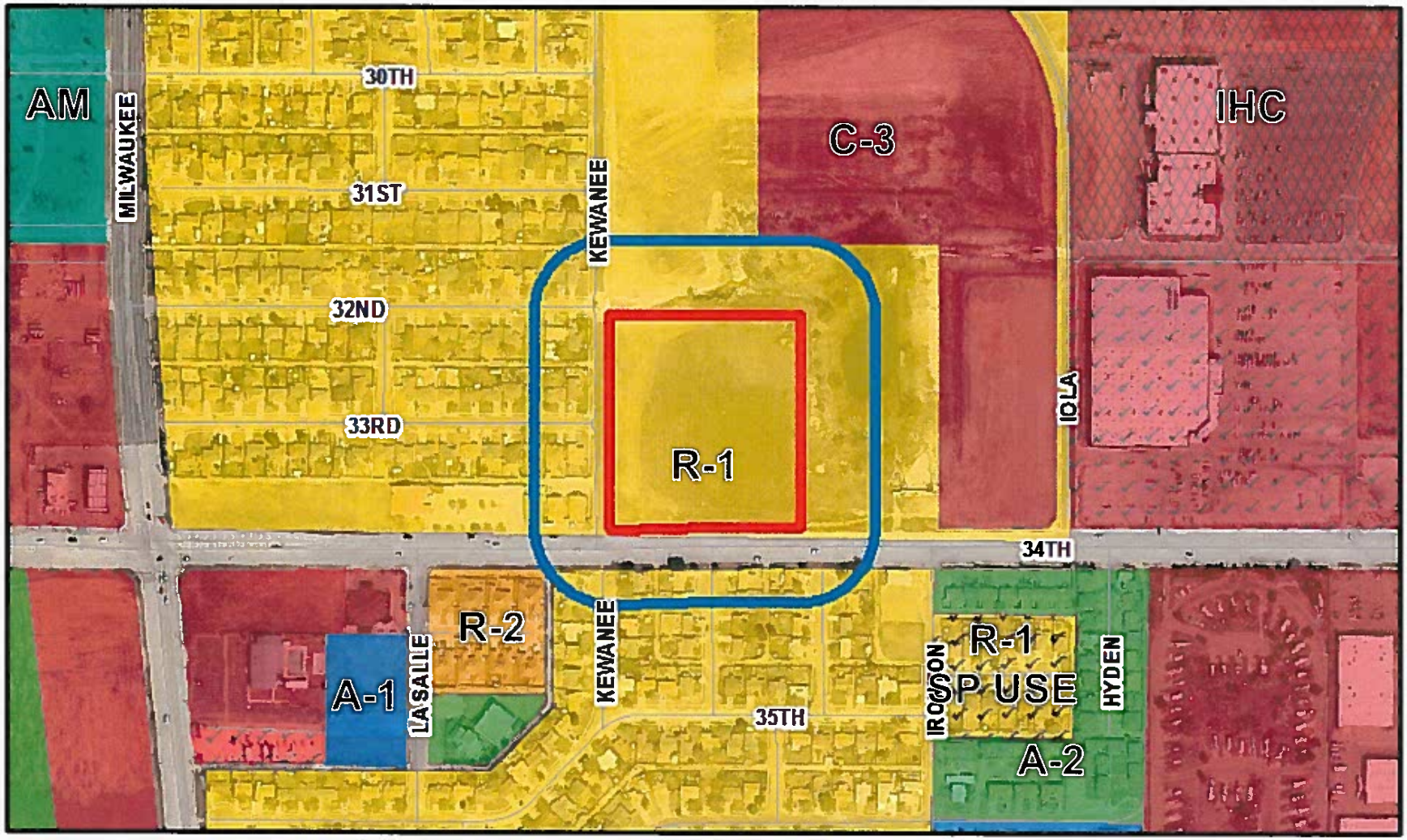


P.Z.C. Case 3269



P.Z.C. Case 3269

Request of AMD Engineering, LLC. (for MRXNO) for a zoning change from R-1 to C-3, 3206 West Loop 289



P.Z.C. Case 3269 Zoning

Rezone to C-3

METES AND BOUNDS DESCRIPTION of a 7.27 acre tract of land located in Section 44, Block AK, Lubbock County, Texas, prepared for Zone Change Purposes only and being further described as follows:

BEGINNING at a point which bears N01°51'33"E, approximately 53.84 feet and N88°08'27"W, approximately 3401.41 feet from the Southeast corner of Section 44, Block AK, Lubbock County, Texas;

THENCE N88°08'27"W, an approximate distance of 247.93 feet;

THENCE N89°55'50"W, an approximate distance of 268.15 feet;

THENCE Northwesterly along an arc of a curve to the right having a radius of 15.00 feet, an arc length of 23.77 feet, a central angle of 90°40'11", a chord distance of 21.36 feet, and a chord bearing of N44°08'50"W;

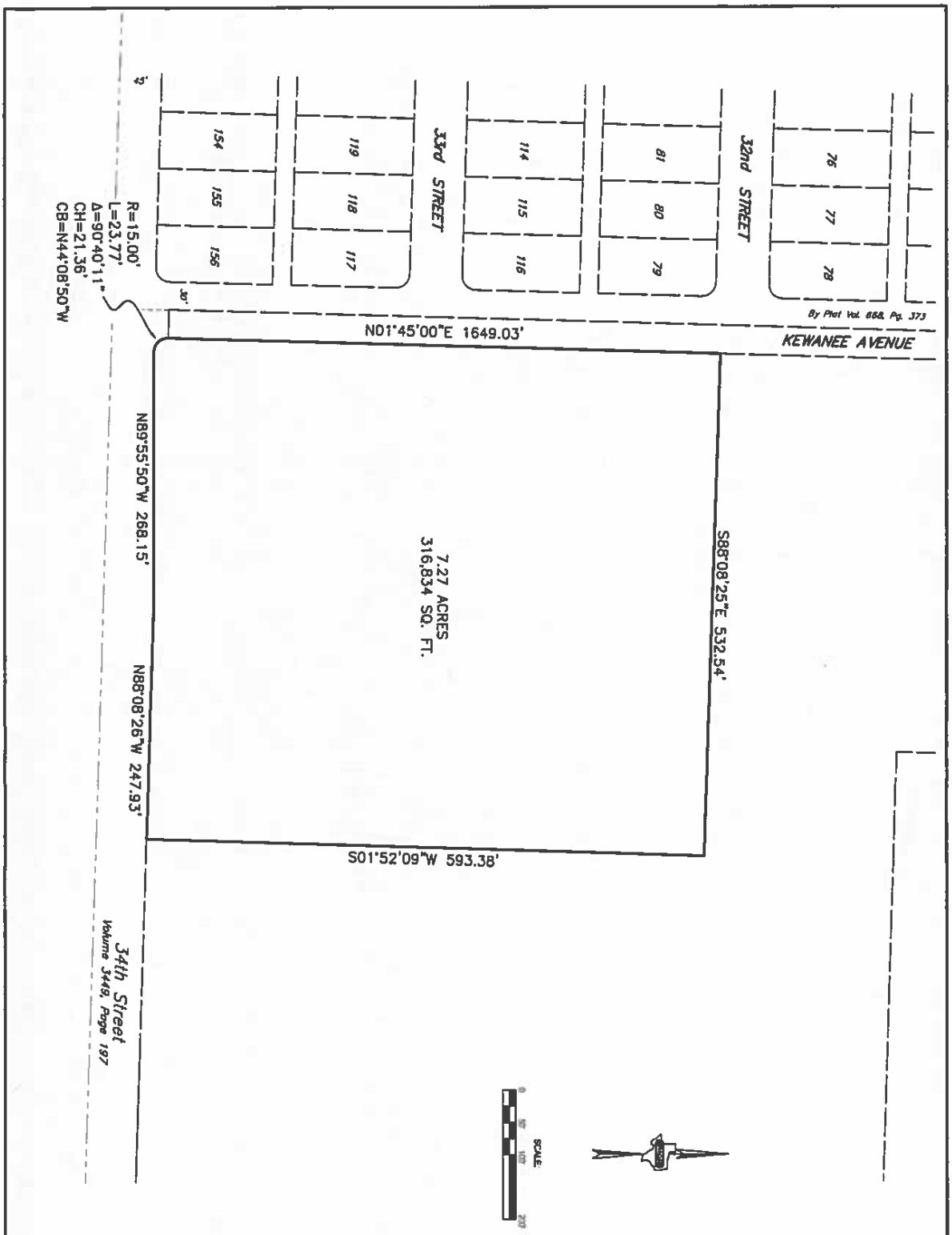
THENCE N01°45'00"E, an approximate distance of 586.92 feet;

THENCE S88°08'27"E, an approximate distance of 532.54 feet;

THENCE S01°52'09"W, an approximate distance of 593.38 feet to the Point of Beginning and containing approximately 7.27 acres, including any Right of Way.

PREPARED FOR ZONE CHANGE REQUEST ONLY; DOES NOT REPRESENT A SURVEY.

Prepared for: Marvin Crossnoe
October 12, 2015



SKETCH FOR ZONING CHANGE

AMD
CIVIL ENGINEERING
LAND SURVEYING
AMD Engineering, LLC
2607 74th Street, Suite 8
Lubbock, TX 79423
Phone: 806-771-5976
Fax: 806-771-7625
TBPE Reg. # F-9197
Accuracy - Efficiency - Integrity

Andrew Paxton

From: Cory Dulin <cdulin@amdeng.com>
Sent: Tuesday, November 03, 2015 10:34 AM
To: Andrew Paxton
Cc: Marvin Crossnoe
Subject: Zone Case #3269

Drew,
We would like to offer that there will be a minimum 120' landscaping buffer on the east side of Kewanee Avenue (the approximate depth of a residential block of houses or duplexes) between the proposed office complex and Kewanee. We understand that there is a screening wall requirement on the west side between commercial and residential zones and that wall will build that within the landscaping buffer. There will be a maximum of 1 driveway tie-in to Kewanee from this zoned property.
Please let me know if these conditions change your stance on this property zoning. Please also keep in mind that whatever is developed in this area reduces the developable area to the east and north based on the playa lake requirements. We may end up with a commercially zoned lake but it will still be a lake...

Cory R. Dulin, P.E., CFM (TX, NM)
AMD Engineering, LLC
Texas Registered Engineering Firm (TX No. F-9197)
Texas Licensed Surveying Firm (TX No. 101785-00)
2807 74th St. | Suite 8 | Lubbock, TX 79423
Office:(806) 771-5976
Cell: (806) 786-0169
Fax: (806) 771-7625

APPLICATION FOR ZONE CHANGE

Lubbock Planning & Zoning Commission
PO Box 2000 / 1625 13th St
Lubbock, TX 79457

Applicant (Please Print) **AMD Engineering, LLC**

2807 74th Street, Ste. 8
Street/Post Office Box

Lubbock TX 79423
City State Zip

(806) 771-5976
Telephone

For MRXNO

5214 68th Street, Suite 200
Street/Post Office Box

Lubbock TX 79424
City State Zip

(806) 687-8585
Telephone

Location or Address: Property East of Kewanee Avenue, North of 34th Street, and South of 32nd Street

Legal Description:* See Attached

Existing Land Use: ag **Existing Zoning:** T

Acreage or Square Footage of Property: 7.27 acres

Zoning Requested: C-3

Proposed Development: Multi-story office buildings and retail commercial

If property is not subdivided, will preliminary plat be submitted? Yes x No

Applicant's Signature

October 12, 2015
Date

***There must be a separate legal description for each unplatted tract having different zoning. If the Planning & Zoning Commission or City Council amends a zone case as a condition for approval and if there is no appeal, an amended legal description must be received promptly or the zone case may be delayed.**

Filing Fee: $496
($475.00 for the first acre; $3.00 for each additional acre)

For City Use Only

MLB map 23

Zone Case No.: 3259 **Agenda No.:**

Request for zoning change from: R-1 **To:** C-3

on 7.27 acres of unplatted land out of block AK, Section 44

on Lot(s) , **Block(s)** ,

Addition **(Address:** 3205 W loop 289 **).**

VS KE

Regular City Council Meeting **6. 6.**

Meeting Date: 12/03/2015

Information

Agenda Item

Public Hearing 5:30 p.m. – Planning: Consider a request for Zone Case 3049-C, a request of AMD Engineering, LLC., for Wooded Forest, for a zoning change from R-1 Specific Use and R-2 Specific Use to R-2 Specific Use on 2.045 acres of unplatted land out of Block E, Section 10, 9802 Avenue U, and consider an ordinance.

Item Summary

General comments:
The request is to change the zoning from single family to duplex zoning.

Adjacent land uses:
N: R-1 Single family residence and R-2 duplex
S: R-1 Specific use single family residences
E: R-2 duplex and A-2 apartments
W: R-1 Specific use single family residences

Comprehensive Land Use Plan (CLUP):
The request is consistent with our CLUP as R-2 should be integrated within neighborhoods, adjacent or near R-1.

Zoning Policy:
Duplex zoning is consistent with zoning policy. The same setbacks and requirements will be met as with most R-1 residential zoning. There is already a portion of this case which is zoned R-2.

Effect on the adjacent street and thoroughfare system:
None. R-2 is still considered low density and the adjacent streets should be constructed accordingly to handle residential traffic.

On November 3, 2015, the Planning and Zoning Commission recommended the request with a unanimous vote with the following conditions:
1. 5 foot side setbacks on corner lots and 20 foot front setbacks.

Fiscal Impact

None.

Staff/Board Recommending

Bill Howerton, Assistant City Manager
Planning and Zoning Commission

Attachments

Ordinance 3049-C

ORDINANCE NO._____

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 7084 AND THE OFFICIAL MAP OF THE CITY OF LUBBOCK MAKING THE FOLLOWING CHANGES: **ZONE CASE NO. 3049-C;** A ZONING CHANGE FROM **R-1 SPECIFIC USE AND R-2 SPECIFIC USE** TO **R-2 SPECIFIC USE** FOR **REDUCED SETBACKS**, ON **2.045 ACRES OF UNPLATTED LAND OUT OF BLOCK E, SECTION 10,** LUBBOCK, TEXAS; SUBJECT TO CONDITIONS; PROVIDING A PENALTY; PROVIDING A SAVINGS CLAUSE AND PROVIDING FOR PUBLICATION.

WHEREAS, the proposed changes in zoning as hereinafter made have been duly presented to the Planning and Zoning Commission for its recommendation which was received by the City Council and, after due consideration, the City Council found that due to changed conditions, it would be expedient and in the interest of the public health, safety and general welfare to make those proposed changes in zoning; and

WHEREAS, all conditions precedent required by law for a valid amendment to the Zoning Ordinance and Map have been fully complied with, including giving notices in compliance with Section 40.01.005 of the Code of Ordinances, City of Lubbock, Texas, and the notices provided by the Texas Local Government Code §211.007 (Vernon, 1990), and notice was duly published in the Lubbock Avalanche-Journal more than fifteen (15) days prior to the date of the public hearing before the City Council on such proposed amendment, and the public hearing according to said notice, was held in the City Council Chamber of the Municipal Building, Lubbock, Texas, at which time persons appeared in support of the proposal; and after said hearing, it was by the City Council determined that it would be in the public interest, due to changed conditions, that the Zoning Ordinance and the Zoning Map be amended in the manner hereinafter set forth in the body of this Ordinance and this Ordinance having been introduced prior to first reading hereof; NOW THEREFORE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

ZONE CASE NO. 3049-C

SECTION 1. THAT Ordinance No. 7084 and the Official Zoning Map are amended as follows:

A change of zoning under provisions of Section 40.01.005 of the Code of Ordinances of the City of Lubbock from **R-1 Specific Use and R-2 Specific Use** to **R-2 Specific Use** for **reduced setbacks** on **2.045 acres of unplatted land out of Block E, Section 10,** City of Lubbock, Lubbock County, Texas, located at **9802 Avenue U,** subject to conditions, and being further described as follows:

METES AND BOUNDS DESCRIPTION: Attached as Exhibit "A".

SUBJECT TO THE FOLLOWING CONDITIONS:

1. **THAT throughout the development, 5 foot side setbacks shall be permitted on corner lots as well as 20 foot front setbacks throughout the development shall be permitted.**

SECTION 2. THAT the granting of this specific use zoning is hereby made subject to compliance with all provisions of Zoning Ordinance No. 7084, as amended, including particularly, but not limited to, Section 40.03.3102 of the Codified Zoning Ordinance, which provides that a Building Permit shall be applied for and secured within thirty (30) months of the effective date of the zone change or all undeveloped property shall automatically revert back to the previous zoning classification, which in this case is the **R-1 Specific Use and R-2 Specific Use** zone district; and if such reversion occurs, the Director of Planning is directed to remove from the Zoning Map the legend indicating such specific use. The Specific Use authorized by this Ordinance is permitted under provision of Section 40.03.3101-40.03.3103 of Codified Zoning Ordinance No. 7084 on the property described as **9802 Avenue U**, City of Lubbock, Lubbock County, Texas.

SECTION 3. THAT violation of any provision of this Ordinance shall be deemed a misdemeanor punishable by fine not to exceed Two Thousand and No/100 Dollars ($2,000.00) as provided in Section 40.01.006 of the Zoning Ordinance of the City of Lubbock.

SECTION 4. THAT should any paragraph, sentence, clause, phrase or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

SECTION 5. THAT the City Secretary is hereby authorized to cause publication of the descriptive caption of this Ordinance as an alternative method provided by law.

AND IT IS SO ORDERED.

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

Rebecca Garza, City Secretary

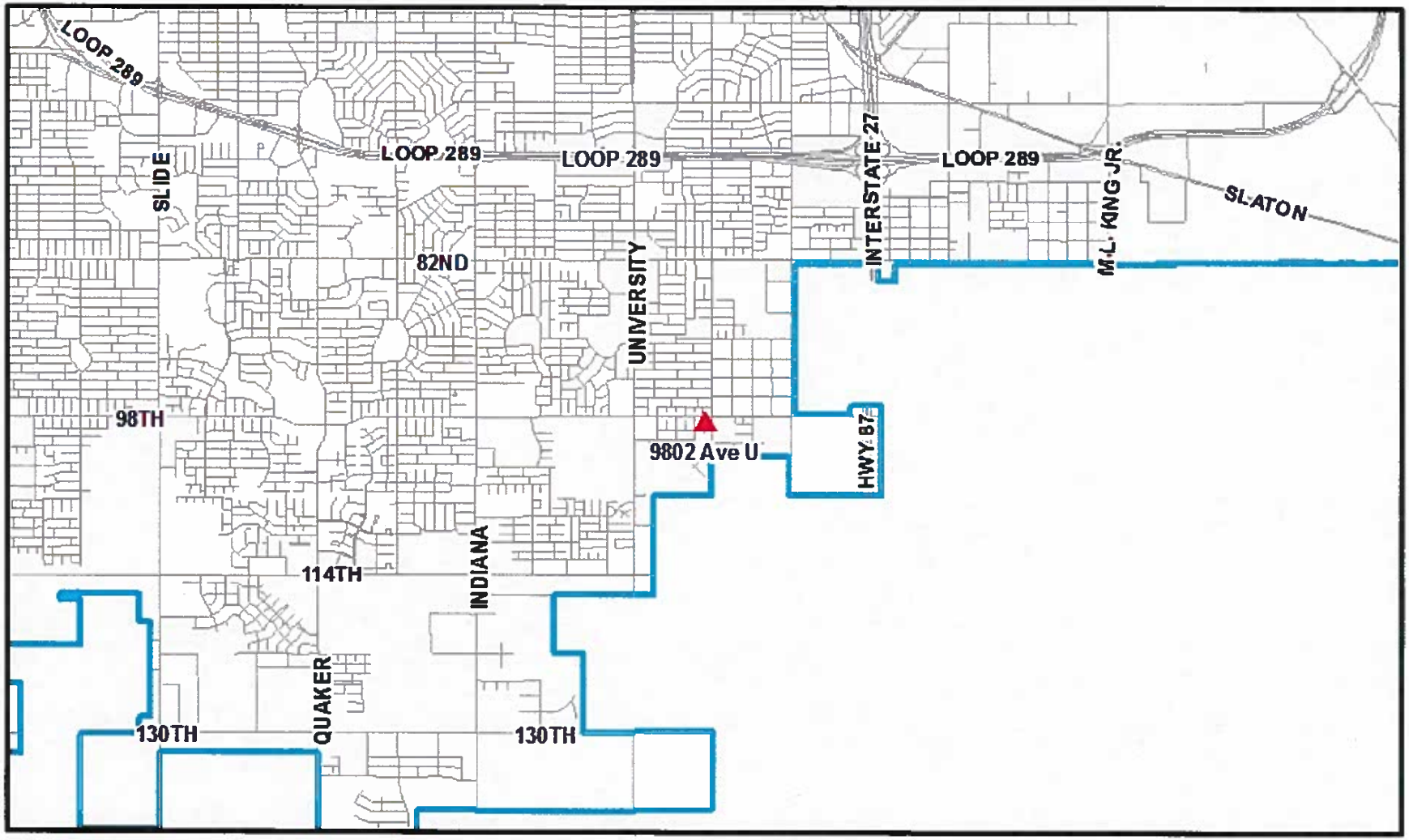
APPROVED AS TO CONTENT:

Andrew Paxton, Director of Planning

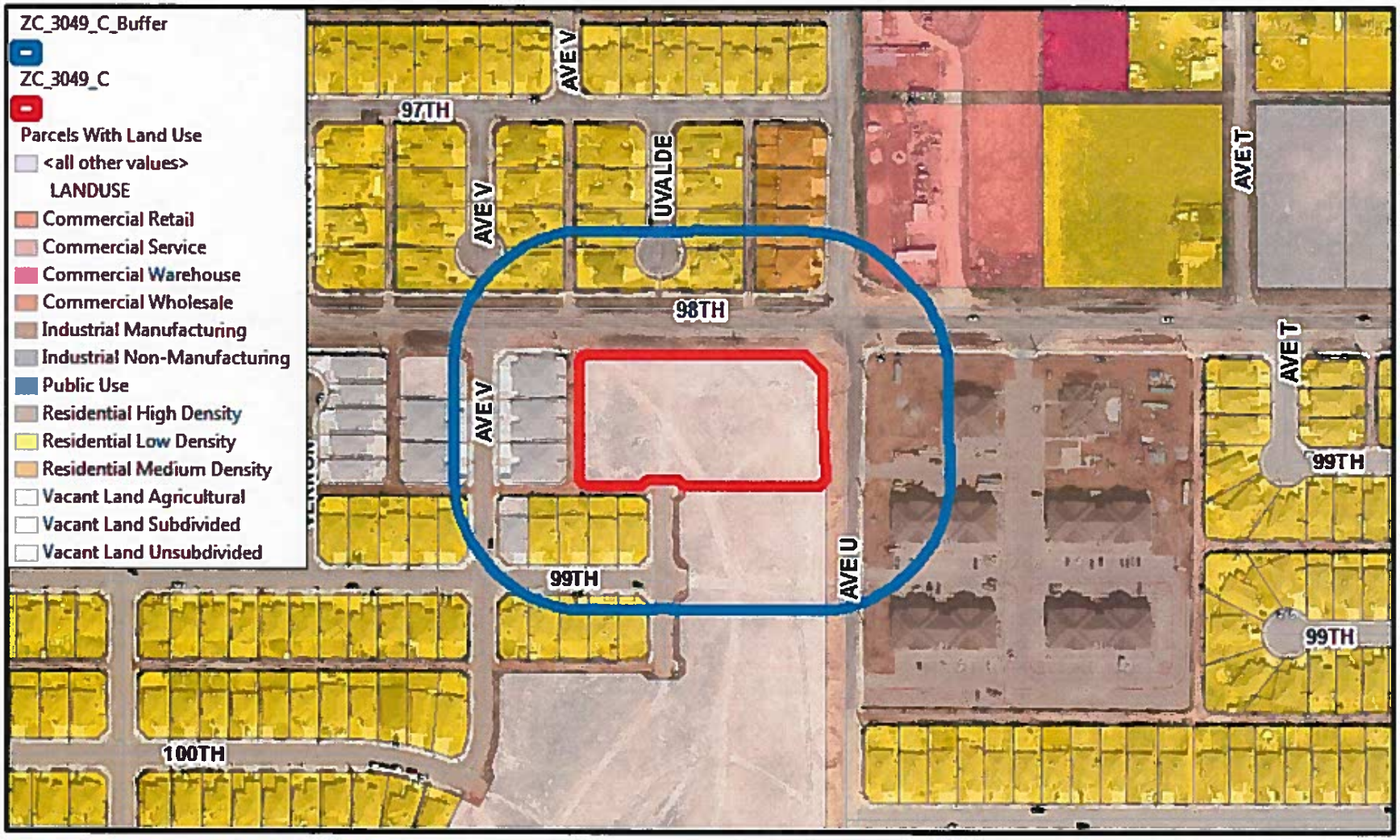
APPROVED AS TO FORM:

Justin D. Pruitt, Assistant City Attorney

vw/CityAtt/Justin/Zones/ZC3049-C
November 3, 2015

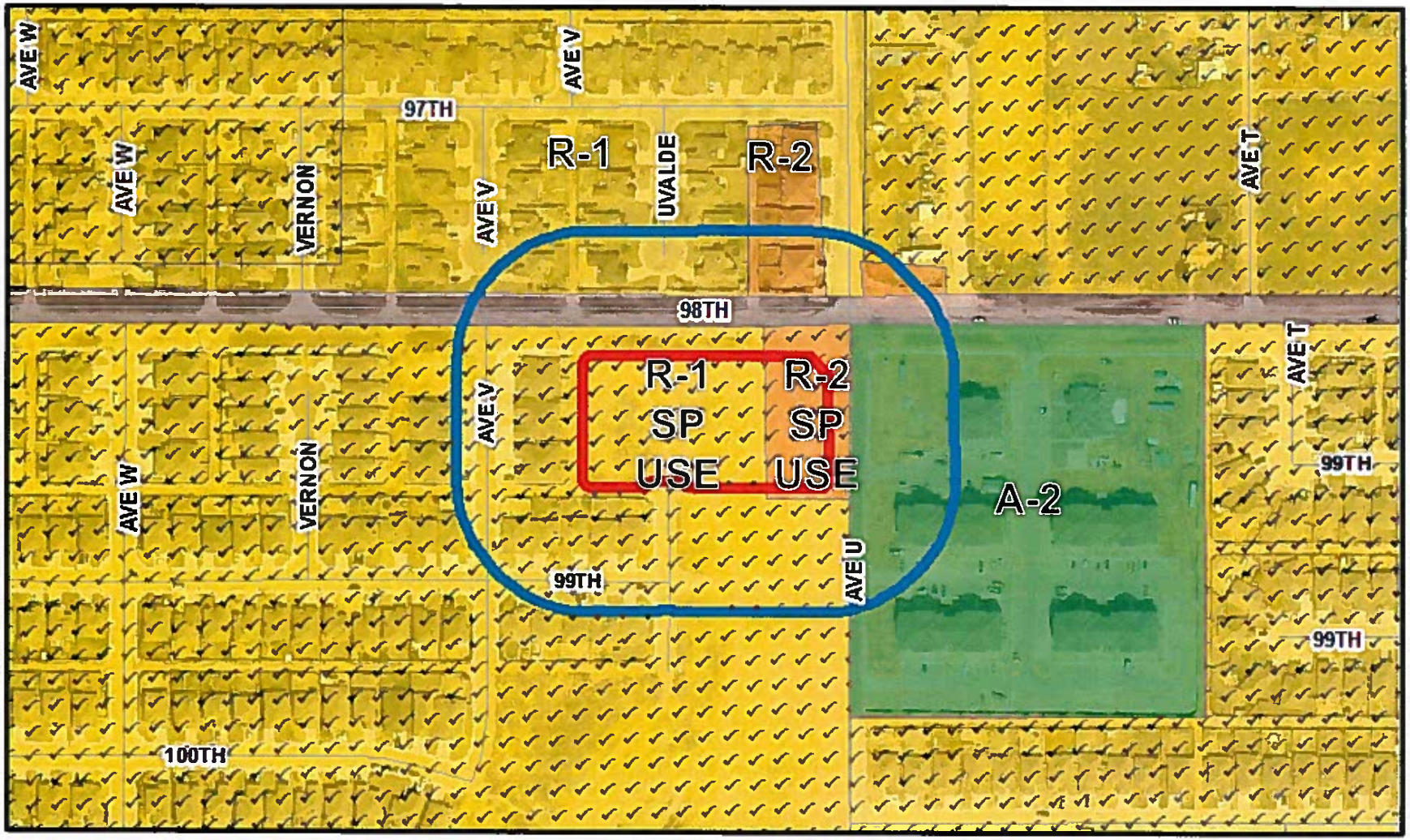


P.Z.C. Case 3049-C



P.Z.C. Case 3049-C

Request of AMD Engineering, LLC. (for Wooded Forest) for a zoning change from R-1 Specific Use and R-2 Specific Use to R-2 Specific Use, 9802 Avenue U



P.Z.C. Case 3049-C Zoning

Rezone to R-2

METES AND BOUNDS DESCRIPTION of a 2.045 acre tract of land located in Section 10, Block E, Lubbock County, Texas, prepared for Zone Change Purposes only and being further described as follows:

BEGINNING at a point in which bears S01°48'30"W, approximately 55.00 feet and S88°11'30"E, approximately 2206.25 feet from the Northwest corner of Section 10, Block E, Lubbock County, Texas;

THENCE S88°11'30"E, an approximate distance of 370.06 feet;

THENCE Southeasterly along an arc of a curve to the right having a radius of 30.00 feet, and arc length of 47.20 feet, a central angle of 90°08'09", a chord distance of 42.48 feet, and a chord bearing of S43°07'25"E;

THENCE S01°56'39"W, an approximate distance of 70.00 feet;

THENCE S00°09'25"E, an approximate distance of 109.12 feet;

THENCE S45°49'32"W, an approximate distance of 13.90 feet;

THENCE N88°11'30"W, an approximate distance of 226.82 feet;

THENCE N43°11'30"W, an approximate distance of 14.14 feet;

THENCE N88°11'30"W, an approximate distance of 52.00 feet;

THENCE S46°48'30"W, an approximate distance of 14.14 feet;

THENCE N88°11'30"W, an approximate distance of 95.16 feet;

THENCE N43°11'30"W, an approximate distance of 14.14 feet;

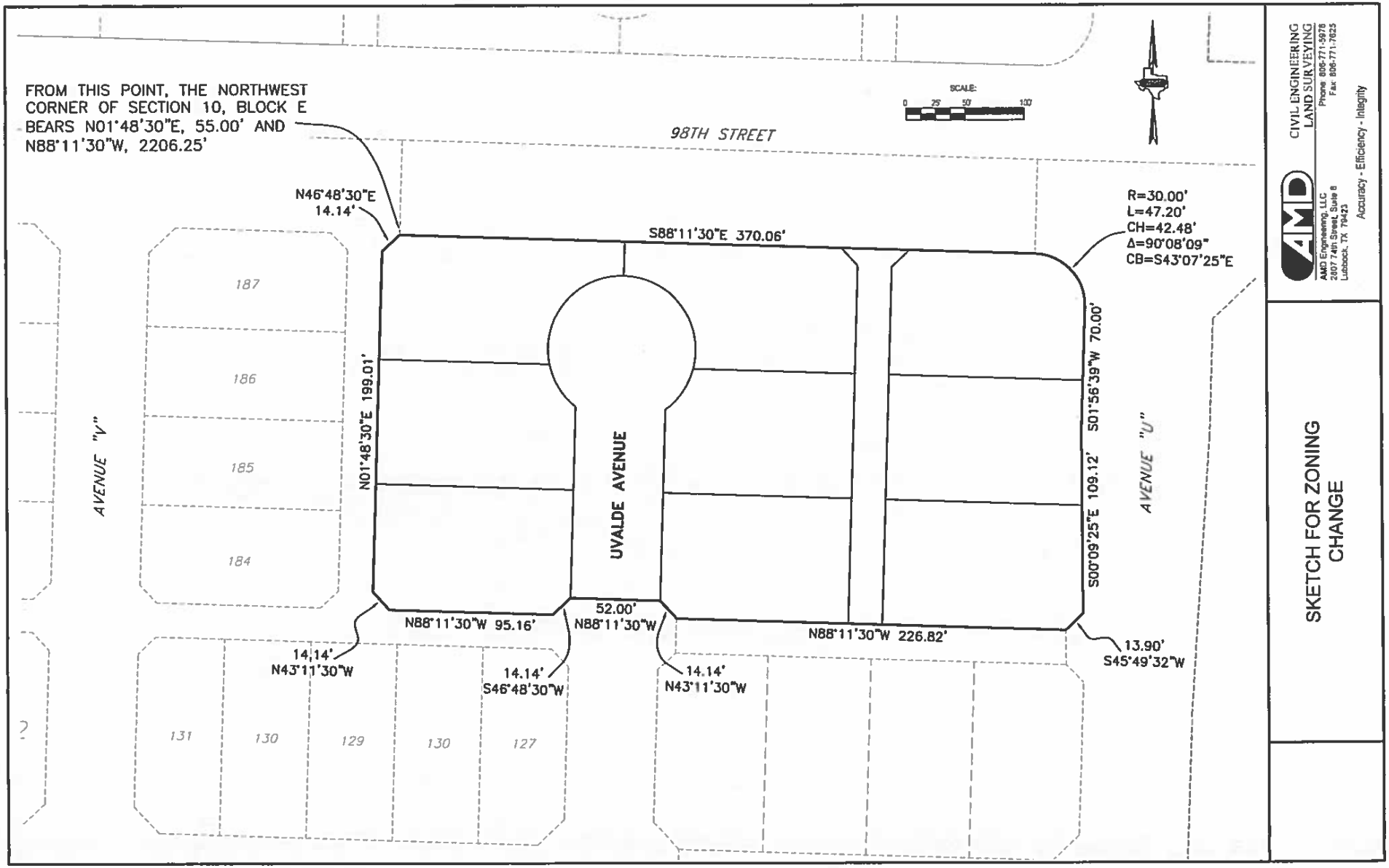
THENCE N01°48'30"E, an approximate distance of 199.01 feet;

THENCE N46°48'30"E, an approximate distance of 14.14 feet to the Point of Beginning and containing approximately 2.045 acres, including any Right of Way.

PREPARED FOR ZONE CHANGE REQUEST ONLY; DOES NOT REPRESENT A SURVEY.

Prepared for: Wooded Forrest
October 12, 2015

P:\2015\15181-FOX RIDGE, PHASE 3\SURVEYING\FIELDNOTE DESCRIPTIONS\15181-M&B ZONE CHANGE R-2.doc


FROM THIS POINT, THE NORTHWEST CORNER OF SECTION 10, BLOCK E BEARS N01°48'30"E, 55.00' AND N88°11'30"W, 2206.25'
98TH STREET
SCALE:
0 25 50 100
N46°48'30"E 14.14'
S88°11'30"E 370.06'
R=30.00'
L=47.20'
CH=42.48'
Δ=90°08'09"
CB=S43°07'25"E
AVENUE "V"
187
186
185
184
N01°48'30"E 199.01'
UVALDE AVENUE
S01°56'39"W 70.00'
S00°09'25"E 109.12'
AVENUE "U"
N88°11'30"W 95.16'
52.00'
N88°11'30"W
N88°11'30"W 226.82'
13.90'
S45°49'32"W
14.14'
N43°11'30"W
14.14'
S46°48'30"W
14.14'
N43°11'30"W
131
130
129
130
127
CIVIL ENGINEERING
LAND SURVEYING
Phone 806-771-5978
Fax 806-771-7625
AMD Engineering, LLC
2807 74th Street, Suite 8
Lubbock, TX 79423
Accuracy - Efficiency - Integrity
SKETCH FOR ZONING CHANGE

APPLICATION FOR ZONE CHANGE

Lubbock Planning & Zoning Commission
PO Box 2000 / 1625 13th St
Lubbock, TX 79457

Applicant (Please Print) **AMD Engineering, LLC**

2807 74th Street, Ste. 8
Street/Post Office Box

Lubbock TX 79423
City State Zip

(806) 771-5976
Telephone

For Wooded Forest

3410 98th Street, Ste. 4 – Box 353
Street/Post Office Box

Lubbock TX 79423
City State Zip

(806) 548-2070
Telephone

Location or Address: Southwest corner of 98th Street and Avenue "U"

Legal Description:* See attached metes and bounds description of 2.045-acre tract

Existing Land Use: Vacant / ag **Existing Zoning:** R1 and R2 Specific Use

Acreage or Square Footage of Property: 2.045 acres

Zoning Requested: R-2 Specific Use for duplex lots with reduced side setbacks to 5' for corner lots and front setbacks to 20'.

Proposed Development: Duplexes Residential

If property is not subdivided, will preliminary plat be submitted? Yes x No

Applicant's Signature

October 12, 2015
Date

***There must be a separate legal description for each unplatted tract having different zoning. If the Planning & Zoning Commission or City Council amends a zone case as a condition for approval and if there is no appeal, an amended legal description must be received promptly or the zone case may be delayed.**

Filing Fee: $478
($475.00 for the first acre; $3.00 for each additional acre)

For City Use Only

M+B Map 40

Zone Case No.: 3049-C **Agenda No.:**

Request for zoning change from: R-1SU, R-2 SU **To:** R-2 SU

on 2.045 acres of unplatted land out of Block — Section 10

on Lot(s) — , **Block(s)** — ,

— **Addition** **(Address:** 9802 Ave U **).**

VS-CC

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

(6)

If for any reason you will be unable to attend the public hearing advertised by this notice, and wish to present your comments regarding the case, please complete this form and return it to the Secretary of the Planning and Zoning Commission, c/o Planning Department, P.O. Box 2000, Lubbock, TX, 79457, or fax to (806) 775-2100.

If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 775-2120.

Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by: **P&Z Case No.: 3049-C**

In Favor of ____

Opposed ✓

Reasons and/or Comments:

RECEIVED
OCT 26 REC'D
PLANNING DEPARTMENT

Print Name Carla Williamson

Signature: Carla Williamson

Address: 4602 61ST Lubbock, Tex 79414

Address of Property Owned: 3014 98th

1 of 28

Zone Case Number: 3049-C 13487
WILLIAMSON CARLA
4602 61ST ST

LUBBOCK TX 79414-4525

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

16

If for any reason you will be unable to attend the public hearing advertised by this notice, and wish to present your comments regarding the case, please complete this form and return it to the Secretary of the Planning and Zoning Commission, c/o Planning Department, P.O. Box 2000, Lubbock, TX, 79457, or fax to (806) 775-2100.

If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 775-2120.

Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by: **P&Z Case No.:** 3049-C

RECEIVED
NOV - 3 REC'D
PLANNING DEPARTMENT

In Favor of ____

Strongly *Opposed* X

Reasons and/or Comments:

Our property value will decrease and we don't want that from the existing apartment that went up, we have seen petty crime rise in our neighborhood already - including car vandalizing and extra litter. There is also extra excess noise from apartments that we don't want in our neighborhood -

Print Name Cody Streety

Signature: [signature]

Address: 2111 99th St

Address of Property Owned: 2111 99th St Lubbock TX 79423

Zone Case Number: 3049-C 88997
STREETY, CODY LYNN
2111 99TH ST

LUBBOCK TX 79423

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

6

If for any reason you will be unable to attend the public hearing advertised by this notice, and wish to present your comments regarding the case, please complete this form and return it to the Secretary of the Planning and Zoning Commission, c/o Planning Department, P.O. Box 2000, Lubbock, TX, 79457, or fax to (806) 775-2100.

If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 775-2120.

Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by: **P&Z Case No.: 3049-C**

In Favor of X

Opposed ____

Reasons and/or Comments:

RECEIVED
OCT 29 REC'D
PLANNING DEPARTMENT

Print Name _____

Signature: _____

Address: _____

Address of Property Owned: _____

28 of 28

Zone Case Number: **3049-C** 97436
WOODED FOREST LLC
3410 98TH ST
STE 5

LUBBOCK TX 79423

Regular City Council Meeting **6. 7.**

Meeting Date: 12/03/2015

Information

Agenda Item

Public Hearing 5:30 p.m. – Planning: Consider a request for Zone Case 3126-B, a request of Tommy J. Swann, for South Frankford Commercial Park, LLC., for a zoning change to amend conditions of Ordinance 2012-O0123 on Tracts A, B, and C, Mel Abbe Addition, 5910, 5914, and 6010 130th Street, and consider an ordinance.

Item Summary

General comments:
This property was originally zoned GO. In 2012 a request was made to change it from GO to Interstate Highway Industrial District (IHI) with specific limitations restricting the uses to light industrial. This request is to amend the conditions of the previous ordinance to allow the commercial uses.

Adjacent land uses:
To the north, west, and east is vacant property. North is currently zoned R-1 for single family, west is zoned A-2, and east is zoned C-3.

Comprehensive Land Use Plan (CLUP):
The request is not consistent with standard CLUP policy, however with the existing zoning the CLUP has already been amended.

An amendment to the CLUP was proposed to the Planning & Zoning Commission (P&Z) earlier this year to amend the areas surrounding the outer loop. This amendment was not approved, however the proposal was to allow commercial along the entire frontage of the loop, similar to Loop 289. The P&Z was not comfortable approving the amendment until the Texas Department of Transportation has finalized the location of the roadway. Had the amendment been approved, this case would have been consistent with the CLUP Amendment for the outer loop.

Zoning Policy:
The request is not consistent with the standard zoning policies for this location. However, similar to the CLUP policies, taking into account the location of the outer loop, the request is acceptable.

Effect on the adjacent street and thoroughfare system:
When looking at 130th Street as a thoroughfare, this amendment causes some traffic concerns. However, once the outer loop is built, this building will be on a one way frontage road and traffic should be much less of a concern.

Recommendations:
Staff recommended to amend condition number 1 of the previous ordinance to read:
1. That any unconditionally permitted uses in the C-2A, C-2, and C-3 districts shall be allowed.

On November 3, 2015, the P&Z recommended the request with a unanimous vote
amending the condition 1. of Ordinance 2012-O0123 to read as follows:

1. That any unconditionally permitted uses in the C-2A, C-2, and C-3 districts shall be allowed.

Fiscal Impact

None.

Staff/Board Recommending

Bill Howerton, Assistant City Manager
Planning and Zoning Commission

Attachments

3126-B Ordinance

3126-B Backup

ORDINANCE NO. _____

AN ORDINANCE AMENDING ZONING ORDINANCE NUMBER 7084 AND THE OFFICIAL MAP OF THE CITY OF LUBBOCK MAKING THE FOLLOWING CHANGES: ZONE CASE NO. **3126-B**; AMENDING THE CONDITIONS SET FORTH IN **ORDINANCE NO. 2013-O0123**, ON **8.3 ACRES OF UNPLATTED LAND OUT OF BLOCK AK, SECTION 20**, LUBBOCK, TEXAS; SUBJECT TO CONDITIONS; PROVIDING A PENALTY; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR PUBLICATION.

WHEREAS, the proposed changes in zoning as hereinafter made have been duly presented to the Planning and Zoning Commission for its recommendation which was received by the City Council and, after due consideration, the City Council found that due to changed conditions, it would be expedient and in the interest of the public health, safety and general welfare to make those proposed changes in zoning; and

WHEREAS, the 1986 Comprehensive Land Use Plan as amended is a guide to help the Lubbock Planning and Zoning Commission and City Council determine the physical development of the community; however, planning is a continuous process and change is inevitable; and

WHEREAS, the Lubbock Planning and Zoning Commission and City Council recognize that the zone change is a minor deviation from the 1986 Comprehensive Land Use Plan as amended, which protects public and private commitments that have been previously based on the Plan; and

WHEREAS, all conditions precedent required by law for a valid amendment to the Zoning Ordinance and Map have been fully complied with, including giving notices in compliance with Section 40.01.005 of the Code of Ordinances, City of Lubbock, Texas, and the notices provided by the Texas Local Government Code §211.007 (Vernon, 1990), and notice was duly published in the Lubbock Avalanche-Journal more than fifteen (15) days prior to the date of the public hearing before the City Council on such proposed amendment, and the public hearing according to said notice, was held in the City Council Chamber of the Municipal Building, Lubbock, Texas, at which time persons appeared in support of the proposal; and after said hearing, it was by the City Council determined that it would be in the public interest, due to changed conditions, that the Zoning Ordinance and the Zoning Map be amended in the manner hereinafter set forth in the body of this Ordinance and this Ordinance having been introduced prior to first reading hereof; NOW THEREFORE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

ZONE CASE NO. 3126-B

SECTION 1. THAT Ordinance No. 7084 and the Official Zoning Map are amended as follows:

A change of zoning under the provisions of Section 40.01.005 of the Code of Ordinances of the City of Lubbock from **GO and T** to **IHI** on **8.3 acres of unplatted land out of Block AK, Section 20,** Lubbock, Lubbock County, Texas, located at **6100 Block of 130th Street**, subject to conditions, and being further described as follows:

METES AND BOUNDS DESCRIPTION: Attached as Exhibit "A".

SUBJECT TO THE FOLLOWING CONDITIONS:

SECTION 2. THAT Ordinance No. 7084 and the Official Zoning Map are amended as follows:

Amended Ordinance No. 2012-O0123 under the provisions of Section 40.01.005 of the Code of Ordinances of the City of Lubbock by amending condition 1 to read as follows as it applies to **Tracts A, B, and C, Mel Abbe Addition,** Lubbock, Texas:

1. **THAT any unconditionally permitted uses in the C-2A, C-2 and C-3 districts shall be allowed.**

SECTION 3. THAT violation of any provision of this Ordinance shall be deemed a misdemeanor punishable by fine not to exceed Two Thousand and No/100 Dollars ($2,000.00) as provided by Section 40.01.006 of the Zoning Ordinance of the City of Lubbock, Texas.

SECTION 4. THAT should any paragraph, sentence, clause, phrase or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of the Ordinance shall not be affected thereby.

SECTION 5. THAT the City Secretary is hereby authorized to cause publication of the descriptive caption of this Ordinance as an alternative method provided by law.

AND IT IS SO ORDERED.

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

Rebecca Garza, City Secretary

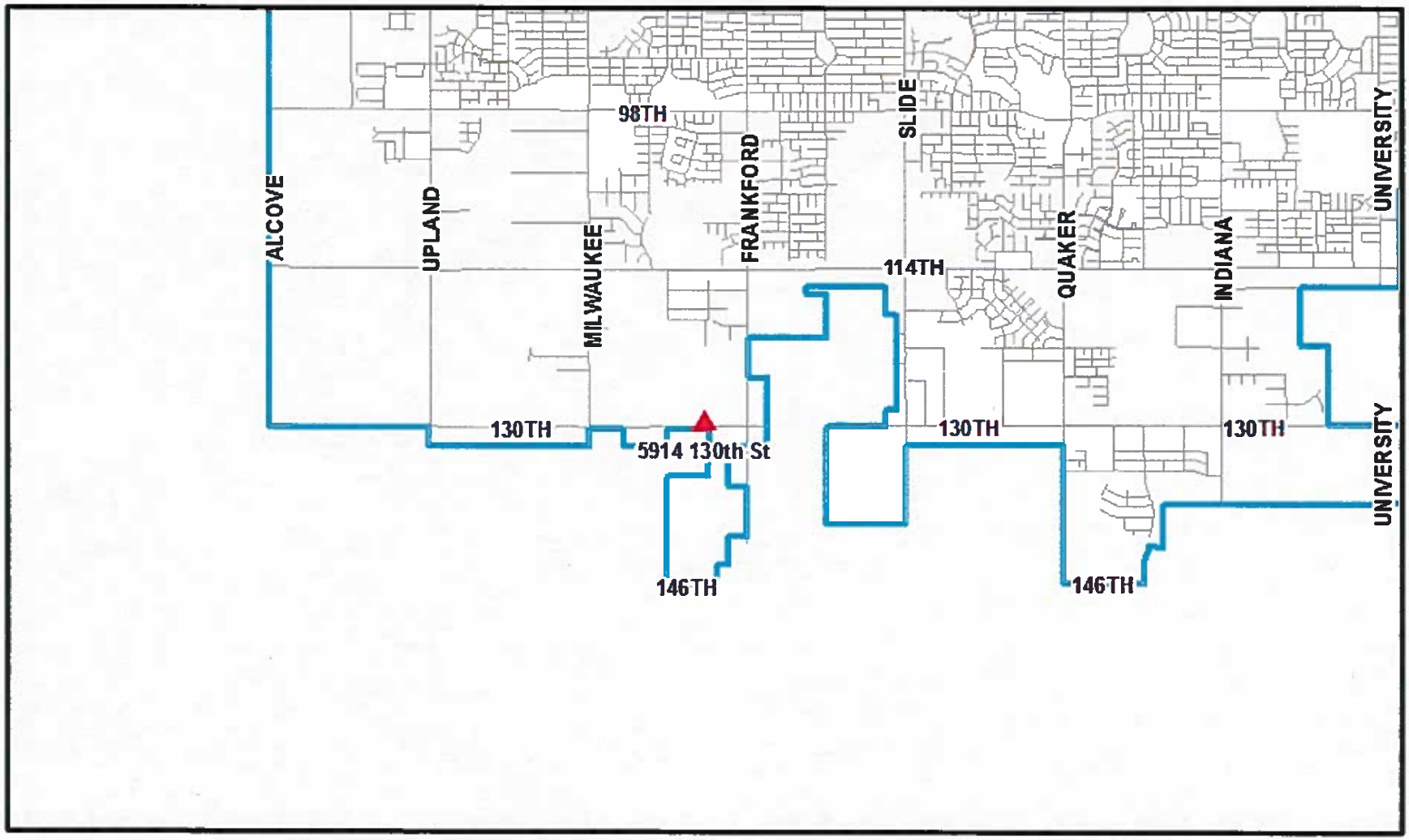
APPROVED AS TO CONTENT:

Andrew Paxton, Director of Planning

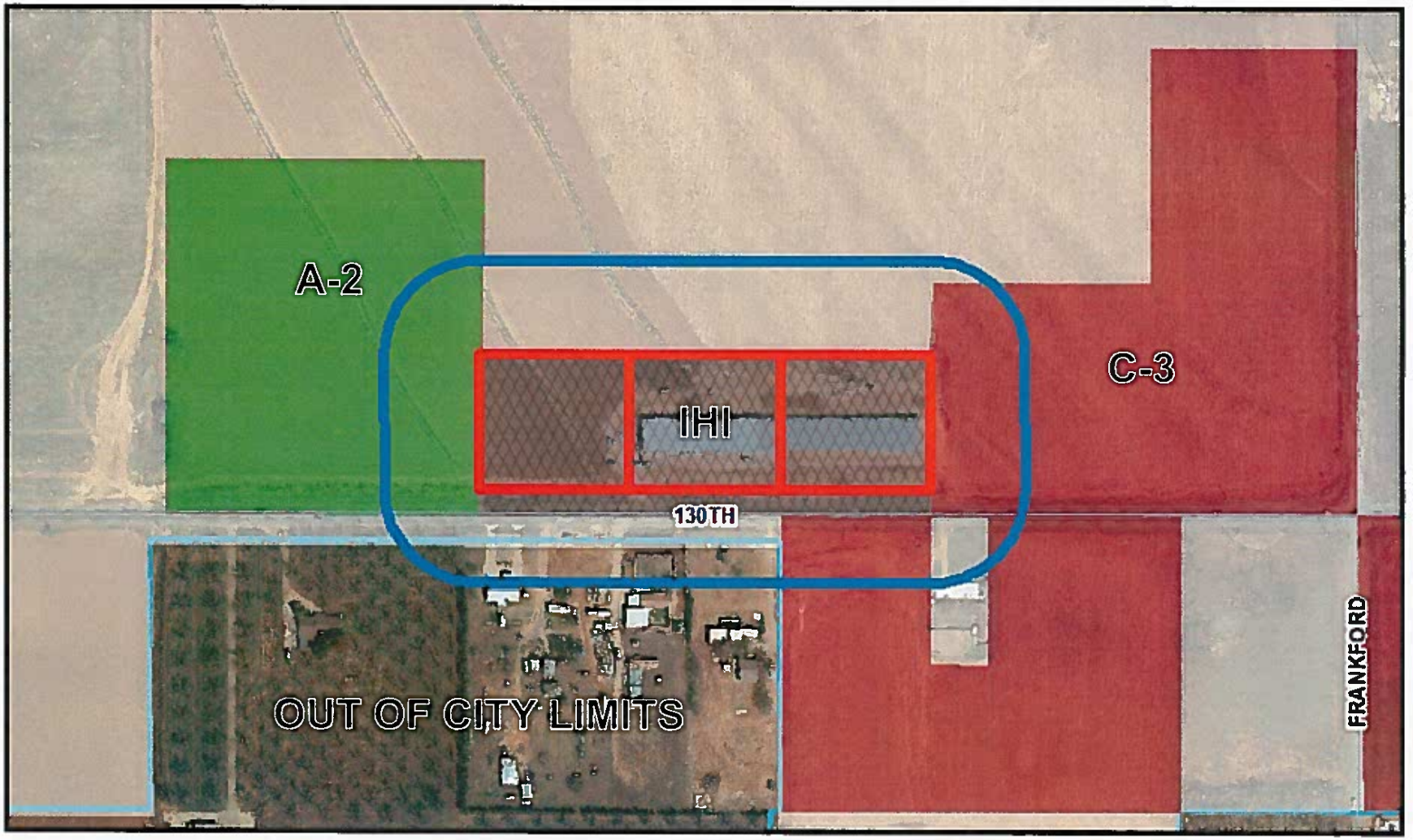
APPROVED AS TO FORM:

Justin D. Pruitt, Assistant City Attorney

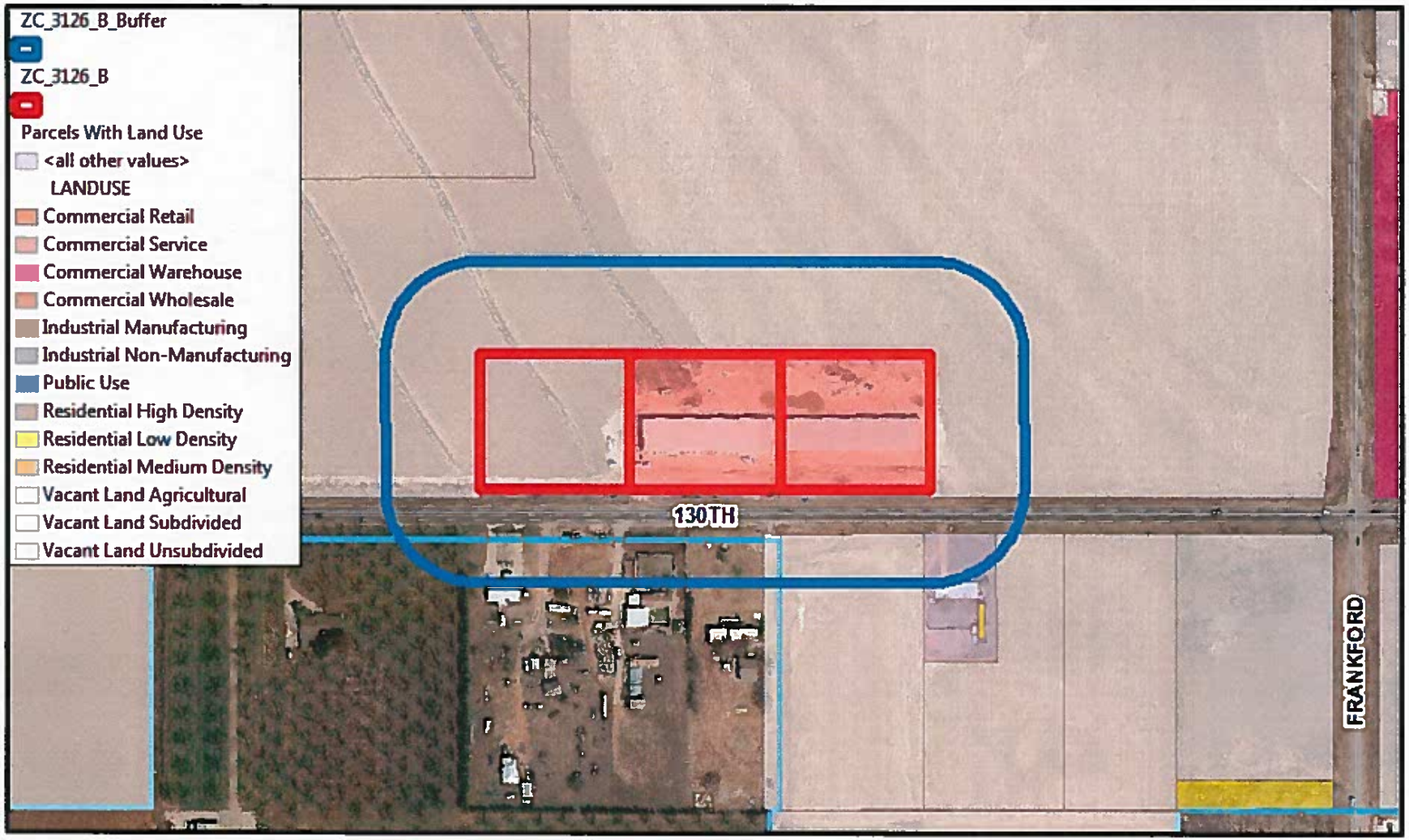
vw ccdocs/Amend ZC3126-B
November 3, 2015



P.Z.C. Case 3126-B



P.Z.C. Case 3126-B Zoning



P.Z.C. Case 3126-B

Request of Tommy J. Swann (for South Frankford Commercial Park, LLC.) for a zoning change to amend conditions of ordinance 2012-O0123, 5910, 5914, and 6010 130th Street

city of lubbock TEXAS

APPLICATION FOR ZONE CHANGE

Lubbock Planning & Zoning Commission
PO Box 2000 / 1625 13th St
Lubbock, TX 79457

Applicant (Please Print) Tommy J. Swann

5010 University Avenue, 5th Floor
Street/Post Office Box

Lubbock | TX | 79413-4422
City | State | Zip

(806) 796-7340
Telephone

For South Frankford Commercial Park, LLC

5710 122nd Street
Street/Post Office Box

Lubbock | TX | 79424
City | State | Zip

(806) 441-1708
Telephone

Location or Address: 5910 and 5914 130th Street, Lubbock, Texas 79424

Legal Description:* Tracts A, B & C, Mel Abbe Addition to the City of Lubbock, Lubbock County, Texas

Existing Land Use: IHI **Existing Zoning:** IHI

Acreage or Square Footage of Property: 8.3 acres

Zoning Requested: Additional uses: (1) offices; (2) studios - art, teaching, dance, music, photographic, interior decorating, with not over 2,100 square feet of floor space; (3) health or athletic club, with not over 2,100 square feet of floor space; and (4) beauty or barber shop with not over 2,100 square feet of floor space (amending previous ordinance)

Proposed Development: Commercial Park

If property is not subdivided, will preliminary plat be submitted? Yes _____ No _____

Tommy J Swann
Applicant's Signature

Date

Filing Fee: $499.00
($475.00 for the first acre; $3.00 for each additional acre; $165 for Non-Profit)

***There must be a separate legal description for each unplatted tract having different zoning. If the Planning & Zoning Commission or City Council amends a zone case as a condition for approval and if there is no appeal, an amended legal description must be received promptly or the zone case may be delayed.**

For City Use Only

PINS: 93853, 95702, 95703 Map 42

Zone Case No.: 3126-B **Agenda No.:** _____

Request for zoning change from: IHI **To:** amend conditions of ordinance 2012-00123

on Lot(s): tracts A, B, and C **Block(s):** —

Subdivision: Mel Abbe **Address:** 5910, 5914, 6010 130th St

TCC

South Frankford Commercial Park, LLC
5710 122nd Street
Lubbock, TX 79424

October 29, 2015

Katya Copeland
City of Lubbock, Planning
PO Box 2000
Lubbock, TX 79457

Dear Katya,

Thank you for discussing our zoning request this morning. We have filed for 5910 and 5914 130th Street on Tracts 1, 2 and 3 of the Mel Abbe addition. We would like to be able to provide space for tenants that have requested more space than our current 2100 square foot shops. One person would like to have two shops or 4200 sf for a hair salon and nail salon. Another person would like to have 4200 sf for an exercise and weight training facility and one for 6300 sf for a dance studio.

I have talked to Thomas Paine who owns the land beside and behind us, and he would rather us fill our shops with these type of tenants rather than like transmission repair, tire repair etc. We have had several of these type of tenants show interest in our shops. We will be happy to add more parking spaces if needed. Our goal is to fill our spaces as quickly as possible and allowing us to rent to tenants that desire more than 2100 sf would allow us to this. We appreciate your attention to this matter.

Warm regards,

Armon L. Abbe
South Frankford Commercial Park, LLC
Owner/Member
806-441-1708
labbe50@yahoo.com

3.8

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

If for any reason you will be unable to attend the public hearing advertised by this notice, and wish to present your comments regarding the case, please complete this form and return it to the Secretary of the Planning and Zoning Commission, c/o Planning Department, P.O. Box 2000, Lubbock, TX, 79457, or fax to (806) 775-2100.

If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 775-2120.

Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by: **P&Z Case No.: 3126-B**

In Favor of ✓

Opposed ____

Reasons and/or Comments:

RECEIVED
OCT 26 2015
PLANNING DEPARTMENT

Print Name David Giesbrecht

Signature: David Giesbrecht

Address: _____

Address of Property Owned: Mel Abbe Addition 130th St. Tract-A.

Zone Case Number: 3126-B 93853
GIESBRECHT DAVID & SARA
7305 78TH ST

LUBBOCK TX 79424

Regular City Council Meeting **6. 8.**

Meeting Date: 12/03/2015

Information

Agenda Item

Public Hearing 5:30 p.m. – Planning: Consider a request for Zone Case 3089-E, a request of CLCL Development for a zoning change from Apartment-Medical District (AM) to Garden Office District (GO) on 1.19 acres of unplatted land out of Block AK, Section 21, 10208 Frankford Avenue, and consider an ordinance.

Item Summary

General comments:
The request is to zone a property from apartment medical to garden office for professional offices.

Adjacent land uses:
N: zoned C-3, proposed for retail center
S: zoned C-4 specific use for storage/miniwarehouse and an electrical substation
E: zoned T, single family neigborhood
W: zoned R-1 Specific use single family residences, currently vacant land

Comprehensive Land Use Plan (CLUP):
The request is consistent with our CLUP. Buffer zoning such as AM, GO, A-1 and A-2 are acceptable districts which could be located near intersections of major thoroughfares and collectors.

Zoning Policy:
This area is mixed with different uses which would not otherwise fit around the intersection of a major thoroughfare and a collector. A school, electrical substation, mini warehouse, and vacant land zoned for a shopping center. Existing buffer district zoning should not be used to "step up" to a commercial zoning district. Commercial zoning in this area would not be consistent with policies. AM and GO zoning districts are buffer districts which are acceptable based on policy to be used along thoroughfares closer to collectors.

Effect on the adjacent street and thoroughfare system:
None. With limited curb cuts, there should be no effect on the thoroughfare system.

Recommendations:
None.

On November 3, 2015, the Planning and Zoning Commission recommended the request with a unanimous vote.

Fiscal Impact

None.

Staff/Board Recommending

Bill Howerton, Assistant City Manager
Planning and Zoning Commission

Attachments

Ordinance 3089-E
3089-E Backup

ORDINANCE NO._____

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 7084 AND THE OFFICIAL MAP OF THE CITY OF LUBBOCK MAKING THE FOLLOWING CHANGES: **ZONE CASE NO. 3089-E;** A ZONING CHANGE FROM **AM** TO **GO** ZONING DISTRICT ON **1.19 ACRES OF UNPLATTED LAND OUT OF BLOCK AK, SECTION 21,** LUBBOCK, TEXAS; PROVIDING A PENALTY; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR PUBLICATION.

WHEREAS, the proposed changes in zoning as hereinafter made have been duly presented to the Planning and Zoning Commission for its recommendation which was received by the City Council and, after due consideration, the City Council found that due to changed conditions, it would be expedient and in the interest of the public health, safety and general welfare to make those proposed changes in zoning; and

WHEREAS, all conditions precedent required by law for a valid amendment to the Zoning Ordinance and Map have been fully complied with, including giving notices in compliance with Section 40.01.005 of the Code of Ordinances, City of Lubbock, Texas, and the notices provided by the Texas Local Government Code §211.007 (Vernon, 1990), and notice was duly published in the Lubbock Avalanche-Journal more than fifteen (15) days prior to the date of the public hearing before the City Council on such proposed amendment, and the public hearing according to said notice, was held in the City Council Chamber of the Municipal Building, Lubbock, Texas, at which time persons appeared in support of the proposal; and after said hearing, it was by the City Council determined that it would be in the public interest, due to changed conditions, that the Zoning Ordinance and the Zoning Map be amended in the manner hereinafter set forth in the body of this Ordinance and this Ordinance having been introduced prior to first reading hereof; NOW THEREFORE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

ZONE CASE NO. 3089-E

SECTION 1. THAT Ordinance No. 7084 and the Official Zoning Map are amended as follows:

A change of zoning under the provisions of Section 40.01.005 of the Code of Ordinances of the City of Lubbock from **AM** to **GO** zoning district on **1.19 acres of unplatted land out of Block AK, Section 21**, City of Lubbock, Lubbock County, Texas, located at **10208 Frankford Avenue**, and being further described as follows:

METES AND BOUNDS DESCRIPTION: Attached as Exhibit "A".

SECTION 2. THAT violation of any provision of this Ordinance shall be deemed a misdemeanor punishable by fine not to exceed Two Thousand and No/100 Dollars

($2,000.00) as provided in Section 40.01.006 of the Zoning Ordinance of the City of Lubbock.

SECTION 3. THAT should any paragraph, sentence, clause, phrase or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

SECTION 4. THAT the City Secretary is hereby authorized to cause publication of the descriptive caption of this Ordinance as an alternative method provided by law.

AND IT IS SO ORDERED.

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

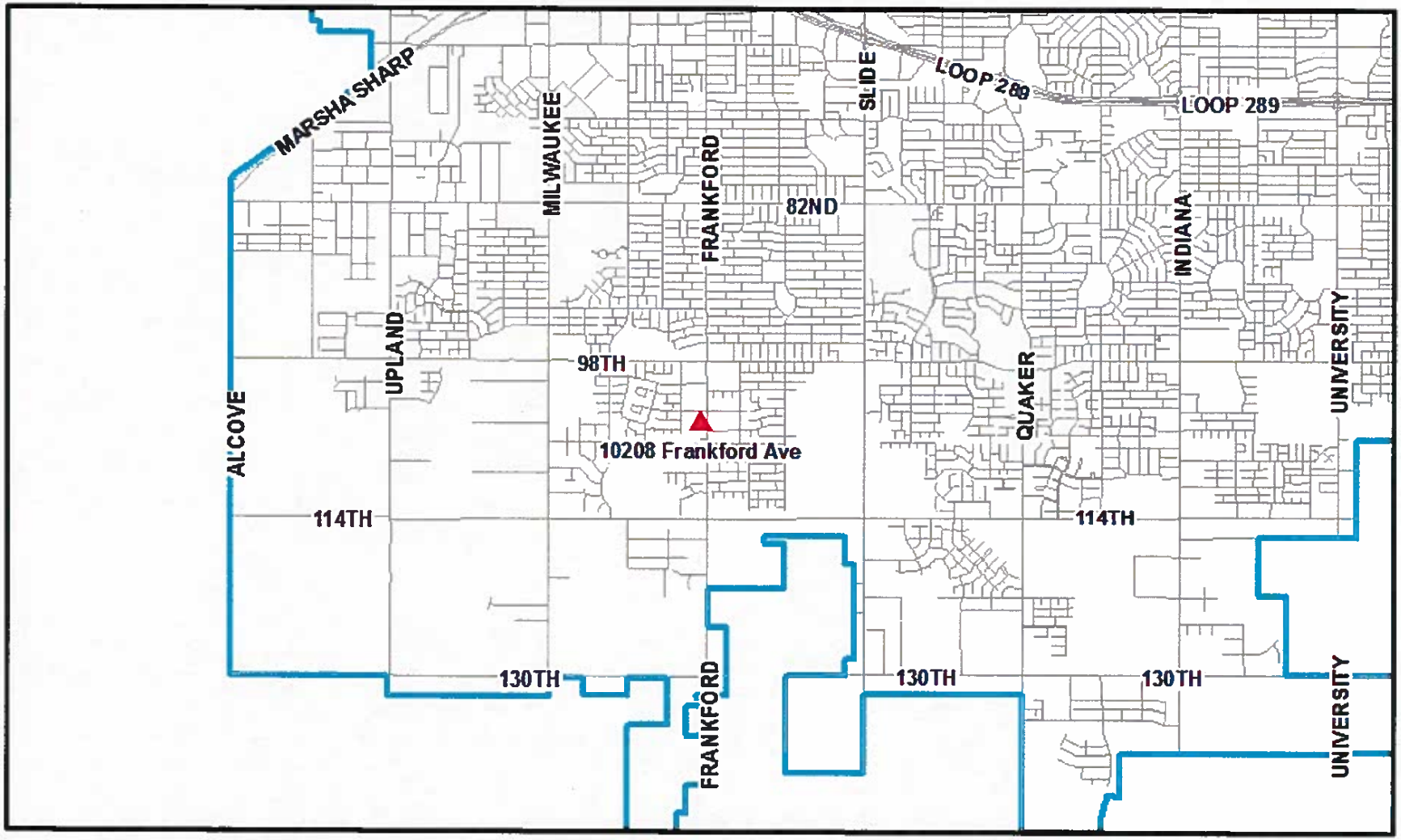
APPROVED AS TO CONTENT:

_____
Andrew Paxton, Director of Planning

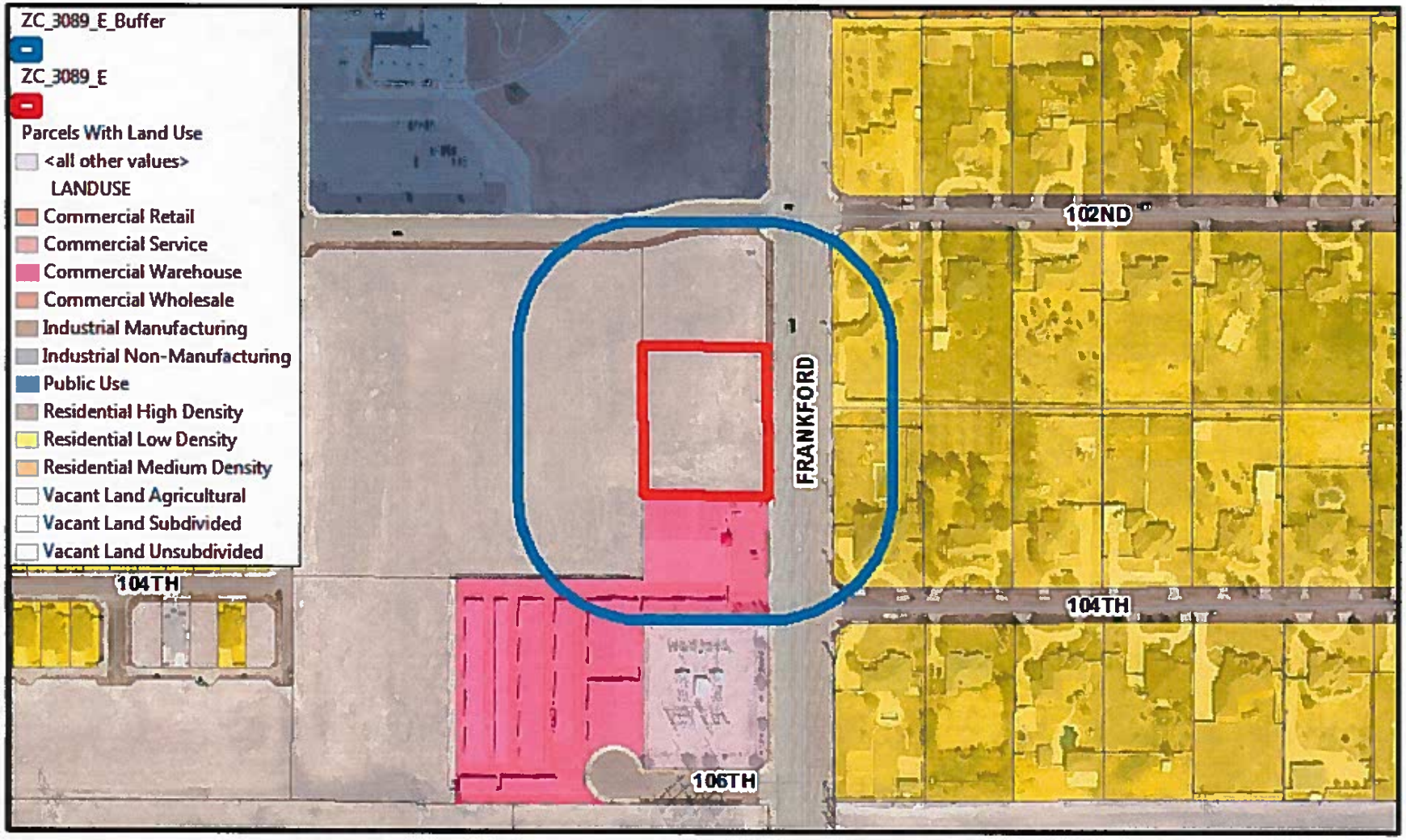
APPROVED AS TO FORM:

_____
Justin D. Pruitt, Assistant City Attorney

vw/cityatt/Justin/ZoneCase/ZC3089-C
November 3, 2015

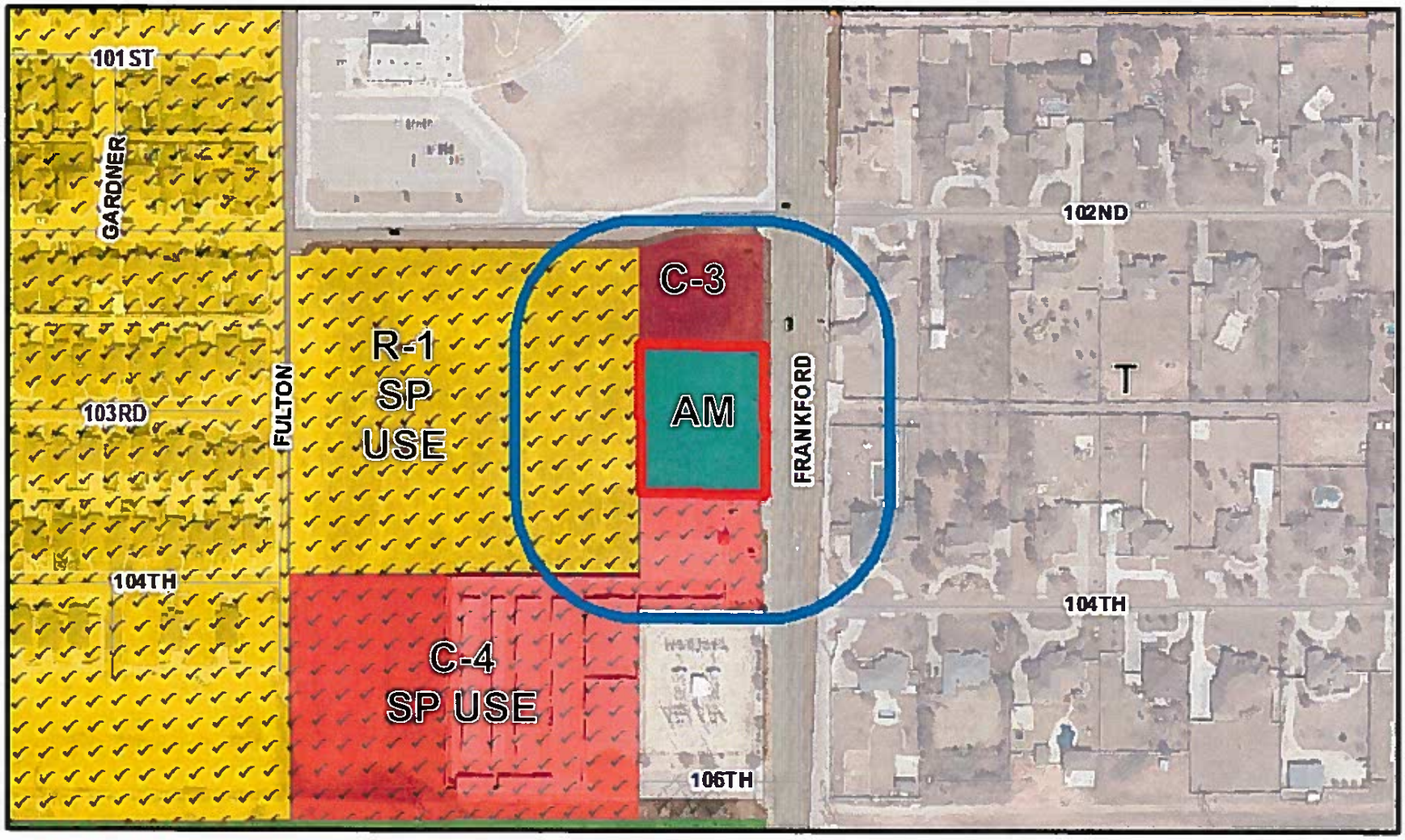


P.Z.C. Case 3089-E



P.Z.C. Case 3089-E

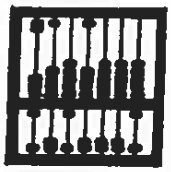
Request of CLCL Development for a zoning change from AM to GO on 1.19 acres of unplatted land, 10208 Frankford Avenue



P.Z.C. Case 3089-E Zoning

ABACUS ENGINEERING SURVEYING

2737 81ST STREET LUBBOCK, TEXAS 79423
(806) 745-7670



"Count on it"

Metes and Bounds Description prepared for Zone Change Purposes only on a 1.19 acre tract out of Section 21, Block AK, Lubbock County, Texas being further described by metes and bounds as follows:

BEGINNING at the Northeast corner of Tract A, Postar/Burrell Addition for the Southeast corner of this tract;

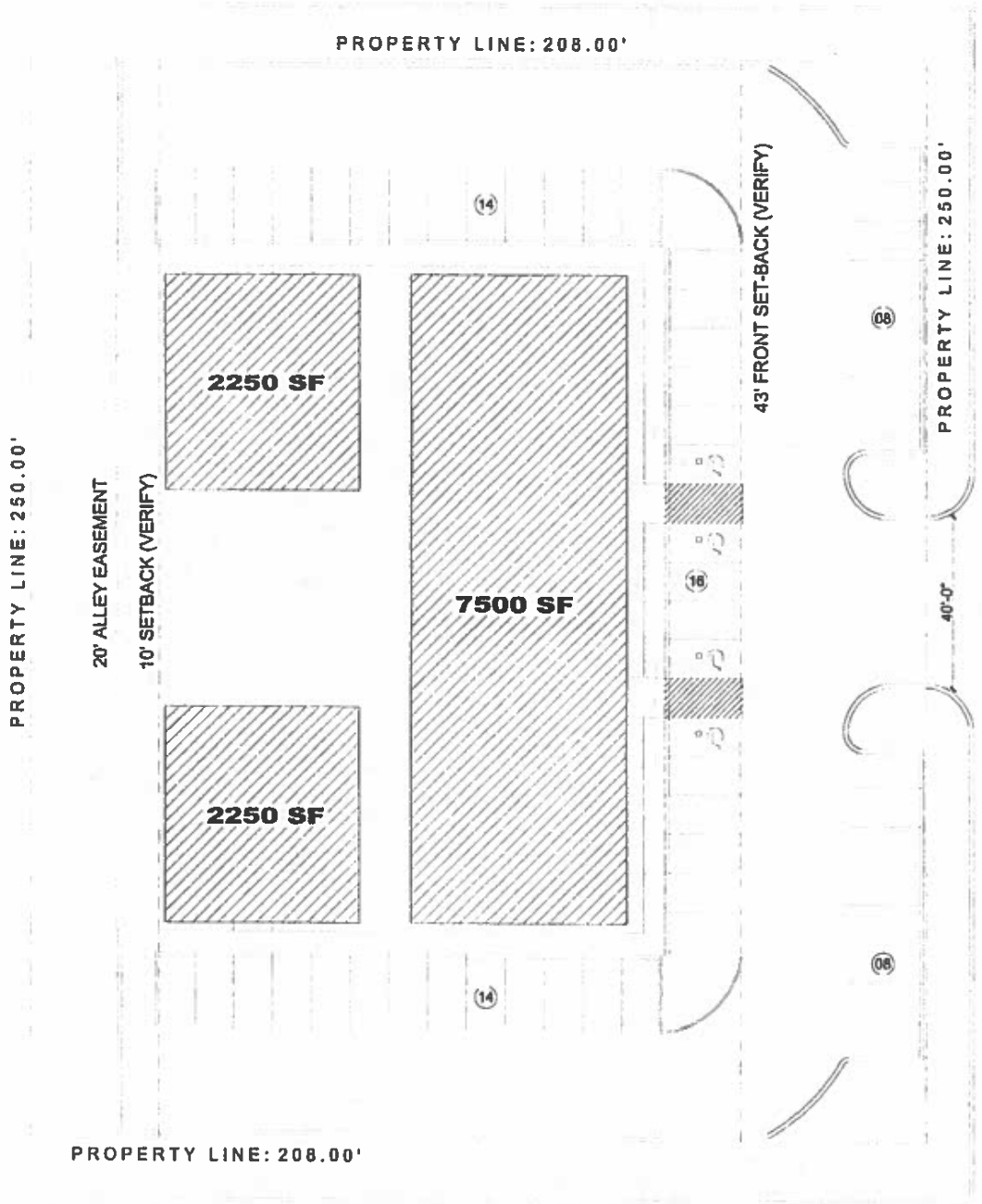
THENCE N 88°13'14" W(Texas North Central Bearing Basis), with the North line of Postar/Burrell Addition, 208 feet to the Southwest corner of this tract;

THENCE N 01°46'46" E, 250 feet to the Northwest corner of this tract;

THENCE S 88°13'14" E, 208 feet to the Northeast corner of this tract;

THENCE S 01°46'46" W, with the West line of Frankford Avenue, 250 feet to the PLACE OF BEGINNING and containing 1.19 acres including any Right of Way.

Prepared for Zone Changes Only. Does not represent a survey.



SITE DATA:
SITE AREA: 1.193 ACRES
52,000 SF

ZONING: GO
** REQUIRES ZONING DOWNGRADE

LANDSCAPE REQUIREMENTS:
10% = 5,200 SF

PLANNING DATA:
BUILDING AREA: 12,000 SF

PARKING REQUIRED
@ 1/200 60 SPACES

PROVIDED ON THIS PLAN: 60 SPACES

ADA SPACES REQ'D 3 SPACES
PROVIDED 4 SPACES

FRANKFORD AVE.

GENERAL NOTES:
1. THIS SITE PLAN IS CONCEPTUAL AND SHALL BE USED ONLY FOR PURPOSES OF STUDYING POTENTIAL SITE LAYOUTS
2. PRIOR TO USE, VERIFY ALL EXISTING CONDITIONS, EXISTING DEVELOPMENT LAYOUT, STREET LIGHT LAYOUT, POWER POLES, FIRE HYDRANTS, UTILITIES, AND SITE TOPOGRAPHY.
3. SF QUANTITIES LISTED MAY VARY DEPENDING FINAL LAYOUTS, DESIGN, AND SITE REQUIREMENTS.
4. VERIFY ALL SETBACKS, EASEMENTS, RIGHT-OF-WAYS, AND DEED RESTRICTIONS.
5. DIMENSIONS MAY BE ROUNDED TO NEAREST INCH.
6. NEW APPROACHES SHOWN MAY NEED TO BE ADJUSTED DEPENDING ON EXISTING FIRE HYDRANTS, POWER POLES, UTILITIES, ETC.
7. VERIFY STREET SIDEWALK REQUIREMENTS AND LOCATION, NOT SHOWN ON THIS PLAN.
8. VERIFY PARKING AND LANDSCAPING REQUIREMENTS FOR END USER

N

CONCEPTUAL SITE PLAN
SCALE : N.T.S.

RFF:
175-1004

LEGAL:

EDGE

FRANKFORD OFFICE
SITE STUDY

REVISIONS:

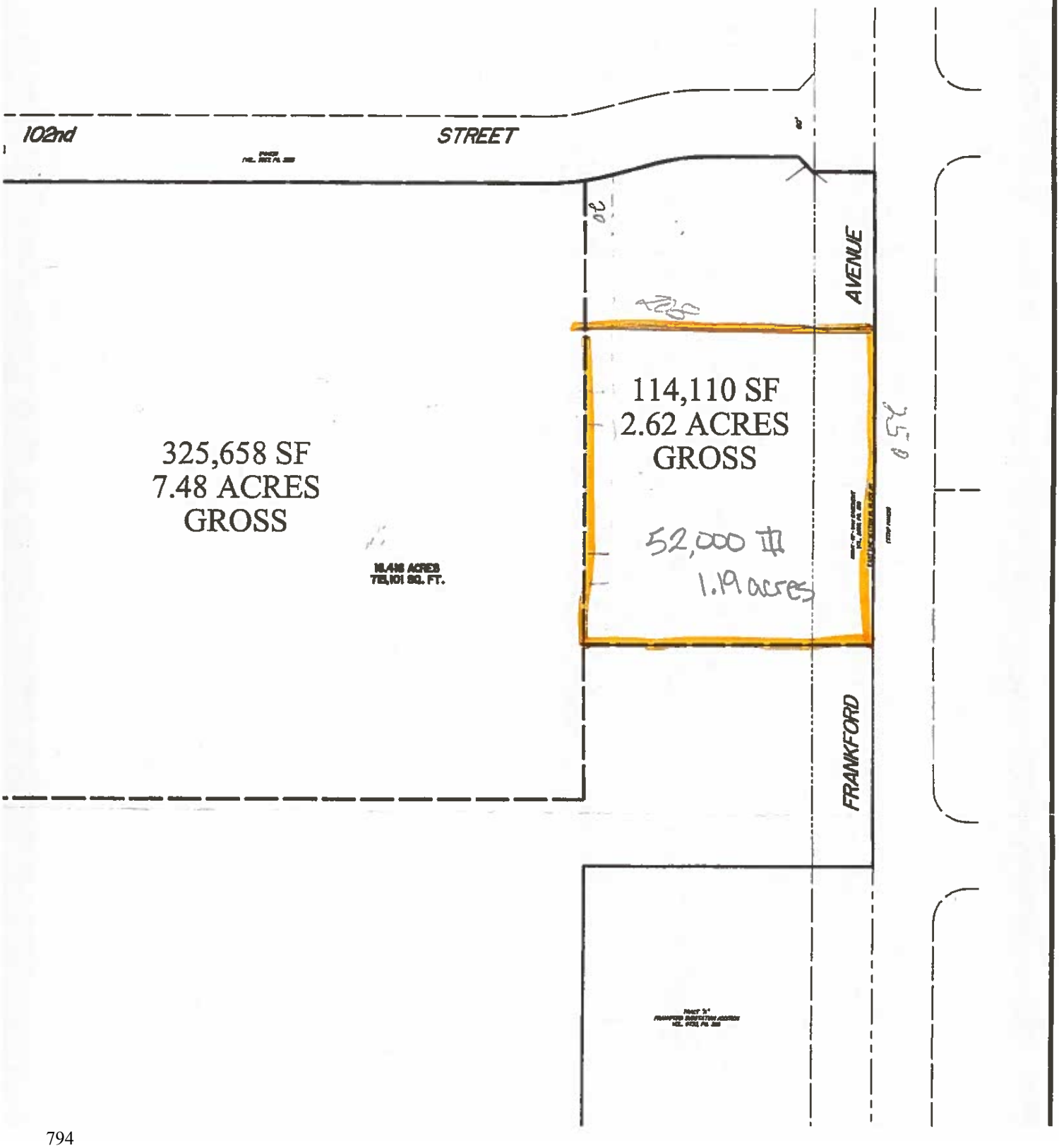
17 S
17services.com

SHEET:
A101

DATE:
10.05.15

SIZE:
ARCH D - 24x36

PLAT SHOWING PERIMETER SURVEY
OF A 16.416 ACRE TRACT OF LAND LOCATED IN
SECTION 21, BLOCK AK
LUBBOCK COUNTY, TEXAS



city of lubbock TEXAS

APPLICATION FOR ZONE CHANGE

Lubbock Planning & Zoning Commission
PO Box 2000 / 1625 13th St
Lubbock, TX 79457

Applicant (Please Print) CLCL Development
5608 Norfolk Ave
Street/Post Office Box
Lubbock Tex 79413
City State Zip
(806) 794-6800
Telephone

For _____
Street/Post Office Box
City State Zip
( )
Telephone

Location or Address: Frank Ford & 82nd St.

Legal Description:* 1.19 Ac - Block AK Sect 21

Existing Land Use: UN **Existing Zoning:** _____

Acreage or Square Footage of Property: _____

Zoning Requested: GARDEN OFFICE

Proposed Development: Professional Offices

If property is not subdivided, will preliminary plat be submitted? yes Yes _____ No _____

Brett Craft
Applicant's Signature **Date**

Filing Fee: 478.00 ck # 2116
($475.00 for the first acre; $3.00 for each additional acre; $165 for Non-Profit)

*There must be a separate legal description for each unplatted tract having different zoning. If the Planning & Zoning Commission or City Council amends a zone case as a condition for approval and if there is no appeal, an amended legal description must be received promptly or the zone case may be delayed.

For City Use Only

M+B Map 42

Zone Case No.: 3039-E **Agenda No.:** _____

Request for zoning change from: AM **To:** GD

on 1.19 acres of unplatted land out of Block AK, Section 21

on Lot(s): _____ **Block(s):** _____

Subdivision: _____ **Address:** 10208 Frankford Ave

VS

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

10

If for any reason you will be unable to attend the public hearing advertised by this notice, and wish to present your comments regarding the case, please complete this form and return it to the Secretary of the Planning and Zoning Commission, c/o Planning Department, P.O. Box 2000, Lubbock, TX, 79457, or fax to (806) 775-2100.

If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 775-2120.

Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by: **P&Z Case No.: 3089-E**

In Favor of X

Opposed ___

Reasons and/or Comments:

Good use for this property

RECEIVED
OCT 26 2015
PLANNING DEPARTMENT

Print Name DAVID POSTAR

Signature: [signature]

Address: 4707 99th LBK TX 79424

Address of Property Owned: 103rd & Frankford
Affordable storage

Zone Case Number: 3089-E 91326
104TH & FRANKFORD AFFORDABLE
STORAGE INC
3110 FRANKFORD AVE

LUBBOCK TX 79407-7847

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

10

If for any reason you will be unable to attend the public hearing advertised by this notice, and wish to present your comments regarding the case, please complete this form and return it to the Secretary of the Planning and Zoning Commission, c/o Planning Department, P.O. Box 2000, Lubbock, TX, 79457, or fax to (806) 775-2100.

If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 775-2120.

Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by: **P&Z Case No.:** ***3089-E***

In Favor of ✓

Opposed ___

RECEIVED
OCT 26 REC'D
PLANNING DEPARTMENT

Reasons and/or Comments:

THIS ZONE CHANGE WILL IMPROVE THE LAND USE AND PROVIDE VERY NICE OFFICES. THE LOCATION IS OUTSTANDING. THE ZONE CHANGE WILL BE AN UPGRADE SINCE IT IS LOCATED BETWEEN C-3 & C-4

Print Name TRUETT CRAFT

Signature: Truett Craft

Address: _____

Address of Property Owned: _____

Zone Case Number: **3089-E** 97332
CLCL DEVELOPMENT
5608 NORFOLK AVE

LUBBOCK TX 79413

Regular City Council Meeting **6. 9.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - Planning: Consider a resolution approving and granting a variance from the applicable 300-feet minimum distance provisions of City of Lubbock Ordinance 2009-O0060, at the request of applicant Cowboy Chicken located at 2407 9th Street, Suite 500, for an alcoholic beverage permit.

Item Summary

Effective August 8, 2009, Ordinance 2009-O0060 amended Section14.01.007 (Section 18-11), Alcoholic beverages - Sale near church, school or hospital, in Chapter 14, Offenses - Miscellaneous, of the City of Lubbock Code of Ordinances, related to businesses who obtain a permit from the Texas Alcohol Beverage Commission (TABC) for the sale of alcohol. As part of the ordinance, the City Council adopted a standard which prohibits any business, that is within 300-feet of any public school or private school (K-12), measured from the property lines of each tract, from having a permit issued by TABC. The City Council may consider a variance to the 300-feet rule as set forth in the Texas Alcoholic Beverage Code.

The request for a variance is from Cowboy Chicken, located at 2407 9th Street, Suite 500, which is approximately 282 feet from Texas Tech University. A request for a new permit for on-premise alcohol sales at this location is now pending, and the Planning staff required the separation variance request. The City Council has wide discretion in considering whether to grant a variance. The following may be considered by the City Council (as noted by the State of Texas statute providing for the variance process): The enforcement of the regulation in a particular instance is not in the best interest of the public. The regulation constitutes waste or inefficient use of land or other resources. The regulation creates an undue hardship on the applicant, does not serve its intended purpose or is not effective or necessary. The variance may be granted for any other reason, after consideration of the health, safety and welfare of the public and the equity of the situation, if the governing body finds it to be in the best interest of the community.

Chancellor Duncan and President Nellis have been notified by letter of the request.

Fiscal Impact

None.

Staff/Board Recommending

Bill Howerton, Assistant City Manager

Attachments

Resolution & Zoning Certificate - Cowboy Chicken

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the City Council, as the governing board of the City of Lubbock, Texas, and pursuant to Section 109.33(e) of the Texas Alcoholic Beverage Code, after consideration of the health, safety, and welfare of the public and the equities of the situation, finds and determines herein that it is in the best interest of the community to approve and grant a variance, and hereby grants a variance, from the applicable provisions of City of Lubbock Ordinance No. 2009-O0060 at the following location: **Cowboy Chicken, 2407 9th Street, Suite 500**, Lubbock, Texas. This variance shall remain in effect for so long as: 1) a **Wine & Beer Retailer's [BG]**, and 2) a subsequent like use, if any, are in effect at the above-referenced location.

Passed by the City Council this _____ day of _____, 2015.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Andrew Paxton, Director of Planning & Zoning

APPROVED AS TO FORM:

_____
Justin D. Pruitt, Assistant City Attorney

vw/ccdocs/Justin/Resolutions/RES.Variance-Cowboy Chicken
November 4, 2015

Business Name: Cowboy Chicken

Business Address: 2407 9th St. Suite 500, Lubbock TX 79401 KIVA Pin No.:

Legal Description of property:

ON PREMISE CONSUMPTION:

Primary business at this location (check one):

- [X] Restaurant
- [ ] Hotel/Arena/Civic Center
- [ ] Dance Hall (alcoholic beverage sale prohibited)
- [ ] Night Club/Bar/Lounge
- [ ] Sports Grill
- [ ] Sexually Oriented Business
- [ ] Other (describe)

Permits Requested (check all that apply):

- [ ] Mixed Beverage (MB)
- [ ] Mixed Beverage Late Hours (LB)
- [ ] Beverage Cartage (PE)
- [ ] Food & Beverage Cert. (FB)
- [X] Wine and Beer Retailer's (BG)
- [ ] Private Club Beer & Wine (NB)
- [ ] Private Club Late Hours (NL)
- [ ] Beer Retailer's On-Premise (BE)
- [ ] Retail Dealer's On-Premise Late Hours (BL)
- [ ] Private Club (N)
- [ ] Catering (CB)
- [ ] Mixed Bev. Restaurant w/ Food & Beverage (RM)
- [ ] Other (describe)

OFF PREMISE CONSUMPTION:

Primary business at this location (check one):

- [ ] Grocery/Convenience Store
- [ ] Drug Store
- [ ] Package Store
- [ ] Other (describe)

Permits Requested (check all that apply):

- [ ] Beer Retailer's Off-Premise (BF)
- [ ] Package Store (P)
- [ ] Wine and Beer Retailer's Off-Premise (BQ)
- [ ] Wine Only Package Store (Q)
- [ ] Local Distributor (LP)
- [ ] Local Cartage (E)
- [ ] Local Cartage Transfer Permit (ET)
- [ ] Package Store Tasting (PS)
- [ ] Other (describe)

Property Owner's Name: Pickering Real Estate Holdings LLC

Property Owner's Address: 2407 9th St. 79401

Business Owner's Name: Brent Shankle

Business Owner's Address: 4215 Glenaire dr. Dallas TX, 75229

Applicant's Name: Darell Reid

Applicant's Address: 41645 52nd St. DI 79414

Applicant's interest in Business/Authority to make application: General Manager

Gross Sq. Footage of Building ____ sq. ft. Zoning ____ Sales Tax No. 3-20527-1997-1

Parking: Parking Ratio 1:300 Spaces Required ____ Spaces Provided 136

Distance from: Church N/A ft. School 3000 (TRAIN TRACKS) <300' ft. Hospital N/A ft. Day/Child Care N/A ft.

For churches or public hospitals measurement is a minimum 300 ft measured from front door to front door, along the property lines of the street fronts and in a direct line across intersections.

For private/public schools, day care centers and child care facilities measurement is a minimum 300 ft measured in a direct line from the nearest property line of the school, day/child care facility to the nearest property line of the place of business, and in a direct line across intersections.

No. of Game Machines N/A Dance Floor Size N/A Live Entertainment [ ] Yes [X] No

Z.B.A. Variance Case No.

Case No.

COMMENTS

I hereby certify that I have read and fully understand the zoning restrictions and ordinances applicable to this property and that all information contained herein is true and correct. I further understand that this certificate is issued subject to all applicable regulations of the City of Lubbock and the violation of any of these regulations may result in my being ordered to cease the violation or vacate the premises, as well as the revocation of this certificate. I understand that if licensed as a restaurant, this certificate only permits me to operate a restaurant with the incidental right to sell alcoholic beverages, and I certify that is my intent and purpose in acquiring this certificate.

800

Date 10-12-15 Applicant's Signature

Date: 10-2-15

Name of Business: Cowboy Chicken

Owner or Manager: Darell Reid

Address (include zip): 2407 9th St. Suite 500, Lubbock TX 79401

Telephone Number: 806-701-5671

Type of Business: X Restaurant, ___ Nightclub/Bar/Lounge, ___ Dance Hall, ___ Sports Grill, ___ Grocery/Convenience Store, ___ Drug Store, ___ Package Store, ___ Sexually Oriented Business, ___ Hotel/Arena/Civic Center, ___ Other (describe) _____

Church or Hospital located within 300 feet: _____ Yes _____ No

Public/Private School or day care/child care facility located within 300 feet: _____ Yes _____ No

Please return this form with all approval signatures prior to the issuance of a Zoning Certificate. These signatures are not a substitute for any other required forms.

Code Enforcement Department
1625 13th Street Room 105
775-2998
Comments:

Approved

Date Zoning Certificate Approved: 11-4-15

Signature: [signature]

Building Inspection
1625 13th Street, Room 106
775-2087
Comments:

Date Certificate of Occupancy Approved: 10-30-15

Signature: Audrey Long

Health Department
1625 13th Street, Room 106
775-2116
Comments: Approved

Date Health Permit Approved: 11-4-15

Signature: [signature]

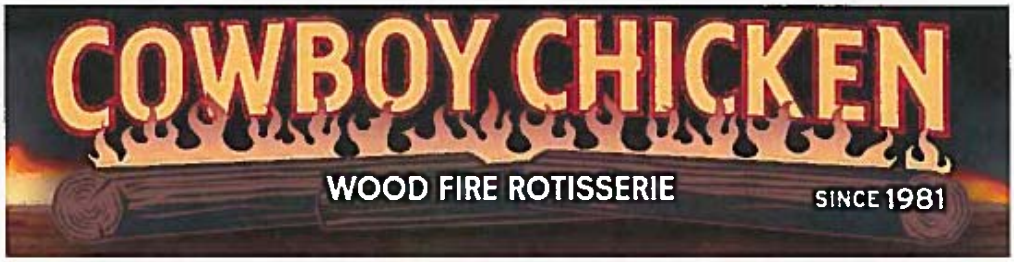
Fire Marshal
1601 Mac Davis Lane
775-2646
Comments:

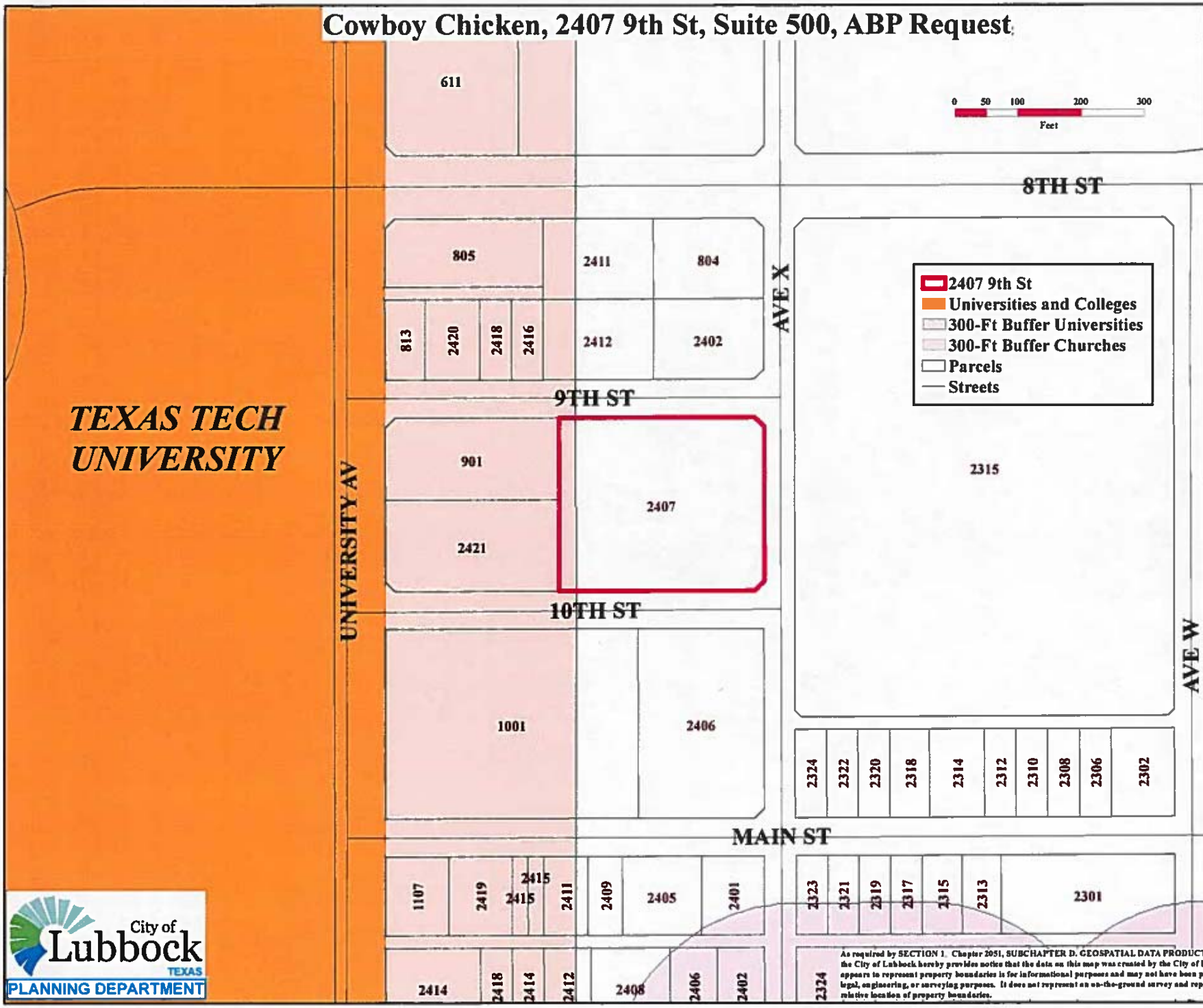
Sent: Wednesday, November 18, 2015 8:22 AM
To: Kristen Sager
Subject: Cowboy Chicken

Kristen,

Per our conversation today I would like to request a beer and wine permit for Cowboy Chicken at 2407 9th st #500, Lubbock TX 79401. The owner of the business is Brent Shankle. Please let me know if you need anything else from me. Thank you for your time, have a great day!

Darell Reid
General Manager
Cowboy Chicken Lubbock
Work: 806-795-0881
Cell: 806-544-5473




Cowboy Chicken, 2407 9th St, Suite 500, ABP Request
0 50 100 200 300
Feet
8TH ST
9TH ST
10TH ST
MAIN ST
AVE X
AVE W
UNIVERSITY AV
TEXAS TECH UNIVERSITY
2407 9th St
Universities and Colleges
300-Ft Buffer Universities
300-Ft Buffer Churches
Parcels
Streets
611
805
2411
804
813
2420
2418
2416
2412
2402
901
2407
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City of Lubbock
TEXAS
PLANNING DEPARTMENT
As required by SECTION 1. Chapter 2051, SUBCHAPTER D. GEOSPATIAL DATA PRODUCT
the City of Lubbock hereby provides notice that the data on this map was created by the City of
appears to represent property boundaries is for informational purposes and may not have been
legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and rep
relative location of property boundaries.

Please complete this Prequalification Packet with information concerning your proposed business location for which you are applying to sell/serve alcoholic beverages. This information will be used to obtain your pre-qualification to hold a license/permit. You will submit this information to the proper governmental entities for certification that your proposed location is legal for the type of license/permit for which you are applying.

Please immediately contact your local TABC office to determine if you must post a 60 Day Sign at your proposed location, and for more information.

LOCATION INFORMATION

1. Type of On-Premise License/Permit

- [X] **BG** Wine and Beer Retailer's Permit
- [ ] **BE** Beer Retail Dealer's On-Premise License
- [ ] **BL** Retail Dealer's On-Premise Late Hours License
- [ ] **BP** Brewpub License
- [ ] **V** Wine & Beer Retailer's Permit for Excursion Boats
- [ ] **Y** Wine & Beer Retailer's Permit for Railway Dining Car
- [ ] **MB** Mixed Beverage Permit
- [ ] **LB** Mixed Beverage Late Hours Permit
- [ ] **MI** Minibar Permit
- [ ] **CB** Caterer's Permit
- [ ] **FB** Food and Beverage Certificate
- [ ] **PE** Beverage Cartage Permit
- [ ] **RM** Mixed Beverage Restaurant Permit with FB

2. Indicate Primary Business at this Location

- [X] Restaurant
- [ ] Bar
- [ ] Sexually Oriented
- [ ] Sporting Arena, Civic Center, Hotel
- [ ] Miscellaneous _____

3. Trade Name of Location: Cowboy Chicken

4. Location Address: 2407 82nd Street, Suite 500

City	County	State	Zip Code
Lubbock	Lubbock	TX	79401

5. Mailing Address: PO Box 64038

City	State	Zip Code
Lubbock	TX	79464

6. Business Phone No.	Alternate Phone No.	E-mail Address
( ) -	(325) 236-4169	Shannynk22@gmail.com

OWNER INFORMATION

7. Type of Owner

- [X] Individual
- [ ] Partnership
- [ ] Limited Partnership
- [ ] Limited Liability Partnership
- [ ] Corporation
- [ ] Limited Liability Company
- [ ] Joint Venture
- [ ] Trust
- [ ] City/County/University
- [ ] Other _____

8. Entity/Applicant: Cowboy C West Texas

9. If Applicant Is/Must Be Listed Below (attach L-OIC if additional space is needed).

Individual/Individual Owner	Limited Liability Company/All Officers or Managers
Partnership/All Partners	Joint Venture/Venturers
Limited Partnership/All General Partners	Trust/Trustee(s)
Corporation/All Officers	City, County, University/Official

Last Name	First Name	MI	Title
Shankle	Brent		
Last Name	First Name	MI	Title
Last Name	First Name	MI	Title

NOTE: For churches or public hospitals measure from front door to front door, along the property lines of the street fronts and in a direct line across intersections.

11. Will your business be located within 300 feet of any private/public school, day care center or child care facility? ☐ Yes ☒ No

If "YES," are the facilities located on different floors or stories of the building? ☐ Yes ☐ No

NOTE: For private/public schools, day care centers and child care facilities measure in a direct line from the nearest property line of the school, day care center or child care facility to the nearest property line of the place of business, and in a direct line across intersections.

NOTE: For multistory building: businesses may be within 300 feet of a day care center or child care facility as long as the facilities are located on different floors of the building.

NOTE: If located on or above the fifth story of a multistory building: measure in a direct line from the property line of the private/public school to property line of your place of business in a direct line across intersections vertically up the building at the property line to the base of the floor on which your business is located.

12. Will your business be located within 1,000 feet of a private school? ☐ Yes ☒ No

13. Will your business be located within 1,000 feet of a public school? ☐ Yes ☒ No

60-DAY SIGN INFORMATION

14. If you were required to post a 60-day sign as required by Section 11.391 or 61.381 of the Texas Alcoholic Beverage Code at this location; what exact date was the required sign posted at the location?	Exact Date (mm/dd/yyyy) 11/15/2014

ALL APPLICANTS

15. CHECK HERE IF NOT IN CITY LIMITS ☐

I, the applicant, have confirmed I am not located in the city limits of any city and therefore all city certificates are not required.

WARNING AND SIGNATURE

If Applicant Is/Must Sign	
Individual/Individual Owner	Corporation/Officer
Partnership/Partner	Limited Liability Company/ Officer or Manager
Limited Partnership/General Partner	

WARNING: Section 101.69 of the Texas Alcoholic Beverage Code states: "...a person who makes a false statement or false representation in an application for a permit or license or in a statement, report, or other instrument to be filed with the Commission and required to be sworn commits an offense punishable by imprisonment in the penitentiary for not less than 2 nor more than 10 years."

BY SIGNING YOU ARE SWEARING TO ALL INFORMATION AND ATTACHMENTS TO THIS PACKET.

PRINT NAME Ryan Brent Shankle SIGN HERE Brent Shankle

TITLE Owner

Before me, the undersigned authority, on this 17th day of September, 2015, the person whose name is signed to the foregoing application personally appeared and, duly sworn by me, states under oath that he or she has read the said application and that all the facts therein set forth are true and correct.

SIGN HERE Victor Joseph NOTARY PUBLIC

SEAL

VICTOR JOSEPH
Notary Public, State of Texas
My Commission Expires
December 31, 2018

1. Trade Name of Location
Cowboy Chicken

2. Location Address
2407 9th St., Ste 500, Lubbock, TX 79401

3. Business Entity Name/Applicant
Cowboy C West Texas / Brent Shankle

4. Federal Employer Identification No. (FEIN)

INITIAL INFORMATION

5. Do you have a current and active license/permit issued by TABC under the above FEIN? ☒ Yes ☐ No
If "YES," please indicate the license/permit number of the last license/permit issued BG891655
If "NO," complete the **Business Packet (L-B)**.

6. If you hold a current license/permit under the above FEIN has there been any change in the ownership or structure of the business since the last application was filed? ☐ Yes ☒ No
If "YES," complete the **Business Packet for Reporting Changes (L-BRC)**.

OWNERSHIP/LEASE/SUBLEASE/MANAGEMENT INFORMATION

7. Does the applicant own the land and building at this proposed licensed location? ☐ Yes ☒ No
If "NO," please complete **Owner of Property (L-OP)**.
NOTE: Be prepared to provide additional information (such as a copy of your lease) if requested.

8. If operating under a lease at this location, indicate:
Expiration date(s)/Options 7 years with 2 renewal options
Monthly rental amount $ 14,822.67
Other fees and payments to landlord none

9. Are you operating under any concession, service or management agreement(s) that contain terms for services or management beyond property rental? ☐ Yes ☒ No
If "YES," complete **Sublessor (L-SL)**, indicate the following, and attach copy of agreement(s):
Expiration date(s)/Options _____
Monthly fee $ _____
If you have a sublessor that differs from the management company enter sublessor name below **and** complete Form L-SL.
Sublessor Name _____

10. Are there any agreements, excluding the above, which require payment by the applicant in a dollar figure or percentage of gross or net income of the business? ☐ Yes ☒ No
If "YES," attach a copy of agreement.

11. Do you share the premises with another business entity? ☐ Yes ☒ No
If "YES," indicate the tradename(s) of business(es) and sales and use tax number(s) for other business(es):
Trade Name _____
Sales & Use Tax Number _____

12. Do you or anyone else at the location operate under a franchise agreement? ☒ Yes ☐ No
If "YES," you MUST have exclusive control of all phases of the purchase, sale, and service of alcoholic beverages.

premises:

Alcoholic Beverage Sales $ 80,000

Food Sales $ 1,250,000

Other Sales $ 0.00

Total Sales $ 1,330,000

14. Is the proposed location in a hotel or motel? ☐ Yes ☒ No

15. Will the license or permit embrace the entire building and grounds at the address shown? ☐ Yes ☐ No
If **"NO,"** attach the required diagram.

FINANCE INFORMATION

16. What is the amount of total investment from all sources for this location? $ $1,000,000
Please be prepared to provide copies of all documents related to the financing of this location.

17. List any person, firm, or corporation that has advanced or will advance any money, that holds any mortgage or encumbrances against the assets of the proposed business location, or that has signed or co-signed, guaranteed or financially assisted this business location for which you are seeking a license/permit. If a partnership or corporation, list entity along with partners/officers.

(If more space is needed, attach additional page.)

SSN or FEIN	Issuing State/DL No.	Date of Birth (mm/dd/yyyy)	Amount
455-75-7567	TX 19715752	10/14/1985	$ $200,000
Name, Corporation, Partner/Officer		Terms	
Brent Shankle			
SSN or FEIN	Issuing State/DL No.	Date of Birth (mm/dd/yyyy)	Amount
- -		/ /	$ 800,000
Name, Corporation, Partner/Officer		Terms	
Plains Capital Bank		7 year fixed rate loan 4.65%	
SSN or FEIN	Issuing State/DL No.	Date of Birth (mm/dd/yyyy)	Amount
- -		/ /	$
Name, Corporation, Partner/Officer		Terms	
SSN or FEIN	Issuing State/DL No.	Date of Birth (mm/dd/yyyy)	Amount
- -		/ /	$
Name, Corporation, Partner/Officer		Terms	
SSN or FEIN	Issuing State/DL No.	Date of Birth (mm/dd/yyyy)	Amount
- -		/ /	$
Name, Corporation, Partner/Officer		Terms	

line of a private/public school, will this location be within 1,000 feet of a private/public school?
☐ Yes ☐ No
If "YES," give written notice of this application to the school officials and attach a copy of the notice to this application.

19. Is any property line of your premises within 300 feet of a residential address or established neighborhood association? ☐ Yes ☒ No
If "YES," and if you are applying for an On-Premise License/Permit, and if a Food and Beverage Certificate is not applied for, notify each residential address and established neighborhood association. Attach a list of all addresses notified with a copy of the completed notice.
NOTE: Sample notice is located in the Application Guidelines.

ON-PREMISE LICENSES AND PERMITS ONLY
MEASUREMENT INFORMATION FOR APPLICANTS IN MUNICIPALITIES WITH A POPULATION OF 1,500,000 OR MORE ACCORDING TO THE LAST FEDERAL CENSUS

20. Will your business be located within 300 feet of residence, church, school, day care or social service facility when measuring in a straight line from the nearest point of the property line of the proposed location to the nearest point of the property line of any of these facilities? ☐ Yes ☐ No
If "YES," is 75% or more of the applicant's actual or anticipated gross revenue from the sale of alcoholic beverages? ☐ Yes ☒ No
If answers to both of the above are "YES," have you notified all tenants or property owners within five days of filing the original application that an application has been filed? ☐ Yes ☐ No

WARNING AND SIGNATURE

If Applicant Is/Must Sign	
Individual/Individual Owner	Corporation/Officer
Partnership/Partner	Limited Liability Company/ Officer or Manager
Limited Partnership/General Partner	

EACH LICENSEE OR PERMITTEE SHALL HAVE EXCLUSIVE OCCUPANCY AND CONTROL OF THE ENTIRE LICENSED LOCATION WITH RESPECT TO SALE OF ALCOHOLIC BEVERAGES. ANY ARRANGEMENT THAT SURRENDERS SUCH CONTROL OF THE EMPLOYEES, PREMISES OR BUSINESS, INCLUDING PROFITS AND LOSSES, TO PERSONS OTHER THAN THE LICENSEE OR PERMITTEE IS UNLAWFUL.

WARNING: Section 101.69 of the Texas Alcoholic Beverage Code states: "...a person who makes a false statement or false representation in an application for a permit or license or in a statement, report, or other instrument to be filed with the Commission and required to be sworn commits an offense punishable by imprisonment in the penitentiary for not less than 2 nor more than 10 years."

BY SIGNING YOU ARE SWEARING TO ALL INFORMATION AND ATTACHMENTS TO THIS PACKET.

PRINT NAME Ryan Brent Shankle SIGN HERE Ryan Brent Shankle

TITLE Owner

Before me, the undersigned authority, on this 17th day of September, 2015, the person whose name is signed to the foregoing application personally appeared and, duly sworn by me, states under oath that he or she has read the said application and that all the facts therein set forth are true and correct.

SIGN HERE Victor Joseph

VICTOR JOSEPH
Notary Public, State of Texas
My Commission Expires
December 21, 2018
NOTARY PUBLIC

SEAL

Regular City Council Meeting **6. 10.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - Aviation: Consider a resolution authorizing the Mayor to execute a lease agreement with Boomer Development LLC, at Lubbock Preston Smith International Airport for a hotel.

Item Summary

Mr. Andy Hutchison of Boomer Development LLC, has requested to lease approximately 2.688 acres of land on the west side of Lubbock Preston Smith International Airport in order to construct and operate a hotel. The land is adjacent to Interstate 27 by the entrance to the Silent Wings Museum.

Mr. Hutchison has a franchise agreement with Cobblestone Hotels and Suites. The three-story facility will include a minimum 70 room hotel, a workout room, and meeting rooms. The agreement also allows first right of refusal for the surrounding area for other commercial development.

The lease has a term of 30 years with a 10-year option to extend the agreement.

The land rental fee will commence one year from the date of beneficial occupancy or eighteen months after execution of the agreement, whichever occurs first. The following is the rental structure through the term of the agreement:

Years 2 - 10: $25,000 per year; $2,083.33 per month
Years 11 - 20: $30,000 per year; $2,500 per month
Years 21 - 30: $35,000 per year; $2,916.67 per month
Years 31 - 40: $40,000 per year; $3,333.33 per month (Option Extension)

Fiscal Impact

In years 2 - 10, the airport will receive $25,000 annually with rental increases every 10 years.

Staff/Board Recommending

Kelly Campbell, Executive Director of Aviation
Airport Advisory Board

Attachments

Resolution - Hotel Land Agreement - Boomer
Agreement - Hotel Land Lease
Exhibits - Cobblestone Hotel LLC
Table of Contents - Cobblestone Hotel LLC
First Amendment to Franchise Agreement - Cobblestone Hotel LLC

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, a Hotel Land Lease Agreement by and between the City of Lubbock and Boomer Development LLC, of Lubbock, Texas, and related documents. Said Lease Agreement is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Kelly Campbell, Executive Director of Aviation

APPROVED AS TO FORM:

_____
Mitchell Satterwhite, First Assistant City Attorney

RES.Hotel Land Lease Agrmnt-COL-Boomer
11.3.15

STATE OF TEXAS

COUNTY OF LUBBOCK

HOTEL LAND LEASE AGREEMENT

THIS LEASE AGREEMENT, hereinafter called "Agreement," made and entered into by and between the **CITY OF LUBBOCK**, a Home Rule Municipality of Lubbock County, Texas, hereinafter called "City," and **BOOMER DEVELOPMENT LLC**, a Texas corporation, hereinafter called "Lessee."

W I T N E S S E T H:

WHEREAS, City operates an airport known as Lubbock Preston Smith International Airport which is located in the City of Lubbock, County of Lubbock, State of Texas, which is hereinafter called "Airport"; and,

WHEREAS, Lessee desires to lease certain parcels of land at the Airport for construction and operation of a hotel and related facilities and improvements on said parcel; and,

WHEREAS, City is willing to lease said parcels of land to Lessee for said purposes and to grant specified rights and privileges in addition thereto;

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements herein contained, City and Lessee do hereby mutually undertake, promise, and agree each for itself and its successors, and assigns, as follows:

1. TERM

a. The term, hereinafter referred to as "Term," of the Agreement shall commence on the execution date of this Agreement and terminate thirty (30) years after the Date of Beneficial

Occupancy (DBO), which shall be the date the hotel is initially opened for business. The parties agree to confirm the DBO in writing.

b. Additional Term

The Parties may, by mutual, written agreement, extend this Agreement for an additional term of ten (10) years.

c. Holding Over

If Lessee shall, with the consent of the City, hold over after the expiration or sooner termination of the Term of this Agreement, the resulting tenancy privilege shall, unless otherwise mutually agreed, be on a month-to-month basis until such time as Lessee shall surrender the Leased Premises (with thirty (30) days prior written notice to City) or City shall reenter the Leased Premises (with thirty (30) days prior written notice to Lessee). During such month-to-month tenancy, Lessee shall pay rentals to City established in accordance with the provisions of this Agreement, and shall be bound by all of the additional provisions of this Agreement insofar as they may be pertinent.

2. PREMISES

a. City hereby leases and grants to Lessee and Lessee hereby rents and takes from the City, the premises described below, hereinafter referred to as "Premises" or "Leased Premises," and further described in Exhibit "A", which is attached hereto and made a part hereof, subject to any recorded easements, restrictions, agreements, and other lawful encumbrances.

Leased Premises	SF/Acre/Number
Land	117,089.28 sq. ft. /2.688 ± acres

b. Survey

City shall provide Lessee with a boundary survey of the Premises, prepared by a registered land surveyor duly licensed in the State of Texas, within thirty (30) days after the execution of this Agreement. The cost of said survey shall be paid by the City. Upon the completion of the survey, it shall be incorporated herein as Exhibit "A."

c. The final acreage amount is subject to change and will be calculated based on the site plan as approved by the City, and/or by the final "as-built" drawings of the project.

3. **USES AND RIGHTS**

a. Lessee shall have the right to construct and operate a hotel and related facilities (described in Exhibit "C") upon the Leased Premises on the Airport. Any building or structure constructed or operated by Lessee shall be subject to inspection by City, and shall in all respects be and remain subject to City of Lubbock building codes, as may be amended from time to time. All other uses of the Premises not expressly authorized by this Agreement are prohibited. The hotel shall meet Hotel Standards as set forth in Exhibit "C" attached hereto and incorporated herein by reference.

b. During the Term of this Agreement, the following additional rights and prohibitions apply:

(1) Lessee shall have the right to sell alcoholic beverages by the drink to its patrons and guests, in accordance with state and local laws and ordinances.

(2) Lessee shall have the right to operate a restaurant, with the prior written approval by City of the type (franchise, if applicable), plans and specifications for the proposed restaurant on the Leased Premises, including the right to sell snacks and beverages from vending machines.

(3) Lessee shall have the right to obtain supplies or services from suppliers, vendors, or contractors of its own choice at the Premises, provided that Lessee acknowledges City's right to regulate providers of ground transportation service to the Airport.

(4) Lessee shall have the right to operate a shuttle service for the benefit of hotel and restaurant guests only, subject to reasonable regulations adopted by the City for the regulation of ground transportation to and from the Airport, including but not limited to Article 24 of the Lubbock City Code of Ordinances. Operating the shuttle service as an off-airport parking location is expressly prohibited.

(5) Lessee shall use the Premises only in accordance with the laws of the United States of America and the State of Texas, the rules and regulations promulgated by their

authority with reference to aviation and air navigation; and all rules, regulations, and ordinances of City, as all these may be amended.

c. City covenants that it has lawful authority to execute this Agreement and that upon payment of the rentals provided herein, and upon performance of the covenants and agreements on the part of Lessee to be performed hereunder, Lessee shall peacefully have and enjoy the Premises and the rights and privileges granted by this Agreement.

d. The Agreement, in every sense, shall be without cost to the City for the development, maintenance, and improvement of the Premises. It shall be the sole responsibility of Lessee to develop, keep, maintain, repair, and operate the entirety of the Premises and all improvements and facilities placed thereon at Lessee's sole cost and expense.

e. In the event Lessee desires to carry on activities in addition to those herein listed as part of its business operations, Lessee shall do so only upon the express written approval of the Executive Director of Aviation, which hereinafter is called "Director."

4. RENTS, FEES AND CHARGES

In consideration of the rights and privileges to be granted to Lessee by City, the Lessee shall pay to City as compensation therefore the following fees and charges commencing as set forth in Subpart c. below.

a. Lessee agrees to pay the City a minimum monthly rental fee as outlined herein;

Years 2 – 10: $25,000 per year; $2,083.33 per month

Years 11 – 20: $30,000 per year; $2,500.00 per month

Years 21 – 30: $35,000 per year; $2,916.67 per month

Years 31 – 40: $40,000 per year; $3,333.33 per month (Option Extension)

b. The monthly fixed rental fee shall be paid in advance on the first day of each month during the Term of this Agreement.

c. Payment of the monthly fixed rental fee shall commence one year from the Date of Beneficial Occupancy (DBO) or eighteen (18) months after execution of this agreement, whichever occurs first, unless otherwise approved by City.

d. Late Payment Charges

(1) Without waiving any other right of action available to the City in the event of default in payment of charges and fees hereunder, if the Lessee fails to make a payment when due and said failure continues for a consecutive period of thirty (30) days, a late payment charge of $200 for each month past due shall be assessed.

(2) All payments are due and payable on or before the 1st day of each month this Agreement is in effect and shall be made to the City at the Office of the Executive Director of Aviation, Lubbock Preston Smith International Airport, 5401 N. MLK Blvd., Unit 389, Lubbock, Texas 79403.

(3) Collection Costs

Lessee agrees to pay/reimburse the City for all costs of collection, including but not limited to attorney's fees, in the event of default occurring by Lessee for non-payment of rents, fees, and charges as stated herein.

e. Annual Certified Statement

For each contract year, the Lessee (including any sublessee under this Agreement, hereinafter referred to as "sublessee"), at its own cost and expense, shall provide to the City a statement of Gross Receipts for the previous contract year prepared by an independent certified public accountant certifying that such statements have been prepared in accordance with Generally Accepted Accounting Principles and under the terms and conditions of the Agreement as follows:

(1) Room Rentals

(2) Food and Beverage Sales

(3) Vending Machine Sales

(4) Miscellaneous

Such statement of Gross Receipts shall be substantially the same as provided in Exhibit "D" as attached hereto.

f. Definition of Gross Receipts

(1) The term "Gross Receipts" as used in this Agreement means the total dollar value of all receipts received by Lessee (including sublessees) which are derived from, arise

out of, or become payable on account of Lessee's (including sublessees) business and all business transactions conducted at or from the Leased Premises by or for the account of Lessee (including sublessees). Gross receipts are both cash and credit, regardless of when paid, on all orders of goods and services, including but not limited to receipts received for the rental of rooms, food and beverage sales, miscellaneous sales, and commissions received for orders for goods and services performed by a third party vendor used by and charged to the customer, such as movies, video games, valet laundry services, tour services, and vending machine sales accepted or sold by Lessee (including sublessees) in, on, about, or from the Leased Premises, whether or not to be filled or performed at any other location, and the full amount of all orders accepted by Lessee (including sublessees) elsewhere, but to be filled or performed in, on, about, or from the Premises.

(2) The following shall be excluded or deducted, as the case may be, from the computation of "Gross Receipts":

(a) Any and all retail sales taxes, excise taxes, hotel and restaurant taxes, lodging and/or bed taxes, bar or entertainment taxes, or related direct taxes collected by Lessee in the course of making such sales, and thereafter remitted to any governmental agency;

(b) Receipts from the sale or trade-in value of any equipment used upon the Premises and owned by Lessee;

(c) Receipts from telephone calls made by guests, invitees, or patrons of Lessee through the hotel and restaurant telephone switchboard and pay phones;

(d) Employee meals, complimentary rooms, and complimentary meals, if included in Gross Receipts;

(e) Payments remitted to any franchisor pursuant to Frequent Guest Programs and transfers between affiliated properties; and

(f) Damage fees, including pet and smoking fees, billed to the customer.

g. Books and Records of Lessee

(1) Books and Records

The Lessee (and sublessee) shall maintain such books and records in accordance with Generally Accepted Accounting Principles as would normally be examined by an independent certified public accountant pursuant to such standards in performing an audit of the Lessee's Gross Receipts. Such books or records shall contain records of all the Lessee's (and sublessee's) receipts in connection with its operations in a form consistent with good accounting practice and shall contain itemized records of all Gross Receipts by such categories of sales as are specified herein above (or such other categories as the City may require from time-to-time) and of all other receipts derived by the Lessee (and sublessee) from its operations.

(2) Location of Books and Records

The Lessee (and sublessee) may keep the books and records at its corporate office, provided that such books shall be made available to the City at the Leased Premises or a mutually agreed upon site, upon the City's request.

(3) Controls

The Lessee (and sublessee) shall cause to be installed on the Premises, and shall at all times use, such computers, cash registers, invoicing machines, sales slips or other accounting equipment, devices, and forms as are reasonably necessary to record properly, accurately, and completely all sales from and on the Premises of the Lessee's goods and services.

h. The City expressly reserves the right to assess and collect the following:

(1) Charges for the provision of any services or facilities which the City is required to provide by any governmental entity having jurisdiction over the Airport.

(2) The Lessee shall pay charges for other services or facilities provided by the City to the Lessee. Such services or facilities may include, but are not limited to, special maintenance of Lessee's Premises, vehicle permits, ID badges or equipment/vehicle storage areas.

(3) Charges provided for herein shall not exceed the charges imposed by the City on other Lessees or users of such services.

i. No payment by the Lessee or receipt by the City of a lesser payment amount than that which is due and payable under the provisions of the Agreement at the time of such payment

shall be deemed to be other than a payment on account of the earliest payment then due, nor shall any endorsement or statement on any check or in any letter accompanying any check or payment be deemed an accord and satisfaction and the City may accept any check or payment without prejudicing in any way its right to recover the balance of such payment or to pursue any other remedy provided in this Agreement or by law.

5. MAINTENANCE, REPAIRS AND INSPECTIONS

a. Lessee shall, at its expense, maintain the Premises (including all leasehold improvements) in good and safe repair and in a neat, clean, and orderly condition. Lessee further agrees to paint, redecorate, repair, and renovate the same as needed, but not less than to the extent and quality as directed by City, or as otherwise required by the initial Franchise Agreement between Lessee and Cobblestone Hotel and Suites, a copy of which is attached hereto as Exhibit _____, or similar Franchise Agreement(s) approved by the City, and to surrender the Premises and leasehold improvements at the termination of this Agreement in the condition they were upon construction, reasonable wear and tear excepted.

b. City assumes no responsibility as to the condition of the Premises or any improvements located thereon and shall not assume responsibility for maintenance, upkeep, or repair necessary to keep the Premises in a safe and serviceable condition. City shall not be responsible for any expenses incurred in connection with preparing the Premises for development, except as may be expressly identified within the Agreement. Notwithstanding anything to the contrary contained herein, City warrants and represents that it is not aware of any covenants and restrictions encumbering the Premises, except as described herein or may be filed on record.

c. Waiver of Warranty of Suitability. City further disclaims any warranty of suitability that may arise by operation of law. Lessee leases the Premises "as is" and City does not warrant that there are no latent defects that are vital to Lessee's use of the Premises for its intended uses.

d. Any damage caused to any property of City by any act, omission, or negligence of Lessee, its employees, invitees, suppliers, or furnishers of service shall be repaired and restored to the condition existing prior to damage either (at City's election) by Lessee at Lessee's sole expense

in accordance with Plans and Specifications approved by City, or by City, in which case Lessee shall pay City, as additional rent, the expenses of repair thereby incurred.

e. Lessee shall not undertake any maintenance or repair on the Premises involving structural change, alteration, or rebuilding until detailed Plans and Specifications prepared by an architect or engineer registered in the State of Texas have first been approved in writing by City. Such approval shall not be unreasonably withheld.

f. Trash Disposal

As required by the City, Lessee shall provide for the complete removal, sanitary handling, and disposal of all trash, garbage, and other refuse resulting from operations on the Leased Premises. Trash receptacles shall be maintained in a clean and sanitary condition and located away from public view.

g. Janitorial Service

Lessee agrees to provide, at its own expense, such janitorial and cleaning services and supplies as may be necessary or required in the operation and maintenance of its Leased Premises. Lessee also agrees to keep and maintain its Leased Premises in a clean, neat, and sanitary condition, and attractive in appearance.

h. City, its authorized employees, agents, contractors, subcontractors, and other representatives shall have the right, but not the obligation, at all reasonable times to enter upon the Premises, for the following purposes:

(1) To inspect the Premises during regular business hours (or at any time in case of emergency) to ascertain the condition of Premises and to determine Lessee's compliance with the terms of this Agreement. The right of inspection shall impose on City no duty to inspect and shall impart no liability upon City for failure to inspect.

(2) To perform (or arrange to perform) maintenance, repairs, and replacements in any event when Lessee is obligated to do so under this Agreement and has failed to do so within thirty (30) days after written notice from City; provided, however, that as to any such maintenance, repairs, or replacements, Lessee shall pay City's entire cost and expense of performing such work as additional rent to City upon written demand.

(3) To perform any obligation of City under this Agreement and to make additions, alterations, maintenance, and repairs to its utility systems; provided, however, the City shall repair any damage to the Leased Premises resulting from such additions, alterations, maintenance, or repairs.

(4) All entries made for the purposes set forth in this Section shall be without abatement of rent and without unreasonable interference with Lessee's operations.

6. CONSTRUCTION, IMPROVEMENTS AND ALTERATIONS

a. General Requirements

(1) Lessee has specifically requested that the Premises be leased for use as a hotel site. Lessee's request for such use is based upon its own inspections and review of the Premises. Lessee therefore accepts the Premises in an "as is" condition.

(2) Lessee shall comply in every respect to applicable statutes, ordinances, building codes, and rules and regulations of all governmental agencies as may have jurisdiction at the time any construction is performed or any improvements are placed upon the Leased Premises by Lessee. Lessee shall obtain and provide to City copies of all required permits and licenses.

Lessee further acknowledges and agrees that any improvements placed on the Leased Premises shall be subject to inspection, and shall comply with all building codes, rules and regulations, and structural standards for like construction and buildings as are set forth in the Code of Ordinances of the City of Lubbock.

(3) Within ninety (90) days of the execution date of the Agreement, Lessee shall provide to the Airport, City, and other appropriate agencies, preliminary Plans and Specifications prepared by an architect or engineer registered in the State of Texas. Such preliminary Plans and Specifications shall be subject to approval in quality and design by the Director, such approval not to be unreasonably withheld.

(4) Lessee shall submit to the Director for approval of the final Plans and Specifications prepared by an architect or engineer registered in the State of Texas for improvements to be constructed by Lessee on the Leased Premises within one hundred twenty

(120) days of the execution of the Agreement, unless otherwise approved in writing by the City. It is stipulated that Lessee shall be responsible for construction of all improvements to Leased Premises necessary to create and maintain a quality facility, including without limitation, construction of all utility improvements and connections within the Leased Premises.

(5) Upon completion of any construction of the facilities, Lessee and its prime contractor, contractors, or Architect shall furnish City with a set of "as-built" drawings duly certified by an architect or engineer registered in the State of Texas within sixty (60) days after completion.

(6) Lessee shall not implement or commence any change in the original Plans and Specifications without the express written approval of the Director, which approval shall not be unreasonably withheld. The City shall approve or disapprove said modified Plans and Specifications within ten (10) business days after submission by Lessee, otherwise such Plans and Specifications shall be deemed approved. Any request for changes to the original Plans and Specifications shall be submitted for approval to the City prior to the commencement of any work relating to implementation of same. All approvals are without recourse or the assumption of liability by the City or the reviewing engineer.

(7) No change of flag, a hotel re-branding, or change in affiliation shall be made on the hotel site without prior written consent of City, which consent shall not be unreasonably withheld. City shall be provided with a copy of the applicable franchise agreement between Lessee and franchisor prior to City's issuance of its consent, if any. The term of any franchise agreement entered into by the Lessee shall be for a term no longer than the term of this Agreement.

(8) Lessee shall not install cameras or other equipment, including but not limited to equipment used to measure or monitor weather or atmospheric conditions, on the exterior Premises, without the advance written approval of Director.

(9) Lessee shall not install any billboards on the Premises or any off-premises advertising signs. Lessee shall install and maintain signage for the hotel or any such other buildings or improvements in accordance with the City of Lubbock sign ordinance and other standards prescribed in the Covenants in Exhibit "C" attached hereto and incorporated herein by

reference.

(10) Upon expiration or termination of this Agreement, title to all improvements, structures, alterations of or additions erected or constructed by Lessee on the Premises (excluding trade fixtures, furnishings, equipment, and other personal property which may be removed without material injury to the Premises), shall automatically vest in the City.

(11) Lessee acknowledges that, from time-to-time, City may undertake construction, repair, or other activities related to the operation, maintenance, and repair of Airport property which will require temporary accommodation by Lessee. Lessee agrees to accommodate City in such matters, even though Lessee's own activities may be inconvenienced or partially impaired, and Lessee agrees that no liability shall attach to City, its elected officials, employees, or agents by reason of such inconvenience or impairment. City shall undertake its construction, repair, or other activities in a manner which shall not unreasonably disrupt Lessee's business on the Premises, or deny access to the Premises.

b. Utilities

(1) City reserves the right for itself and others to existing utility easements over, under, or across the Leased Premises, to grant necessary utility easements therefore, provided that in the exercise of such rights it shall not unreasonably interfere with Lessee's use of the Leased Premises, and that it shall repair any damage to the Leased Premises and leasehold improvements caused by City as a result of the exercise of such reserved rights. City also reserves the right to utilize any existing surface, overhead and underground pipes, pumps, utility lines, or hydrant systems on the Leased Premises as are necessary to supply utility service to other portions of the Airport or Lessee thereon.

(2) Lessee shall be responsible for the construction and expense of all utility improvements and connections, including any tie-in fees to the public water and sewer systems, within the Leased Premises and to utility systems located adjacent to the Premises as provided for by the City, limited only to hook up fees for sewer and water taps Lessee shall not be responsible for any other fee or pro-rata assessment for any construction or improvements to any of the utility systems provided by the City. Furthermore, Lessee shall be responsible for the cost and expense of all utility services used by Lessee as determined by separate meter.

c. Landscaping

(1) All areas within the Leased Premises not utilized by structures, parking spaces or vehicular way shall be landscaped by Lessee.

(2) A landscaping plan, which shall be acceptable to the franchisor, is to be included along with the Plans and Specifications for approval by the City. No initial landscaping is to be undertaken by Lessee before written approval is obtained from the franchisor and the Director. Landscaping material shall be chosen for its permanence, attractiveness, and ease of maintenance. Landscaped areas shall be kept maintained at all times. No landscaping shall be used that attracts, in the sole judgment of the City, bird wildlife.

d. Construction Commencement

Lessee shall provide to Director all required insurance certificates and endorsements within ten (10) days of final execution of this Agreement. Lessee agrees to begin construction of the hotel within six (6) months after execution of this Agreement, and shall complete construction no later than one (1) year after the commencement date of construction, unless otherwise approved in writing by the City.

e. Failure to Timely Construct

In the event construction of the hotel contemplated herein is not complete within one (1) year after the commencement date of construction, Lessee shall nevertheless, pay the City according to the Rents, Fees, and Charges, set forth herein, unless construction has been interrupted by a natural, unforeseen occurrence which prevents construction from proceeding for more than thirty (30) days.

f. Possession

Lessee shall have the right to enter upon the Premises and commence the construction of improvements immediately upon the approval of Lessee's Plans and Specifications by the City.

7. DAMAGE AND DESTRUCTION

In the event that the Leased Premises or improvements made by Lessee thereon shall be damaged by fire or other casualty, in whole or in part, and such damage renders the Premises

and/or improvements untenantable in whole or in part, Lessee shall give immediate notice thereof to City and the same shall be repaired, restored, and/or rebuilt by Lessee at its sole cost and expense to the condition at least equal to that which existed prior to its damage or destruction and in compliance with all laws and regulations at the time of repair and/or restoration of the Premises and/or improvements, and in accordance with a schedule as approved by the City. City has relied upon Lessee to provide its own business interruption and rents insurance to cover the rental fees for the lease of the Premises and the loss to Lessee of any improvements and other property in accordance with paragraph 8 of this Agreement. All improvements and repairs thereto shall be subject to City inspection, and shall comply with all building codes, rules and regulations, and structural standards set forth in the Code of Ordinances of the City of Lubbock.

8. INSURANCE AND INDEMNIFICATION

a. Insurance coverages and limits required of Lessee hereunder are designed to meet the minimum requirements of Lessee and are not a recommended insurance program for Lessee. Lessee alone shall be responsible for the sufficiency of its own insurance program. With no intent to limit Lessee's liability or the indemnification provisions set forth herein, Lessee shall procure and maintain during the Term of this Agreement the following coverages and minimum limits:

(1) Contractor's Insurance. From the inception of this Agreement until construction is completed and finally accepted by the City, and for the duration of any subsequent construction or repair activities, Lessee shall require all contractors employed for the construction or repair of the hotel, other improvements, or additions to procure and carry, at its cost and expense through the life of this Agreement insurance protection as hereinafter specified, in form and substance satisfactory to the City, carried with an insurance company authorized to transact business in the State of Texas, covering all foreseeable aspects and operations in connection with this Agreement, including, but not limited to, all aspects, operations and/or occurrences to which Lessee has indemnified the City. A Certificate of Insurance specifying each and all coverages shall be submitted to the City prior to the execution of this Agreement. Lessee shall provide to the City proof of the below described insurance on or before thirty (30) days prior

to the expiration date of each expiring policy, and cause each required policy to require the insurer to (i) give notice to the City, as specified herein, of termination of any such policy sixty (60) days before such termination is to be effective; and (ii) contain a waiver of any and all of the insurer's rights to subrogation that any such insurer or insurers may acquire by virtue of payment of any loss under such insurance.

Commercial General Liability Insurance. Contractor and/or subcontractors of Licensee and all contractors and/or subcontractors hired by Lessee shall have commercial general liability insurance and such coverage must have a minimum limit of $1,000,000.00 each occurrence, and $2,000,000.00 general aggregate, $2,000,000.00 products-completed operations aggregate, $1,000,000.00 personal & advertising injury. The City and the Lessee shall be named as an additional insured on a primary and non-contributory basis in such policy. The policy shall contain a waiver of subrogation in favor of the City.

Professional Liability Insurance. Contractor and/or subcontractors of Lessee and all contractors and/or subcontractors hired by Lessee hired to perform architectural or design services shall have Professional Liability Insurance, with limits of $1,000,000.00 combined single limit. The City shall be named as an additional insured on a primary and non-contributory basis in such policy.

Automobile Liability Insurance. Contractor and/or subcontractors of Lessee and all contractors and/or subcontractors hired by Lessee shall have auto liability insurance, with limits of $1,000,000.00 combined single limit. The City shall be named as an additional insured on a primary and non-contributory basis in such policy. The policy shall contain a waiver of subrogation in favor of the City.

Worker's Compensation and Employers Liability Insurance. Contractor and/or subcontractors of Lessee and all contractors and/or subcontractors hired by Lessee shall elect to obtain worker's compensation coverage pursuant to Section 406.002 of the Texas Labor Code. Further, contractor and/or subcontractor of Lessee and all contractors and/or subcontractors hired by Lessee shall similarly maintain Employer's Liability Insurance with coverage limits of $1,000,000.00. Said coverage shall be maintained throughout the term of this Agreement and shall comply with all provisions of Title 5 of the Texas Labor Code to ensure that

Lessee maintains said coverage. The policy must be endorsed to include a waiver of subrogation in favor of the City of Lubbock.

Builder's Risk Insurance. Contractor and/or subcontractors of Lessee and all contractors and/or subcontractors hired by Lessee shall maintain builder's risk insurance written on an all risk basis with valuation at replacement cost for the full value of improvements.

(2) Lessee Insurance. Lessee shall procure and carry, at its cost and expense through the life of this Agreement insurance protection as hereinafter specified, in form and substance satisfactory to the City, carried with an insurance company authorized to transact business in the State of Texas, covering all foreseeable aspects and operations in connection with this Agreement, including, but not limited to, all aspects, operations and/or occurrences to which Lessee has indemnified the City. A Certificate of Insurance specifying each and all coverages shall be submitted to the City prior to the execution of this Agreement. Lessee shall provide to the City proof of the below described insurance on or before thirty (30) days prior to the expiration date of each expiring policy, and cause each required policy to require the insurer to (i) give notice to the City, as specified herein, of termination of any such policy sixty (60) days before such termination is to be effective; and (ii) contain a waiver of any and all of the insurer's rights to subrogation that any such insurer or insurers may acquire by virtue of payment of any loss under such insurance.

Commercial General Liability Insurance. Lessee shall have commercial general liability insurance and such coverage must have a minimum limit of $1,000,000.00 each occurrence, and $2,000,000.00 general aggregate, $2,000,000.00 products-completed operations aggregate, $1,000,000.00 personal & advertising injury. The City and the Lessee shall be named as an additional insured on a primary and non-contributory basis in such policy. The policy shall contain a waiver of subrogation in favor of the City.

Automobile Liability Insurance. Lessee shall have auto liability insurance, with limits of $1,000,000.00 combined single limit. The City shall be named as an additional insured on a primary and non-contributory basis in such policy. The policy shall contain a waiver of subrogation in favor of the City.

Worker's Compensation and Employers Liability Insurance. Lessee shall elect to obtain worker's compensation coverage pursuant to Section 406.002 of the Texas Labor Code. Further, Lessee shall similarly maintain Employer's Liability Insurance with coverage limits of $1,000,000.00. Licensee shall maintain said coverage throughout the term of this Agreement and shall comply with all provisions of Title 5 of the Texas Labor Code to ensure that Lessee maintains said coverage. The policy must be endorsed to include a waiver of subrogation in favor of the City of Lubbock.

(3) Liquor Liability - $1,000,000 per occurrence/$2,000,000 Aggregate (as applicable).

(4) Umbrella – Two Million Dollars ($2,000,000) to follow form for all underlying casualty lines of coverage.

b. Lessee must carry and place on file in the City and Airport offices an original signed copy of Lessee's Certificate of Insurance and endorsements reflecting the following additional policies:

(1) Property Insurance Special form or a broader form of coverage at 100% replacement cost for all improvements and betterments to the Leased Premises.

(2) In the event of a casualty, City agrees to allow Lessee to utilize the insurance proceeds to rebuild the Premises as required herein.

(3) Business Interruption (Rents) Insurance equal to one year of the rental income herein stated and naming the City of Lubbock loss payee with respect to the rents.

(4) Underground or Above Ground Storage Tank – No less than $1,000,000 limit (as applicable).

c. Lessee's policy(ies) covering the said insurance shall be issued by a company doing business in the State of Texas (Best's A-VII or better) and countersigned by a Texas agent and approved by the Director, and shall not be subject to cancellation or change until after thirty (30) days written notice shall have been given to City. All Certificates of Insurance, except Worker's Compensation, reflecting the above and naming the City of Lubbock as additional insured, shall be delivered to City by Lessee in advance of the date of occupancy as established herein with renewal certificates provided to City as applicable.

d. All insurance policies shall contain a standard cross-liability provision and shall stipulate that no insurance held by City will be called upon to contribute to a loss covered thereunder. City shall have no liability for any premiums charged for such coverage, and the inclusion of City as an additional insured is not intended to, and shall not, make City a partner or joint venturer with Lessee in Lessee's operations. Such policies shall also insure Lessee against the risks to which it is exposed as the Lessee of the business authorized under this Agreement, and shall be for full coverage with any deductibles and/or retentions subject to approval by City and shall contain provisions on the part of the respective insurers waiving the right of such insurers to subrogation.

e. The City reserves the right to periodically review the insurance provisions stated herein as to the amount of coverage, new types of insurance and new terms (such as combined single limit coverage) and to reasonably modify the insurance coverage under this Agreement.

f. If Lessee places a first mortgage upon its leasehold estate, Lessee's policies shall provide that any and all payments for loss shall be payable to mortgagee (lending institution), the City and Lessee as their respective interests shall apply.

g. City shall not be liable for any damage to Lessee's property from any cause unless solely caused by fault or negligence of City, its officers, agents, contractors, or employees, and Lessee and Lessee's insurance companies, waive all claims against City for damage to persons or property arising for any reason, unless solely caused by fault or negligence of City, its officers, agents, contractors, or employees.

h. Indemnification

Lessee shall protect, defend, and indemnify City, its officers, elected officials, agents, and employees from and against any and all liabilities, losses, suits, claims, judgments, fines, or demands arising by reason of injury or death of any person, damage to any property, or other liability, including all reasonable costs for investigation and defense thereof (including but not limited to attorney fees, court costs, and expert fees), of any nature whatsoever arising out of or incident to this Agreement and/or the use or occupancy of the Leased Premises or the acts or omissions of Lessee's officers, agents, employees, contractors, subcontractors, licensees, or invitees, regardless of where the injury, death, or damage may occur, unless such injury, death, or

damage is caused by the sole negligence and willful misconduct of the City. The City shall give to Lessee reasonable notice of any such claims or actions. The Lessee shall also use counsel reasonably acceptable to City in carrying out its obligations hereunder. The provisions of this section shall survive the expiration or early termination of this Agreement.

i. Payment and Performance Bonds

Prior to commencement of any construction work on the Premises or under the real property identified in EXHIBIT "____" the total cost of which will exceed Fifty Thousand Dollars ($50,000.00), Lessee, at its own cost and expense, shall cause to be made, executed, and delivered to City two (2) separate bonds, as follows:

(a) Prior to the date of commencement of any construction, a contract surety bond shall be issued in a sum equal to the full amount of the construction costs of the improvements depicted and described in the Plans and Specifications. Said bond shall guarantee the faithful performance of all necessary construction and completion of improvements in accordance with approved final plans and detailed specifications; and shall guarantee City against any losses and liability, damages, expenses, claims and judgments caused by or resulting from any failure of Lessee to perform completely the work described as herein provided.

(b) Prior to the date of commencement, a payment bond with Lessee's contractor or contractors as principal shall be issued in a sum equal to the full amount of the construction contract project. Said Bond shall guarantee payment of all wages for labor and services engaged and of all bills for materials, supplies, and equipment used in the performance of said construction project.

(c) In accordance with Section 3503.004 of the Texas Insurance Code, if a Performance or Payment bond is in an amount of excess of ten percent (10%) of the surety's capital and surplus, the Lessor will required, as a condition to accepting the bond(s), a written certification from the surety that the surety has reinsured the portion of the risk that exceeds ten percent (10%) of the surety's capital and surplus with one or more reinsurers who are duly authorized and accredited to do business in the State of Texas. If any portion of the surety's obligation is reinsured, the amount reinsured may not exceed 10% of the reinsurer's capital and surplus.

(d) Bonds furnished under this section shall be issued in accordance with Chapter 2253, Texas Government Code, and shall be issued by a company carrying a current Best Rating of "A" or better. The bonds must be in a form acceptable to the City Attorney, and must be furnished within thirty (30) days of the date of this Agreement. It is acknowledged and agreed that this Agreement shall not take effect until the bonds are furnished to, and accepted by, the City.

9. CANCELLATION PROVISIONS

a. City's Right to Cancellation

The City shall have the right to terminate this Agreement in its entirety immediately if one or more of the following events of default occur by Lessee:

(1) If Lessee shall neglect or fail to perform or observe any of the terms, provisions, conditions, or covenants herein contained and if such neglect or failure shall continue for a period of thirty (30) days after written notice from City of such neglect or failure or, if more than thirty (30) days shall be required to cure the default because of its nature, if Lessee shall fail within said thirty (30) day period to commence and thereafter diligently proceed to cure such default; or,

(2) The occurrence of any act which deprives the Lessee of the rights, licenses, permits, and authorizations necessary for the proper and lawful conduct of the Lessee's operations or services, and if such default is not cured within thirty (30) days after written notice from the City; or,

(3) If Lessee shall abandon the Leased Premises or shall cease to operate a hotel on the Leased Premises, except when Lessee is remodeling or reconstructing the Premises as agreed to in writing by the City and Lessee.

Any termination of this Agreement shall not affect or impair the right of City to recover damages occasioned by default of Lessee.

b. Lessee's Right to Cancellation

The Lessee shall have the right to terminate this Agreement in its entirety upon thirty (30) days written notice to the City if one or more of the following events of default occur by City:

(1) The issuance by any court of competent jurisdiction of any injunction preventing or restraining the use of Airport in such a manner as to substantially restrict Lessee from conducting its operations not caused by any act or omission of Lessee and the remaining in force of such injunction for at least thirty (30) days; or,

(2) If for any reason Lessee is deprived of access to the Leased Premises for thirty (30) consecutive days or more; or,

(3) The assumption by the United States Government and the authorized agencies thereof, or any other governmental agency, of the operation, control, or use of the Airport facilities, or any substantial part or parts thereof in such a manner as to substantially restrict for a period of thirty (30) days or more the conduct of the Lessee's business thereto; or,

(4) A breach by the City of any of the terms, covenants, or conditions within this Agreement, and the failure of the City to remedy such breach, for a period of thirty (30) days after receipt of written notice from the Lessee of the existence of such breach.

c. Abatement of Rent

In lieu of a termination of this Agreement pursuant to subparagraph b. above, Lessee may elect to receive a full abatement of rent for each month in which there is an occurrence of any event set forth in subparagraphs (1) through (4) of subparagraph b.

d. Leasehold Mortgagee Compliance

The City agrees that while any leasehold mortgage remains in effect, if, before the expiration of the sixty (60) day default period as provided for in subparagraph a. (1) above, the leasehold mortgagee cures the default, or has commenced and is diligently proceeding to cure the default in lieu of Lessee, to the satisfaction of the City which shall be established in writing, then any written notice of termination by City shall be void and of no effect.

10. SURRENDER OF OCCUPANCY

a. When this Agreement expires or is terminated in whole or in part as provided for elsewhere in this Agreement, the Lessee shall surrender its Leased Premises therein in good condition, with the exception of reasonable wear and tear.

b. The Lessee shall be deemed to have abandoned to the City any personal property which it has failed to remove from its Leased Premises within sixty (60) calendar days after the end of the Term of this Agreement or the effective date of termination thereof, unless the City grants additional time for this purpose in writing. After the expiration of the sixty (60) day period, or any extension thereof granted by City, the City shall have the right to remove the property and restore the area to a satisfactory condition and hold the Lessee liable for all costs incident thereto. In the event it is necessary for the City to remove such property, the City shall not sustain or be charged with any liability by reason of the removal or custodial care of the same.

11. ASSIGNMENT AND SUBLETTING

The Lessee shall not transfer or assign this Agreement, or any part hereof, or interest herein, or sublease any of the Leased Premises hereunder, except with the prior written approval of the Director, which approval shall not be unreasonably withheld. Any other attempted transfer, assignment, or sublease shall be void and shall confer no rights upon any third person. No assignment or sublease shall relieve the Lessee of any obligation under this Agreement unless otherwise agreed by the City. Notwithstanding the foregoing, this section shall not be interpreted to preclude the assignment of this Agreement to a parent, subsidiary, or merged company, if such parent, subsidiary, or merged company assumes all rights and obligations of this Agreement. Written notice of such assumption shall be provided to the City by the parent, subsidiary, or merged company thirty (30) days prior to the effective date of such assignment.

12. GOVERNMENT REQUIREMENTS

a. Sponsor's Assurances

This Agreement shall be subordinate to the provisions of any existing or future agreements between the City and the United States Government, and any applicable federal laws

or regulations relative to the operation, security or maintenance of the Airport at Lubbock, the execution of or compliance with which is, or will be, required as a condition precedent to the granting of federal funds for the development of the Airport, including but not limited to, the compliance requirements as set forth in the Sponsor's Assurances, attached as Exhibit "B", and as may be amended from time-to-time.

In the event that the Federal Aviation Administration or its successors requires modifications or changes in this Agreement as a condition precedent to the granting of funds for the improvement of the Airport, Lessee agrees to consent to such amendments, modifications, revisions, supplements, or deletions or any of the terms, conditions, or requirements of this Agreement as may be reasonably required to obtain such funds.

b. Nondiscrimination and Affirmative Action

Lessee hereby agrees to comply with the following requirements as they pertain to Lessee's operations at the Airport.

(1) Lessee for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby agree as a covenant running with the land that: (a) no person on the grounds of race, creed, color, national origin, sex, age, or disability shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Leased Premises, (b) in the construction of any improvements on, over, or under the Leased Premises and the furnishing of services thereon, no person on the grounds of race, creed, color, national origin, sex, age, or disability shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and (c) Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federal-Assisted Programs of the Department of Transportation, and as said Title and Regulations may be amended.

(2) In conducting or engaging in any aeronautical activity for furnishing services to the public at the Airport, Lessee shall furnish said services on a fair, equal, and not unjustly discriminatory basis to all users thereof, and shall charge fair, reasonable, and not unjustly discriminatory prices for each unit or service as required pursuant to 14 CFR 152. Lessee may make

reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

(3) Lessee acknowledges that the provisions of 49 CFR Part 23, Disadvantaged Business Enterprises (DBE), as said regulations may be amended, and such other similar regulations may be enacted, may be applicable to the activities of Lessee under the terms of this Agreement, unless exempted by said regulations, and Lessee hereby agrees to comply with the regulatory agencies, in reference thereto. These requirements may include, but not be limited to, compliance with DBE participation goals, the keeping of certain records of good faith compliance efforts, which would be subject to review by the various agencies, the submission of various reports and, if so directed, the contracting of specified percentages of goods and services contracts to DBEs.

(4) In the event of breach of any of the above nondiscrimination covenants which is not cured, City shall have the right to cancel this Agreement after such action as the United States Government may direct to enforce this covenant has been followed and completed, including exercise or expiration of appeal rights.

c. Airport Safety/Security

(1) Lessee shall observe all security requirements of Federal Aviation Regulations, Transportation Security Administration, and Airport Security Program, applicable parts, as the same may be amended from time-to-time, which will be furnished to Lessee as approved by the Federal Aviation Administration and/or Transportation Security Administration, and to take such steps as may be necessary or directed by City to ensure that sublessees, employees, invitees, and guests observe these requirements.

(2) If City incurs any fines and/or penalties imposed by federal, state, or other governmental agencies any expense in enforcing the regulations of Federal Aviation Regulations, Transportation Security Administration and/or Airport Security Program, as a result of the acts or omissions of Lessee, Lessee agrees to pay and/or reimburse all such costs and expense. Lessee further agrees to rectify any deficiency as may be determined by such federal, state, or other governmental agency. City reserves the right to take whatever action necessary to rectify any security deficiency, in the event Lessee fails to remedy the security deficiency.

d. Non Exclusive

Nothing herein contained shall be deemed to grant the Lessee any exclusive right or privilege within the meaning of the Sponsor's Assurances in Exhibit "B" or the conduct of any activity on Airport, except that, subject to the terms and provisions hereof, Lessee shall have the right to possess the Leased Premises under the provisions of this Agreement.

e. Right of First Refusal

In the event any acceptable offer from a third party is received by the City to lease any of the property described in Exhibit "E," attached hereto and incorporated herein by reference, the City prior to acceptance of such offer shall give Lessee written notice thereof including a copy of the offer so that the Lessee shall have a right of first refusal for ninety (90) days after receipt of the notice within which to elect in writing to lease the property on the terms of the offer.

If Lessee elects to lease the property and notifies the City of its election in writing, City and Lessee shall negotiate a lease agreement based upon the terms of the offer. Lessee acknowledges that such negotiated lease agreement shall be distinct from the terms, conditions, and covenants of this Agreement and that City shall not be under any obligation to enter a lease agreement with the Lessee that is identical to this Agreement.

If Lessee fails to respond within the ninety (90) day period or elects to decline the offer, City may accept the offer from the third party.

Lessee's failure at any time to exercise its right of first refusal as set forth in this paragraph shall not affect this Agreement.

Lessee shall have this right of first refusal for a fifteen (15) year period commencing on the execution date of this Agreement.

f. Height Restrictions

Lessee expressly agrees for itself, its successors, and assigns to restrict the height of structures, objects or natural growth, and other obstructions on the Leased Premises in accordance with CFR Part 77 of the Federal Aviation Regulations and in accordance with the City's approved height restriction ordinance.

g. Right of Flight

(1) City reserves unto itself, its successors, and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the Leased Premises, together with the right to cause in the airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in the said airspace, and for the use of said airspace for landing on, taking off from, or operation on the Airport.

(2) City reserves to itself, its successors, and assigns, for the use and benefit of the public, a continuing right and easement over the Leased Premises to take any action it deems necessary to prevent the construction, erection, alteration, or growth of any structure, tree, or other object in the vicinity of the runways of the Airport which would constitute an obstruction to air navigation according to the criteria or standards prescribed in Subpart C of Part 77 of the Federal Aviation Regulations.

(3) City reserves for itself, its successors, and assigns, the right to prevent any use of the Leased Premises which would interfere with aircraft landing on or taking off from the Airport and the right to prevent any other use which would constitute an airport hazard.

h. Disadvantaged Business Enterprise

(1) In accordance with the requirements of the U. S. Department of Transportation (DOT), Disadvantaged Business Enterprises (DBE) as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds and in concession agreements at Airports. Consequently, the DBE requirements of 49 CFR Part 23 are hereby included in this Agreement. Lessee agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement covered by 49 CFR Part 23. Lessee agrees to include the immediately preceding sentence in any subsequent concession agreements (subcontracts) that it enters and cause those businesses to similarly include the statements in further agreements.

(2) Lessee shall submit information as required concerning the DBE(s) that will participate in this concession. This information will include the names and addresses of each DBE and/or DBE suppliers of goods and services, a description of the work to be performed by each DBE,

the dollar value (annual estimated gross receipts) of the DBE's contracted participation, and a description of the legal arrangements to be utilized. At the sole discretion of the City, a DBE goal may be established for each year of the Term of the Agreement, as measured by total estimated annual gross receipts.

(3) The Lessee shall make good faith efforts to explore all available opportunities to meet the goal to the maximum extent practicable, or, if Lessee fails to meet the goal, Lessee must document acceptable good faith efforts to meet the goal as required by the City.

(4) DBE participation may be in the form of one or more subleases, joint ventures, partnerships, or other legal arrangement meeting the eligibility standards in 49 CFR Part 23. In the event that the Lessee qualifies as a DBE, the goal shall be deemed to have been met. Should Lessee be unable to attain participation as provided for above, Lessee may use or obtain the services, goods, and products from DBEs as allowed by 49 CFR Part 23.

(5) The Lessee shall replace a DBE firm whose contract is terminated with another DBE firm in order to meet the goal, unless otherwise approved by the City.

(6) Lessee shall maintain records and documents of payments to DBEs for three (3) years following their performance under this Agreement.

13. FIRE REGULATIONS

a. Lessee shall at all times comply with all laws, ordinances, and regulations pertaining to fire prevention, including but not limited to all fire prevention provisions of the City of Lubbock Code of Ordinances.

b. If Lessee receives an inspection notice or a deficiency notice following inspection by the Fire Department or authorized City or insurance inspector, Lessee agrees to make any and all corrections, in the manner required by the Fire Department or insurance inspector, within ten (10) days after receipt of the notice.

14. HAZARDOUS MATERIALS/OPERATIONS

Further, Lessee shall, at Lessee's expense, comply with all present and hereinafter enacted Environmental Laws and any amendments thereto, affecting Lessee's use, operation, occupation, or alteration of the Premises including any improvements thereon.

a. Definitions.

(1) "Environmental Laws" means any one or all of the following as the same are amended from time-to-time: the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6941 et seq.; the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq.; the Safe Drinking Water Act, 42 U.S.C. Section 300h et seq.; the Clean Water Act, 33 U.S.C. Section 1251 et seq.; the Clean Air Act, 42 U.S.C. Section 7401 et seq.; and the regulations promulgated thereunder and any other laws, regulations and ordinances (whether enacted by the local, state, or federal government) now in effect or hereinafter enacted that deal with the regulation or protection of the environment, including the ambient air, ground water, surface water, and land use, including substrata land.

(2) "Hazardous Material" shall mean all substances, materials, and wastes that are, or that become, regulated under or classified as hazardous or toxic under any Environmental Law.

(3) "Release" shall mean any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing, or dumping into the environment.

b. Compliance.

(1) Lessee shall not cause or permit any hazardous material to be used, generated, manufactured, produced, stored, brought upon, or released, on, under, or about the Premises, or transported to and from the Premises, by Lessee, its agents, employees, contractors, invitees, or a third party in violation of any Environmental Law. **Lessee shall indemnify, defend, and hold harmless City, its successors and assigns, its officers, directors, employees, agents, and attorneys**

from and against any and all liability, loss, damage, expense, penalties, legal and investigation fees, or costs, arising from or related to any claim or action for injury, liability, breach of warranty or representation, or damage to persons or property, and any and all claims or actions brought by any person, entity, or governmental body, alleging or arising in connection with contamination of, or adverse effects on, the environment or violation of any Environmental Law or other statute, ordinance, rule, regulation, judgment, or order of any government or judicial entity which are incurred or assessed as a result (whether in part or in whole) of any activity or operation by Lessee or its employees, sublessees, invitees, contractors, or agents on or discharge from the Premises or any improvements thereon. This obligation includes, but is not limited to, all costs and expenses related to cleaning up the Premises, improvements, land, soil, underground, or surface water as required under the law. Lessee's obligations and liabilities under this paragraph shall continue so long as City bears any liability or responsibility under the Environmental Laws for any action that occurred on the Premises or any improvements thereon, save and except those incurred or assessed as a result of any activity, operation, or use of the Premises by City or its lessees, employees, contractors, and invitees prior to this Agreement or occurring on or as a result of the City's or public's use of the public roads, streets, entryways, and alleys adjoining the Premises. This indemnification of City by Lessee includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal, or restoration work required by any federal, state, or local governmental agency or political subdivision because of hazardous material located on the Premises or any improvements thereon, or present in the soil or ground water on, under, or about the Premises. However, excluding any environmental conditions that occurred and existed prior to the effective date of this Agreement. The parties agree that City's right to enforce Lessee's promise to indemnify is not an adequate remedy at law for Lessee's

violation of any provision of this Section. City shall also have all other rights and remedies provided by law or otherwise provided in this Agreement.

(2) Without limiting the foregoing, if the presence of any hazardous material on, under, or about the Premises or in any improvements thereon or permitted by Lessee results in any contamination of the Premises, any improvements thereon, or any surrounding property, Lessee shall promptly take all actions at its sole cost and expense as are necessary to return the Premises or any improvements thereon to the condition existing prior to the introduction of any such hazardous material to the Premises or in any improvements thereon; provided that City's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions would not potentially have any material adverse long-term effect on the Premises or on any improvements thereon.

(3) Lessee shall, at Lessee's own cost and expense, make all submissions to, provide all information to, and comply with all requirements of the appropriate governmental authority (the "Government") pursuant to the Environmental Laws. Should the Government determine that site characterization, site assessment and/or a cleanup plan be prepared or that a cleanup should be undertaken on the Premises or in any improvements thereon, then Lessee shall, at Lessee's own cost and expense, prepare and submit the required plans and financial assurances, and carry out the approved plans. At no cost or expense to City, Lessee shall promptly provide all information requested by City to determine the applicability of the Environmental Laws to the Premises or to respond to any governmental investigation or to respond to any claim of liability by third parties which is related to environmental contamination.

(4) Lessee shall immediately notify City of any of the following: (a) any correspondence or communication from any governmental entity regarding the application of Environmental Laws to the Premises or Lessee's operation on the Premises; or (b) any change in Lessee's operation on the Premises that will change

or has the potential to change Lessee's or City's obligations or liabilities under the Environmental Laws.

(5) Lessee shall insert the provisions of this Section in any sublease agreement or other contract by which Lessee grants a right or privilege to any person, firm or corporation pursuant to this Agreement.

c. Emergency.

In the event of an emergency (meaning a Release of Hazardous Materials in violation of Environmental Laws on the Premises that presents an immediate threat of injury to persons or property) or the expiration of cure periods provided for in this Agreement, then notwithstanding any other provision in this Agreement to the contrary, City shall have the right of "self-help" or similar remedy in order to minimize any damages, expenses, penalties and related fees or costs, arising from or related to a violation of any law on, under, or about the Premises, the cost of which including attorneys fees, shall be borne by Lessee. City shall use its best efforts to notify Lessee prior to its exercise of such self-help rights.

Lessee's failure or the failure of its agents, employees, contractors, invitees or the failure of a third party to comply with any of the requirements and obligations of this Section shall constitute a material default of this Agreement and shall permit City to pursue the remedies as set forth herein in addition to all other rights and remedies provided by law or otherwise provided in the Agreement, to which City may resort cumulatively, or in the alternative.

Notwithstanding anything to the contrary contained herein, City acknowledges that Lessee's agreement to comply with the Environmental Laws does not equate to or require Lessee's waiver of any grandfathered or vested rights.

d. Compliance Upon Termination

Prior to the expiration of this Agreement or vacation of the Leased Premises, Lessee shall complete a Phase I Environmental Assessment to determine whether any Hazardous Substances are located on, at, in, or under the Leased Premises. If the assessment reveals that Hazardous Substances are located on, at, in, or under the Leased Premises, Lessee shall, at Lessee's sole expense, remove or permanently clean all such Hazardous Substances that Lessee, or anyone for whom Lessee is responsible, including, but not limited to, a customer, invitee,

employee, agent, or person having a contractual relationship with the Lessee, caused to be situated on, at, in, or under the Leased Premises. This shall be done in compliance with all applicable federal, state, and local laws, regulations, and ordinances and shall include the performance of any necessary cleanup or remedial action. Lessee shall provide City with copies of all records related to any Hazardous Substances that are required to be maintained by any applicable federal, state, or local laws or regulations.

e. City's Representation

To the best of the City's current actual knowledge and belief as of the date of Agreement execution, City is not aware of any disposal of any Hazardous Substances on the Leased Premises prior to the date of Agreement execution. City has provided Lessee with an opportunity to inspect the Leased Premises or to conduct a Phase I Environmental Assessment at Lessee's own cost prior to the execution of the Agreement and date of possession.

f. Underground/Above Ground Storage Tanks

(1) Installation

All storage tanks shall be installed according to the requirements of the Texas Commission on Environmental Quality, the Environmental Protection Agency, the City of Lubbock, and any other applicable government related authorized agencies collectively hereinafter referred to as the "Appropriate Governmental Agencies." All installation, design, and construction of the storage tanks shall be at the Lessee's expense and in accordance with the Appropriate Governmental Agencies' regulations and certified by an independent professional engineer registered in the State of Texas. All installation specifications and drawings shall be submitted in advance to the City.

(2) Removal

At the time the Lessee removes a storage tank, such removal shall be at the Lessee's expense and pursuant to rules and regulations as required by the Appropriate Governmental Agencies. Upon removal of the storage tank, the Lessee shall perform site assessment in order to demonstrate that there have not been any leaks from the storage tank to the environment during the period in which the storage tank has been in service. The Lessee shall

perform initial abatement, site characterization, and corrective action as outlined herein upon termination of this Agreement.

(3) Leak Detection

The Lessee shall be responsible for regularly monitoring and inspecting the storage tanks on its Leased Premises and performing leak detection tests thereon in accordance with local, state, and federal law. The City shall be notified immediately of any leaks or releases discovered at any time by the Lessee.

g. Lessee shall arrange for the storage and for the daily disposal, at its own expense, of all waste material in a manner satisfactory to the Director.

15. SERVICE STANDARDS

a. Quality of Service

It is an express condition of this Agreement that Lessee maintains a high standard of product quality and service and maintains a reasonable level of prices comparable with prices of similar businesses within the Lubbock area. Questions or complaints regarding the quality of its products or services and/or prices, whether raised by patrons' complaints or on the City's own initiative or otherwise, may be submitted to Lessee for response.

b. Complaints by Public

In the event the Lessee receives (or the City receives and forwards to the Lessee) any written complaint concerning the Lessee's operations at the Airport, the Lessee shall promptly respond to such complaint in writing within thirty (30) days of its receipt. Without further notice or demand, the Lessee shall keep a copy of each such complaint and the Lessee's written response for a period of one (1) year from the date of the complaint and shall make the complaint and the written response available to the City upon its request.

c. Hours of Operation

Lodging services shall be provided by Lessee twenty-four (24) hours a day, seven (7) days a week, including holidays, unless otherwise permitted by the prior written consent of the Director.

d. Covenant Against Waste and Nuisance

Lessee covenants and agrees that it shall not use the Leased Premises in any manner that will constitute waste, and that it shall not cause or permit any unlawful conduct, unreasonable annoyance, or nuisance to exist or arise in the course of or as a result of its use of the Premises, nor permit any activity or omission which constitutes or results in unlawful conduct, unreasonable annoyance, or nuisance.

16. EMINENT DOMAIN

a. If at any time during the Term of this Agreement or any extension thereof, the entire Premises, or such portion thereof as would render it impossible or impractical to operate a hotel, shall be taken or appropriated by virtue of eminent domain, or other similar proceedings, or be condemned for any public or quasi-public use, the Lessee shall have the right and privilege of terminating this Agreement. Such termination shall not affect the Lessee's right to recover the apportionment of damages as herein provided. All the rents and other charges and payments reserved herein shall be permanently abated from the time of such taking or appropriation.

b. In the event of a partial taking or appropriation of the Premises not resulting in a termination of this Agreement, Lessee shall be entitled to an abatement of rent, immediately upon the taking, in such amount as shall be just and equitable.

c. It is understood and agreed that in the event of a partial or complete taking or appropriation, whether or not this Agreement be terminated as above provided, the City and the Lessee may, if permissible by applicable law, prosecute at their option their respective claims against the public or private body designated as the taking authority on account of any taking or appropriation of the Premises.

d. Any damage claimed by Lessee as a result of any loss to or of improvements paid for or contributed by the Lessee on the Premises, shall be without diminution by reason of any provision in this Agreement or by operation of law that the said leasehold improvements may be or shall become the property of the City at any time prior to or at the expiration of the full Term hereof.

e. In ascertaining the Lessee's interest and the damages sustained by the Lessee, the Term of this Agreement shall be deemed to run for the full Term allowable, including any extensions under the terms of this Agreement, notwithstanding any prior termination thereof which may result as provided in this Agreement in the case of a taking or appropriation.

17. MORTGAGING OF LEASEHOLD

The Lessee and every successor is given and has the right to mortgage its interest in this Agreement, subject to giving written notification to the City which shall be deemed validly given, serviced, or delivered upon deposit in the United States mail, certified, and with proper postage and fees prepaid, addressed to City at the most recent address, at any time and from time-to-time during the term hereof. If the Lessee or any successor or assign shall mortgage this leasehold, then so long as such mortgage shall remain in effect the following provisions shall apply:

a. Notice of Default, Cure

The City shall, upon serving on the Lessee any notice of default, simultaneously serve a copy of such notice upon the leasehold mortgagee. The mortgagee shall thereupon have the same time within which to remedy or cause to be remedied the defaults complained of as is allowed to the Lessee, and the City shall accept such performance by or at the instigation of the mortgagee as if such performance had been accomplished by the Lessee.

b. Insurance

The name of the leasehold mortgagee may be added to the "loss payable endorsement" of any and all insurance policies required to be carried by the Lessee hereunder. The City will make available to the Lessee all insurance or condemnation proceeds to which the Lessee may be entitled hereunder for purposes of restoration of the Premises.

c. Estoppel Certificate

The City, within ten (10) days after a request in writing by the Lessee or the leasehold mortgagee, shall furnish a written statement, duly acknowledged, that this Agreement is in full force and effect and that there is no default hereunder by the Lessee, or if there is a default, such statement shall specify the default which the City claims to exist.

d. No Mortgage by City

The City may not place any mortgage or encumbrance on its fee interest in the Leased Premises for the City's special benefit during the Term of this Agreement, and covenants not to do so.

18. CONTINGENCIES

This Agreement is contingent upon the following:

a. Financing

This Agreement is contingent upon Lessee's ability to obtain a loan from a lender acceptable to Lessee to be secured by a first lien security deed on the leasehold estate. If a firm commitment for said loan is not obtained within ninety (90) days of the execution of this Agreement, the Agreement may be rescinded at the option of Lessee.

b. Franchise Agreements

(1) This Agreement is contingent on Lessee obtaining a franchise commitment to operate a minimum 68-room hotel on the Premises on terms acceptable to Lessee. Lessee shall obtain a franchise commitment within forty-five (45) days after the execution of the Agreement. The City reserves the right to terminate this Agreement at any time after the forty-five (45) days, if Lessee fails to obtain a franchise agreement.

(2) Lessee agrees to provide the City with a fully executed copy of the Franchise Agreement and will be incorporated herein as Exhibit "F."

c. Permits

This Agreement is contingent on the ability of the Lessee to obtain all related permits (including any appropriate zoning classification) for the construction of a minimum 68-room guest hotel and restaurant on the Premises. If Lessee has been unable to obtain all permits for the construction of said hotel within one hundred eighty (180) days of the execution of this Agreement, this Agreement may be rescinded at the option of Lessee. Lessee acknowledges and agrees that the construction activities contemplated by this Agreement must comply with permitting requirements set forth in the City of Lubbock Code of Ordinances.

d. Environmental Assessment

Lessee has the option to complete a Phase I environmental assessment to determine whether any Hazardous Substances (as defined in Section 14.) are located in, on, or under the Leased Premises in excess of allowable levels established by all applicable federal, state, and local laws and regulations. If Lessee elects to perform said environmental assessment, it shall be completed within ninety (90) days of the execution of this Agreement, and the cost of said assessment shall be paid by the Lessee. If any Hazardous Substances are located on the Leased Premises as a result of said environmental assessment, this Agreement may be rescinded at the option of the Lessee on the date that written notice is given to the City provided that written notice is given within ten (10) days of the ninety (90) day period stipulated herein. Lessee shall provide a copy of the Environmental Assessment to the City upon its completion.

19. MISCELLANEOUS

a. Personal Liability

No member of the City or employee of either party shall be charged personally or held contractually liable by or to the other party under any term or provision of this Agreement because of any breach thereof or because of its execution or attempted execution.

b. Non-Waiver of Rights

No waiver of default by the City of any of the terms, conditions, covenants, or agreements hereof to be performed, kept, or observed by the Lessee shall be construed or act as a waiver of any subsequent default of any of the terms, covenants, conditions, and agreements, herein contained to be performed, kept, or observed by the Lessee, and City shall not be restricted from later enforcing any of the terms and conditions of this Agreement.

c. City Employees

Lessee shall not during the Term of this Agreement, hire or employ, on either a full-time or part-time basis, any person or persons so long as such person shall be employed by the City of Lubbock, Aviation Department, unless approved in writing by Director.

d. Entire Agreement

This Agreement, including exhibits attached hereto at the time of its execution, constitutes the entire Agreement between the parties hereto, and all prior agreements covering the rights and privileges set out herein are superseded by and merged into this Agreement.

e. Amendment

This Agreement may be amended only by a written instrument executed by City and Lessee.

f. Governing Law

This Agreement shall be deemed to be governed by and construed in accordance with the laws of the State of Texas. Lessee agrees and consents to the exclusive jurisdiction of the courts of the State of Texas for all purposes regarding this Agreement and further agrees and consents that venue of any action brought hereunder shall be exclusively in the County of Lubbock.

g. Invalid Provisions

If any provision of this Agreement or any application thereof shall be held to be invalid by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby, unless one or both parties would be substantially and materially prejudiced.

h. Headings

The headings contained herein are for convenience in reference only and are not intended to define or limit the scope of this Agreement or any term thereof.

i. Notices

Any notice or other communication to City or Lessee pursuant hereto shall be deemed validly given, serviced, or delivered upon deposit in the United States mail, certified, and with proper postage and fees prepaid, addressed to City or Lessee, respectively, at the addresses hereinafter shown or at the address hereafter specified in writing.

(1) The address of the City is:

Executive Director of Aviation
Lubbock Preston Smith International Airport
5401 N. MLK Blvd., Unit 389
Lubbock, TX 79403

(2) The address of the Lessee is:

Boomer Development LLC
7704 Trenton Avenue
Lubbock, Texas 79424
Telephone: (806) 698-0990

j. Agreement Alteration

This Agreement, together with any riders and exhibits attached hereto forming a part hereof, sets forth all of the promises, agreements, conditions, and understandings between the parties hereto, either oral or written. It is understood and agreed that no subsequent alteration, amendment, change, or addition to the Agreement shall be binding upon City or Lessee unless reduced to writing by them and by direct reference made a part hereof.

k. Rules and Regulations

Lessee shall observe and obey and require its officers, employees, agents, and invitees to obey and observe the duly enacted and lawful rules and regulations of the City and ordinances of the City of Lubbock and the duly enacted and lawful rules and regulations now in existence or hereafter promulgated by City, by the Federal Aviation Administration, or by any other local, state, or federal agency of competent jurisdiction. Lessee shall comply with all federal, state, and local laws, regulations, and ordinances.

l. Pest Control

Lessee agrees to provide adequate and lawful control of rodents, insects, and other pests on its Leased Premises.

m. Permits and Taxes

The Lessee shall pay all expenses in connection with the use of the Leased Premises herein and the rights and privileges herein granted, including without limitation by reason of enumeration, taxes, including ad valorem taxes, permit fees, license fees, including tap fees and pure water fees, and assessments lawfully levied or assessed upon the Leased Premises or structures and improvements at any time situated thereon and that Lessee will secure all such permits and licenses. Failure to pay said taxes and/or fees shall be considered an event of default under the terms of this Agreement.

n. Access

During the term of this Agreement, Lessee shall have access to and from the Leased Premises by means of a public access road provided and maintained by the City or State.

o. Signs

Lessee may, at its own expense, install and operate necessary and appropriate identification signs on its Leased Premises in compliance with the City of Lubbock sign ordinance. All signs located on the Leased Premises, excluding signs located on Lessee's buildings, are subject to the approval of the Director, which consent shall not be unreasonably withheld. Additionally, Lessee may, at its own expense, request directional signs be placed in other locations within the Airport property, subject to the approval of the Director, which consent shall not be unreasonably withheld.

p. Bankruptcy

Lessee agrees not to file any petition by or on the behalf of Lessee seeking protection under the federal bankruptcy laws or similar relief under any law or statute of the United States or any State thereof without first giving City reasonable notice in advance.

q. Amendments

Lessee agrees not to terminate or make any material amendments of any long term franchise agreements without prior approval of the Director, and shall provide the Director with a copy of all proposed and finalized amendments.

r. Landlord's Lien.

It is expressly agreed that in the event of default in the payment of rent or any other sum due from Lessee to City under the terms of this Agreement, City shall have a lien upon all goods, chattels, personal property, or equipment belonging to Lessee, which are placed in, or become a part of the Premises, as security for rent due and to become due for the remainder of the Agreement Term. City agrees that it will not levy a landlord's lien against any delivery vehicle or rolling stock or any of the goods or personal property of third parties in the possession of Lessee, any sublessee or any assignee of the Lessee.

In the event City exercises the option to terminate the leasehold as provided herein, the City, after providing reasonable notice to Lessee of its intent to take possession and giving an

opportunity to cure the default, may take possession of all of Lessee's property on the Premises and sell it at a public or private sale after giving Lessee reasonable notice of the time and place of any public sale or of the time after that any private sale is to be made for such prices and terms as City deems best. The proceeds of the sale shall be applied first to the necessary and proper expense of removing, storing, and selling such property, then to the payment of any rent due or to become due under this Agreement, with the balance, if any, to be paid to Lessee. City acknowledges that any lien or security interest City may claim pursuant to this section is subordinated to any lien or security interest now or subsequently held by any mortgagee, when said mortgagee is pursuing its rights under the mortgage, as those terms are defined with this Agreement.

s. Liens against the City

In accordance with the laws of the State of Texas, Lessee understands and agrees that, for itself, and as a condition of doing business with the Lessee, its contractors, suppliers, vendors, tenants, agents, or any other person shall agree not to levy any lien against the real property of the City.

t. Non-Arbitration

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

u. No Joint Venture.

It is acknowledged and agreed by the Parties that the terms hereof are not intended to and shall not be deemed to create a partnership or joint venture among the Parties.

IN WITNESS WHEREOF, said parties have caused these presents to be duly executed by their proper officers thereunto authorized, and corporate seals affixed.

This document constitutes the entire Agreement between the City and Lessee, and any other written or parole agreement with the City is expressly waived by Lessee.

EXECUTED this _____th day of _____, 2015.

THE CITY OF LUBBOCK

BY:_____

GLEN C. ROBERTSON, MAYOR

BOOMER DEVELOPMENT LLC

BY:_____

Print: ANDY HUTCHISON

Title: Principal

Date: _____

ATTEST:

_____

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

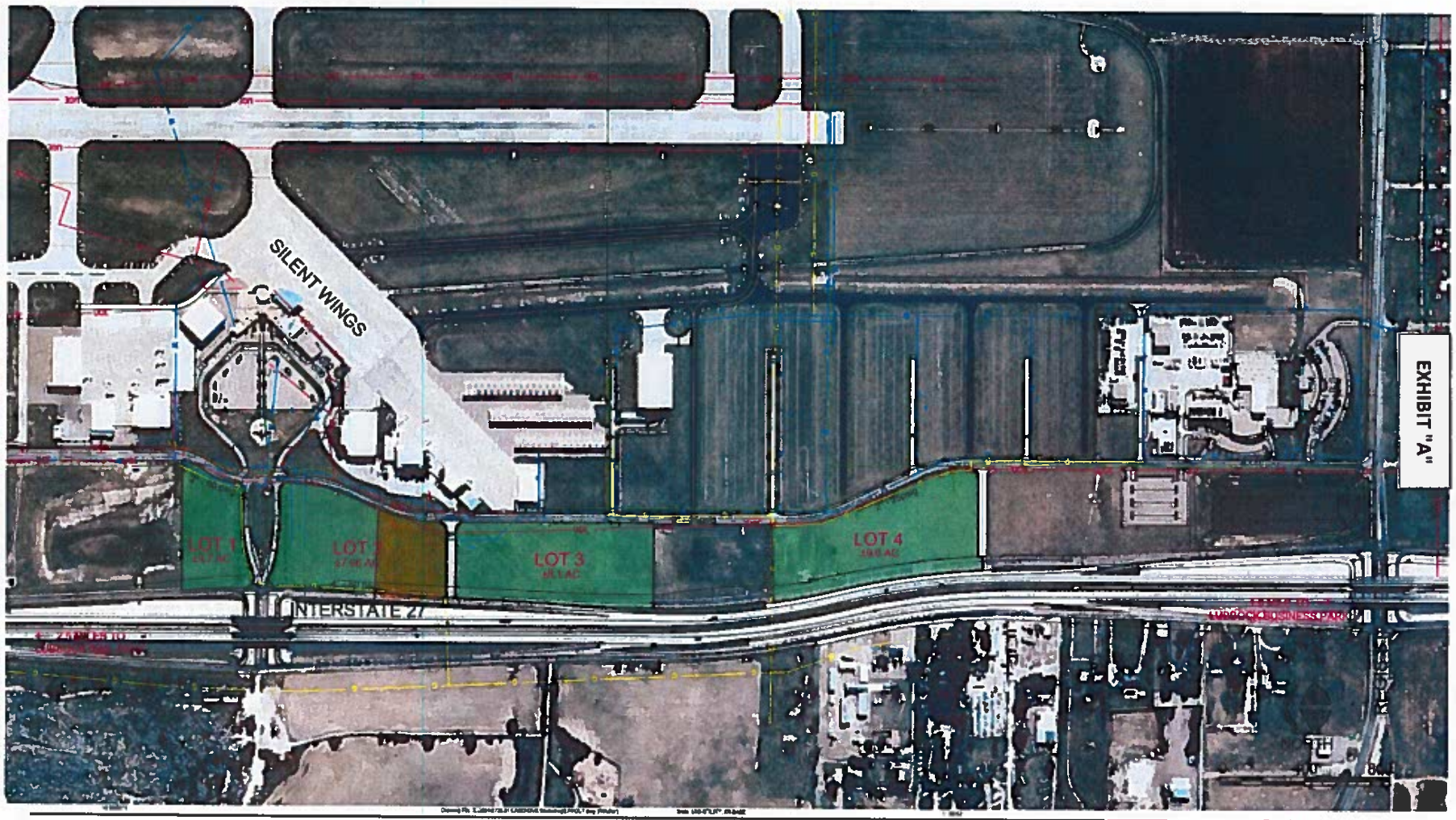
_____

Kelly Campbell, Executive Director of Aviation

APPROVED AS TO FORM:

_____

Mitchell Satterwhite, First Assistant City Attorney



LEASED PREMISES

PARKHILL SMITH & COOPER

PSC

LOT LOCATIONS AT LBB

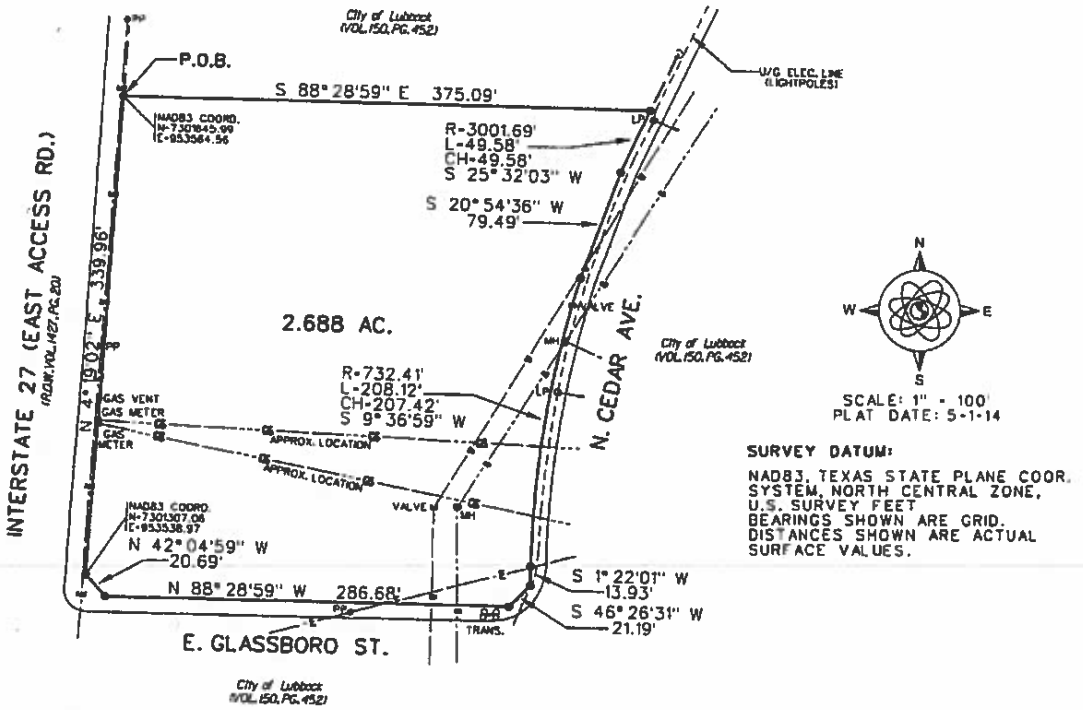
Issue:	FOR REVIEW	Date:	10-25-11
Project No:	01-2725-01	Sheet:	1 OF 1

EXHIBIT "A-2"

PLAT OF SURVEY

ON

A 2.688 ACRE TRACT OF LAND BEING LOCATED IN
SECTION 28, BLOCK A, ABSTRACT #685, G.C. & S.F. R.R. Co. SURVEY,
LUBBOCK COUNTY, TEXAS



SURVEY DATUM:

NAD83, TEXAS STATE PLANE COOR. SYSTEM, NORTH CENTRAL ZONE, U.S. SURVEY FEET
BEARINGS SHOWN ARE GRID.
DISTANCES SHOWN ARE ACTUAL SURFACE VALUES.

LEGAL DESCRIPTION

FIELD NOTES on a 2.688 acre tract of land being located in Section 28, Block A, Abstract #685, G.C. & S.F. R.R. Co. Survey, Lubbock County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a ½" iron rod with cap, set on the existing East right-of-way line of Interstate 27, for the Northwest corner of this 2.688 acre tract, whence the Southwest corner of Section 28, Block A, bears South 88°08'46" East, a distance of 117.00 feet and South 01°46'33" West, a distance of 2143.23 feet;

THENCE South 88°28'59" East, a distance of 375.09 feet to a ½" iron rod with cap, set for the Northeast corner of this 2.688 acre tract;

THENCE Southwesterly, along the arc of a curve to the left an arc distance of 49.58 feet to a ½" iron rod with cap, set for a corner of this 2.688 acre tract, said curve having a radius of 3001.69 feet and a chord that bears South 25°32'03" West, a distance of 49.58 feet;

THENCE South 20°54'36" West, a distance of 79.49 feet to a ½" iron rod with cap, set for a corner of this 2.688 acre tract;

THENCE Southwesterly, along the arc of a curve to the left an arc distance of 208.12 feet to a ½" iron rod with cap, set for a corner of this 2.688 acre tract, said curve having a radius of 732.41 feet and a chord that bears South 9°36'59" West, a distance of 207.42 feet;

THENCE South 01°22'01" West, a distance of 13.93 feet to a ½" iron rod with cap, set for the most Easterly Southeast corner of this 2.66 acre tract;

THENCE South 46°26'31" West, a distance of 21.19 feet to a ½" iron rod with cap, set for the most Southerly Southeast corner of this 2.688 acre tract;

THENCE North 88°28'59" West, a distance of 286.68 feet to a ½" iron rod with cap, set for the most Southerly Southwest corner of this 2.688 acre tract;

THENCE North 42°04'59" West, a distance of 20.69 feet to a ½" iron rod with cap, set for the most Westerly Southwest corner of this 2.688 acre tract;

THENCE North 4°19'02" East, along the existing East right-of-way line of Interstate 27, a distance of 339.96 feet to the point of beginning.

CONTAINING 2.688 acres of land.

Surveyed on the ground April 24, 2014

Gary D. Wilson
Registered Professional Land Surveyor
State of Texas No. 4239

Date: 5-1-14

STATE OF TEXAS
REGISTERED
GARY D. WILSON
4239
PROFESSIONAL
LAND SURVEYOR

This survey and all information hereon is for the exclusive use of CITY OF LUBBOCK and shall not be copied or used except for the purpose for which it is expressly furnished. this drawing and all copies (partial or complete) shall be returned to the owner upon demand.

NO ATTEMPT HAS BEEN MADE AS A PART OF THIS BOUNDARY SURVEY TO OBTAIN OR SHOW DATA CONCERNING EXISTENCE, SIZE, DEPTH, CONDITION CAPACITY, OR LOCATION OF ANY UTILITY OR MUNICIPAL/PUBLIC SERVICE FACILITY. FOR INFORMATION REGARDING THESE UTILITIES OR FACILITIES, PLEASE CONTACT THE APPROPRIATE AGENCIES OR OTHER SURVEYS.

SURVEYOR HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH FOR EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP TITLE EVIDENCE, OR ANY OTHER FACTS WHICH AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE.

FB 477 PG. 49,51

WILSON SURVEYING Co., INC.
Registered Professional Land Surveyors
3330 - 70th Street, Suite 201 * Lubbock, Texas 79413
Office 806.792.4731 Fax 806.792.1646

37,770

EXHIBIT
tabbies
B

ASSURANCES
Airport Sponsors

A. General.

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.

2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.

3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this grant agreement.

B. Duration and Applicability.

1. **Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.** The terms, conditions and assurances of this grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.** The preceding paragraph 1 also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

3. **Airport Planning Undertaken by a Sponsor.** Unless otherwise specified in this grant agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 30, 32, 33, and 34 in section C apply to planning projects. The terms, conditions, and assurances of this grant agreement shall remain in full force and effect during the life of the project.

C. **Sponsor Certification.** The sponsor hereby assures and certifies, with respect to this grant that:

1. **General Federal Requirements.** It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

Federal Legislation

a. Title 49, U.S.C., subtitle VII, as amended.
b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.[1]
c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
d. Hatch Act – 5 U.S.C. 1501, et seq.[2]
e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.[1 2]
f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).[1]
g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.[1]
h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
i. Clean Air Act, P.L. 90-148, as amended.
j. Coastal Zone Management Act, P.L. 93-205, as amended.
k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.[1]
l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f))
m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
n. Civil Rights Act of 1964 - Title VI - 42 U.S.C. 2000d through d-4.
o. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
p. American Indian Religious Freedom Act, P.L. 95-341, as amended.
q. Architectural Barriers Act of 1968 -42 U.S.C. 4151, et seq.[1]
r. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.[1]
s. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.[1]
t. Copeland Anti kickback Act - 18 U.S.C. 874.1
u. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.[1]
v. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
w. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.[2]
x. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.

Executive Orders

Executive Order 11246 - Equal Employment Opportunity[1]
Executive Order 11990 - Protection of Wetlands
Executive Order 11998 – Flood Plain Management
Executive Order 12372 - Intergovernmental Review of Federal Programs
Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction[1]
Executive Order 12898 - Environmental Justice

Federal Regulations

a. 14 CFR Part 13 - Investigative and Enforcement Procedures.
b. 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
c. 14 CFR Part 150 - Airport noise compatibility planning.
d. 29 CFR Part 1 - Procedures for predetermination of wage rates.[1]
e. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.[1]
f. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).[1]
g. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).[1]
h. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.[3]
i. 49 CFR Part 20 - New restrictions on lobbying.
j. 49 CFR Part 21 - Nondiscrimination in federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.
k. 49 CFR Part 23 - Participation by Disadvantage Business Enterprise in Airport Concessions.
l. 49 CFR Part 24 - Uniform relocation assistance and real property acquisition for Federal and federally assisted programs.[1] [2]
m. 49 CFR Part 26 – Participation By Disadvantaged Business Enterprises in Department of Transportation Programs.
n. 49 CFR Part 27 - Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance.[1]
o. 49 CFR Part 29 – Government wide debarment and suspension (nonprocurement) and government wide requirements for drug-free workplace (grants).
p. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.
q. 49 CFR Part 41 - Seismic safety of Federal and federally assisted or regulated new building construction.[1]

Office of Management and Budget Circulars

a. A-87 - Cost Principles Applicable to Grants and Contracts with State and Local Governments.
b. A-133 - Audits of States, Local Governments, and Non-Profit Organizations

[1] These laws do not apply to airport planning sponsors.

[2] These laws do not apply to private sponsors.

[3] 49 CFR Part 18 and OMB Circular A-87 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation and circular shall also be applicable to private sponsors receiving Federal assistance under Title 49, United States Code.

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this grant agreement.

2. **Responsibility and Authority of the Sponsor.**

   a. **Public Agency Sponsor:** It has legal authority to apply for this grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

   b. **Private Sponsor:** It has legal authority to apply for this grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this grant agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. **Sponsor Fund Availability.** It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this grant agreement which it will own or control.

4. **Good Title.**

   a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.

   b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. **Preserving Rights and Powers.**

   a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or

modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.

b. It will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this grant agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this grant agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this grant agreement.

c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.

d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.

e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.

f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to insure that the airport will be operated and maintained in accordance Title 49, United States Code, the regulations and the terms, conditions and assurances in this grant agreement and shall insure that such arrangement also requires compliance therewith.

g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in

permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

6. **Consistency with Local Plans.** The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

7. **Consideration of Local Interest.** It has given fair consideration to the interest of communities in or near where the project may be located.

8. **Consultation with Users.** In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

9. **Public Hearings.** In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

10. **Air and Water Quality Standards.** In projects involving airport location, a major runway extension, or runway location it will provide for the Governor of the state in which the project is located to certify in writing to the Secretary that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty days after the project application has been received by the Secretary.

11. **Pavement Preventive Maintenance**. With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

12. **Terminal Development Prerequisites.** For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of

submittal of the project grant application, all the safety equipment required for certification of such airport under section 44706 of Title 49, United States Code, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

13. **Accounting System, Audit, and Record Keeping Requirements.**

    a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this grant, the total cost of the project in connection with which this grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.

    b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

14. **Minimum Wage Rates.** It shall include, in all contracts in excess of $2,000 for work on any projects funded under this grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

15. **Veteran's Preference.** It shall include in all contracts for work on any project funded under this grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in Section 47112 of Title 49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

16. **Conformity to Plans and Specifications.** It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to

commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval of the Secretary, shall be incorporated into this grant agreement. Any modification to the approved plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this grant agreement.

17. **Construction Inspection and Approval.** It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

18. **Planning Projects.** In carrying out planning projects:

    a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
    b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
    c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
    d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
    e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
    f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
    g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
    h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

19. **Operation and Maintenance.**

    a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition

and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for-

1) Operating the airport's aeronautical facilities whenever required;
2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
3) Promptly notifying airmen of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.

b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

20. **Hazard Removal and Mitigation.** It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

21. **Compatible Land Use.** It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

22. **Economic Nondiscrimination.**

a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.

b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for

furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to-

1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.

d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.

e. Each air carrier using such airport (whether as a tenant, non tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non tenants and signatory carriers and non signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.

f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees [including, but not limited to maintenance, repair, and fueling] that it may choose to perform.

g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.

h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.

i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

23. Exclusive Rights. It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public.

For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and

b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

24. **Fee and Rental Structure.** It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

25. **Airport Revenues.**

a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:

1) If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the

airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.

2) If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.

3) Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at Section 47102 of title 49 United States Code), if the FAA determines the airport sponsor meets the requirements set forth in Sec. 813 of Public Law 112-95.

b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.

c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of Section 47107 of Title 49, United States Code.

26. Reports and Inspections. It will:

a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;

b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;

c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms,

conditions, and assurances of this grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and

d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
   1) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
   2) all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

27. **Use by Government Aircraft.** It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that –

   a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
   b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

28. **Land for Federal Facilities.** It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. **Airport Layout Plan.**

   a. It will keep up to date at all times an airport layout plan of the airport showing (1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto; (2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars

and roads), including all proposed extensions and reductions of existing airport facilities; (3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon; and (4) all proposed and existing access points used to taxi aircraft across the airport's property boundary. Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.

b. If a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

30. **Civil Rights.** It will comply with such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from funds received from this grant. This assurance obligates the sponsor for the period during which Federal financial assistance is extended to the program, except where Federal financial assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon in which case the assurance obligates the sponsor or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits, or (b) the period during which the sponsor retains ownership or possession of the property.

31. **Disposal of Land.**

a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another

project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order, (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund. If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue.

b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, (1) upon application to the Secretary, be reinvested or transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order: (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund.

c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.

d. Disposition of such land under (a) (b) or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

32. **Engineering and Design Services.** It will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement **prescribed** for or by the sponsor of the airport.

33. **Foreign Market Restrictions.** It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

34. **Policies, Standards, and Specifications.** It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including but not limited to the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, dated (the latest approved version as of this grant offer) and included in this grant, and in accordance with applicable state policies, standards, and specifications approved by the Secretary.

35. **Relocation and Real Property Acquisition.** (1) It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B. (2) It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24. (3) It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

36. **Access By Intercity Buses.** The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

37. **Disadvantaged Business Enterprises.** The recipient shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non discrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26, and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation

and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801).

38. **Hangar Construction.** If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

39. **Competitive Access.**

a. If the airport owner or operator of a medium or large hub airport (as defined in section 47102 of title 49, U.S.C.) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that-

1) Describes the requests;
2) Provides an explanation as to why the requests could not be accommodated; and
3) Provides a time frame within which, if any, the airport will be able to accommodate the requests.

b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date.

EXHIBIT "C"

HOTEL LAND LEASE AGREEMENT
LEASE COVENANTS AND RESTRICTIONS

ARTICLE I – DEFINITIONS

Whenever used in this instrument or as used within the Agreement to which this instrument is attached, the following terms shall have the following meanings:

A. **"AIRPORT"** shall mean the Lubbock Preston Smith International Airport.

B. **"BUILDING"** shall include all buildings and all projections or extensions there from, including any garages, outside platforms and docks, carports, canopies and porches, excluding ground cover.

C. **"LOT COVERAGE"** shall mean the surface area of the Premises that may be covered by Buildings, expressed as a percentage of the total area.

D. **"BUILDING SITE"** shall mean the entire Premises leased by Lessee and shown as "Premises" or "Leased Premises" in EXHIBIT "A" of the Agreement.

E. **"CITY"** shall mean the City of Lubbock, Texas, it's duly elected Council, or any duty constituted agent/committee appointed through said Council to fulfill the obligations herein required.

F. **"COVENANTS"** shall mean the lease agreement restrictions and covenants expressed within this instrument, as attached and incorporated into the Agreement.

G. **"DIRECTOR OF AVIATION"** or **"DIRECTOR"** shall mean the Director of Aviation of the Airport.

H. **"FAA"** shall mean the Federal Aviation Administration of the U. S. Government or any federal agencies succeeding to its jurisdiction.

I. **"LESSEE"** shall mean Boomer Development LLC.

J. **"PERMITTED USES"** shall mean the uses, which may be engaged in upon the Premises.

K. **"PREMISES"** the property as identified in Article 2a and more fully described in EXHIBIT "A" of the Agreement.

L. **"SETBACK"** shall mean the distance a building must be set back from the property line of the Premises.

M. **"STREET"** shall mean any street, highway or other public thoroughfare recognized by the City.

ARTICLE II – PERMITTED USES AND PERFORMANCE STANDARDS

A. **Permitted Uses.** No building, structure or land provided to Lessee pursuant to the Agreement shall be used by Lessee for any purpose other than for a hotel and related facilities and improvements, including all uses commonly found in a hotel, and/or for commercial out parcels as more fully described within the Agreement. Lessee shall not operate or permit others to operate an auto rental concession or business on the Premises, except that Lessee may allow an auto rental company to maintain a direct telephone line, information or rental desk in the hotel lobby for the convenience of hotel guests, provided such auto rental company has an appropriate contractual arrangement with City permitting its operation on Airport property. Also, Lessee shall not operate or permit others to operate an auto parking concession or business on the Premises except to the extent necessary to provide parking for hotel guests and customers. Lessee may operate a Park and Stay Program with the written approval of the Director of Aviation. All uses not expressly granted in this section or otherwise expressly permitted by the Agreement are prohibited.

B. **Performance Standards.** Subject to the limited exceptions arising related to the construction activities required for the improvements contemplated by the Agreement and provided that such instances are the result of standard construction activities, the Premises shall not be used or occupied in any manner so as to create any dangerous, noxious, or otherwise objectionable conditions which may affect any other property, including, but not limited to:

(i.) Fire, explosive or other hazardous noise, vibration or shock;
(ii.) Smoke, dust, odor or other forms of air pollution;
(iii.) Heat;
(iv.) Glare;
(v.) Electrical or other disturbance; or
(vi.) Liquid or solid refuse wastes or other substances, conditions or elements in such a manner or in such an amount as to affect the surrounding area or adjoining properties.

C. **Fire and Explosive Hazards.** No activity shall be undertaken involving fire or explosive hazards which may endanger the property, improvements or employees of the City or any other property owner or Lessee.

D. **Noise.** No noise, other than from the operation of motor vehicles or aircraft, which is objectionable to a person of normal sensibilities shall be permitted within fifty (50) feet of the property line of the Premises.

E. **Air Pollution.** No activity of any type shall be conducted or permitted on the Premises which violate any applicable federal, state, or local law, rule or regulation.

F. **Dust Control.** All ground areas that will not be covered by structures shall be landscaped or surfaced with concrete, asphalt concrete, asphalt oil or other comparable dust free surfacing permitted by applicable City and State regulations, and shall be maintained in good condition.

G. **Heat or Glare.** Any operation producing intense glare or heat shall be performed within an enclosed or screened area in such manner that the glare or heat emitted will not be discernible from the property line of the Premises.

H. **Electronic or Radio Interference.** No electrical, electronic, or radio emissions shall be produced on the Premises that may interfere, obstruct, or adversely affect the operation of air navigation aids or Airport communications.

I. **Illumination/Exterior Lighting.**

(i) Exterior Lighting. The design and location of exterior lighting shall comply in all respects to the applicable requirements of the City, the FAA or successor agencies, and any other governmental agencies having applicable jurisdiction with respect to height, type, and placement of lighting standards as they may affect the safety of flight operations into, from, and around the Airport.

(ii) Interior Lighting. The source of illumination of any kind within any Building on the Premises shall not be visible at the property line, except for normal installation of standard interior lighting fixtures within buildings.

J. **Signs.** The number, size, design, and location of all signs displayed for observation from outside a Building whether displayed on, near, or within a Building shall be subject to prior written approval by the Director of Aviation. Further, all such signs shall comply with all applicable sign ordinances and building codes of the City of Lubbock, and with all rules and regulations of the FAA, or any successor agencies.

Signs on the Premises shall be limited to those identifying the uses conducted on the Premises and to those necessary for directional purposes. Notwithstanding anything to the contrary contained herein, the Director of Aviation will not unreasonably withhold approval of signs that, when applicable, are consistent with the prototype design of a nationally/regionally recognized retail brand licensor/franchisor; provided, however, that no outdoor advertising, billboards or flashing lighting shall be permitted.

K. **Refuse or Trash.** No refuse or trash shall be kept, stored or allowed to accumulate on the Premises, except as expressly permitted by the Agreement.

L. **Storage.** All storage of every type, except of automobiles, shall be within approved Buildings or enclosures. Storage shall be expressly prohibited outside of approved Buildings or enclosures, including but not limited to the storage of parts, service equipment or similar items.

M. **Sewage Disposal Systems.** No cesspool, septic tank or other sewage disposal system or device shall be installed, maintained or used upon the Premises without the written approval of the City.

ARTICLE III – DEVELOPMENT OF SITE-REQUIRED IMPROVEMENTS

A. **Required Parking.** Parking facilities shall be provided in accordance with all applicable City, State and Federal Laws, rules and regulations, and shall be entirely sufficient for the parking of all vehicles necessary for the conduct of the hotel and other permitted uses of the Premises. Such parking facilities shall comply with all applicable City, State and Federal laws, including, but not limited to, the American with Disabilities Act. Each parking space shall be designated by white lines painted upon paved surface.

B. **Vehicle Loading.** All provisions for the loading and maneuvering of vehicles incidental to the operation of the hotel and other permitted uses on the Premises shall comply with all applicable City, State and Federal laws, rules and regulations.

C. **Setbacks.** All Building setbacks shall comply with the requirements of the City of Lubbock, through its planning and zoning requirements or otherwise, shall be more restrictive, in which case the more restrictive requirements shall apply.

D. **Landscaping.** Every lot on the Premises for which a Building shall be constructed must be landscaped. This provision applies to the entirety of the Premises, unless the requirements of the City of Lubbock, through its planning and zoning requirements or otherwise shall be more restrictive, in which case the more restrictive requirements shall apply. Lessee is also encouraged to expand landscape development plans to include such elements as sculptures, rock arrangements and sheltered outdoor seating areas, all subject to design approval by the Director of Aviation or authorized agent prior to installation. All landscaping shall be maintained in good condition, free of weeds, trash and other debris; and shall be properly drained and graded

E. **Building Heights.** All building heights shall conform to standards established by FAA rules and regulations and shall require prior written approval of the Director of Aviation. The term "building height" shall include any Building equipment, structures or other extrusions from the roof.

F. **Lot Coverage.** All Buildings and structures, or portions thereof, excluding paving and landscaping, placed on the Premises shall be constructed in compliance with the City of Lubbock, as amended. This provision applies to each individual lot.

G. **Type of Construction.** All Buildings shall be constructed in compliance with the Architectural Design Standards of the City of Lubbock, as amended. In addition, concrete or masonry units shall be kept neatly painted, if used. Pre-fabricated metal buildings are specifically prohibited. All Buildings shall conform to applicable laws, ordinances and building codes of the City.

H. **Storage and Vehicle Loading Area.** All outside storage and refuse areas shall be constructed and contained to eliminate odors, insects, dust, visual nuisances, and other similar nuisances.

No materials, supplies, or equipment, including Lessee-owned or Lessee-operated trucks, with the exception of the Hotel Shuttle Vehicle(s), shall be stored in an area on the Premises, except inside a closed Building, behind a barrier completely screened from view of adjoining Lots or Streets.

All provisions for the loading and maneuvering of vehicles incidental to the operation of the hotel or other permitted uses shall be placed on the Premises and shall not encroach into Setback areas except the side and rear setback area; on street vehicle loading shall not be permitted. Vehicle loading shall be permitted only at the rear of Buildings, or on a side, except that such loading performed at a side shall be completely screened from view of adjoining Lots or Streets.

I. **Pipes.** No water pipes, sewer pipes, or drainage pipes (other than those within structures) shall be installed or maintained upon the Premises above the surface of the ground, except hoses and moveable pipes used for irrigation or similar purposes, as approved by the Director of Aviation.

ARTICLE IV – PREPARATION AND SUBMISSION OF PLANS FOR IMPROVEMENT

A. **General.** All plans for alterations to the Premises in excess of FIFTY THOUSAND AND 00/100 DOLLARS ($50,000.00) ("Material Amount"), either for the construction of additional facilities or alterations to existing Buildings, including repairs, shall be prepared, submitted and approved as outlined herein. This requirement shall be in addition to the requirements set forth in the Agreement but shall not be applicable to alterations that are less than the Material Amount. All initial plans for improvements to each site shall be prepared by a registered engineer or architect and shall be affixed with their signature and official seal, and further, shall require the prior written approval by the Director of Aviation before any construction may begin ("Initial Plans"). Such approval from the Director of Aviation shall not be unreasonably withheld. The architect or engineer who prepares the Initial Plans and other construction documents shall have full responsibility for complying with Texas Codes for Engineers and Architects, as applicable. Notwithstanding anything to the contrary contained herein, the Director of Aviation will not withhold its approval of the Initial Plans and Final Plans (including but not limited to the plans for repairs or alterations to existing Buildings) provided that, when applicable, such plans are

consistent with the prototype design of the hotel brand franchisor or the retail brand licensor/franchisor.

The Director of Aviation shall provide written approval or disapproval of any submitted plans, within the timelines established below. The Initial Plans for proposed improvements shall include the following:

(i) A plot plan at a scale not smaller than one (1) inch equaling one hundred (100) feet showing the relationship of the proposed improvements to the Premises and to the improvements on adjacent lots, utilities and access thereto, curbs, walks, driveways, parking areas, and other pertinent design information;

(ii) Preliminary schematic plans for the improvements showing typical, general layouts, including guest room areas, public spaces, back-of-house areas, and lounge and banquet areas for the hotel site and comparable plans for the other, non-hotel sites;

(iii) Ground cover plans, including landscaping;

(iv) A true architectural rendering of the proposed Buildings, including elevations, the proposed exterior color scheme, style, materials and design and placement of signs; and

(v) Any other plans, specifications or design features which the Director of Aviation may reasonably deem necessary and request.

B. **Codes and Regulations.** All improvements shall be planned and constructed in accordance with the laws and ordinances of the City, as amended, applicable building codes as amended, all applicable State and Federal laws as amended, and all rules and regulations of the FAA or any successor agencies; as amended. Notwithstanding anything to the contrary contained herein, City acknowledges that Lessee's agreement to comply with the Codes and Regulations does not equate to or require Lessee's waiver of any grandfathered or vested rights.

C. **Commitment to Construct.** Once the Director of Aviation approves Construction Specifications for any structure, a copy of the approved plans shall be deposited for permanent record with the Airport. Approval of these plans by the Director of Aviation shall constitute a commitment on the part of the Lessee to obtain all required permits and licenses and, to erect and maintain the improvements as proposed and approved, and to do so within the time period set forth in the Agreement.

D. **Construction Within Time Specified.** Any approved construction shall be prosecuted diligently in accordance with the approved plans and specifications and shall be completed within the time

specified, provided that in no event shall such construction period exceed those timelines established within the Agreement. Failure to complete such construction in the time specified shall be considered a default as set forth within the Agreement.

E. **Construction Without Approval.** If any structure shall be altered, erected, placed or maintained upon the Premises other than in accordance with the requirements of these Covenants and the Agreement, including the plans and specifications approved by the City, such alterations, erection and maintenance shall be deemed to have been undertaken without the approvals required herein. This restriction shall be applicable to landscaping plans and signage plans as well as architectural plans.

In the event of such construction without approval, the Lessee will be considered in default of the Agreement and the City may terminate said Agreement, in accordance with the provisions set forth therein.

ARTICLE V – GENERAL PROVISIONS

A. **Maintenance of Premises.** Lessee shall, at its sole cost and expense, provide for the maintenance of the Premises and the Buildings, improvements and appurtenances thereto, in a presentable condition consistent with good business practice and equal in appearance and character to other similar improvements on the Airport.

B. **Maintenance of Landscaping.** If landscaped areas are not maintained in accordance with the standards prescribed under this Agreement and these Covenants, and the condition is not corrected within ten (10) days after written notice from the City or the Airport, the Director or authorized agent shall have the right to enter on the Premises and plant or replant such areas without being deemed guilty of trespass and without incurring any liability. The costs therefore, as determined by the City, shall be paid by the Lessee to the City within thirty (30) days from Lessee's receipt of notice of such costs.

C. **Use Permits.** Such use and occupancy permits as may be required by the Building Code of the City shall be maintained in force at all time by Lessee, at its sole cost. To the extent legally permitted, the City shall cooperate with Lessee in obtaining any such required use and occupancy permits.

D. **Failure to Enforce a Restriction.** The City may fail to enforce any restriction herein specified, but in no event should such failure be deemed a waiver of that particular restriction or of these Covenants or the right to enforce any restriction at a later date.

[END OF COVENANTS]

EXHIBIT "D"

LUBBOCK PRESTON SMITH INTERNATIONAL AIRPORT

Hotel Gross Revenues Reporting Form

Lessee Name:_____

Property Name:_____

Annual Reporting Period:_____(Year)

REVENUE CATEGORIES

Room Sales

Gross Revenues	$_____
Less Allowances	$_____
Total Room Sales	$_____

Alcoholic Beverage Sales

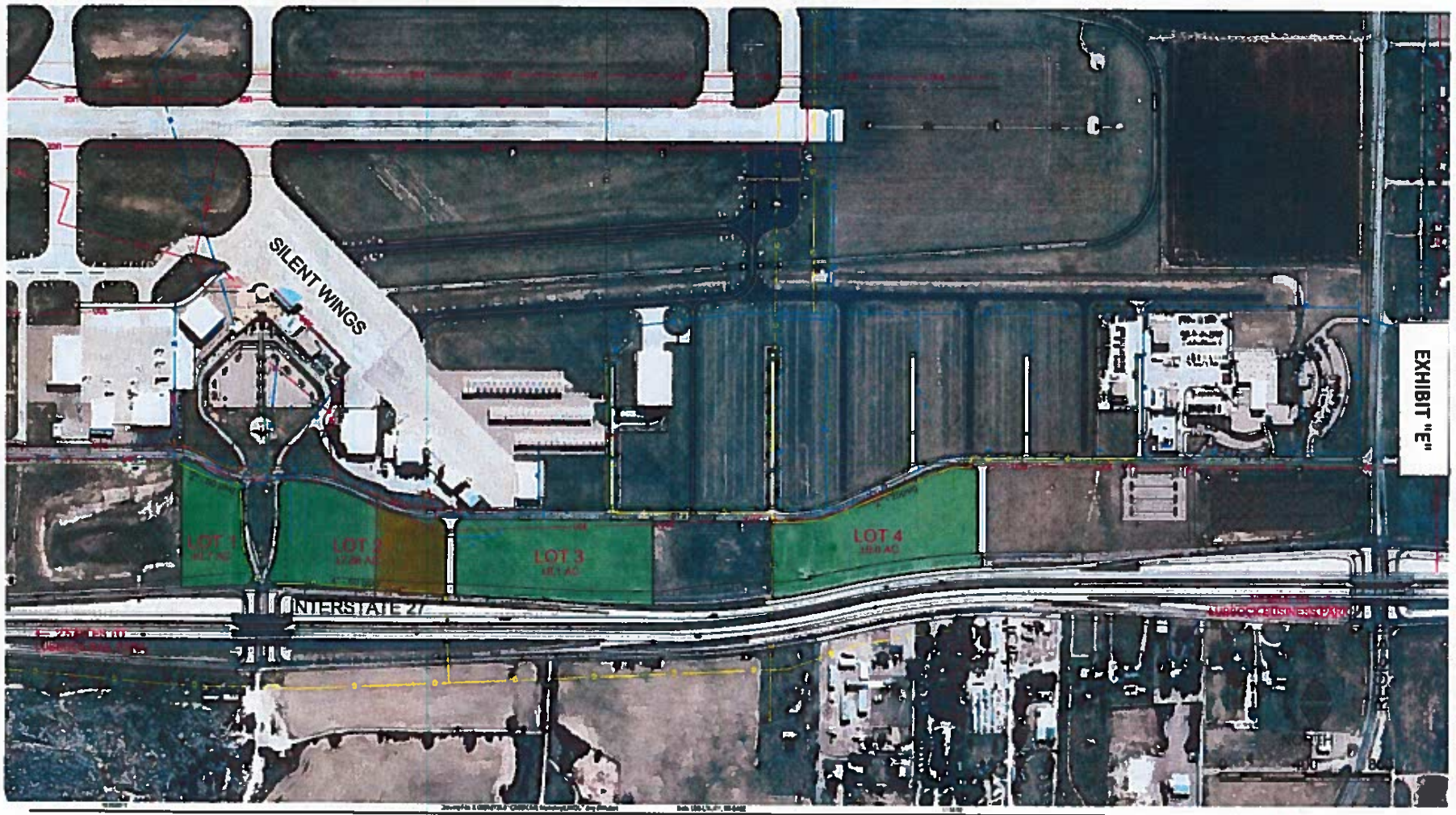
Gross Revenues	$_____
Less Allowances	$_____
Total Alcoholic Beverage Sales	$_____

Food Sales

Gross Revenues	$_____
Less Allowances	$_____
Total Food Sales	$_____

Miscellaneous Sales

Gross Revenues	$_____
Less Allowances	$_____
Total Miscellaneous Sales	$_____



RIGHT OF FIRST REFUSAL

PARKHILL SMITH & COOPER

LOT LOCATIONS AT LBB

Issue:	FOR REVIEW	Date:	10-25-11
Project No:	01-2725-01	Sheet:	1 OF 1

EXHIBIT "F"

FRANCHISE DISCLOSURE DOCUMENT

Cobblestone Hotels, LLC
A Wisconsin Limited Liability Company
980 American Drive
Neenah, Wisconsin 54956
(920) 230-2622
www.staycobblestone.com

The franchise is for the establishment and operation of a Cobblestone Inn and Suites or Cobblestone Hotel and Suites lodging facility (collectively referred to in this document as "Cobblestone Lodging Facilities".

The total investment necessary to begin operation of a Cobblestone Lodging Facility franchised business is between $1,833,299 and $6,108,600 (see Item 7). This includes between $0 and $57,000 (see Item 5) that must be paid to the franchisor or its affiliate(s).

This disclosure document summarizes certain provisions of your franchise agreement and other information in plain English. Read this disclosure document and all accompanying agreements carefully. You must receive this disclosure document at least 14 calendar days before you sign a binding agreement with, or make any payment to, the franchisor or an affiliate in connection with the proposed franchise sale. **Note, however, that no government agency has verified the information contained in this document.**

You may wish to receive your disclosure document in another format that is more convenient to you. To discuss the availability of disclosures in different forms, contact the Franchise Department at 980 American Drive, Neenah, WI 54956, (920) 230-2622.

The terms of your contract will govern your franchise relationship. Don't rely on the disclosure document alone to understand your contract. Read all of your contract carefully. Show your contract and this disclosure document to an advisor, like a lawyer or accountant.

Buying a franchise is a complex investment. The information in this disclosure document can help you make up your mind. More information on franchising, such as "A Consumer's Guide to Buying a Franchise," which can help you understand how to use this disclosure document, is available from the Federal Trade Commission. You can contact the FTC at 1-877-FTC-HELP or by writing to the FTC at 600 Pennsylvania Avenue, NW, Washington, DC 20580. You can also visit the FTC's home page at www.ftc.gov for additional information. Call your state agency or visit your public library for other sources of information on franchising.

There may also be laws on franchising in your state. Ask your state agencies about them.

Issuance Date: February 19, 2014

STATE COVER PAGE

Your state may have a franchise law that requires a franchisor to register or file with a state franchise administrator before offering or selling in your state. REGISTRATION OF A FRANCHISE BY A STATE DOES NOT MEAN THAT THE STATE RECOMMENDS THE FRANCHISE OR HAS VERIFIED THE INFORMATION IN THIS DISCLOSURE DOCUMENT.

Call the state franchise administrator listed in Exhibit B to this disclosure document for information about the franchisor or about franchising in your state.

MANY FRANCHISE AGREEMENTS DO NOT ALLOW YOU TO RENEW UNCONDITIONALLY AFTER THE INITIAL TERM EXPIRES. YOU MAY HAVE TO SIGN A NEW AGREEMENT WITH DIFFERENT TERMS AND CONDITIONS IN ORDER TO CONTINUE TO OPERATE YOUR BUSINESS. BEFORE YOUR BUY, CONSIDER WHAT RIGHTS YOU HAVE TO RENEW YOUR FRANCHISE, IF ANY, AND WHAT TERMS YOU MIGHT HAVE TO ACCEPT IN ORDER TO RENEW.

Please consider the following RISK FACTORS before you buy this franchise.

1. THE FRANCHISE AGREEMENT REQUIRES YOU TO RESOLVE DISPUTES WITH US BY LITIGATION ONLY IN WISCONSIN. OUT-OF-STATE LITIGATION MAY FORCE YOU TO ACCEPT A LESS FAVORABLE SETTLEMENT FOR DISPUTES. IT MAY ALSO COST YOU MORE TO LITIGATE WITH US IN WISCONSIN THAN IN YOUR OWN STATE.

2. THE FRANCHISE AGREEMENT STATES THAT WISCONSIN LAW GOVERNS THE FRANCHISE AGREEMENT, AND THIS LAW MAY NOT PROVIDE THE SAME PROTECTIONS AND BENEFITS AS LOCAL LAW. YOU MAY WANT TO COMPARE THESE LAWS.

3. THE FRANCHISE AGREEMENT STATES THAT YOU HAVE NO RIGHT TO RENEW YOUR FRANCHISE AGREEMENT OR TO EXTEND THE TERM UPON THE EXPIRATION OF ITS TERM UNLESS SUCH RIGHTS ARE GRANTED UNDER APPLICABLE LAW.

4. THERE MAY BE OTHER RISKS CONCERNING THIS FRANCHISE.

5. THE FRANCHISEE WILL BE REQUIRED TO MAKE AN ESTIMATED INITIAL INVESTMENT RANGING FROM $1,833,299 AND $6,108,600. THIS AMOUNT EXCEEDS THE FRANCHISOR'S STOCKHOLDERS EQUITY AS OF DECEMBER 31, 2013, WHICH IS $104,724.

6. THE FRANCHISOR HAS BEEN IN EXISTENCE FOR A SHORT PERIOD OF TIME, SINCE JANUARY 7TH, 2012. THEREFORE, THERE IS ONLY A BRIEF OPERATING HISTORY TO ASSIST YOU IN JUDGING WHETHER OR NOT TO MAKE THIS INVESTMENT.

We use the services of one or more FRANCHISE BROKERS or referral sources to assist us in selling our franchise. A franchise broker or referral source represents us, not you. We pay this person a fee for selling our franchise or referring you to us. You should be sure to do your own investigation of this franchise.

See the following state effective date summary page for state effective dates.

COBBLESTONE HOTELS, LLC

STATE EFFECTIVE DATE SUMMARY PAGE

The following states require that the disclosure document be registered or filed with the state, or be exempt from registration: California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington and Wisconsin.

This disclosure document is registered, on file or exempt from registration in the following states having franchise registration and disclosure laws, with the following effective dates:

State	Effective Date	State	Effective Date
California	N/A	New York	Pending
Hawaii	N/A	North Dakota	Pending
Illinois	Pending	Rhode Island	Pending
Indiana	February 20, 2014	South Dakota	February 20, 2014
Maryland	January 2, 2014 as amended February 19, 2014	Virginia	January 9, 2014 as amended February 19, 2014
Michigan	February 20, 2014	Washington	August 6, 2014 as amended February 19, 2014
Minnesota	Pending	Wisconsin	February 19, 2014

In the states listed below, the effective date (and issuance date) of this disclosure document is February 19, 2014

Alabama	Kentucky	North Carolina
Alaska	Louisiana	Ohio
Arizona	Maine	Oklahoma
Arkansas	Massachusetts	Oregon
Colorado	Mississippi	Pennsylvania
Connecticut	Missouri	South Carolina
Delaware	Montana	Tennessee
District of Columbia	Nebraska	Texas
Florida	Nevada	Utah
Georgia	New Hampshire	Vermont
Idaho	New Jersey	West Virginia
Iowa	New Mexico	Wyoming
Kansas		

NOTICE REQUIRED
BY
STATE OF MICHIGAN

THE STATE OF MICHIGAN PROHIBITS CERTAIN UNFAIR PROVISIONS THAT ARE SOMETIMES IN FRANCHISE DOCUMENTS. IF ANY OF THE FOLLOWING PROVISIONS ARE IN THESE FRANCHISE DOCUMENTS, THE PROVISIONS ARE VOID AND CANNOT BE ENFORCED AGAINST YOU.

Each of the following provisions is void and unenforceable if contained in any documents relating to a franchise:

(a) A prohibition on the right of a franchisee to join an association of franchisees.

(b) A requirement that a franchisee assent to a release, assignment, novation, waiver, or estoppel which deprives a franchisee of rights and protections provided in this act. This shall not preclude a franchisee, after entering into a franchise agreement, from settling any and all claims.

(c) A provision that permits a franchisor to terminate a franchise prior to the expiration of its term except for good cause. Good cause shall include the failure of the franchisee to comply with any lawful provision of the franchise agreement and to cure such failure after being given written notice thereof and a reasonable opportunity, which in no event need be more than 30 days, to cure such failure.

(d) A provision that permits a franchisor to refuse to renew a franchise without fairly compensating the franchisee by repurchase or other means for the fair market value at the time of expiration of the franchisee's inventory, supplies, equipment, fixtures, and furnishings. Personalized materials which have no value to the franchisor and inventory, supplies, equipment, fixtures, and furnishings not reasonably required in the conduct of the franchise business are not subject to compensation. This subsection applies only if: (i) the term of the franchise is less than 5 years and (ii) the franchisee is prohibited by the franchise or other agreement from continuing to conduct substantially the same business under another trademark, service mark, trade name, logotype, advertising, or other commercial symbol in the same area subsequent to the expiration of the franchise or the franchisee does not receive at least 6 months advance notice of franchisor's intent not to renew the franchise.

(e) A provision that permits the franchisor to refuse to renew a franchise on terms generally available to other franchisees of the same class or type under similar circumstances. This section does not require a renewal provision.

(f) A provision requiring that arbitration or litigation be conducted outside this state. This shall not preclude the franchisee from entering into an agreement, at the time of arbitration, to conduct arbitration at a location outside this state.

NOTE: THE MICHIGAN NOTICE APPLIES ONLY TO FRANCHISEES WHO ARE RESIDENTS OF MICHIGAN OR WHO LOCATE THEIR FRANCHISES IN MICHIGAN.

(g) A provision which permits a franchisor to refuse to permit a transfer of ownership of a franchise, except for good cause. This subdivision does not prevent a franchisor from exercising a right of first refusal to purchase the franchise. Good cause shall include, but is not limited to:

(i) The failure of the proposed transferee to meet the franchisor's then-current reasonable qualifications or standards.

(ii) The fact that the proposed transferee is a competitor of the franchisor or subfranchisor.

(iii) The unwillingness of the proposed transferee to agree in writing to comply with all lawful obligations.

(iv) The failure of the franchisee or proposed transferee to pay any sums owing to the franchisor or to cure any default in the franchise agreement existing at the time of the proposed transfer.

(h) A provision that requires the franchisee to resell to the franchisor items that are not uniquely identified with the franchisor. This subdivision does not prohibit a provision that grants to a franchisor a right of first refusal to purchase the assets of a franchise on the same terms and conditions as a bona fide third party willing and able to purchase those assets, nor does this subdivision prohibit a provision that grants the franchisor the right to acquire the assets of a franchise for the market or appraised value of such assets if the franchisee has breached the lawful provisions of the franchise agreement and has failed to cure the breach in the manner provided in subdivision (c).

(i) A provision which permits the franchisor to directly or indirectly convey, assign, or otherwise transfer its obligations to fulfill contractual obligations to the franchisee unless provision has been made for providing the required contractual services.

The fact that there is a notice of this offering on file with the attorney general does not constitute approval, recommendation, or endorsement by the attorney general.

Any questions regarding this notice should be directed to the Department of Attorney General, Consumer Protection Division (Attention: Franchise), P.O. Box 30213, Lansing, Michigan 48909, telephone (517) 373-7117.

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Exhibits

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ITEM 1: THE FRANCHISOR AND ANY PARENTS, PREDECESSORS, AND AFFILIATES

The Franchisor, its Parent, and Affiliates

Unless the context otherwise requires, all references to "we," "our" or "us" means Cobblestone Hotels, LLC, and all references to "you" refer to the person or entity who is granted the right to operate a lodging facility identified by or associated with the trademarks listed in Item 13 of this disclosure document under a Franchise Agreement. If you are a corporation, limited liability company, partnership, or any other type of legal entity, certain of the provisions of the Franchise Agreement also will apply to, and be binding on, certain of your owners.

We are a Wisconsin limited liability company which was organized on January 7, 2012. We are currently doing business under the names "Cobblestone Inn and Suites," "Cobblestone Hotel and Suites," and "Boarders Inn and Suites by Cobblestone." Our principal business address is 980 American Drive, Neenah, Wisconsin 54956. The state agencies and our agents for service of process are listed in Exhibit B. Before the issuance date of this disclosure document (see page 1) we have not offered franchises of the type described in this disclosure document and have never operated franchises in any other line of business. We have never operated a business of the type described in this disclosure document; however, our affiliated companies have owned, operated, and managed the operation of lodging facilities since 2002. We do not engage in any other business activities, but as of February 2013 we do offer franchises under the "Cobblestone Inn and Suites," "Cobblestone Hotel and Suites," and "Boarders Inn and Suites by Cobblestone" brand names. As of December 31, 2013 there were 7 franchised and 1 member owned open and operating Boarders Inn and Suites by Cobblestone, all 8 of which neither we, nor our affiliates, own, operate, or manage, 15 franchised and 2 member owned open and operating Cobblestone Inn and Suites, 7 of which our affiliate WHG manages and 10 of which neither we, nor our affiliates own, operate or manage, and 5 franchised and 2 member owned Cobblestone Hotel and Suites, 3 of which our affiliate WHG manages and 5 of which neither we, nor our affiliates own, operate or manage.

Our affiliate, Cobblestone Hotel Group, LLC ("CHG"), is a Wisconsin limited liability company formed on March 1, 2007. Its principal business address is the same as ours. CHG owns lodging facilities and provides management and operational services to hotel and motel owners. CHG does not offer and has never offered franchises in any line of business. You are not required to use the services of CHG in the operation of your business..

Our affiliate, WHG Companies, LLC ("WHG"), is a Wisconsin limited liability company formed on December 18, 2003. Its principal business address is the same as ours. WHG provides management and operational services to hotel and motel owners. WHG does not offer and has never offered franchises in any line of business. WHG manages hotel properties that operate under different names. You are not required to use the services of WHG in the operation of your business. .

Our affiliate, WHG Management, LLC ("WHGM"), is a Wisconsin limited liability company formed on December 5, 2002. Its principal business address is the same as ours. WHGM provides management and operational services to hotel and motel owners. WHGM does not

offer and has never offered franchises in any line of business. You are not required to use the services of WHGM in the operation of your business.

Our affiliate, BriMark Builders, LLC ("BriMark"), is a Wisconsin limited liability company formed on December 3, 2007. Its principal business address is the same as ours. BriMark designs, develops, builds, and renovates hotel properties. BriMark does not offer and has never offered franchises in any line of business. You are not required to use the services of BriMark in the development or operation of your business.

Our affiliate, 980 American Drive, LLC ("980") is a Wisconsin limited liability company formed on March 16, 2011. Its principal business address is the same as ours. 980 holds title to the fixed assets (i.e. furniture, equipment, property, etc.) with which we support the franchise system. 980 does not offer and has never offered franchises in any line of business. You are not required to use the services of 980 in the development or operation of your business.

All of our affiliates provide or may provide services to each other and our franchisees. Consequently, our internal departments and personnel may provide substantially similar services to lodging facilities owned, operated, managed and franchised by our affiliates and may provide such services on a combined basis (i.e. combined system support, reservations systems, marketing programs).

The Franchised Business

Recognizing a need for high quality lodging facilities in underserved markets, we offer to qualified individuals and entities the right to own and operate a Cobblestone Lodging Facility franchise at an agreed-upon location under our standard form franchise agreement, attached to this disclosure document as Exhibit D (the "Franchise Agreement"). We offer the opportunity for you to build a new Cobblestone Lodging Facility.

Cobblestone Lodging Facilities are upper-midscale, high-quality lodging and accommodation services meeting the needs of communities all over the country. They are commonly located in communities with populations in excess of 3,000 that are lacking quality accommodations, as well as in the suburbs of larger communities. Current Cobblestone Lodging Facilities are available in different sizes. The market for your services will depend upon the location of your Cobblestone Lodging Facility as well as its size and other amenities. You will offer services to a broad range of the travelers, customers and businesses, local community members, and will solicit business from conventions and tour and travel groups. At any time during the term of the Franchise Agreement, we have the right to require you to hire a management company approved by us to manage and operate your hotel.

Competition

The businesses with which you will have to compete include national chains and franchises, as well as independently owned hotels and motels offering similar facilities to the same business and leisure travelers. The market for hotel and motel services is developed and the lodging industry is highly competitive. Your ability to compete in your market will depend upon certain

factors, including: the location of your hotel, the location of competing lodging properties, your financial and managerial capabilities, general economic conditions, and other factors. Depending upon the location of your lodging facility, your sales may be seasonal.

Industry Specific Laws and Regulations

Cobblestone Lodging Facilities are subject to laws and regulations which generally apply to all businesses, and it will be your obligation to investigate those laws and regulations and abide by them. In addition, you will need to investigate and abide by all federal and state laws regarding the operation of motels and hotels, including those laws relating to: the liability of innkeepers, the posting of room rates, the registration of guests, and the accessibility to and use of motels and hotels by persons with disabilities. You will also be required to comply with laws and regulations regarding food storage, handling, and preparation. In addition, the payment card industry Data Security Standard is the current standard of security requirements for all merchants or service providers that store, process, or transmit cardholder data. You are responsible for compliance with this standard. You will also need to investigate and determine the existence of local laws and regulations which may apply to your hotel and which may affect the cost to you of constructing and/or operating your lodging facility. Consult with your lawyer about all laws that will apply to you and your lodging facility. Discuss with your architect the requirements of the Americans with Disabilities Act and all state and local accessible facilities laws.

ITEM 2: BUSINESS EXPERIENCE

Chief Executive Officer, Co-Founder, Development – Brian Wogernese

Brian Wogernese has served as Chief Executive Officer, President of Development, and Co-Founder of the affiliate WHG Companies, LLC since 2003.

Co-Founder, Development – Mark Pomerenke

Mark Pomerenke has served as Vice President of Development of Cobblestone Hotels, LLC since 2007.

Chief Financial Officer – Kim Wogernese

Kim Wogernese has served as Chief Financial Officer of Cobblestone Hotels, LLC since 2007.

Vice President of Franchise Services and Procurement – Josie Kilgore

Josie Kilgore has served as Vice President of Franchise Services and Procurement of Cobblestone since 2012. Prior to that, Ms. Kilgore was the Regional Director of Operations at WHG Companies since 2007 and worked at the Hawthorne Inn and Suites in Oshkosh, Wisconsin in housekeeping, front desk management, night audit, in-house food service, and catering since 2004.

Vice President of Sales, Marketing, and Chief Information Officer – Jessica Junker

Jessica Junker has served as Vice President of Sales, Marketing, and Chief Information Officer of Cobblestone since 2012. Prior to that, Ms. Junker was Regional Director of Sales with Pillar Hotels and Resorts in Irving, Texas from May 2009 to June 2012. From July 2008 to May 2009 Ms. Junker was an Area Director of Sales with Interstate Hotels and from July 2005 to July 2008 she was with Tharaldson Lodging as a Director of Sales at a Residence Inn by Marriott.

Director of Website Development and Design – Jeremiah Harland

Jeremiah Harland has served as Associate Vice President – Web Development for Cobblestone Hotels, LLC since January 2012. Prior to that, Mr. Harland was pursuing his Associate's Degree and was freelancing and interning starting in 1999.

ITEM 3: LITIGATION

No litigation is required to be disclosed in this item.

ITEM 4: BANKRUPTCY

No bankruptcy is required to be disclosed in this item.

ITEM 5: INITIAL FEES

Initial Fee and Application Fee

Upon signing the franchise agreement (the "Franchise Agreement"), you must pay us an initial fee of $30,000 (the "Initial Fee") for a Cobblestone Lodging Facility. All prospective franchisees must complete an application (the "Application") and forward it to us for our review. A copy of the Application is attached to this disclosure document as Exhibit A. When you submit your Application to us, you must pay us an application fee of $2,000 (the "Application Fee"). The Application Fee is non-refundable; however, if we approve your Application, the Application Fee will be credited against your Initial Fee.

You must provide all of the information requested in the Application. We may, on occasion, approve your Application before you supply all of the information we require. If we do so, our approval will be conditional upon our receiving the balance of the requested information within the time we specify. If you fail to provide the balance of the requested information within the specified time, we may revoke our approval.

If we approve your Application, we will send you a letter of approval along with copies of the Franchise Agreement. You will be required to sign and return the Franchise Agreement to us, along with the remaining balance of the Initial Fee (i.e., the portion of the Initial Fee in excess of the Application Fee), within 30 days of the date we send the approval letter. If you do not sign and return the Franchise Agreement and any remaining balance of the Initial Fee due within this 30 day period, our approval of your Application will be automatically withdrawn and the

Application Fee will be forfeited. If you then elect to continue with your project, you must complete a new Application and pay another Application Fee to us.

The Initial Fee is fully earned upon receipt and is non-refundable. However, we may, in our discretion, give a full or partial refund of the Application Fee and/or Initial Fee under unique circumstances or agree to credit the Application Fee and/or Initial Fee towards the Application Fee and/or Initial Fee of any future application you submit, although we are not required to do so. Refunds are not based on any quantifiable data. We have the absolute right to evaluate each situation on an individual basis.

We may in our discretion agree to reduce or waive the Initial Fee and/or the Application Fee based upon factors we determine justify a reduced fee under the circumstances. In certain instances during our fiscal year ended December 31, 2013, we determined to charge an Initial Fee below our standard Initial Fee based on factors we determined to justify a reduced fee under the circumstances, such as the size and type of the hotel facility, the location of the hotel site, and the experience and creditworthiness of the applicant. During our fiscal year ended December 31, 2013, the Initial Fees paid by franchisees ranged from $0 to $30,000.

Interior Design Review Fee

If you wish to use an interior design package that is not our standard, we may charge you up to $5,000 to review it (see Items 7 and 8). This fee is typically not refundable.

Signage Review Fee

We may charge you up to $5,000 to evaluate whether your exterior signage meets our standards (see Items 7 and 8). This fee is typically not refundable.

Construction Review Fee

We may charge you up to $10,000 to review your construction plans and specifications and monitor construction progress to ensure that our standards are being met by your contractor (see Items 7 and 8). This fee is typically not refundable. In addition to the Construction Review Fee you must also pay all travel, wages, lodging and other related expenses for our staff when they conduct on-site progress inspections.

Training Fees

You must participate in our Training Program (defined in Item 11) before you open your lodging facility for business as a Cobblestone Lodging Facility. Pre-opening training fees are $199 per person up to a maximum of $2,500 for opening training at our corporate headquarters and $500 per day up to a maximum of $4,500 (9 days) for on-site training. Training fees are subject to periodic changes by us in our sole discretion. Your General Manager (defined in Item 15) must successfully complete our Training Program before your hotel opens for business as a Cobblestone Lodging Facility. If your General Manager oversees more than one hotel, one or more assistant managers must also successfully complete the Training Program. You must pay us

our Training Fees for each person (including your initial manager and each new manager) who attends our Training Program within thirty (30) days of receiving our invoice. Your payment for this is typically not refundable (see Item 7 and Item 11).

ITEM 6: OTHER FEES

Type of Fee	Amount	Due Date	Remarks (See Note 1)
Monthly Fee	$3,500 plus $10 per room for 70+ room hotel.	Unless otherwise provided by our Franchise Agreement, payable on or before the 10th of next month	You must pay this fee in order to operate your hotel using the "Cobblestone" brand name.
Marketing Fund Fee	$100 per month	Unless otherwise provided by our Franchise Agreement, payable on or before the 10th of next month	These fees are contributed to the Marketing Fund
Interest	18% Annual Percentage Rate	Immediately upon receiving invoice	You must pay interest on any delinquent sums owed to us.
Transfer Fee	$2,500	Prior to our approval of the transfer	You must generally pay a transfer fee to us if you transfer your Franchise Agreement, the material asset associated with your Cobblestone Lodging Facility, or controlling interest in your stock or other outstanding ownership interests.

Type of Fee	Amount	Due Date	Remarks (See Note 1)
Re-evaluation Fee	$1,750	On or before the date established by us	If we or our agent are refused access to conduct a quality assurance evaluation, or if your Cobblestone Lodging Facility fails a quality assurance evaluation you must pay us our then current reevaluation fee for each follow-up inspection conducted by us or our agent and reimburse agent for the out of pocket travel expenses incurred. This fee is subject to change.
Conference Meeting Attendance	Currently the cost for each person to attend our conference is $399. In addition, you must pay for travel, lodging, meals, and incidental expenses incurred by your employees in attending the conference. These fees are subject to change at our discretion.	The per person fee payable to us is due 30 days after receipt of our invoice and the balance is payable as required by entities providing travel, lodging, meals, and associated services to your employees and you.	Your managers must, at your expense, attend certain meetings, webinars, and conference. Your manager is required to attend our annual conference. You must pay us our prescribed fees for these meetings and conference regardless of whether your manager attends.

Type of Fee	Amount	Due Date	Remarks (See Note 1)
Ongoing Training Fee	$199 per person up to a maximum of $2,500 for ongoing training at our corporate headquarters and $500 per day up to a maximum of $4,500 (9 days) for on-site training. You must pay all travel, wages, lodging and other related expenses for trainees and, for on-site training, for our staff.	The Training Fee payable to us is due 30 days after receipt of our invoice.	Ongoing training is generally optional; however, we reserve the right to institute mandatory training programs as we determine to be necessary.
Loyalty Program	$5 per Stamp In addition, each property must provide a $1000 deposit at time of signing Franchise Agreement	Immediately upon receiving invoice	You must participate in our loyalty program. Loyalty Program deposit will be refunded after a year of leaving the Cobblestone Lodging Facility system.
Reservation Fees	As negotiated with third-party providers and is subject to change. Currently, there is a one-time GDS/IDS setup fee in the amount of approximately $400, a guest connect booking engine fee of $100, a property integration fee of $500. There is also a monthly subscription fee of $105. Transaction fees vary between $0 and $10.50 per reservation.	Unless otherwise provided by our Franchise Agreement, payable on or before the 10th of next month	You must participate in all third-party reservation systems that we make available, including AMADEUS, GALILEO/APOLLO, PEGASUS, SABRE, WORLDSPAN, and various internet reservations services, which may change from time to time, and includes direct connections to our Central Reservation System. You must make certain payments to us and to our designated service provider or vendor for participation in the Cobblestone Central Reservation System.

Type of Fee	Amount	Due Date	Remarks (See Note 1)
Central Travel Agent Commission Program	As negotiated with third-party providers and is subject to change. There is a $50 annual fee for the Travel Industry ID Reservation Processing subscription. There is a $.50 commission per reservation through the system.	Payable through Automated Clearing House (ACH) or Electronic Funds Transfer (EFT), bi-monthly. Frequency of commission process is subject to change.	You must make certain payments to our designated service provider for participation in the Cobblestone centralized travel agent commission payment program. You must enter into an agreement with the third-party travel agent commission payment service provider designated by us and purchase these commission services. Our designated travel agent commission payment program and your cost of participation and use may be periodically changed by us.
Maintenance, Support, and Training of Property Management System	As negotiated with third-party providers and is subject to change.	Annually in advance, within 30 days of receipt of invoice	You must purchase, lease or otherwise acquire a computerized hospitality Property Management System/computer that is designated by us.
Cobblestone Reservation Call Center (Cobblestone Toll Free Reservation Line)	$2 per call transferred to the property.	Immediately upon receiving invoice	We currently charge $2 per call transferred to the property but reserve the right to implement a third party call center at additional cost in the future at our own discretion. No substitutions are permitted.

Type of Fee	Amount	Due Date	Remarks (See Note 1)
Maintenance, Support, and Training for Guest High-Speed Internet Access Hardware and Software	As negotiated with third-party providers and is subject to change.	Per service provider	You must make complimentary wireless high-speed Internet access available in the guest rooms, lobby, meeting rooms, and hospitality rooms of your Cobblestone Lodging Facility. This requires you to enter into a Property Service Agreement for the purchase of hardware, software, maintenance, support, and training from, and to make certain payment to, third-party vendor.
Interior Design Review Fee	Up to $5,000	Immediately upon receiving invoice	If (i) you request us to do an interior design review during the term of your Franchise Agreement or (ii) your hotel is not complaint with the Cobblestone Lodging Facility Rules and Regulations Manual, you will be required to pay for our review of the hotel and assessment of expenditures necessary to bring the hotel into compliance with the then-current image intended to be portrayed by Cobblestone Lodging Facility.
Property Management Fees	As negotiated with service provider	Per service provider	If you engage a third party to manage your Cobblestone Lodging Facility, you will be required to compensate this third party for its management services.
Firewall and Anti-Virus Protection Services	As negotiated with provider	Per service provider	We recommend these services but do not require you purchase them.

Type of Fee	Amount	Due Date	Remarks (See Note 1)
Attorneys' Fees and Costs	Will vary under the circumstances	On demand	If we prevail in any judicial proceeding, you must pay our costs and expenses, including attorneys' fees.
Indemnification	Will vary under the circumstances	On demand	You must reimburse us for claims and expenses arising out of your hotel operations.
Insurance	Will vary under the circumstances	On demand	If you fail to obtain insurance coverage required by us for your hotel, we may obtain coverage at your expense.
Liquidated Damages	Monthly Fee payable to us multiplied by twelve (24) or, if you are within twelve (24) months of the end of the term of your Franchise Agreement, the number of months remaining in your term.	On demand	You must pay us liquidated damages if your Franchise Agreement is terminated for reasons set forth in Article 8 of the Franchise Agreement.

Note 1: All amounts are uniformly imposed by and are payable to us unless otherwise noted. All fees are nonrefundable.

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ITEM 7: ESTIMATED INITIAL INVESTMENT

YOUR ESTIMATED INITIAL INVESTMENT

Type of Expenditure	Amount	Method of Payment	When Due	To Whom Payment is to be Made
Initial Fee	$30,000	Cash, Check	An Application Fee of $2,000 is due upon submission of your Franchise Application, but is credited against the Initial Fee when your Franchise Agreement is signed.	Us
Initial Training Fee, Travel, and Living Expenses while Training (See Note 7)	$199 per person up to a maximum of $2,500 for opening training at our corporate headquarters and $500 per day up to a maximum of $4,500 (9 days) for on-site training. You must pay all travel, wages, lodging and other related expenses for trainees and, for on-site training, for our staff.	As incurred	As incurred	Us
Real Estate and Site Preparation (See Note 1)	Not Determined	As negotiated with Real Estate Seller and Contractors	As incurred	Real Estate Seller and Contractors

Type of Expenditure	Amount	Method of Payment	When Due	To Whom Payment is to be Made
Building Improvements, including Architect, MES, Civil and Aquatic Engineers, Design Fees (See Note 2)	$1,195,600 - $4,477,600	As negotiated with Contractors, Suppliers, Architects, and Engineers	As incurred	Contractors, Suppliers, Architects, MES, Civil and Aquatic Engineers
Furniture, Fixtures and Equipment (See Note 3)	$396,000 - $999,000	As negotiated with Suppliers	As incurred	Suppliers
Interior Design Review Fee (See Note 6)	$0-$5000	As incurred	As incurred	Us
Exterior Signage	$12,000 - $45,000	As negotiated with Supplier	As incurred	Supplier
Property Management System Hardware, Software, and Installation	$8000 - $20,000	As negotiated by Supplier	As incurred	Supplier
High-Speed Internet Access Hardware, Software, and Installation	$6000 - $10,000	As negotiated by Supplier	As incurred	Supplier
Opening Inventory	$20,000 - $60,000	As negotiated by Supplier	As incurred	Supplier
Closing Costs	$40,000 - $90,000	As incurred	Due Prior to Opening	Third Parties
Contingencies	$50,000 - $200,000	As contingencies arise	As agreed with Contractor and Suppliers	Contractors and Suppliers
Signage Review Fee	$0-$5000	As negotiated by us	As incurred	Us
Construction Review Fee	$0-$10,000	As negotiated by us	As incurred	Us

Type of Expenditure	Amount	Method of Payment	When Due	To Whom Payment is to be Made
Additional Funds – Pre-Opening and 3 Months (See Note 5)	$75,000 - $150,000	As incurred	As incurred	Employees, Suppliers, Utilities
Totals	$1,833,299 to $6,108,600 plus real estate costs (See Note 1)			

Note 1: The cost of acquiring and developing a site for a new Cobblestone Lodging Facility has not been estimated. This cost will vary depending on such factors as location, size, and the local real estate market.

Note 2: This cost includes expenses normally incurred in connection with the construction of a new Cobblestone Lodging Facility. We have not built a new prototypical Cobblestone Lodging Facility; therefore, we do not have actual construction costs based on current actual experience. The estimated range for construction costs is based on the experience of our affiliates. Your actual costs may vary considerably as a result of numerous factors.

Note 3: The estimated cost for furniture, fixtures, and equipment excludes the Property Management System.

Note 4: This estimate is for inventory items such as towels, linens, guest room amenities, paper good and maintenance supplies and equipment.

Note 5: This is an estimate, based on our affiliates' experience of owning, operating, and managing Cobblestone Lodging Facilities, of your pre-opening expenses related to training, supplies, and utilities, including travel, wages, lodging and other related expenses, and working capital requirements for the first 3 months after your Cobblestone Lodging Facility opens for business. Working capital for the first 3 months includes general operating expenses such as lease payments, payroll, payroll expenses, facility expenses, insurance, pest control, security, and maintenance. Your actual costs will depend on factors which include your management skill, experience and business acumen; local economic conditions; the prevailing wage rates; competition in the marketplace; and sales levels reached during the start-up phase of your business. These amounts do not include any estimates for debt service.

Note 6: If you use our standard interior design package, you will not be charged any additional fees for us to review.

Note 7: Estimated expenses relating to travel, wages, lodging, and other related expenses for your staff during training are included in the estimated Additional Funds – Pre-Opening and 3 Months (See Note 5).

**Except as otherwise noted, none of these costs and expenses are refundable. These costs and expenses associated with building a Cobblestone Lodging Facility are only estimates and your costs may be higher depending on your particular circumstances. You should review these figures carefully with a business advisor, accountant, or attorney before making any decision to purchase a franchise.

ITEM 8: RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES

General Obligations

Except for your Cobblestone Lodging Facility's Central Reservation System and Property Management System, you will have the right and option to purchase all goods and services from any suppliers you choose, provided that these goods and services conform to our standards of quality and uniformity. Upon request by a supplier or you, we will provide information regarding our standards. To ensure that the goods and services you are using comply with our standards, we may charge you an Interior Design Review Fee of up to $5,000, a Signage Review Fee of up to $5,000, and a Construction Review Fee of up to $10,000 (see Items 5 and 7).

We have the right to approve or reject the architect and contractor which you propose to use to design and/or construct your Cobblestone Lodging Facility. Our written approval must be obtained by you before you retain the proposed architect and contractor. Our approval of your proposed architect and contractor will not be unreasonably withheld. You will generally receive written notification from us of our determination regarding your proposed architect and contractor within 30 days of receipt of your request. We do not have written criteria for approving architects and contractors that we can make available to you.

Each room in a Cobblestone Lodging Facility must have the following items bearing the "Cobblestone" name and trademark: telephone face plate, pens, notepads, evacuation signage, comment cards, and in-room guest services directory.

Except for certain services provided by us in connection with the Central Reservation System, you do not have to purchase or lease anything from us or any of our affiliates; however, we and our affiliates can be suppliers for any goods and services we offer.

Ownership in Suppliers

None of our officers owns an interest in any privately-held suppliers, or a material interest in any publicly-held suppliers, of the Cobblestone franchise system. From time to time, our officers may own non-material interests in publicly-held companies that may be suppliers to the franchise system.

Central Reservation System

You are required to use the Central Reservation System and the associated services and purchase certain centralized reservation services from us and from third-party vendors designated by us. In exchange for these services, you must pay us the Reservation Fees described in Item 6 of this disclosure document. These central reservation services includes a branded toll free telephone numbers, a web based tool for processing online reservations, and connectivity to GDS (Global Distribution Systems) for travel agent and online travel agent (OTA) reservation processing. Synxis is the only approved supplier of the central reservation services (see Item 11). You are required to have computer hardware at your Cobblestone Lodging Facility to use the Central

Reservation System (see Item 7); however we do not currently require that this be purchased or leased from us, our affiliates, or an approved supplier.

Property Management System

You are required to use the Property Management System and the associated services and purchase certain property management services from third-party vendors designated by us. InnQuest Software (Roomaster) is the only approved suppler of the Property Management System. You are required to have computer hardware at your Cobblestone Lodging Facility to use the Property Management System (see Item 7); however we do not currently require that this be purchased or leased from us, our affiliates, or an approved supplier.

Proportion of Your Initial Investment and Ongoing Expenses

We estimate that your required purchases and leases from the approved and designated suppliers of the Central Reservation System and Property Management System will represent (i) approximately 17% to 30% of your initial investment (see Item 7); and (ii) approximately 10% to 20% of your ongoing monthly expense (see Item 6).

Items we Derive Revenue From

We derived no revenue or other material consideration as a result of required franchisee purchases or leases during the fiscal year ended December 31, 2013. If we do receive funds as a result of purchases franchisees are required to make it will be used to offset the expenses of our Annual Conference.

Purchasing or Distribution Cooperatives

Neither we nor our franchisees have established any purchasing or distribution cooperatives. However, we do negotiate purchase arrangements, including price terms, with suppliers of certain furniture, equipment, and supplies for the benefit of our franchisees.

Material Benefits

We do not provide material benefits to you (including renewal rights or the right to open additional Cobblestone Lodging Facilities) based on your purchase of particular goods and services or on your purchases of particular products or services or your use of particular suppliers. However, purchases of goods or services that do not meet our standards in violation of the Franchise Agreement will entitle us to, among other things, terminate your Franchise Agreement.

ITEM 9: FRANCHISEE'S OBLIGATIONS

This table lists your principal obligations under the franchise and other agreements. It will help you find more detailed information about your obligations in these agreements and in other items of this disclosure document.

	Obligation	Section in Franchise Agreement	Disclosure Document Item
a.	Site Selection and acquisition/lease	Art. 18	Items 11 and 12
b.	Pre-Opening purchases/lease	Art. 18	Items 5, 8, and 11
c.	Site development and other pre-opening requirements	Art. 18	Items 6, 7, 11, and 12
d.	Initial and ongoing training	Art. 11	Items 6, 7, and 11
e.	Opening	Art. 11(D)	Item 11
f.	Fees	Art. 4(A), 5(A), 5(B), 5(C), 6(E), 6(F), 6(P), 6(V), 6(W), 6(X), 11(A), 13(A) and 18(G)	Items 5, 6, and 11
g.	Compliance with standards and policies/operating manual	Art. 6	Item 11
h.	Trademarks and proprietary information	Art. 3, 7(D), 7(E)	Items 13 and 14
i.	Restriction on products/services offered	Art. 6(J)	Items 8 and 16
j.	Warranty and customer service requirements	Art. 11, 12	Item 11
k.	Territorial development and sales quotas	Not Applicable	Not Applicable
l.	Ongoing product/service purchases	Art. 6(J), 6(K)	Items 6, 8, and 16
m.	Maintenance, appearance, and remodeling requirements	Art. 6(F),6(L),6(P)	Item 11
n.	Insurance	Art. 14	Item 8
o.	Advertising	Art. 6(A), 6(Z) and 6(CC)	Item 11
p.	Indemnification	Art. 15	Item 8
q.	Owner's Participation/Management/Staffing	Art. 6(O)	Item 15
r.	Records and Reports	Art. 16	Item 15
s.	Inspections and Audits	Art. 16 and 18	Items 11 and 15
t.	Transfer	Art. 17	Item 17
u.	Renewal	Art. 2(B)	Item 17
v.	Post-termination obligations	Art. 10, 15(c)	Item 17
w.	Non-competition covenants	Not Applicable	Item 17
x.	Dispute resolution	Art. 19(F), 21	Item 17
y.	Other: Hospitality Portal	Art. 6(Z)	Item 11
z.	Loyalty Rewards	Art. 6(C)	Item 6

ITEM 10: FINANCING

We do not provide, directly or indirectly, any financing for you. We have no control over and cannot predict whether you will be able to obtain financing for all or part of your investment or, if you do obtain financing, the terms of that financing. We do not place financing with any lender and, therefore, do not receive any payment for the placement of financing. We do not guarantee any note, lease or other of your obligations.

We have registered the franchise being offered hereby with the Franchise Registry maintained by the United States Small Business Administration's Franchise Registry Program, www.franchiseregistry.com. Consequently, if you apply for financial assistance from the Small Business Administration in connection with the purchase, development, and construction of your Cobblestone Lodging Facility, you may be eligible for expedited loan processing through that Program.

ITEM 11: FRANCHISOR'S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS, AND TRAINING

Except as listed below, Cobblestone Hotels, LLC is not required to provide you with any assistance.

Pre-Opening Assistance

Before you open your Cobblestone Lodging Facility, we will provide you with the following assistance:

(1) We will negotiate your Protected Area (Franchise Agreement §1(A)).

(2) Before signing the Franchise Agreement, we will approve your location in our sole and absolute discretion. Typically we will approve or reject your location within 30 days of receiving your application. If we reject your location, you will not be granted the right to operate your hotel using our Marks. You must pay an Application Fee to us when you submit your completed Application for a Cobblestone Lodging Facility to us. The amount of the Application Fee will be established by us in our sole discretion. Currently, the Application Fee is $2,000. This Application Fee is credited against the Initial Fee you must pay to us. If your Application is approved by us, you will be required to pay us the remaining balance of your Initial Fee and sign and submit your Franchise Agreement to us within thirty (30) days of the date of our letter approving your Application.

Although you are solely responsible for selecting and negotiating the purchase of the location for your Cobblestone Lodging Facility, it must be approved by us before you can begin operating your Cobblestone Lodging Facility. Neither our approval of a location nor any assistance we may give you in identifying a location, constitutes any acknowledgement, warranty, or representation of any kind, express or implied, including any warranty or representation as to profitability. After we have approved the location, your decision to operate a Cobblestone Lodging Facility at the location is based solely on your own independent investigation of the suitability of the location for a Cobblestone Lodging Facility. Our approval is solely for the

purpose of assuring compliance with our standards and will not be construed as any express or implied representation or warranty that your Cobblestone Lodging Facility complies with any applicable laws, codes, or regulations (including ADA or any other federal, state, or local law or ordinance regulating standards for the access to, use of, or modification of buildings for and by persons whose disabilities are protected by law). Our criteria for approval or disapproval do not encompass technical, architectural, or engineering considerations. We will have no liability or obligation with respect to the construction, conversion, or operation of your Cobblestone Lodging Facility.

(3) We will provide you with a copy of, or access to, our Rules and Regulations Manual which contains the system standards and specifications for your Cobblestone Lodging Facility, including standards for the furniture, fixtures, and certain equipment used to furnish your Cobblestone Lodging Facility and which contains the mandatory and suggested specifications when using our logo and trademarks to market your Cobblestone Lodging Facility (Franchise Agreement §§ 1(C), 6(H) and 12(A)).

(4) We will provide you with a copy of our approved standard plans for your Cobblestone Lodging Facility (Franchise Agreement §§6(E), 12(A), and 18(C)).

(5) We have the right to approve or reject the architect and contractor which you propose to use to design and/or construct your Cobblestone Lodging Facility (Franchise Agreement §18(C)).

(6) We will review and approve the detailed plans and specifications for your Cobblestone Lodging Facility which will be prepared at your expense by your architect who has been approved by us. Your approved architect will be required to conform your Cobblestone Lodging Facility to local ordinances and building codes. In addition, you or your contractor will be required to obtain any required permits for the construction or operation of your Cobblestone Lodging Facility. We are not required to assist you in conforming your Cobblestone Lodging Facility to local ordinances and building codes or in obtaining any required permits (Franchise Agreement §18(C)).

(7) We will provide you with a copy of, or access to, a summary of the furniture, fixtures, equipment, signs, uniforms, inventory, and supplies required for the operation of your Cobblestone Lodging Facility. The schedule will include certain specifically designed computer hardware and software which you must purchase for your Cobblestone Lodging Facility and the approved vendors of these items (Franchise Agreement §§6(E), 12(A) and 18(C)).

(8) In addition to the provisions of Item 5, if you wish to deviate from one of our standard interior design packages or to use a custom design package, we will review, approve, or provide comments on your interior design package and, following our approval, any subsequent modifications to your package (Franchise Agreement §§6(P) and 18(C)).

(9) We may, in our discretion, periodically inspect your Cobblestone Lodging Facility during construction. However, we are not required to provide assistance in constructing, remodeling, or decorating your Cobblestone Lodging Facility (Franchise Agreement §§6(P) and 18(C)).

(10) We will inspect your Cobblestone Lodging Facility prior to opening (Franchise Agreement §§6(P) and 18(C)).

(11) Your General Manager must successfully complete our Training Program to our satisfaction before you open your hotel for business. If your General Manager oversees more than one hotel, one or more assistant managers must also successfully complete our Training Program. You or other individuals you designate may also attend the Training Program, but are not required to do so. The Training Program consists of up to fifteen (15) days of classroom and on-the-job training for your General Manager on the basic management and operations of a Boarders Inn and Suites by Cobblestone. Currently we charge $199 per person for the Opening Training that is conducted at our corporate headquarters and $500 per day for on-site training, which can be up to 9 days. You are responsible for all travel, wages, lodging, and other related expenses for the trainees and, during on-site training, our staff (Franchise Agreement §11(A)).

As of the date of this disclosure document, training is conducted under the supervision of Jessica Junker and Josie Kilgore. Ms. Junker has been our Vice President of Sales, Marketing, and Chief Information Officer since 2012. She has over 10 years of operations and training experience in the lodging industry. Ms. Kilgore has been our Vice President of Franchise Services and Procurement since 2012. Prior to that she was a Regional Director of Operations for our affiliate, WHG, and has over 10 years of operations and training experience in the lodging industry. Periodically we may, from time to time, designate other personnel of Cobblestone who have not less than 3 years' experience in the operation of lodging facilities to assist Ms. Junker and Ms. Kilgore with the training. The materials used in the Training Program currently include our Rules and Regulations Manual.

Generally, this training occurs on an as-needed basis and must be completed no more than one hundred twenty (120) days prior to the opening of your Cobblestone Lodging Facility and consists of the following:

TRAINING PROGRAM

OPENING TRAINING

Subject Taught	Hours of Classroom Training	Hours of On-The-Job Training	Location
Front Desk Application	N/A	Up to 19	On Property
Building Management	N/A	Up to 5	On Property
Safety and Security	N/A	Up to 2	On Property
Revenue Management	N/A	Up to 4	On Property
Guest Relations	N/A	Up to 5	On Property
Total Hours	N/A	Up to 35	On Property

COBBLESTONE BRAND TRAINING

Subject Taught	Hours of Classroom Training	Hours of On-The-Job Training	Location
Brand Standards	up to 4	NA	Cobblestone Hotels Corporate Headquarters*
Sales and Marketing	2	NA	Cobblestone Hotels Corporate Headquarters
1. Referrals	1	NA	Cobblestone Hotels Corporate Headquarters
2. Direct Sales	1	NA	Cobblestone Hotels Corporate Headquarters
3. Reputation Management	1	NA	Cobblestone Hotels Corporate Headquarters
4. Social Media	1	NA	Cobblestone Hotels Corporate Headquarters
Revenue Management	3	NA	Cobblestone Hotels Corporate Headquarters
Housekeeping	1	NA	Cobblestone Hotels Corporate Headquarters
Front Desk	1	NA	Cobblestone Hotels Corporate Headquarters
Property Management System**	8	NA	Cobblestone Hotels Corporate Headquarters
Central Reservation System	4	NA	Cobblestone Hotels Corporate Headquarters
Cobblestone Rewards	1	NA	Cobblestone Hotels Corporate Headquarters
Total Hours	28	NA	Cobblestone Hotels Corporate Headquarters

* The Cobblestone Corporate Headquarters is located at 980 American Drive, Neenah, WI 54956
** Property Management System training is only required if your hotel uses Roomaster.

(12) After you or your General Manager(s) have successfully completed our management training program, one or more of our representatives will provide (a) up to five (5) days of opening assistance and staff training at your Cobblestone Lodging Facility, and (b) up to four (4) additional days of onsite training on the use and operation of the Property Management System/computer (only required if your hotel uses Roomaster). You must either provide complimentary rooms or pay all lodging expenses incurred by our personnel in providing this assistance and training. We will only provide this assistance and training if you have provided us with a copy of the certificate of occupancy for your Cobblestone Lodging Facility. In addition, if your Cobblestone Lodging Facility is not ready to be opened for business when our representative arrives to provide this assistance and training, you must reimburse us for all salary, expenses, and other costs incurred by us and our personnel while they are delayed in providing this opening assistance and on-site training (Franchise Agreement §11(D)).

(13) We estimate the time from the date you sign the Franchise Agreement to the date you open your Cobblestone Lodging Facility for business to be 15 to 18 months. However, this time estimate may vary depending on numerous factors, including location, construction schedules, building permits, zoning and local ordinances, weather conditions, shortages, delayed installation of equipment, fixtures, and signage, and financing.

Post-Opening Assistance

During the operation of your Cobblestone Lodging Facility, we will provide you with the following assistance:

(1) We will loan you a copy or give you access to our confidential operations materials via a private extranet (Franchise Agreement §§6(E) and 12(A).

(2) We may inspect your Cobblestone Lodging Facility as often as we deem appropriate (Franchise Agreement §6(P).

(3) We may, in our discretion, protect the "Cobblestone" name, trademarks and/or copyrights as well as the distinguishing characteristics of Cobblestone Lodging Facility. We will indemnify and hold you harmless from any damages assessed against you in any action commenced against you if you have been named as a defendant in the action solely as a result of your use of our trademarks and service marks in compliance with your obligations under our Rules and Regulations Manual (Franchise Agreement §3(E)).

(4) We may, in our discretion, hold annual conferences and/or training and motivational programs designed to generate and foster employee awareness, sensitivity, and responsiveness to the customers who patronize your Cobblestone Lodging Facility. Your General Manager is required to attend our conference. You must pay the registration fees established by us for these conferences and programs regardless of whether you attend. Currently the cost for each person to attend our conference is $399. In addition, you must pay all of the travel, living, and employment-related expenses for you or your staff attending these conferences and programs. These conferences and programs will be held at the location or locations selected by us in our discretion (Franchise Agreement §11(A)).

(5) We may, in our discretion, sponsor one or more loyalty programs to promote and reward the frequent and regular guests of Cobblestone Lodging Facility. You must, at your expense, participate in all these programs, including our current program, Cobblestone Rewards (Franchise Agreement §6(C)).

(6) We will, upon your request, provide you with advisory services related to guest service, property sales, and the operation of your Cobblestone Lodging Facility. You must reimburse us for all reasonable administrative and out-of-pocket expenses incurred by us in providing these services and provide lodging to our representatives at no charge (Franchise Agreement §12(A)).

(7) We will provide you with access to our Central Reservation System, which is comprised of certain centralized reservation services, including Global Distribution Service ("GDS"),

email/Internet, and generic voice reservation services for your hotel. The GDS services currently include AMADEUS, GALILEO/APOLLO, SABRE, PEGASUS, and WORLDSPAN and are used to provide reservation services for guests through travel agents, travel wholesalers, and other travel service providers. The Central Reservation System may also include certain merchant programs, such as Expedia, that purchase room nights wholesale from you and re-sell to guests; and certain opaque programs, such as Priceline, that sell room nights at a discounted rate to guests. We have the right to modify our current or any future reservation systems at any time during the term of your Franchise Agreement, upon ninety (90) days' prior written notice to you. We also have the right to discontinue any of our existing or any future reservation systems at any time so long as we continue to maintain a reservation system. You must participate in the current, new or modified reservation systems established or implemented by us, and pay the fees or other charges which must be paid by all participating Cobblestone Lodging Facility franchisees to use or participate in the current, new, or modified reservation system. You must purchase, install, and maintain, at your expense, the equipment and software required by us in connection with any such current, new or modified reservation system. Your cost of participating in any new or modified reservation system may be different or greater than that to be incurred under the current system. In connection with future modifications to our Central Reservation System, we may require you to enter into one or more agreements with us or one or more third-party vendors designated by us, which agreements shall be in a form established by us from time to time. You may not use any toll-free telephone number other than the number maintained by us in the advertising and marketing materials which you use in the operation of your Cobblestone Lodging Facility. You may not use any other third-party reservation services or programs, except those services and programs approved by us. If you default in your obligations under the Franchise Agreement, we have the right to suspend your participation in the Central Reservation System (and other services provided by us) for the duration of your default (Franchise Agreement §§6(V), (W), (X), (Z), and 12(B)).

Currently the cost of purchasing, installing, and maintaining our Central Reservation System is a one-time GDS/IDS setup fee in the amount of approximately $400, a guest connect booking engine fee of $100, a property integration fee of $500, and a monthly subscription fee of $105. Transaction fees vary between $0 and $10.50 per reservation.

(8) We require you to enter into an agreement with a third-party vendor that provides centralized travel agent commission payment services. Under this current commission payment program, all Cobblestone Lodging Facility franchisees must pay the amounts that the third-party vendor charges for the services it provides. You must enter into agreements with and purchase commission services from these third parties. We have the right to modify our current or any future travel agent commission payment program at any time during the term of your Franchise Agreement upon 90 days' prior written notice to you. No other third-party travel agent commission payment program is allowed (Franchise Agreement §§6(V), (W), (X), (Z), and 12(B)).

(9) Before you remodel, modernize, redecorate or renovate your Cobblestone Lodging Facility, you are required to provide us with an opportunity to review your proposed remodeling, modernization, redecoration and renovation, including all replacements for your furniture, fixtures, supply and equipment. Provided the proposed remodeling, modernization, redecoration

and renovation meet with Cobblestone' then current standards, such remodeling, modernization, redecoration and renovation will be approved (Franchise Agreement §§6(F) and (P)).

(10) We will not provide you with assistance in establishing the prices to be charged by you. Rather, you will have the absolute right to sell all products and services at your Cobblestone Lodging Facility at whatever prices and on whatever terms you deem appropriate (Franchise Agreement §6(J)).

(11) We will provide you with information regarding our standards of quality and uniformity upon request by a supplier or you (Franchise Agreement §6(K)).

Computer System

You must purchase or use a hospitality Property Management System and designated or approved by us before you open for business as a Boarders Inn and Suites by Cobblestone. You are also required to use the Central Reservation System and the associated services and purchase certain centralized reservation services from us and from third-party vendors designated by us. Your cost associated with the purchase and installation of the Property Management System is approximately between $8,000 and $20,000. For the Central Reservation System, there is currently a one-time GDS/IDS setup fee in the amount of approximately $400, a guest connect booking engine fee of $100, a property integration fee of $500. There is also a monthly subscription fee of $105. Transaction fees vary between $0 and $10.50 per reservation. The Property Management System and Central Reservation System may require you to enter into an agreement for the purchase of hardware, software, maintenance, support, and training from, and to make certain payments, as negotiated by you, to us or a third-party vendor. You are required to periodically upgrade your hardware and software to maintain compliance with this standard. There are no limitations on the frequency or cost of maintenance or required upgrades.

You are also required to purchase or lease the equipment necessary to process credit cards presented by your customers for payment and to maintain compliance with Payment Card Industry standards.

You must make complimentary wireless high-speed Internet access available in the guest rooms, lobby, meeting rooms, and hospitality rooms of your Cobblestone Lodging Facility.

These requirements may require you to enter into an agreement for the purchase of hardware, software, maintenance, support, and training from, and to make certain payments, as negotiated by you, to third-party vendors. You are required to periodically upgrade your hardware and software to maintain compliance with these standards. There are no limitations on the frequency or cost of maintenance or required upgrades. We have independent access to information and data on your computer system. There are no contractual limitations to our right to receive and access this information.

You must register and actively use our Hospitality Information Portal. This electronic media is the primary method for chain wide communications. Time sensitive information and important correspondence may be provided through the Hospitality Information Portal and, therefore, must

be actively accessed on at least a daily basis by your manager(s) or staff (Franchise Agreement §§6(V), (W), (X), (Z), and 12(B)).

Time of Opening

We estimate the time from the date you sign the Franchise Agreement to the date you open your Cobblestone Lodging Facility for business to be between 15 to 18 months. However, this time estimate may vary depending on numerous factors, including location, construction schedules, permits, zoning and local ordinances, weather conditions, shortages, delayed installation of equipment, fixtures, and signage, and financing. Your Cobblestone Lodging Facility must be open for business within 18 months of signing your Franchise Agreement. We may grant you an extension of completion in our discretion.

Advertising

Other than the materials we develop with the Marketing Fund Fees, we are not obligated to provide you with marketing or advertising materials. You are permitted and encouraged to develop advertising and promotional materials at your own expense for your own use in local and regional advertising. We must approve the use, style, and form of the word "Cobblestone" or other registered trademarks or variations of our marks in any advertising, marketing, website, home page, or other presence on the Internet, public relations, telemarketing or promotional campaign or program. You may not use any advertising or promotional materials or methods until they have received our approval and must immediately discontinue the use of any previously approved advertising or promotional materials or methods we subsequently disapprove. We will not unreasonably withhold our approval. We will generally make a decision on your advertising materials within 14 days after receipt (Franchise Agreement §6(A), (B), (H), and (Z)).

We currently do not have an advertising council composed of franchisees that advise us on our advertising policies.

Cooperative Advertising and Marketing Programs

We or our designee will administer a Marketing Fund for the entire Cobblestone system, including "Boarders Inn and Suites by Cobblestone", "Cobblestone Hotel and Suites" and "Cobblestone Inn and Suites" branded hotels. The purpose of the Marketing Fund is the creation and development of marketing, advertising, and related programs and materials for the purpose of maximizing general recognition and patronage of the Marks (as defined in Item 13) for the benefit of all properties franchised by us. You must contribute to the Marketing Fund a monthly marketing fee equal to $100 (see Item 6).

Currently we use the Marketing Fund for Search Engine Optimization on the Internet. We will have sole control over the creative concepts, content, form, and media placement of all advertising and promotional materials developed with Marketing Fund contributions, and the allocation of Marketing Fund monies to production, placement, or other costs. We may create and place advertising and promotions, and allocate funds, for conducting sales, advertising and

marketing programs on a national, regional, or local basis. We may use Marketing Fund contributions in our sole discretion for any purpose relating to sales, marketing or advertising initiatives or programs that we may adopt periodically, including developing, producing, distributing, and placing advertising, engaging in telemarketing/Internet activities, establishing, maintaining, updating and upgrading one or more Web sites, obtaining sponsorships and endorsements, and conducting public relations activities. The Marketing Fund will not be used to defray any of our general operating expenses, except for reasonable salaries, administrative costs and overhead we may incur in activities related to the administration of the Marketing Fund and its programs, including preparing advertising and marketing materials and collecting and accounting for contributions to the Marketing Fund.

Although one of the goals of the Marketing Fund is to maximize general recognition and patronage of the Marks (as defined in Item 13) for the benefit of all Cobblestone branded hotels, we cannot assure you that your Cobblestone Lodging Facility will benefit directly or pro rata from the placement of advertising or other expenditure of funds from the Marketing Fund. Although we do not currently do so, we may use Marketing Fund contributions for creating or placing advertisements principally for the solicitation of new franchisees. In addition, we may include in all advertising prepared from Marketing Fund contributions (including Internet advertising and Web site development) information concerning franchise opportunities, and a portion of Marketing Fund contributions may be used to create and maintain one or more Web sites or interior pages on a Web site devoted to advertising franchise opportunities and identifying and screening inquiries and applications submitted by franchise candidates.

The Marketing Fund will be accounted for separately from our other funds, but may be deposited in any of our general accounts and commingled with our other funds. We do not credit the Marketing Fund with interest. We may spend in any fiscal year an amount greater or less than the aggregate contributions of all Cobblestone branded hotels to the Marketing Fund in that year. The Marketing Fund may borrow from us or other lenders to cover deficits in the Marketing Fund. The Marketing Fund may invest any surplus for future use by the Marketing Fund or use Marketing Fund contributions to repay loans made by us or other lenders to the Marketing Fund. We will prepare annually a statement of monies collected and costs incurred by the Marketing Fund and furnish you a copy upon your written request. Except as otherwise provided above, we assume no direct or indirect liability or obligation with respect to the maintenance, direction or administration of the Marketing Fund. We do not act as trustee or in any other fiduciary capacity with respect to the Marketing Fund.

We did not have a Marketing Fund during 2013 so there were no allocations.

Every Boarders Inn and Suites by Cobblestone and other Cobblestone Lodging Facilities must also participate in our Loyalty Program, and any other rewards or frequent traveler program we may initiate. Our Loyalty Program provides member guests with a variety of privileges and services, including earning either $40 in cash or a $40 room credit for every 10 nights a member stays at a Boarders Inn and Suites by Cobblestone or Cobblestone Lodging Facility. Stays are recorded on a stamp card and redeemed at your hotel. Loyalty Program expenses are funded through a separate charge to each Boarders Inn and Suites by Cobblestone and Cobblestone Lodging Facility, which is currently a one-time deposit of $1,000 and $5 per stamp (see Item 6). The Loyalty Program is administered by us or our affiliate for our benefit and may be changed at

our discretion at any time. Other than the Rules and Regulations Manual and the terms and conditions members must agree to in order to participate in the Loyalty Program, there are no written governing documents. Separate financial statements are not maintained for the Loyalty Program and it is not audited (Franchise Agreement §6(C)). All Loyalty Program funds are used exclusively to reward guests that stay at a Boarders Inn and Suites by Cobblestone or other Cobblestone Lodging Facilities. None of the Loyalty Program funds are spent on new franchise sales, production, media placement, administrative expenses, or any other uses.

Other than the Marketing Fund and Loyalty Program, there are currently no other advertising funds we require participation in and you will not be required to participate in any local or regional advertising cooperatives.

Rules and Regulations Manual

We provide all Cobblestone Lodging Facilities with a copy of, or access to, our Rules and Regulations Manual, which contains a total of 27 pages of information regarding the system standards and specifications for the operation of a Cobblestone Lodging Facility, including standards for furniture, fixtures, and equipment and the mandatory and suggested specifications when using our logo and trademarks to market your Cobblestone Lodging Facility. The table of contents to our Rules and Regulations Manual is as follows:

Contents — Page Number

About This Manual 2
Administrative Policies 4
  Accounting 4
  Insurance 4
  Safety, Security, and Risk Control 6
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  Cobblestone Brand Training 9
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  Charging Station 10
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Guest Amenities & Services 15
Guest Service Standards 18
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Reservations 19
Check In / Check Out 20
Hotel Facilities 21
Guest Room Amenities and Supplies 24
Refurbishing and Product Replacement 27
Compliance 27

(Franchise Agreement §§6(E), 12(A), and 18(C))

ITEM 12: TERRITORY

Protected Area

You will not receive an exclusive territory. You may face competition from other franchisees, from outlets that we own, or from other channels of distribution or competitive brands that we own. We and our affiliates have the right both within and outside of your Protected Area (see next paragraph) to: (1) distribute products or services through alternative channels of distribution (including the Internet or any other existing or future form of electronic commerce) under the Cobblestone Lodging Facility trademarks; and (2) license or operate other lodging properties using trade names other than "Cobblestone Inn and Suites" or "Cobblestone Hotel and Suites" either within your Protected Area, or outside of the Protected Area, even if such lodging properties offer services similar to those offered in your Cobblestone Lodging Facility.

Each Cobblestone Lodging Facility is granted a "Protected Area" for one specific location, which is described in Exhibit A of the Franchise Agreement before it is signed. For as long as your Cobblestone Lodging Facility contains at least the minimum number of guest rooms listed on Exhibit A to the Franchise Agreement and you are not in default of the Franchise Agreement, we will not operate or grant a license or franchise to any third party to operate another Cobblestone Lodging Facility within the geographic region listed as the Protected Area on Exhibit A of your Franchise Agreement until the expiration or earlier termination of the Franchise Agreement. The Protected Area granted under your Franchise Agreement is the only territorial protection granted to you and does not in any way expressly or implicitly grant any other area, market, territorial, or development rights to you or restrict us or our affiliates in any way in the manner in which we and our affiliates may conduct or operate our respective businesses outside the Protected Area. We and our affiliates have the right to issue competing franchises and to directly or indirectly develop and operate competing company-owned businesses under the Cobblestone Lodging Facility trademarks for or at any locations outside of your Protected Area, including locations near the boundaries of your Protected Area.

You may not use alternative channels of distribution such as the Internet, World Wide Web, or other computer networks to solicit reservations without our consent. There are no other restrictions on your advertising or soliciting customers outside your Protected Area. There are

no restrictions on us, our affiliates, or other franchisees from advertising or soliciting customers within your Protected Area, and you will not be entitled to any compensation if this occurs.

In determining (i) the minimum number of guest rooms acceptable to remain compliant with the Franchise Agreement, and (ii) the Protected Area, there are no precise objective criteria which can be reviewed and we have no set policy regarding the establishment of the minimum number of guest rooms or Protected Area. There is not a standard minimum Protected Area or number of guest rooms that we grant. We will establish your required minimum number of guest rooms and Protected Area in our sole and absolute judgment based on a variety of factors, including the location and size of your hotel and development patterns and trends in the vicinity of your hotel. If you do not approve of the minimum number of guest rooms or Protected Area established by us, you may, prior to signing your Franchise Agreement, submit information to us supporting your position. If we determine it appropriate, we will then negotiate with you to establish the minimum number of guest rooms and Protected Area to be granted in the Franchise Agreement.

Any 1 or more lodging facilities owned, operated, managed or franchised by our affiliates and other brands of lodging facilities which we may establish or acquire may compete directly with your Cobblestone Lodging Facility and with each other. We will have no liability for any adverse effects these businesses may have on your Cobblestone Lodging Facility. See below, under "Other Channels of Distribution".

We do not grant you any options, rights of first refusal, or similar rights to acquire additional Cobblestone Lodging Facility within your Protected Area or elsewhere. We do not grant you any option to relocate your franchised business.

Continuation of any Protected Area does not depend on the achievement of a certain sales volume, market penetration, or other contingency and, except in a situation where the number of guest rooms at your Cobblestone Lodging Facility do not meet the minimum requirements listed on Exhibit A to your Franchise Agreement, or you are in default under your Franchise Agreement, we may not alter your Protected Area without your agreement to do so.

Other Channels of Distribution

We and our affiliates operate and/or have licensed others to operate lodging facilities which are identified by the marks "Boarders Inn and Suites by Cobblestone," "Cobblestone Inn and Suites," and "Cobblestone Hotel and Suites". Our affiliates also own, operate, and/or manage, and/or have licensed, hotels that operate under other third-party brands and marks owned by companies not affiliated with us or our affiliates. Hotels operating under these brands and marks, may solicit and accept reservations from close proximity of your Cobblestone Lodging Facility, including within your Protected Area. Certain of these hotels are currently or may in the future be located within close proximity to your Cobblestone Lodging Facility.

Competing Businesses

As disclosed in Item 1, we do offer franchises for lodging facilities selling products and services similar to those sold at your Cobblestone Lodging Facility under the "Boarders Inn and Suites by

Cobblestone," "Cobblestone Inn and Suites," and "Cobblestone Hotel and Suites" brand names and our affiliates own, operate, or manage other types of lodging facilities under other trademarks.

ITEM 13: TRADEMARKS

In the Franchise Agreement, we will grant you the right to operate your Cobblestone Lodging Facility under either the name "Cobblestone Inn and Suites" or "Cobblestone Hotel and Suites." You may also use certain of our other current or future trademarks to operate your Cobblestone Lodging Facility, excluding trademarks related to the "Boarders Inn and Suites by Cobblestone" franchise system. Operating a hotel under the "Boarders Inn and Suites by Cobblestone" trademarks requires that we disclose you with a disclosure document specific to that system, which differs from the "Cobblestone Inn and Suites" and "Cobblestone Hotel and Suites" franchise system. The "trademark" includes trade names, trademarks, service marks and logos used to identify your Cobblestone Lodging Facility. At the time of signing your Franchise Agreement, you will be assigned a specific franchised name (the "Franchised Name") for your Cobblestone Lodging Facility, which will include the name "Cobblestone Inn and Suites" or "Cobblestone Hotel and Suites." This Franchised Name will then be inserted in Exhibit A of your Franchise Agreement.

Our affiliate, WHG (see Item 1), registered the following trademarks on the United States Patent and Trademark Office ("USPTO") Principal Register. On February 12, 2013, WHG assigned all right, title, and interest in and to the trademarks below to us. The assignment was recorded with the USPTO on February 28, 2013. We intend to renew the registrations and to file all appropriate affidavits at the appropriate times.

Serial No.	Registration No.	Mark	Registration Date
85/027,575	4,210,510	C COBBLESTONE HOTEL & SUITES COBBLESTONE HOTEL & SUITES	September 18, 2012
77/135,462	3,412,423	C COBBLESTONE INN & SUITES COBBLESTONE INN & SUITES	April 15, 2008

All required affidavits relating to these Marks have been filed.

There are no currently effective material determinations of the USPTO, the Trademark Trial and Appeal Board, or Trademark Administrator of any state, or of any court, nor any pending interference, opposition, or cancellation proceedings or material litigation involving the Marks.

There are no agreements which significantly limit our rights to use or license the Marks in any manner material to the franchise. We have no actual knowledge of either superior prior rights or infringing uses that could materially affect your use of the Marks.

You may only use the Marks in the manner prescribed, directed, and approved by us in writing. If, in our judgment, your use of our Marks infringes upon or demeans the goodwill, standards of quality or uniformity, or business standing associated with our Marks, you will be required to immediately modify you use of the Marks in the manner prescribed by us in writing. You will not use the word "Cobblestone" in your corporate, partnership, limited liability company, or sole proprietorship name and you will not attempt to register or otherwise obtain an interest in any Internet domain name containing any of our Marks or any other word, name, or symbol which is similar to or likely to cause confusion with any of our Marks.

If it becomes advisable at any time for us and/or you to modify or discontinue use of any of our Marks and/or use one or more additional or substitute trademarks, service marks, or trade dress, you must comply with our directions within a reasonable time after notice. We will have no liability or obligation with respect to any such required modification or discontinuance of any Mark or the promotion of a substitute trademark, service mark, or trade dress.

You must give us prompt written notice of any and all claims or complaints made against or associated with our Marks and will, without compensation, cooperate in all respects with us in any lawsuits or other proceedings involving our Marks. We will have sole discretion to take such action as we deem appropriate and will have the right to control exclusively any litigation or USPTO proceeding arising out of any such infringement, challenge or claim or otherwise relating to our Marks. You must sign any and all documents, render such assistance and do such things as may be advisable in the opinion of our legal counsel to protect our interests in any litigation or USPTO proceeding or otherwise to protect our interest in our Marks.

We will indemnify you against and hold you harmless from any damages for which you are held liable as a result of a claim that your authorized use of our Marks according to and in compliance with your Franchise Agreement infringes on the rights of another person provided that you have timely notified us of such claim as required in your Franchise Agreement.

Except as described above, we are not obligated to protect your rights to use our Marks or to protect you against claims of infringement or unfair competition.

ITEM 14: PATENTS, COPYRIGHTS, AND PROPRIETARY INFORMATION

There are no patents or pending patent applications that are material to the franchise.

We own certain copyrights in the Manual, marketing materials and other copyright protected items that we use. While we claim copyrights in these and similar items, we have not registered these copyrights with the United States Copyright Office but need not do so to protect them. You may use these items as we specify with your franchise and must stop using them if we direct you to do so. Our right to use or license copyrighted items is not materially limited by any other agreement or any known infringing use.

The Franchise Agreement provides that the Manual, our trade secrets, copyrighted materials, methods, techniques and other know-how are proprietary to us and are provided to you in confidence (the "Confidential Information"). You may use the Confidential Information only for the purposes of operating your franchise. You may not contest our ownership of the Confidential Information.

You will divulge the Confidential Information only to employees who will need to know it to operate your franchise and who agree to maintain such confidentiality. All information, knowledge and know-how which we designate as confidential will be deemed confidential for purposes of the Franchise Agreement, except information which you can demonstrate lawfully came to your attention before our disclosure of it; or which, at the time of our disclosure to you, had lawfully become a part of the public domain, through publication or communication by others; or which, after our disclosure to you, lawfully becomes a part of the public domain, through publication or communication by others.

You may not use our Confidential Information in any other business or capacity other than for your operation of the franchise. You may not make unauthorized copies of our Confidential Information and you must implement all reasonable procedures we prescribe periodically pertaining to the proper use of and to prevent unauthorized us or disclosure of the Confidential Information.

You must also promptly tell us when you learn about the unauthorized use of the Confidential Information. We are not obligated to take any action, but we will respond to your notification of unauthorized use as we think appropriate. We will indemnify you for any loss you sustain as a result of any action brought by a third party concerning your use of this Confidential Information.

There currently are no effective determinations of the Copyright Office (Library of Congress) or any court regarding any of the Confidential Information and no agreements currently are in effect that significantly limit our right to use or authorize you to use the Confidential Information. Further, there are no infringing uses actually known to us that could materially affect your use of the Confidential Information in any state.

By signing the Franchise Agreement, you assign to us all tangible media of expression derived from any of our trademarks and Confidential Information, and agree to sign any further assignments that we may request.

ITEM 15: OBLIGATION TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISE BUSINESS

You (or an individual appointed by you that meets our requirements for experience and management employees (the "General Manager")) must actively participate in the management and supervision of your Cobblestone Lodging Facility. Your Lodging Facility must at all times be under your (or your Manager's) direct, on premises supervision. Your Lodging Facility must also be staffed by a sufficient number of competent and properly trained employees. Although we currently do not have specific educational and experience requirements for the on-site

Manager of your Cobblestone Lodging Facility, you or your Manager must attend and successfully complete the required Training Programs prior to commencing to manage your Cobblestone Lodging Facility (see Item 11). At any time during the term of the Franchise Agreement, we have the right to require you to hire a management company approved by us to manage and operate your hotel. As a condition to approving a management company, we may require a representative of the management company to attend our management training program, including our Training Program at your expense. If you choose to not hire a management company, the Manager chosen by you must have at least five (5) years of hotel general management experience.

You must implement all reasonable procedures we prescribe periodically to prevent unauthorized use or disclosure of our trademarks and Confidential Information, including the use of nondisclosure agreements with your officers, directors, managers, assistant managers, and other employees.

ITEM 16: RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL

The Franchise Agreement provides that you must sell all goods and services that we require. We may, in our discretion and from time to time, change the types of authorized goods and services which you must sell. There are no limits on our rights to make these changes. Furthermore, you are prohibited from offering or selling any goods or services not authorized by us and from using the premises for any other purposes other than the operation of a Cobblestone Lodging Facility. You are not limited in the customers to whom you may sell goods and services. We require that you comply with the standards in our Manual and any other standards we may from time to time modify or implement. We require that you offer the Cobblestone Breakfast Program Menu (the "Menu") to your customers at no charge. The content of this Menu may be periodically changed by us in our discretion.

ITEM 17: RENEWAL, TERMINATION, TRANSFER, AND DISPUTE RESOLUTION

This table lists certain important provisions of the franchise and related agreements. You should read these provisions in the agreements attached to this disclosure document.

THE FRANCHISE RELATIONSHIP

	Provision	Section in Franchise or Other Agreement	Summary
a.	Length of the Franchise Term	Franchise Agreement: §2(A)	The term is for 20 years from the date that your Cobblestone Lodging Facility opens for business.
b.	Renewal or Extension of the Term	Franchise Agreement: §2(B)	You have no right to renew your Franchise Agreement or to extend the term upon the expiration of its term unless such rights are granted under applicable law. If you wish to continue operating as a Cobblestone Lodging Facility after the expiration of your Franchise Agreement you must sign a new Franchise

	Provision	Section in Franchise or Other Agreement	Summary
			Agreement, the terms and conditions of which may differ materially from your original Franchise Agreement.
c.	Requirements for you to renew or extend	Franchise Agreement: §2(B)	You have no right to renew your Franchise Agreement or to extend the term upon the expiration of its term unless such rights are granted under applicable law. If you wish to continue operating as a Cobblestone Lodging Facility after the expiration of your Franchise Agreement you must sign a new Franchise Agreement, the terms and conditions of which may differ materially from your original Franchise Agreement.
d.	Termination by you	Franchise Agreement: §9	You may terminate the Franchise Agreement by giving written notice of termination to us if we: (1) violate any material provision of the Franchise Agreement, (2) fail to pay any material and uncontested obligation owed to you, (3) voluntarily file, or have filed against us involuntarily a petition in bankruptcy, or (4) make an assignment for the benefit of our creditors, so long as, in each case, you (a) first give written notice to us setting forth the nature of the alleged violation, and (b) we fail to correct the alleged violation within 30 days of receiving your notice of violation.
e.	Termination by us without cause	Not Applicable	Not Applicable
f.	Termination by us with "Cause"	Franchise Agreement: §8	We may terminate the Franchise Agreement by giving written notice setting forth the basis for termination to you and you fail to correct this basis within 60 days of receiving the notice. This 60-day period is reduced to 10 days where the basis for termination is your failure to pay any amounts due and owing to us and is further reduced to 24 hours where the basis for termination is conduct or acts by you which materially impair the goodwill associated with the "Cobblestone" name or any of our trademarks or the Cobblestone business system. We may terminate immediately by giving written notice of termination where the basis for termination is the conviction or entry of a guilty plea by you or any of your

	Provision	Section in Franchise or Other Agreement	Summary
			principals for a charge of committing a felony or violating any law relating to your Cobblestone Lodging Facility or the voluntary abandonment of your Cobblestone Lodging Facility by you.
g.	"Cause" defined – Curable Defaults	Franchise Agreement: §8	Curable defaults include: (1) you fail to open and commence operations of your Cobblestone Lodging Facility when it is ready for occupancy; (2) you violate any material term or condition of (a) the Franchise Agreement, including, but not limited to, failure to timely pay any Monthly Fees, Reservation Fees, or other monetary obligations or fees to us; (b) any of the Manuals; or (c) any other agreement between you and us or any of our affiliates; (3) You or any of your managers, partners, members, directors, governors, officers, or majority stockholders are convicted of, or plead guilty to or no contest to a charge of violating any law relating to your Cobblestone Lodging Facility, or any felony; (4) you fail to conform to our business system or the standards of quality and uniformity for the products and services promulgated by us in connection with the business system; (5) you fail to timely pay any of your uncontested obligations or liabilities due and owing to any of your creditors, including us, or any federal, state, or municipal governmental authority (including, if applicable, any taxes); (6) you are deemed insolvent within the meaning of any state or federal law or you or any personal guarantors voluntarily file, or have filed against it/him involuntarily a petition under the United States Bankruptcy Code; (7) you make an assignment for the benefit of creditors or enter into any similar arrangement for the disposition of its assets for the benefit of creditors; (8) any check issued by you is dishonored because of insufficient funds (except where the check is dishonored because of an error in bookkeeping or accounting) or closed accounts; (9) you voluntarily or otherwise commit any act of omission or

	Provision	Section in Franchise or Other Agreement	Summary
			commission, indicating a willingness, desire, or intent of discontinuing operating your Cobblestone Lodging Facility in accordance with the quality standards, uniformity requirements, and business system as set forth in the Franchise Agreement and the manuals: (10) you are involved in any act or conduct which materially impairs the goodwill associated with any of the Marks or the business system; (11) construction of your Cobblestone Lodging Facility has not commenced within nine (9) months of the Effective Date of the Franchise Agreement; or (12) remodeling, modernizing, redecorating, and renovating of your Cobblestone Lodging Facility has not commenced within six (6) months of the date that you receive our notice specifying the required remodeling, modernization, redecorating, and renovation; (13) you fail for whatever reason to complete construction and open your hotel for business as a Cobblestone Lodging Facility within eighteen (18) months of the commencement of construction; (14) you default on any mortgage, contract for deed, deed of trust, lease, or other similar instrument relating to your Cobblestone Lodging Facility, or otherwise loses possession of all or a significant portion of your hotel; (15) you fail to complete any of the remodeling, modernization, redecoration, or renovations set forth on a property improvement plan provided by us to you by the date or dates in the property improvement plan; (16) you or any of your shareholders, partners, members, or other owners attempt to sell, assign, or otherwise transfer your Franchise Agreement or your Cobblestone Lodging Facility, and/or shares of capital stock, partnership interests, membership interests, or other ownership interests in your company in violation of the requirements of Article 17 of your Franchise Agreement; and/or (17) you intentionally understate or underreport your gross revenue to

	Provision	Section in Franchise or Other Agreement	Summary
			us.
h.	"Cause" defined – Non-Curable defaults	Franchise Agreement: §8	Non-curable defaults include: (1) you or any of your managers, partners, members, directors, governors, officers, or shareholders or other owners are convicted of, or plead guilty to or no contest to a charge of violating any law relating to your Cobblestone Lodging Facility, or any felony; (2) you voluntarily or otherwise abandon your Cobblestone Lodging Facility or its franchised business; (3) you are involved in any act or conduct which materially impairs the goodwill associated with any of the Marks or our business system, and you fail to correct the breach within twenty-four (24) hours of receipt of written notice from us of the breach; or (4) you breach your Franchise Agreement, resulting in a notice of default by us, on three (3) or more occasions for the same or a similar breach, within any 36-month period.
i.	Your Obligation on Termination/Non-Renewal	Franchise Agreement: §10	You must (1) pay all amounts due and owing to us, (2) return to us the Rules and Regulations Manual and all advertising materials and other printed materials pertaining to the operation of a Cobblestone Lodging Facility, (3) immediately discontinue the use of all items bearing the "Cobblestone" name or any of the Cobblestone trademarks, (4) remove all signs containing the "Cobblestone" name or any of the Cobblestone trademarks, including the Cobblestone sign (5) cancel all fictitious, assumed or other similar name filings relating to the "Cobblestone" name or any of the Cobblestone trademarks, (6) terminate or assign to us, as we may elect, any Internet website or domain name that identifies you as a current or former Cobblestone Lodging Facility franchisee or that displays the "Cobblestone" name or any of the Cobblestone trademarks, (7) transfer all of your rights to use all telephone numbers and all classified and other directory listings under the "Cobblestone" name to us, (8) alter both the exterior and interior appearance and trade dress of your Cobblestone Lodging Facility so that it

	Provision	Section in Franchise or Other Agreement	Summary
			will easily be distinguished from the standard appearance and trade dress of a Cobblestone Lodging Facility, (9) discontinue your participation in the Cobblestone Central Reservation System, (10) furnish us within 30 days after the expiration or termination with evidence satisfactory to us of your compliance with your post-termination or post-expiration obligations under the Franchise Agreement, and (11) refrain from operating your hotel under any name which includes the words "Cobblestone" or any roots or derivations of these names. If the Franchise Agreement is terminated by us or if you attempt to wrongfully terminate the Franchise Agreement, you will be required to pay liquidated damages to us where permitted by applicable law. Some states prohibit franchisors from requiring their franchisees to pay liquidated damages. In these states, in lieu of paying liquidated damages, you will be required to pay to us all damages we have sustained or will sustain as a breach of the Franchise Agreement, taking into consideration the Fees that would have been payable by you to us during the remaining term of the Franchise Agreement.
j.	Assignment of Contract by Franchisor	Franchise Agreement: §17	There are no restrictions on our right to assign.
k.	"Transfer" by You- Definition	Franchise Agreement: §17	Includes transfers of the Franchise Agreement, or the assents associated with your Cobblestone Lodging Facility and changes in ownership.
l.	Our approval of a Transfer by You	Franchise Agreement: §17	We have the right to reject or approve all transfers, but will not unreasonably withhold our approval.
m.	Conditions for our approval of a Transfer by You	Franchise Agreement: §17	In order to receive our approval: you must fulfill all your monetary obligations due to us, your Franchise Agreement may not be in default, and the transferee must qualify, complete training, and execute our then current Franchise Agreement and such other ancillary agreements as we may require.

	Provision	Section in Franchise or Other Agreement	Summary
n.	Our rights of first refusal to acquire your business	Franchise Agreement: §17	Except for transfers upon your death and changes in ownership that do not result in a change in control, we have the right to match any offer for your Cobblestone Lodging Facility.
o.	Our option to purchase your business	Franchise Agreement: §17	Except for transfers upon your death and changes in ownership that do not result in a change in control, we have the right to match any offer for your business.
p.	Death or Disability of You	Franchise Agreement: §17(B)	Subject to compliance with the conditions set forth in Item 17(m) above, your Franchise Agreement may be transferred or bequeathed by you to any person or beneficiary upon your death or permanent disability.
q.	Non-competition covenants during the term of the Franchise Agreement	Not Applicable	Not Applicable
r.	Non-competition covenants after the Franchise is Terminated or Expires	Not Applicable	Not Applicable
s.	Modification of the Agreement	Franchise Agreement: §19(M)	The Franchise Agreement may only be modified by written agreement signed by you and us. However, we may unilaterally amend the Rules and Regulations and other written materials.
t.	Integration/Merger Clause	Franchise Agreement: §19(H)	Only the terms of the Franchise Agreement and other related written agreements are binding (subject to state law). Any representations or promises outside of the disclosure document and franchise agreement may not be enforceable.
u.	Dispute resolution by Arbitration or Mediation	Not Applicable	Not Applicable
v.	Choice of Forum	Franchise Agreement: §21(A)	Litigation must take place in Winnebago County, Wisconsin or in the federal court for the Eastern District of Wisconsin, Northern Division. We may seek injunctive relief in any forum.
w.	Choice of Law	Franchise	Wisconsin law applies generally, except for

	Provision	Section in Franchise or Other Agreement	Summary
		Agreement: §21(A)	applicable franchise laws of other states. State law may supersede this provision. Wisconsin law applies without regard to conflict of law principles. State law may supersede this provision.

NOTE 1: Any provision of the Franchise Agreement that provides for termination upon bankruptcy of you may not be enforceable under federal bankruptcy law (11 U.S.C. Section 101 et seq.)

ITEM 18: PUBLIC FIGURES

No public figures are associated with or used to promote the Franchised Business.

ITEM 19: FINANCIAL PERFORMANCE REPRESENTATIONS

The FTC's franchise rule permits a franchisor to provide information about the actual or potential financial performance of its franchised and/or franchisor-owned outlets, if there is a reasonable basis for the information, and if the information is included in the disclosure document. Financial performance information that differs from that included in Item 19 may be given only if (1) a franchisor provides the actual records of an existing outlet you are considering buying; or (2) a franchisor supplements the information provided in this Item 19, for example, by providing information about possible performance at a particular location or under particular circumstances.

We do not make any representations about a franchisee's future financial performance or the past financial performance of company-owned or franchised outlets. We also do not authorize our employees or representatives to make any such representations either orally or in writing. If you are purchasing an existing outlet, however, we may provide you with the actual records of that outlet. If you receive any other financial performance information or projections of your future income, you should report it to us by contacting Brian Wogernese at 980 American Drive, Neenah, WI 54956, (920) 230-2622, the Federal Trade Commission, and the appropriate state regulatory agencies.

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ITEM 20: OUTLETS AND FRANCHISEE INFORMATION

Table No. 1A: Cobblestone Inn and Suites
System Wide Outlet Summary
for Years 2011 to 2013

(Column 1) **Outlet Type**	(Column 2) **Year**	(Column 3) **Outlets at the Start of the Year**	(Column 4) **Outlets at the End of the Year**	(Column 5) **Net Change**
Franchised	2011	0	0	0
	2012	0	0	0
	2013	0	15	+15
Franchisor-Owned	2011	0	0	0
	2012	0	0	0
	2013	0	0	0
Total Outlets	2011	0	0	0
	2012	0	0	0
	2013	0	15	+15[1]

Table No. 1B: Cobblestone Hotel and Suites
System Wide Outlet Summary
for Years 2011 to 2013

(Column 1) **Outlet Type**	(Column 2) **Year**	(Column 3) **Outlets at the Start of the Year**	(Column 4) **Outlets at the End of the Year**	(Column 5) **Net Change**
Franchised	2011	0	0	0
	2012	0	0	0
	2013	0	5	+5
Franchisor-Owned	2011	0	0	0
	2012	0	0	0
	2013	0	0	0
Total Outlets	2011	0	0	0
	2012	0	0	0
	2013	0	5	+5

[1] Prior to franchising we offered membership agreements. At the start of 2013 there were 17 Cobblestone Inn and Suites that were memberships. As of December 31, 2013 all but 2 have terminated their membership and executed a Franchise Agreement.

Table No. 2A: Cobblestone Inn and Suites
Transfers of Outlets From Franchisees to New Owners
for Years 2011-2013

(Column 1) **State**	(Column 2) **Year**	(Column 3) **Number of Transfers**
NONE	2011	0
	2012	0
	2013	0
TOTAL		0

Table No. 2B: Cobblestone Hotel and Suites
Transfers of Outlets From Franchisees to New Owners
for Years 2011-2013

(Column 1) **State**	(Column 2) **Year**	(Column 3) **Number of Transfers**
NONE	2011	0
	2012	0
	2013	0
TOTAL		0

Table No. 3A: Cobblestone Inn and Suites
Status of Franchised Outlets
for Years 2011 to 2013

(Col. 1) State	(Col. 2) Year	(Col. 3) Outlets at Start of Year	(Col. 4) Outlets Opened	(Col. 5) Termina-tions	(Col. 6) Non-Renewals	(Col. 7) Reacquired by Franchisor	(Col. 8) Ceased Operations, Other Reasons	(Col. 9) Outlets at End of the Year
Colorado	2011	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0
	2013	0	2	0	0	0	0	2
Iowa	2011	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0
	2013	0	2	0	0	0	0	2
Kansas	2011	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0
	2013	0	2	0	0	0	0	2
North Dakota	2011	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0
	2013	0	5	0	0	0	0	5

Wisconsin	2011	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0
	2013	0	4	0	0	0	0	4
TOTAL	2011	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0
	2013	0	15	0	0	0	0	15

Table No. 3B: Cobblestone Hotel and Suites
Status of Franchised Outlets
for Years 2011 to 2013

(Col. 1) State	(Col. 2) Year	(Col. 3) Outlets at Start of Year	(Col. 4) Outlets Opened	(Col. 5) Termina-tions	(Col. 6) Non-Renewals	(Col. 7) Reacquired by Franchisor	(Col. 8) Ceased Operations, Other Reasons	(Col. 9) Outlets at End of the Year
Illinois	2011	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0
	2013	0	1	0	0	0	0	1
North Dakota	2011	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0
	2013	0	1	0	0	0	0	1
Nebraska	2011	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0
	2013	0	3	0	0	0	0	3
TOTAL	2011	0	0	0	0	0	0	0
	2012	0	0	0	0	0	0	0
	2013	0	5	0	0	0	0	5

Table No. 4A: Cobblestone Inn and Suites
Status of Franchisor-Owned Outlets
for Years 2011 to 2013

(Col. 1) State	(Col. 2) Year	(Col. 3) Outlets at Start of Year	(Col. 4) Outlets Opened	(Col. 5) Outlets Reacquired From Franchisees	(Col. 6) Outlets Closed	(Col. 7) Outlets sold to Franchisees	(Col. 8) Outlets at End of Year
NONE	2011	0	0	0	0	0	0
	2012	0	0	0	0	0	0
	2013	0	0	0	0	0	0
TOTAL	2011	0	0	0	0	0	0

(Col. 1) State	(Col. 2) Year	(Col. 3) Outlets at Start of Year	(Col. 4) Outlets Opened	(Col. 5) Outlets Reacquired From Franchisees	(Col. 6) Outlets Closed	(Col. 7) Outlets sold to Franchisees	(Col. 8) Outlets at End of Year
	2012	0	0	0	0	0	0
	2013	0	0	0	0	0	0

Table No. 4B: Cobblestone Hotel and Suites
Status of Franchisor-Owned Outlets
for Years 2011 to 2013

(Col. 1) State	(Col. 2) Year	(Col. 3) Outlets at Start of Year	(Col. 4) Outlets Opened	(Col. 5) Outlets Reacquired From Franchisees	(Col. 6) Outlets Closed	(Col. 7) Outlets sold to Franchisees	(Col. 8) Outlets at End of Year
NONE	2011	0	0	0	0	0	0
	2012	0	0	0	0	0	0
	2013	0	0	0	0	0	0
TOTAL	2011	0	0	0	0	0	0
	2012	0	0	0	0	0	0
	2013	0	0	0	0	0	0

Table No. 5A: Cobblestone Inn and Suites
Projected Openings as of December 31, 2013

(Column 1) State	(Column 2) Franchise Agreements Signed But Outlet Not Opened	(Column 3) Projected New Franchised Outlets in the Next Fiscal Year	(Column 4) Projected New Company-Owned Outlets in the Current Fiscal Year
Colorado	1	2	0
Iowa	0	1	0
North Dakota	0	1	0
Texas	1	2	0
Wisconsin	0	3	0
TOTAL	2	9	0

Table No. 5B: Cobblestone Hotel and Suites
Projected Openings as of December 31, 2013

(Column 1) State	(Column 2) Franchise Agreements Signed But Outlet Not Opened	(Column 3) Projected New Franchised Outlets in the Next Fiscal Year	(Column 4) Projected New Company-Owned Outlets in the Current Fiscal Year
Indiana	1	1	0
Minnesota	1	2	0
Nebraska	0	2	0
Pennsylvania	2	2	0
Texas	2	2	0
TOTAL	6	9	0

The names, addresses and telephone numbers of all current and former (terminated or cancelled) franchisees are disclosed on Exhibit G of this disclosure document.

If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

During the last three fiscal years we have not signed confidentiality clauses with current or former franchisees.

There are no franchisee organizations sponsored or endorsed by us and there are no independent franchisee organizations that have asked to be included in this disclosure document.

ITEM 21: FINANCIAL STATEMENTS

Attached to this disclosure document as Exhibit C are our audited financial statements for the years ended December 31, 2012 and December 31, 2013.

We have not been in business for three years or more and cannot provide three years of financial statements, which we would be required to provide had we been in business for at least three years.

ITEM 22: CONTRACTS

The Franchise Agreement is attached as Exhibit "D" to this disclosure document. Attached as Exhibit "H" to this disclosure document is our current sample form of general release.

ITEM 23: RECEIPTS

You will find copies of a detachable receipt in Exhibit "I" at the very end of this disclosure document.

EXHIBIT A TO THE DISCLOSURE DOCUMENT
COBBLESTONE LODGING FACILITY APPLICATION



Legal Name: _____
Property Name: _____
Property Address: _____
City: _____ State:_____ Zip:_____
Property Phone: _____ Property Fax:_____
Property E-mail Address: _____
Property Website: _____
Property General Manager: _____

Tax ID Number: _____ Jurisdiction of Corporation: _____

Type of Entity:

___General Partnership ___Individual Proprietor ___Joint Venture
___Limited Partnership ___Corporation ___Trust
___Limited Liability Co. ___Other

Principal Contact Information

Name: _____ Phone: _____
Address: _____ Fax: _____
City/State/Zip: _____ Cell Phone: _____
Email Address: _____

Entity Ownership Breakdown *note: Ownership breakdown must equal 100%. Attach separate sheet if needed.*

Name: _____ Title: _____
Address: _____ % of Ownership:_____
City/State/Zip: _____ Cell Phone: _____

Name: _____ Title: _____
Address: _____ % of Ownership:_____
City/State/Zip: _____ Cell Phone: _____

Name: _____ Title: _____
Address: _____ % of Ownership:_____
City/State/Zip: _____ Cell Phone: _____

Property Information

ADR (USD): _____ Occupancy:_____ # of floors: _____
# of rooms: _____ # of closed rooms: _____
Room Type: Kings: _____ Queens: _____ Suites: _____
Corridor Type: Interior: _____ Exterior: _____ Other: _____

Food & Beverage Facilities/ Amenities

Check all that apply _____ Restaurant _____ Indoor Pool _____ Lounge
_____ Exercise Room _____ Outdoor Pool _____ Gift Shop
_____ Guest Laundry _____ Game Room

Do you own a computer (Y/N) : _____
Property Management System:_____
Type of Internet Connection: _____ DSL/Fast Access _____ Modem _____Other
Most Recent QA Score: _____ GDS Representation: _____
Year Property Opened: _____ If New Construction, proposed opening date:_____
Has property been updated(Y/N): _____
If new ownership, proposed closing date: _____
Please list what, if any, upgrades/additions that were completed:

_____
_____
_____
_____
_____
_____
_____
_____

Mortgage Information

Bank/ Mortgage Co.: _____
Contact: _____ Phone: _____
Address: _____
City/State/Zip: _____ Account #: _____
Outstanding Principal: _____ Maturity Date: _____

Insurance Information
Name of Property & Casualty Insurance Company: _____

Insurance Agent Information
Company: _____ Phone:_____
Name: _____ Fax: _____
Address: _____
City/State/Zip: _____

The undersigned certifies that the above information given for credit purposes is true and correct, and authorizes Cobblestone Hotels, LLC and its affiliates, any credit bureau or other investigating agency to investigate the references, statements, and other data listed or accompanying this Application. The undersigned authorizes all parties contacted to release credit and financial information requested as part of said investigation.

Cobblestone Hotels, LLC reserves the right, in its sole discretion, to approve or disapprove the Application. Applicant will not be deemed to have been granted a franchise to operate a Cobblestone Hotels lodging facility and there shall be no binding obligations in either party, other than with regard to Application Fee, unless and until both parties have executed the Application and Agreement.

Enclosed with this Preliminary Application is a check for US $2,000 representing the Application Fee. This fee is **non-refundable** except in the event that Application is not accepted by Cobblestone because of proximity of Applicant's property to another Cobblestone Hotels lodging facility. In that event, Cobblestone will refund he Application Fee. This fee is part of the Cobblestone Hotels Brand Initial Fee.

_____
Applicant's Name (entity or individual, as applicable)

_____ _____
Signature (Authorized Signee) Date
Name: _____
Title: _____

_____ _____
Signature (Authorized Signee) Date
Name: _____
Title: _____

*make check(s) payable to Cobblestone Hotels, LLC and remit with Application to Cobblestone Hotels, LLC at 980 American Drive, Neenah, WI 54956 (P) 920-230-2622 (F) 866-403-7287

EXHIBIT B

LIST OF STATE AGENCIES/AGENTS FOR SERVICE OF PROCESS

State Agencies

CALIFORNIA Department of Corporations 320 West Fourth Street, Suite 750 Los Angeles, CA 90013-2344 (866) 527-2677	**NEW YORK** Bureau of Investor Protection and Securities Department of Law 120 Broadway, 23rd Floor New York, NY 10271 (212) 416-8214
HAWAII Commissioner of Securities of the State of Hawaii, Department of Commerce and Consumer Affairs Business Registration Division Securities Compliance Branch 335 Merchant Street, Room 203 Honolulu, HI 96813 (808) 586-2722	**NORTH DAKOTA** North Dakota Securities Department 600 Boulevard Avenue, State Capitol Fifth Floor, Dept. 414 Bismarck, ND 58505-0510 (701) 328-4712
ILLINOIS Illinois Attorney General 500 S. Second Street Springfield, IL 62706 (217) 782-4465	**OREGON** Division of Consumer and Business Services Finance and Corporate Securities 350 Winter Street N.E. Labor and Industries Building, Room 21 Salem, OR 97310 (503) 378-4387
INDIANA Indiana Secretary of State Franchise Section – Securities Division 302 West Washington Street, Room E-111 Indianapolis, IN 46204 (317) 232-6681	**RHODE ISLAND** Securities Division Department of Business Regulation 1511 Pontiac Avenue John O. Pastore Complex – Building 69-1 Cranston, Rhode Island 02920 (401) 222-3048
IOWA Iowa Securities Bureau Lucas State Office Building, 2nd Floor Des Moines, IA 50319 (515) 281-4441	**SOUTH DAKOTA** Franchise Administration Director of Division of Securities 445 East Capitol Pierre, SD 57501 (605) 773-4823
KENTUCKY Office of Attorney General 1024 Capital Center Drive Frankfort, KY 40602 (502) 696-5300	**TEXAS** Statutory Document Section Secretary of State P.O. Box 12887 Austin, TX 78711 (512) 475-1769

MARYLAND Office of the Attorney General Securities Division 200 St. Paul Place Baltimore, MD 21202-2020 (410) 576-7042	**UTAH** Division of Consumer Protection Utah Department of Commerce 160 East Three Hundred South P.O. Box 146704 Salt Lake City, UT 84114-6704 (801) 530-6601
MICHIGAN Franchise Administrator Consumer Protection Division Franchising Section Michigan Department of Attorney General G. Mennen Williams Building, 1st Floor 525 W. Ottawa St. Lansing, MI 48909 (517) 373-7117	**VIRGINIA** State Corporation Commission Division of Securities and Retail Franchising 1300 East Main Street, 9th Floor Richmond, VA 23219 (804) 371-9051
MINNESOTA Minnesota Department of Commerce Market Assurance Division 85 7th Place East, Suite 500 St. Paul, MN 55101 (651) 296-4026	**WASHINGTON** Department of Financial Institutions Securities Division P.O. Box 9033 Olympia, WA 98507-9033 (360) 902-8760 -or 150 Israel Road SW Tumwater, WA 98501
NEBRASKA Nebraska Department of Banking and Finance Commerce Court 1230 "O" Street, Suite 400 P.O. Box 95006 Lincoln, NE 68509 (402) 471-3445	**WISCONSIN** Division of Securities Department of Financial Institutions P.O. Box 1768 Madison, WI 53701 -or 345 West Washington Avenue Fourth Floor Madison, WI 53703 (608) 266-8559

Agents for Service of Process

CALIFORNIA Department of Corporations 320 West Fourth Street, Suite 750 Los Angeles, CA 90013-2344	**NEW YORK** Bureau of Investor Protection and Securities Department of Law 120 Broadway, 23rd Floor New York, NY 10271
HAWAII Commissioner of Securities of the State of Hawaii, Department of Commerce and Consumer Affairs Business Registration Division Securities Compliance Branch 335 Merchant Street, Room 203 Honolulu, HI 96813	**NORTH DAKOTA** North Dakota Securities Department 600 Boulevard Avenue, State Capitol Fifth Floor, Dept. 414 Bismarck, ND 58505-0510
ILLINOIS Illinois Attorney General 500 S. Second Street Springfield, IL 62706	**RHODE ISLAND** Securities Division Department of Business Regulation 1511 Pontiac Avenue John O. Pastore Complex – Building 69-1 Cranston, Rhode Island 02920
INDIANA Indiana Secretary of State Franchise Section – Securities Division 302 West Washington Street, Room E-111 Indianapolis, IN 46204	**SOUTH DAKOTA** Franchise Administration Director of Division of Securities 445 East Capitol Pierre, SD 57501
MARYLAND Maryland Securities Commissioner 200 St. Paul Place Baltimore, MD 21202-2020 (410) 576-7042	**VIRGINIA** Clerk of the State Corporation Commission 1300 East Main Street, 1st Floor Richmond, VA 23219
MICHIGAN Franchise Administrator Consumer Protection Division Franchising Section Michigan Department of Attorney General G. Mennen Williams Building, 1st Floor 525 W. Ottawa St. Lansing, MI 48909	**WASHINGTON** Department of Financial Institutions Securities Division 150 Israel Road SW Tumwater, WA 98501
MINNESOTA Minnesota Department of Commerce Market Assurance Division 85 7th Place East, Suite 500 St. Paul, MN 55101	**WISCONSIN** Division of Securities Department of Financial Institutions 345 West Washington Avenue Fourth Floor Madison, WI 53703

COBBLESTONE HOTELS, LLC
FINANCIAL STATEMENTS

EXHIBIT C TO THE DISCLOSURE DOCUMENT

THE FRANCHISOR HAS NO FIXED ASSETS (I.E. FURNITURE, EQUIPMENT, PROPERTY, ETC.) WITH WHICH TO SUPPORT THE FRANCHISE SYSTEM.

COBBLESTONE HOTELS, LLC

Neenah, Wisconsin

FINANCIAL STATEMENTS

Including Independent Auditors' Report

As of and for the Years Ended December 31, 2013 and 2012

COBBLESTONE HOTELS, LLC

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BAKER TILLY

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INDEPENDENT AUDITORS' REPORT

Members
Cobblestone Hotels, LLC
Neenah, Wisconsin

Report on the Financial Statements

We have audited the accompanying financial statements of Cobblestone Hotels, LLC, which comprise the balance sheets as of December 31, 2013 and 2012, and the related statements of income and members' equity, and cash flows for the years then ended, and the related notes to the financial statements.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditors' Responsibility

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Members
Cobblestone Hotels, LLC

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Cobblestone Hotels, LLC as of December 31, 2013 and 2012 and the results of its operations and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Baker Tilly Virchow Krause, LLP

Appleton, Wisconsin
February 5, 2014

COBBLESTONE HOTELS, LLC

BALANCE SHEETS
As of December 31, 2013 and 2012

ASSETS

	2013	2012
CURRENT ASSETS		
Cash and cash equivalents	$ 318,698	$ 147,939
Accounts receivable, net	39,955	13,560
Related party receivable	1,200	-
Inventories	11,587	-
Prepaid expenses	4,750	-
Total Current Assets	376,390	161,499
TOTAL ASSETS	$ 376,390	$ 161,499

LIABILITIES AND MEMBERS' EQUITY

CURRENT LIABILITIES		
Accounts payable	$ 38,023	$ -
Accrued payroll	9,692	-
Due to related parties	6,681	-
Deferred revenues	187,790	72,191
Security deposits	29,480	16,000
Total Current Liabilities	271,666	88,191
MEMBERS' EQUITY	104,724	73,308
TOTAL LIABILITIES AND MEMBERS' EQUITY	$ 376,390	$ 161,499

See accompanying notes to financial statements.

COBBLESTONE HOTELS, LLC

STATEMENTS OF INCOME AND MEMBERS' EQUITY
For the Years Ended December 31, 2013 and 2012

	2013	2012
REVENUES		
Franchise fee and management fee revenues	$ 365,473	$ 63,103
Supplies income	19,015	-
Other revenues	31,817	14,057
Total Revenues	416,305	77,160
OPERATING COSTS & EXPENSES		
Salaries and wages	211,960	-
Supplies cost	12,975	-
Convention expense	57,757	-
Brand inspection expense	36,575	-
Professional fees	45,591	-
Office expense	2,134	289
Advertising expenses	680	3,173
Other expenses	14,911	390
Total Operating Costs & Expenses	382,583	3,852
NET INCOME	33,722	73,308
MEMBERS' EQUITY - Beginning of Year	73,308	-
Distributions to members	(2,306)	-
MEMBERS' EQUITY- END OF YEAR	$ 104,724	$ 73,308

See accompanying notes to financial statements.

COBBLESTONE HOTELS, LLC

STATEMENTS OF CASH FLOWS
For the Year Ended December 31, 2013 and 2012

	2013	2012
CASH FLOWS FROM OPERATING ACTIVITIES		
Net income	$ 33,722	$ 73,306
Adjustments to reconcile to net cash flows from operating activities		
Bad debt expense	12,235	-
Changes in certain assets and liabilities:		
Accounts receivable	(38,630)	(13,560)
Related party receivable	(1,200)	-
Inventories	(11,587)	-
Prepaid expenses	(4,750)	-
Accounts payable	38,023	-
Accrued payroll	9,692	-
Due to related parties	6,681	-
Security deposits	13,480	16,000
Deferred revenues	115,599	72,191
Net Cash Flows From Operating Activities	173,265	147,939
CASH FLOWS USED IN FINANCING ACTIVITIES		
Distributions to stockholders	(2,306)	-
Net Change in Cash and Cash Equivalents	170,959	147,939
CASH AND CASH EQUIVALENTS - Beginning of Year	147,939	-
CASH AND CASH EQUIVALENTS - END OF YEAR	$ 318,898	$ 147,939

See accompanying notes to financial statements.

NOTE 1 - Summary of Significant Accounting Policies

Nature of Operations

Cobblestone Hotels, LLC (the company) owns the hotel brands known as "*Cobblestone Inn & Suites*", "*Cobblestone Hotel & Suites*" and "*Boarders Inn & Suites by Cobblestone*" ("hotel brands") and issues franchise agreements to use these hotel brands to other hotel groups. Prior to February 2013, the company issued membership agreements, but now only issues franchise agreements and has converted many of its memberships to franchises. To date, the company has sold membership and/or franchise agreements in Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Nebraska, North Dakota, Tennessee and Wisconsin.

The following table summarizes the franchise activity for the company:

	2013	2012
Franchises at the beginning of the period	-	-
Franchises sold	13	-
Franchises converted from members	14	-
Franchises retired	-	-
Franchises at the End of the Period	27	-

Cash and Cash Equivalents

The company defines cash and cash equivalents as highly liquid, short-term investments with a maturity at the date of acquisition of three months or less.

The company maintains cash in a bank deposit account which, at times, may exceed federally insured limits. The company has not experienced any losses in such account and believes it is not exposed to any significant risks.

Accounts Receivable

Accounts receivable consist primarily of amounts due from member and franchised hotels related to the frequent stay program, initial franchise fees and monthly membership and franchise fees which are typically collected each month. The company, at times, charges interest at 12% on franchise and membership fees that are not remitted timely (within 30 days of invoice). The company writes off accounts receivable when it determines it is no longer collectible. Management believes an allowance of $10,700 is adequate at December 31, 2013. There was no allowance at December 31, 2012.

Inventories

Inventories consist of hotel branded items sold to franchisees and members and are valued at lower of cost or market using the first-in, first-out (FIFO) method.

NOTE 1 - Summary of Significant Accounting Policies (cont.)

Franchise and Membership Agreements

The company has entered into membership agreements with hotel groups to allow these operators to use the hotel brand names as well as the inclusion of the operator's hotel on the company's website and its toll free number. The agreements require a monthly fee over the term of the agreement and typically require an upfront initial membership fee. As the company became eligible to offer franchise agreements beginning in 2013, several membership agreements previously entered into were converted to franchise agreements with no material changes to the original payment terms originally included in the membership agreements. Upon conversion, previously deferred membership revenue of approximately $53,000 was recorded as initial franchise fee revenue during the year ended December 31, 2013 since the company had no obligations remaining under the converted franchise agreements.

Revenue Recognition

Prior to February 2013, when the company was offering membership agreements, initial one-time membership fees were typically required upon signing a membership agreement. These initial fees ranged from $0 to $20,000 and are recognized on a straight-line basis as revenue over the term of the agreement. In addition, the company receives monthly membership fees that are recognized each month of the agreement.

Initial one-time franchise fees also range from $0 to $20,000, are due upon the granting of the franchise and are deferred and recognized as revenue when all material services and conditions required to be performed by the company have been substantially completed, which is generally considered to be when the new franchisee has completed its training and the hotel is opened. In addition, the company receives monthly franchise fees that are recognized each month of the agreement.

Supplies income is recognized in conjunction with the sale of inventoriable items. The company recognizes revenue on supplies income when title to products and risk of loss are transferred to customers. Revenues are reported net of discounts and allowances.

Other revenue consists mostly of convention sponsorship fees which are recognized at the time of the convention.

The following is a summary of the revenue related to franchise fee and membership fee sources for the year ended December 31, 2013:

	2013	2012
Initial franchise and membership fees	$ 172,400	$ 4,808
Monthly franchise and membership fees	193,073	58,295
Total	$ 365,473	$ 63,103

NOTE 1 - Summary of Significant Accounting Policies (cont.)

Deferred Revenue

Deferred revenue consists of initial membership fees that are being amortized over the term of the membership agreement, initial franchise fees received on properties in which all franchisor obligations have not been met and convention sponsorships fees for future conventions.

Initial membership fees are recorded as deferred revenue when received from new member hotels. At December 31, 2012, the company had signed membership agreements with $35,000 of initial membership fees that had not been collected and thus were not recorded as deferred revenue. The entire balance was collected in 2013.

Security Deposits

Security deposits relate to funds received from member and franchise hotels to ensure reimbursement related to the frequent stayer reward program, whereby patrons can submit documentation to receive a cash reimbursement. Security deposit terms are detailed in membership and franchise agreements.

Advertising

Advertising costs are charged to operations when incurred. Advertising expense was $680 and $3,173 for the years ended December 31, 2013 and 2012, respectively.

Income Taxes

The company is treated as a limited liability company (LLC) and taxed as a partnership for federal and state income tax purposes. As such, the company's income, losses, and credits are included in the income tax returns of its members.

The tax effects from an uncertain tax position can be recognized in the financial statements, only if the position is more likely than not to be sustained on audit, based on the technical merits of the position and the jurisdiction taxes of the company and not the members. The company recognizes the financial statement benefit of a tax position only after determining that the relevant tax authority would more likely than not sustain the position following an audit and the tax related to the position would be due to the entity and not the owners. For tax positions meeting the more likely than not threshold, the amount recognized in the financial statements is the largest benefit that has a greater than 50 percent likelihood of being realized, upon ultimate settlement with the relevant tax authority. The company has no significant uncertain tax positions.

With the company organizing in the prior year, the company is not subject to U.S. federal, state or local income tax examinations by tax authorities for any years prior to 2012. The company is not currently under examination by any taxing jurisdiction.

NOTE 1 - Summary of Significant Accounting Policies (cont.)

Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Reclassification

For comparability, certain 2012 amounts have been reclassified to conform with classifications adopted in 2013.

NOTE 2 - Deferred Revenue

Deferred revenue consists of the the following at December 31:

	2013	2012
Unamortized initial membership fees	$ 18,790	$ 72,191
Initial franchise fees received in which obligations exist	150,000	-
Convention sponsorship fees	19,000	-
Total	$ 187,790	$ 72,191

The initial membership fees are being amortized over the term of the membership agreements which range from 1 - 10 years and expire at various dates through 2023. Revenue recognition typically begins when the hotel is opened under the new hotel brand name. Initial franchise fees will be recognized when all obligations of the franchise agreements are met which is expected to occur in 2014. Convention sponsorship fees will be recognized as revenue in conjunction with the year to which the sponsorship relates.

The future recognition of this revenue after 2013 is as follows:

2014	$ 171,625
2015	2,000
2016	2,000
2017	2,000
2018	2,000
2019 and future years	8,165
Total	$ 187,790

NOTE 3 - Related Party Transactions

An entity related through common ownership has outstanding accounts receivable and accounts payable with the company that are derived from purchases and sales of inventory between the entities. Accounts receivable at December 31, 2013 was $1,200 and accounts payable at December 31, 2013 was $6,681. There were no related party receivables or payables at December 31, 2012.

The company had entered into membership agreements, which were converted to franchise agreements in 2013, with four hotel groups that are majority owned by the members of the company. These agreements account for revenue of $11,650 and $10,050 for the years ended December 31, 2013 and 2012, respectively. The agreements with the related party hotels run through July 2019.

The members of the company also have ownership interest in the remaining hotels groups for which the company has membership and franchise agreements, however, these ownership interests are at a minority level and are typically below 10%.

An entity related through common ownership, who had previously been providing membership agreements using the hotel brands, assigned the existing agreements to the company upon formation in 2012. In total, eight agreements were assigned. Total revenue generated from these agreements totaled $41,852 and $31,100 for the years ended December 31, 2013 and 2012, respectively.

The company currently utilizes shared office space with other related parties. This office space is owned by another related entity with common ownership and no rent is currently be charged to the company.

NOTE 4 - Subsequent Events

The company has evaluated subsequent events through February 5, 2014 which is the date that the financial statements were approved and available to be issued for events requiring disclosure or recording in the company's financial statements.

COBBLESTONE HOTELS, LLC
FRANCHISE AGREEMENT

EXHIBIT D TO THE DISCLOSURE DOCUMENT

FRANCHISE AGREEMENT

between

COBBLESTONE HOTELS, LLC
980 American Drive
Neenah, WI 54956
(920) 230-2622

and

Boomer Development, LLC

NAME(S) OF FRANCHISEE

STREET

CITY, STATE, ZIP CODE

(AREA CODE) TELEPHONE NUMBER

FRANCHISED LOCATION:

6002 N. 27
STREET

Lubbock, TX 79403
CITY, STATE, ZIP CODE

(AREA CODE) TELEPHONE NUMBER

DATE OF FRANCHISE AGREEMENT:

April 7, 2014

FRANCHISED NAME:

Cobblestone Inn & Suites

COBBLESTONE HOTELS, LLC
FRANCHISE AGREEMENT

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Attachment 1 – Closing Addendum
Attachment 2 – New Construction ADA Certification Form

COBBLESTONE HOTELS, LLC
FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT (the "Agreement") is made, entered into and effective this day of April 7, 14 (the "Effective Date"), by and between COBBLESTONE HOTELS, LLC, a Wisconsin limited liability company (the "Franchisor"), and Boomer Development, LLC (the "Franchisee").

RECITALS:

WHEREAS, Franchisor, as the result of the expenditure of time, skill, effort and money, has developed and owns a distinctive system for developing, operating and promoting lodging facilities identified by the "Cobblestone Inn & Suites®" and "Cobblestone Hotel & Suites®" trademarks (the "Marks") and all Confidential Information (as defined in Article 7(A)) related thereto (collectively the "Business System");

WHEREAS, the distinguishing characteristics of the Business System include, but are not limited to, business methods, designs, trade dress, decor, color schemes and arrangements, and the Confidential Information, all of which Franchisor may improve, further develop or otherwise modify from time to time;

WHEREAS, the Business System is identified by the Marks, which are owned by Franchisor and Franchisor grants to qualified individuals and entities the right to operate a single hotel under the Marks, using the Business System; and

WHEREAS, Franchisee has submitted an application to Franchisor for the right to operate a hotel under the Marks, using the Business System, at the Franchised Location, as defined in Article 1(A), and Franchisor has approved Franchisee's application based on all of the information and representations made by Franchisee in the franchise application.

AGREEMENT:

In consideration of the foregoing and the mutual covenants and consideration below, Franchisor and Franchisee agree as follows:

ARTICLE 1: FRANCHISED LOCATION; GRANT OF FRANCHISE

(A) Franchised Location and Protected Area. Franchisor hereby grants to Franchisee a nonexclusive and personal license to operate one (1) hotel in conformity with the Business System and using the Marks, at the location listed on Exhibit A to this Agreement (the "Franchised Location"). For as long as the Franchised Location contains at least the minimum number of guest rooms listed on Exhibit A to this Agreement and Franchisee is not in default of this Agreement, Franchisor shall not itself operate or grant a license or franchise to any third party to operate another lodging facility using the Franchised Name, as defined in Article 1(B) below, within the geographic region listed as the Protected Area on Exhibit A to this Agreement (the "Protected Area") until the expiration or earlier termination of this Agreement. The limited Protected Area granted under this Agreement is the only territorial protection granted to Franchisee and does not in any way expressly or implicitly grant any other area, market, territorial, or development rights to Franchisee or restrict Franchisor or its affiliates in any way in the manner in which Franchisor and its affiliates may

conduct or operate their respective businesses outside the Protected Area. Franchisor and its affiliates have the right to issue competing franchises and to directly or indirectly develop and operate competing company-owned businesses under the Marks for or at any locations outside of the Protected Area, including locations near the boundaries of the Protected Area. Further, Franchisor and its affiliates have the right both within and outside of the Protected Area to: (1) distribute products or services through alternative channels of distribution (including the Internet or any other existing or future form of electronic commerce) under the Marks; and (2) license or operate other lodging properties using trade names other than the Marks, as applicable, either within the Protected Area, or outside of the Protected Area, even if such lodging properties offer services similar to those offered at the Franchised Location.

(B) Franchised Name. Franchisee will operate the Franchised Location under the name listed as the "Franchised Name" on Exhibit A to this Agreement (the "Franchised Name") and will not operate the Franchised Location under any other name without Franchisor's prior written permission. Franchisor has the right to require Franchisee to change the Franchised Name by giving written notice to Franchisee pursuant to Article 3(C) hereof if Franchisor determines that Franchisee's use of the Franchised Name may cause confusion in the market place. Within ninety (90) days of receiving such notice, Franchisee shall, at its expense, change all signage and materials bearing the Franchised Name so as to conform to the new Franchised Name. The Franchised Location shall conform to the requirements for the use of the Franchised Name set forth in the Rules and Regulations (as defined in Article 1(C) below), as the same may be revised, modified and/or supplemented from time to time by Franchisor in its sole discretion.

(C) Conditions of Franchise. Franchisee hereby, for the entire term of this Agreement, undertakes the obligation to operate a hotel at the Franchised Location under the Business System using the Marks in strict compliance with the terms and conditions of this Agreement and the standards, plans, specifications, policies, procedures and techniques that Franchisor has developed relating to the design, construction, development and operation of hotel using the Marks and Business System, all of which may be changed by us at Franchisor's option and which include, but are not limited to; (1) recommended business practices; (2) requirements for advertising and sales literature; (3) standards for guest service; (4) sales techniques and procedures; (5) management, operational and accounting procedures; and (6) standards and specifications for quality, design, warranties, appearance, function and performance (collectively, the "Rules and Regulations"). The rights and privileges granted to Franchisee by Franchisor under this Agreement are applicable only to the single location designated as the Franchised Location, are personal in nature, and may not be used elsewhere or at any other location by Franchisee. Franchisee represents to Franchisor that neither Franchisee nor any of its owners are a party to any agreement that would prevent the Franchisee from entering into this Agreement or operating a hotel using the Marks at the Franchised Location, including, but not limited to, a franchise agreement with a different hotel brand.

ARTICLE 2: TERM OF FRANCHISE

(A) Term. The term of this Agreement shall commence on the Effective Date and shall continue thereafter until the date which is twenty (20) years after the date the Franchised Location opens for business under the Marks (the "Opening Date"), subject to earlier termination as set forth herein. This Agreement will not be enforceable until it has been signed by both Franchisee and Franchisor.

(B) No Rights upon Expiration. Upon the expiration of the term of this Agreement, neither Franchisee nor Franchisor will have the right to renew or to extend the term of this Agreement, or to enter into a new franchise agreement, whether upon the terms of this Agreement or any other terms. In those jurisdictions where Franchisor is required by law to offer Franchisee the opportunity to renew its franchise (or if Franchisor in its sole discretion chooses to do so), Franchisee acknowledges and agrees that Franchisor may condition any such offer to renew upon: (1) Franchisee having complied with all of the material provisions of this Agreement or any other agreement between Franchisee and Franchisor or its affiliates, including the payment of all monetary obligations owed by Franchisee; (2) Franchisee having given Franchisor written notice at least one hundred eighty (180) days before the end of the term of this Agreement of its desire to renew; (3) Franchisee's written agreement to remodel, modernize, redecorate, and renovate the Franchised Location and to replace and modernize the furniture, fixtures, supplies, and equipment used in the Franchised Location so that the Franchised Location complies with the Rules and Regulations, Plans and Specifications (as defined in Article 6(E)) and reflects the then-current image intended to be portrayed by Franchisor; (4) to the extent permitted by applicable law, Franchisee's execution of a general release, in a form prescribed by Franchisor, releasing Franchisor and its affiliates and their respective officers, directors, managers, agents, representatives, and employees from any and all claims by Franchisee and its related parties; (5) Franchisee's execution of Franchisor's then-current form of Franchise Agreement, the terms of which may differ materially from the terms of this Agreement, including greater or additional fees payable to Franchisor; (6) payment of Franchisor's then-current Initial Fee; and (7) any other reasonable conditions of renewal as Franchisor may communicate to Franchisee following Franchisee's notice.

ARTICLE 3: FRANCHISOR'S RIGHT TO LICENSE THE MARKS AND BUSINESS SYSTEM

(A) Right To Franchise Marks. Franchisor warrants that it has the right, except as otherwise provided herein, to license the Marks and Business System to Franchisee. Any and all improvements made by or on behalf of Franchisee relating to the Marks or the Business System will become the sole and absolute property of Franchisor. Franchisor will have the sole and exclusive right to register and protect all such improvements in its name. Franchisee shall assign and transfer its rights in and to any such improvements to Franchisor pursuant to a bill of sale or assignment in such form as Franchisor may reasonably require. Franchisee will not be entitled to, and hereby expressly waives, any right that it may have to be compensated by Franchisor for any such improvements to the Marks and/or Business System. Franchisee's right to use and identify with the Marks and the Business System will exist concurrently with the term of this Agreement and such use by Franchisee will inure exclusively to the benefit of Franchisor.

(B) Conditions to License of Marks. Franchisee's nonexclusive and personal right to use the Franchised Name as the name of the Franchised Location and its right to use the Marks and the Business System applies only to the Franchised Location and such rights will exist only so long as Franchisee fully performs and complies with all of the terms and conditions of this Agreement. Franchisee will not have or acquire any rights in any of the Marks or the Business System other than the right of use as provided herein. Franchisee will have the right to use the Marks and the Business System only in the manner prescribed, directed, and approved by Franchisor in writing. If, in the judgment of Franchisor, the acts of Franchisee infringe upon or demean the goodwill, standards of quality or uniformity, or business standing associated with the Marks or the Business System, then Franchisee will, upon written notice from Franchisor, immediately modify its use of the Marks and the Business System in the manner prescribed by Franchisor in writing. Franchisee expressly understands and acknowledges that Franchisor is the owner of all rights, title, and interest in and to

the Marks and the Business System, and the goodwill associated with and symbolized by the Marks and the Business System. The Marks are valid and serve to identify Franchisor as the source of origin of the goods and services provided under the Business System. Any and all goodwill associated with the Marks and the Business System will incur exclusively to Franchisor's benefit and upon the expiration or termination of this Agreement, no monetary amount will be assigned as attributable to any goodwill associated with Franchisee's use of the Marks and the Business System. Franchisee will at no time take any action whatsoever to contest Franchisor's Marks and Business System and the goodwill associated therewith and will not allege any ownership in the Marks or the Business System.

(C) Substitution of Marks. If Franchisor, in its sole discretion, determines that the modification of the Marks or substitution of New Marks will be beneficial to the Business System, Franchisor reserves the right to modify the Marks or to substitute new or different trademarks, trade names, service marks, copyrights, decor, graphics, slogans, signs, logos, interior and exterior building designs, commercial symbols, and/or color combinations, (hereinafter referred to collectively as the ("New Marks")), to identify the hotels operating under the Business System. In that event, upon receipt of written notice from Franchisor, Franchisee will, at its expense, immediately make all modifications to the Marks specified by Franchisor in the written notice, and if so specified, Franchisee will cease using the Marks and commence using the New Marks within a time frame set by Franchisor in its sole discretion.

(D) Adverse Claims. If there is a claim by any party that its rights to any or all of the Marks are superior to those of Franchisor and if Franchisor's attorneys are of the opinion that such claim is legally meritorious, or if there is an adjudication by a court of competent jurisdiction that any party's rights to any or all of the Marks (hereinafter referred to as the "Conflicting Marks") are superior to those of Franchisor, then upon receiving written notice from Franchisor, Franchisee will, at its expense, immediately discontinue use of the Conflicting Marks and, if so specified, Franchisee will as soon as reasonably possible, commence using the New Marks designated by Franchisor in writing in connection with the operation of the Franchised Location, including on all signs, and in connection with all advertising, marketing, and promotion thereof. Franchisee will not make any changes or amendments whatsoever to the Marks or the Business System unless approved by Franchisor in writing.

(E) Defense or Enforcement of Rights to Marks. Franchisee will have no right to, and will not, without the written consent of Franchisor, defend or enforce any rights associated with the Marks or the Business System in any court or other proceedings for or against imitation, infringement, prior use, or for any other claim or allegation. Franchisee will give Franchisor prompt written notice of any and all claims or complaints made against or associated with the Marks and the Business System and will, without compensation for its time and at its expense, cooperate in all respects with Franchisor in any lawsuits or other proceedings involving the Marks or the Business System. Franchisor will have the sole and absolute right to determine whether it will commence any action against or defend any action by any third party involving the Marks or the Business System and the cost and expense of all such actions incurred by Franchisor, including attorneys' fees, specifically relating to the Marks or the Business System will be paid by Franchisor.

(F) Franchisee's Right to Participate In Litigation. Franchisee may, at its expense, retain an attorney to represent it individually in all litigation and court proceedings involving the Marks and/or the Business System, and will do so with respect to matters involving only Franchisee (i.e. not involving Franchisor or its interests); however, Franchisor and its legal counsel will control and

conduct all litigation involving the Marks and/or the Business System except as expressly provided for herein. Franchisor will have no liability to Franchisee for any costs that Franchisee may incur in any litigation or other proceedings involving the Marks and/or the Business System and Franchisee will pay for all costs, including attorneys' fees that it may incur in any litigation or proceedings arising as a result of matters referred to under this Article 3.

(G) Tender of Defense. If Franchisee is named as a defendant or party in any action involving the Marks and/or the Business System and if Franchisee is named as a defendant or party solely because the plaintiff or claimant is alleging that Franchisee does not have the right to use the Marks and/or the Business System licensed by Franchisor to Franchisee at the Franchised Location pursuant to this Agreement, then Franchisee will have the right to tender the defense of the action to Franchisor within ten (10) days of receiving service of the summons and complaint in the action. Franchisor will, at its expense, defend Franchisee in the action. Franchisor will indemnify and hold Franchisee harmless from any damages assessed against Franchisee in any such actions resulting solely from Franchisee's use of the Marks and/or the Business System at the Franchised Location if Franchisee has tendered the defense of the action to Franchisor as herein required.

ARTICLE 4: INITIAL FEE; APPROVAL OF FRANCHISEE

(A) Initial Fee. Franchisee will pay Franchisor an initial fee of thirty thousand and no/100 dollars ($30,000) (the "Initial Fee"). Any application fee paid by Franchisee to Franchisor shall be credited against the Initial Fee. The remaining balance of the Initial Fee is due and payable in full on the date this Agreement is executed by Franchisee. The Initial Fee is fully earned when this Agreement is signed by Franchisee and Franchisor and is not refundable in full or in part. Franchisee further acknowledges that any application fee paid by Franchisee will not be refunded under any circumstances and Franchisor is not liable to Franchisee for any expenses incurred in the application process.

ARTICLE 5: OTHER FEES

(A) Monthly Fee. In addition to the Initial Fee, for the term of this Agreement Franchisee shall pay to Franchisor a monthly fee of three thousand five hundred and no/100 dollars ($3,500) plus ten and no/100 dollars ($10) per guest room if the Franchised Location has seventy (70) or more guest rooms ("Monthly Fee").

(B) Reservation Fees. Franchisee shall, for the entire term of this Agreement, pay to Franchisor reservation fees (the "Reservation Fees"). Reservation Fees are subject to change from time-to-time by Franchisor upon thirty (30) days' prior written notice to Franchisee in connection with changes in the out-of-pocket costs and expenses and overhead incurred by Franchisor in providing reservation services to its franchisees. In addition to the Reservation Fees payable to Franchisor, Franchisee shall pay all the pass-through fees imposed by third-party vendors in providing reservation services to Franchisee, which pass-through fees are subject to change from time-to-time.

(C) Marketing Fund Fee. Franchisee shall, for the entire term of this Agreement, pay to Franchisor a monthly marketing fee of one hundred and no/100 dollars ($100.00) ("Marketing Fund Fee").

(D) Franchisee's Obligation to Pay. Franchisee's obligation to pay Franchisor the Monthly Fees, Reservation Fees, Marketing Fund Fee, and other amounts under the terms of this Agreement will be absolute and unconditional and will remain in full force and effect until the term of this Agreement has expired or until this Agreement is terminated by Franchisee in strict accordance with the terms and conditions set forth in this Agreement and applicable law notwithstanding any provision of this Agreement to the contrary. Franchisor shall have the right to commence a legal action against Franchisee in a court of competent jurisdiction to collect any amounts due and payable by Franchisee to Franchisor hereunder, including, but not limited to Monthly Fees and Reservation Fees, without terminating this Agreement.

(E) Date Payable. Unless otherwise provided in the Rules and Regulations, the Monthly Fee, Reservation Fees, and Marketing Fund Fee payable by Franchisee must be paid to and received by Franchisor on or before the tenth (10th) day of each month for the preceding month.

ARTICLE 6: QUALITY CONTROL, UNIFORMITY AND STANDARDS REQUIRED OF THE FRANCHISEE

(A) Identification of Business. Franchisee will operate its Franchised Location so that it is clearly identified by and advertised under the Franchised Name. However, the use, style, and form of the Marks or other registered trademarks or variations of marks in any advertising, marketing, Internet website, or Electronic Presence (as defined in Article 6(Z)), public relations, telemarketing or promotional campaign or program must have the prior written approval of Franchisor. Franchisee will use the Marks on all materials, articles, and supplies used in connection with the Franchised Location in the identical combination and manner prescribed by Franchisor in the Rules and Regulations or otherwise in writing. Franchisee will, at its expense, comply with all notices of registration required by Franchisor and will, at its expense, comply with any other trademark, trade name, service mark, copyright, patent, and other notice marking requirements required by applicable law or by Franchisor.

(B) Franchisee's Name. Franchisee will not use the Marks, or any derivative thereof, in its corporate, partnership, limited liability company, or sole proprietorship name and Franchisee will not attempt to register or otherwise obtain an interest in any Internet domain name containing any of the Marks or any other word, name, or symbol which is similar to or likely to cause confusion with any of the Marks. Franchisee will hold itself out to the public as an independent contractor operating its Franchised Location pursuant to a franchise granted by Franchisor. Whenever practical, franchisee will clearly indicate on Franchisee's business checks, stationery, purchase orders, folios, business cards, invoices, receipts, promotional materials, and other written materials, as well as on any home page, Internet website, or other Electronic Presence, that Franchisee is a franchisee of Franchisor and an independent licensee of Franchisor. Franchisee will take all necessary steps, including those from time to time reasonably requested by Franchisor to minimize the chance of a claim being made against Franchisor for anything that occurs at the Franchised Location or for acts omissions or obligations of Franchisee or anyone associated or affiliated with Franchisee or the Franchised Location. Such steps, for example, include displaying a sign at the front desk of the Franchised Location and in each guest room which is clearly visible to the general public indicating that the Franchised Location is independently owned and operated as a franchised business. Franchisee will file for a "Certificate of Assumed Name", or similar state form, in the manner required by law so as to notify the public that Franchisee is operating its Franchised Location as an independent business pursuant to this Agreement.

(C) Loyalty Programs. At all times during the term of this Agreement, Franchisee shall, at its expense, participate in all programs now or at any time hereafter sponsored by Franchisor to promote and reward the frequent and regular guests of hotels operating under the Marks or any other trademarks or trade names owned by Franchisor (the "Loyalty Programs"). All such Loyalty Programs and the costs and terms of Franchisee's participation shall be set forth in the Rules and Regulations. Franchisee shall take all action necessary to fully participate in all such Loyalty Programs, including, but not limited to, paying fees to Franchisor and third-party vendors, entering into agreements with Franchisor and/or third-party vendors, providing information to Franchisor and/or third-party vendors and purchasing equipment, software and/or services. All such agreements shall be in such form as Franchisor may require from time to time. Franchisor reserves the right, at any time and from time to time, to modify the terms of its Loyalty Programs, discontinue one or more of its Loyalty Programs, and/or establish or implement one or more new Loyalty Programs for frequent and regular guests. Franchisee acknowledges that the cost of its participation in any such modified or new Loyalty Programs may be different or greater than that incurred by Franchisee under Franchisor's Loyalty Programs in effect as of the Effective Date of this Agreement.

(D) Guest Referral and Loyalty. Franchisee shall use every reasonable means necessary to encourage and promote the use of hotels operating under the Marks and Business System by the traveling public and never divert or attempt to divert any business or customer of the Franchised Location or any other hotel using the Marks and Business system to any competitor or do anything injurious or prejudicial to the goodwill associated with the Marks or the Business System. Franchisee agree to display on the premises of the Franchised Location all brochures, including brochures for all Loyalty Programs, system directories, display boards, lobby showcase maps, and promotional materials supplied by Franchisor for use at hotels using the Marks, the Business System, or any other trademarks or trade names owned by Franchisor.

(E) Site and Building Standards and Specifications. The Franchised Location must conform to (1) Franchisor's then-current approved standard plans and specifications consisting of conceptual drawings, including floor plans, elevations, and general details for the development of working drawings for a hotel operating under the Marks using the Business Systems ("Plans and Specifications"); (2) Franchisor's minimum design and standards and specifications as set forth in the Rules and Regulations; and (3) the Detailed Plans, as defined in Article 18(C) hereof. Franchisee will not add any guest rooms or make any architectural, structural, design, or decorating changes to the interior or exterior of the Franchised Location without Franchisor's prior written approval, which approval shall not be unreasonably withheld. The furniture, fixtures, and equipment used in the Franchised Location must conform to the Rules and Regulations, the Plans and Specifications and to the standards of quality and uniformity established by Franchisor from time to time. Franchisor may charge Franchisee a fee of up to five thousand and no/100 dollars ($5,000) for Franchisor's review of Franchisee's proposed interior design ("Interior Design Review Fee"). Any interior design plan Franchisee proposes must be approved by Franchisor in writing, which approval shall not be unreasonably withheld. Payment of the Interior Design Review Fee and reimbursement for out-of-pocket expenses are payable to Franchisor immediately upon receipt of invoice.

(F) Remodeling and Redecoration of Business. Franchisee will, from time to time, make the reasonable capital expenditures necessary to remodel, modernize, redecorate, and renovate its Franchised Location and will purchase and replace the furniture, fixtures, supplies, equipment, and amenities used in the Franchised Location so that the Franchised Location will be compliant with the Rules and Regulations, Plans and Specifications, and reflect the then-current image intended to be

portrayed by Franchisor. Franchisee will be required to complete such remodeling, modernization, redecoration, and renovation of its Franchised Location and the purchase and replacement of its furniture, fixtures, supplies, equipment, and amenities within the time periods established by Franchisor in its sole discretion. All remodeling, modernization, redecoration, and renovation of the Franchised Location and all purchases and replacements of the furniture, fixtures, supplies, and equipment must conform to the Rules and Regulations and Plans and Specifications and must be approved by Franchisor in writing, which approval shall not be unreasonably withheld. If Franchisee wishes to deviate from Franchisor's Rules and Regulations and/or Plans and Specifications, Franchisor must approve Franchisee's design plans, which approval shall not be unreasonably withheld. Franchisor may charge Franchisee an Interior Design Review Fee for evaluating Franchisee's proposed design.

(G) Compliance with Standards. Franchisee agrees to maintain the standards of quality and uniformity required by Franchisor for all products and services and acknowledges and agrees that the terms and conditions of this Agreement, the Rules and Regulations and the Plans and Specifications are necessary to assure that all hotels using the Marks and Business System will be uniform in nature and will sell and dispense quality products and services to the public. Franchisee will use the Marks and the Business System, and will operate its Franchised Location in strict compliance with the Rules and Regulations, the Plans and Specifications, and any other standards, operating procedures, specifications, requirements, and instructions adopted, amended, and/or deleted by Franchisor from time to time. Franchisee understands and agrees that due to presently unforeseen changes in competitive circumstances, changes in the needs and desires of customers, technological innovations and/or changes in the image intended to be portrayed by hotels using the Marks and Business System, Franchisor may need to modify the Marks and/or Business System in order that it best serve the interests of Franchisor, Franchisee, and other franchisees using the Marks and Business System. Without limiting the generality of the foregoing, Franchisor may, in its sole discretion, adopt, amend, and/or delete standards, operating procedures, specifications, requirements, and instructions relating to information technology, including computer hardware and software relating to the management and operation of, and the CRS (as defined in Article 6(V)) and the PMS (as defined in Article 6(W)), for hotels using the Marks and Business System, the requirements for which shall be prescribed by the Franchisor in the Rules and Regulations or otherwise in writing. Franchisee will conform to all guest service procedures and standards prescribed by Franchisor in the Rules and Regulations or otherwise in writing.

(H) Compliance with the Rules and Regulations. Franchisor will provide Franchisee with access to or use of one copy of each of the documents comprising the Rules and Regulations, Plans and Specifications, and all other standards and specifications required by Franchisor, as may be modified, deleted, or otherwise altered at any time by Franchisor in its sole and absolute discretion. Franchisee will conform to the common image and identity created by the products and services associated with the Marks and Business System which are portrayed and described by the Rules and Regulations and Plans and Specifications and Franchisee will conform to all changes and modifications to the Rules and Regulations and/or Plans and Specifications made by Franchisor and provided or made available to Franchisee that are deemed by Franchisor necessary to: (1) improve the standards of service or the products offered for sale under the Marks and Business System; (2) protect the goodwill associated with the Marks and Business System; (3) improve the operation or efficiency of the Franchised Location; and/or (4) market the products and services associated with the Marks and Business System. Franchisee shall fully and timely comply with all of the provisions of the Rules and Regulations as the same may be revised from time to time by Franchisor in its sole

discretion, including, but not limited to, paying any and all fees and other charges provided for in the Rules and Regulations.

(I) Compliance with Applicable Law. Franchisee will, at its expense, comply with all applicable federal, state, city, local, and municipal laws, ordinances, rules, and regulations pertaining to the purchase, construction, renovation, remodeling, and/or operation of the Franchised Location, including, but not limited to, the Americans with Disabilities Act of 1990 (42 U.S.C.A. § 12101 et. seq.) (the "ADA") and any and all applicable federal and state laws, codes and regulations relating to employees, and/or the environment. Franchisee will, at its expense, be absolutely and exclusively responsible for determining the licenses and permits required by law for the construction, renovation, and/or operation of the Franchised Location, for qualifying for and obtaining all such licenses and permits, and for maintaining all such licenses and permits in full force and effect. In the event Franchisee receives any complaint, claim, or other notice alleging a failure to comply with applicable law, including the ADA, Franchisee shall provide Franchisor with a copy of such notice within five (5) days after receipt thereof.

(J) Limitations on Products and Services. Franchisee will sell only those products and services at its Franchised Location that have been approved by Franchisor in writing and will offer for sale at its Franchised Location all products and services prescribed from time to time by Franchisor. Without limiting the generality of the foregoing, Franchisee, each day, must provide its guests with a free continental breakfast consisting of such food and beverage items as Franchisor may prescribe from time to time in the Rules and Regulations. With the exception of the continental breakfast, Franchisee will have the absolute right to sell all goods and services at its Franchised Location at whatever prices and on whatever terms it deems appropriate.

(K) Suppliers. Except for the CRS and PMS (as each term is defined in Article 6(V)), Franchisee will have the right and option to purchase all goods and services from any suppliers Franchisee chooses, provided that the goods and services purchased conform to Franchisor's Rules and Regulations and Plans and Specifications. Upon request by a supplier or Franchisee, Franchisor will provide information regarding its standards. Franchisor shall have the right to receive and retain marketing allowances, royalties, commissions and/or other payments or consideration from suppliers in connection with the sale of goods and services to Franchisor and/or Franchisor's franchisees, including Franchisee.

(L) Maintenance. Franchisee will, at its expense, maintain, repair, paint, and keep in a clean and sanitary condition the interior, the exterior, and the grounds of the Franchised Location, and will replace all floor coverings, wall coverings, light fixtures, curtains, sheets, bedspreads, pillows, linens, room furnishings, wall hangings, fixtures, and other decor items as such items become worn-out, soiled, or in disrepair. All mechanical equipment must meet the quality standards set forth in the Rules and Regulations and Plans and Specifications. Any replacement equipment, decor items, and supplies must comply with Franchisor's then-current Rules and Regulations and Plans and Specifications.

(M) Payment of Taxes. Franchisee will be absolutely and exclusively responsible and liable for the prompt payment of all federal, state, city, and local taxes, including, but not limited to, individual and corporate income taxes, sales and use taxes, franchise taxes, gross receipt taxes, employee withholding taxes, FICA taxes, unemployment taxes, inventory taxes, personal property taxes, real estate taxes, and all other taxes payable in connection with the Franchised Location (hereinafter referred to as "Taxes"). Franchisor will have no liability for any Taxes that arise or result

from the operation of the Franchised Location and Franchisee will indemnify Franchisor for any such Taxes that may be assessed or levied against Franchisor.

(N) Reimbursement of Franchisor for Taxes. If any sales, use, franchise, gross receipts, privilege, doing business, business, and occupation, Taxes or other charge that can be reasonably considered a tax are imposed upon Franchisor by any taxing authority based upon the Gross Revenues, receipts, sales, business activities, or operations generated by the Franchised Location or upon the Initial Fee, Monthly Fees, Reservation Fees, Interior Design Review Fees, Signage Review Fees and/or other amounts payable to Franchisor hereunder, then Franchisee will reimburse Franchisor for the amount of such taxes. However, in no event will Franchisee be required to reimburse Franchisor for any income tax imposed upon Franchisor. Franchisee will be notified in writing when Franchisor is entitled to reimbursement for the payment of such taxes and, in that event. Franchisee will pay Franchisor the amount specified within ten (10) days of receipt by Franchisee of written notice from Franchisor.

(O) Business Hours; Personnel. The Franchised Location will be open for business twenty-four (24) hours a day, 365 days a year, unless Franchisor, in its sole discretion, authorizes Franchisee to be open fewer hours due to economic or other business considerations. The Franchisee shall appoint a single individual who meets the then-current requirements for experience and management qualifications, as provided in the Rules and Regulations, to personally oversee the on-premises management of the Franchised Location and supervise Franchised Location employees (the "General Manager"). Franchisee will have a sufficient number of adequately trained and competent personnel on duty at all times to guarantee efficient service to Franchisee's customers. All persons employed by Franchisee must practice good personal hygiene and must wear clean and neat standard attire or uniforms as required by the Rules and Regulations.

(P) Franchisor's Inspection Rights. Franchisor and its agents will have the absolute right to examine, inspect, and take photographs and videos of the interior and exterior of the Franchised Location at all reasonable times, to examine representative samples, goods, and paper products sold or used at the Franchised Location and to evaluate whether Franchisee is complying with the Rules and Regulations and Plans and Specifications. Such examinations and inspections may include periodic quality assurance evaluations of the Franchised Location by Franchisor and its employees, agents, and representatives. Franchisor will have the right to use all photographs and videos of the Franchised Location for such purposes as Franchisor deems appropriate, including, but not limited to, use in advertising, marketing, and promotional materials. Franchisee will not be entitled to, and hereby expressly waives any right that it may have, to be compensated by Franchisor, its advertising agencies, and other franchisees of Franchisor for the use of such photographs or videos for advertising, marketing, and promotion of Franchisor or the Business System.

If Franchisee is entering into this Agreement in connection with the conversion of an existing hotel or motel into a lodging facility using the Mark and Business System Franchisor will inspect such existing hotel or motel to determine the remodeling, modernization, redecoration, and renovations that Franchisee will be required to make to its existing hotel or motel and to identify the furniture, fixtures, supplies, equipment, and amenities that must be purchased and replaced for the existing hotel or motel to comply with the Rules and Regulations and the Plans and Specifications. Franchisor will generate a property improvement plan setting forth such required remodeling, modernization, redecoration, and renovations required to be made and the furniture, fixtures, supplies, equipment, and amenities required to be purchased and replaced as well as the timetable for

completing the same. Franchisor may charge Franchisee an Interior Design Review Fee for such inspection and property improvement plan.

If the Franchised Location fails to comply with the Rules and Regulations and/or the Plans and Specifications, Franchisor may require Franchisee to take all steps necessary to correct any deficiencies within the times that Franchisor may establish. Franchisee must pay Franchisor one thousand seven hundred fifty and no/100 dollars ($1,750) ("Re-Evaluation Fee") each time Franchisor or its agent conducts a special on-site quality assurance re-evaluation if: (1) Franchisor or its employees, agents, or representatives were previously denied access to the Franchised Location; (2) the Franchised Location has failed a regular quality assurance evaluation; and/or (3) Franchisor must inspect to verify that deficiencies noted in a quality assurance evaluation report have been corrected or completed by the required dates. Franchisee must also reimburse Franchisor for the out-of-pocket travel expenses incurred by Franchisor and its agents in connection with such quality assurance re-evaluations. Payment of the Re-Evaluation Fee and reimbursement for out-of-pocket expenses are payable to Franchisor immediately upon receipt of invoice.

(Q) Credit Cards. Franchisee will honor all credit, charge, and cash cards required or approved by Franchisor. Prior to honoring any unapproved credit, charge, or cash cards. Franchisee must obtain the written approval of Franchisor, which approval shall not be unreasonably withheld. Franchisee shall, at its expense, comply with all information security standards published by the Payment Card Industry Security Standards Council as well as any and all applicable laws intended to protect personal information and to ensure security when transactions are processed using a payment card.

(R) Default Notices. Franchisee will immediately deliver to Franchisor a copy of any notice of default received from any mortgagee, trustee under any deed of trust, contract for deed vendor, lessor, or any other party with respect to the real estate for the Franchised Location, and copies of all written notifications of any lawsuits, consumer claims, employee claims, federal or state administrative or agency proceedings or investigations, or other claims, actions or proceedings relating to the Franchised Location and, upon request from Franchisor, Franchisee will provide such additional information as may be required by Franchisor regarding the alleged default, lawsuit, claim, action, or proceeding or any subsequent action or proceeding in connection with the alleged default, lawsuit, claim, action, or proceeding.

(S) Sale of Securities to the Public. If Franchisee is an entity and intends to sell any of its securities to the public, then Franchisee will provide Franchisor with a copy of the proposed offering circular or prospectus for its review at least ten (10) days prior to the time that the offering circular or prospectus is first filed with any state securities commission or the United States Securities and Exchange Commission or is distributed to members of the investing public. Franchisor will have the absolute right to attend all "due diligence" meetings held in preparation for the offer to sell Franchisee's securities to the public, and Franchisee will give Franchisor at least two (2) business days' prior written notice of such meetings. Franchisee will not offer its securities using the Marks, any other trademarks or trade names owned by Franchisor, or any names deceptively similar thereto. Franchisee will not have the right to sell any of its securities to the public or to any other person or entity until Franchisee has complied in all respects with all applicable provisions of this Agreement, including the applicable provisions of Article 17.

(T) Meeting Attendance. Franchisee's General Manager shall, at Franchisee's sole cost and expense, attend such meetings sponsored by Franchisor as Franchisor may from time to time

reasonably require. Such meetings shall include Franchisor's convention and such training and motivational programs conducted by Franchisor that are designed to generate employee awareness, sensitivity, and responsiveness to the customers who patronize the Franchised Location. Franchisee shall pay Franchisor the registration fees for such meetings and conventions reasonably imposed by Franchisor regardless of whether Franchisee's General Manager attends the meetings or conventions.

(U) Property Ownership and Management. Franchisee shall at all times during the term of this Agreement own (as opposed to lease) the Franchised Location, including the real property and the improvements thereto. Franchisee will obtain the prior written approval of Franchisor, and will submit copies of proposed management agreements to Franchisor, prior to the appointment of a management company to operate the Franchised Location. At any time during the term of this Agreement, Franchisor has the right to require Franchisee to hire a management company approved by Franchisor to manage and operate the Franchised Location. Franchisor may require a representative of the management company to attend Franchisor's management training program, at Franchisee's expense. Franchisor may require Franchisee to replace its management company or General Manager with a qualified replacement approved by Franchisor upon ninety (90) days' prior notice. If Franchisee chooses not to hire a management company, the General Manager chosen by Franchisee must have at least five (5) years of hotel general management experience.

(V) Technology Systems.

(1) Franchisee shall use exclusively for the Franchised Location the central reservations system and services that are designated by Franchisor for the Business System, including but not limited to global distribution services ("GDS"), Internet services, and staycobblestone.com reservation services (collectively the "CRS"). Franchisee shall pay all Fees imposed by third-party vendors and Franchisor in connection with the provision of the CRS and related services. Franchisee shall enter into agreements, if any, with Franchisor and/or designated third-party vendors as may be required in connection therewith. The terms and conditions of any such agreements shall be as Franchisor determines or negotiates in its reasonable business judgment. Franchisee must provide all un-sold or unreserved rooms for sale through the CRS and may only close out inventory according to the procedures established from time to time by Franchisor. Franchisee must purchase, install and maintain, at Franchisee's expense, the equipment and software required in connection with the current CRS and any future system. Franchisee must at all times follow all operating rules and procedures related to the CRS as may be set forth in the Rules and Regulations. Franchisor does not warrant or guarantee that Franchisee will receive any specific volume, percentage, or number of reservations from any reservation system sponsored or maintained by Franchisor. Franchisor may, in its sole discretion, modify, replace, or discontinue the CRS or any component thereof at any time during the term of this Agreement, upon ninety (90) days' prior written notice to Franchisee. Franchisee must promptly adhere to any such modifications, including the payment of new or modified fees, provided that the amount of such fees are determined in a manner that is applied uniformly among franchisees of Franchisor required to participate in the CRS. Franchisee acknowledges that the cost of its participation in any such new or modified reservation system may be different or greater than that incurred by Franchisee under the current systems. So long as Franchisor or its designee maintains a toll-free telephone number, a reservation website, or any other broadly accessible reservation mechanism for the public's use in making reservations at hotels using the Marks and Business System (including the Franchised Location), Franchisee shall not use or promote any alternative toll-free telephone number, website, or reservation mechanism for

the Franchised Location. Upon the occurrence of a default of this Agreement by Franchisee, Franchisor, without limiting in-any way of Franchisor's other rights under Article 8 or remedies, may suspend Franchisee's participation in the CRS and other services sponsored or maintained by Franchisor, regardless of whether Franchisor has issued a Notice of Breach under Article 8(B). Such suspension shall be for the duration of Franchisee's default and Franchisor shall have the right to charge Franchisee a reinstatement fee of one thousand five hundred and no/100 dollars ($1,500) upon reinstatement of services ("Reinstatement Fee").

(2) Franchisee must purchase, lease, or otherwise acquire, at Franchisee's expense, a computerized hospitality property management system/computer (the "PMS") which has been designated by Franchisor and must install all upgrades and patches according to the timetables and specifications established by Franchisor from time to time. Franchisee must enter into such agreements with the Franchisor and/or with vendors designated by Franchisor in connection with the purchase, installation, maintenance, training and support of the PMS and the related software as Franchisor may require from time to time, as set forth in more detail in the Rules and Regulations. All such agreements shall be in such form as Franchisor may require from time to time. Franchisee may not load any software on the server and workstations for the PMS that has not been specifically approved in writing by Franchisor. Franchisee will at all times permit Franchisor to access and use the records and information on Franchisee's PMS, either by direct access, by telephonic modem access, by providing disk copies, or by such other means as may be prescribed from time to time by Franchisor. Franchisee will, at its sole expense, obtain and maintain at all times during the term of this Agreement, such other computer or information processing hardware, software, and other equipment as may from time to time be required by Franchisor for use in the Franchised Location. If Franchisor identifies specific computer hardware, software, and other equipment that must be purchased by Franchisee, Franchisee must purchase such specifically identified hardware, software, and other equipment without substitution. However, where Franchisor requires that Franchisee purchase, lease, or otherwise acquire certain computer hardware, software, and other equipment, but does not specifically identify the hardware, software, or other equipment to be purchased, all such hardware, software, and other equipment must be compliant with the Rules and Regulations. The firewall and related components must be connected and operating at all times to protect the integrity of the system and may not be modified, allowed to be altered, reconfigured or reset.

(3) Franchisee expressly understands and agrees that Franchisor shall not be liable for any loss or damage whatsoever (direct, indirect, punitive, actual, consequential, incidental, special, or otherwise) resulting from any omission in the content or performance of, or any inability to access or use the CRS and/or PMS and/or other services, regardless of the basis upon which liability is claimed, even if Franchisor has been advised of the possibility of such loss or damage. Franchisor makes no representation or warranty, express or implied, that the CRS and/or PMS and/or other services will meet Franchisee's requirements or that they will be uninterrupted, timely, secure, or error free; nor does Franchisor make any warranty as to the results that may be obtained from the use of the centralized reservation and property management systems and services or as to the accuracy, completeness, timeliness, or reliability of any information obtained through or posted on such systems or services. Franchisor shall not be responsible for any problems or technical malfunctions of the CRS and/or PMS and/or other services, including any problems or technical malfunctions of any telephone network or lines, computer on-line systems, servers, Internet access providers, computer equipment, software, or any combination thereof,

including any injury or damage to the computer of Franchisee or any other person as a result of using the CRS and/or PMS and/or other services. Franchisee acknowledges that the CRS, PMS and other services are being provided to Franchisee "as-is".

(4) All guest and franchisee information that is obtained as part of the CRS, PMS, Interface, Customer Satisfaction Systems (as defined in Article 6(AA)), Loyalty Programs, or other programs or services must remain confidential. Neither Franchisor nor Franchisee may transfer, sell, copy, disclose, or allow any person(s), firm, or entity to view or access this information for any reason, except as may be required by a court of law. Guest information may be used by Franchisor or Franchisee for the purpose of marketing as allowed under applicable laws; provided, however, in no event may Franchisee use any guest information for any purpose unrelated to the operation of its Franchised Location.

(5) Guest data and credit card information must be protected and safeguarded to ensure privacy, protection from theft, piracy, or unauthorized use. Franchisee will inform all of its employees of their obligations concerning this requirement. Franchisor must be notified immediately upon discovery of any prohibited use or disclosure of confidential or proprietary information or any breach of these obligations and will cooperate fully to prevent further prohibited use.

(6) Guest information and data may be used for legitimate business purposes by Franchisor to provide analysis of guest history, buying patterns, and for marketing and sales purposes. Guest data and information remains the property and responsibility of Franchisee, but must be made available to Franchisor.

(X) Travel Agent Commission Payment Program. Franchisee shall participate in all programs established by Franchisor from time to time for paying commissions to travel agents. In connection with such programs, Franchisee shall enter into such agreements with Franchisor and/or third-party vendors designated by Franchisor, which agreement shall be in such form(s) as Franchisor may determine. Franchisor has the right to modify its current or any future travel agent commission payment program at any time during the term of this Agreement upon ninety (90) days' prior written notice to Franchisee. Franchisee may not participate in any third-party travel agent commission payment program that has not been approved by Franchisor.

(Y) Security. Notwithstanding any provision of this Agreement or the Rules and Regulations or any other material provided to Franchisee by Franchisor, (1) Franchisee shall be solely responsible for all safety and security measures taken at the Franchised Location and for ensuring the safety and security of Franchisee's guests, customers, agents, employees, and invitees; (2) Franchisor shall have no control over any such safety or security measures taken or not taken by Franchisee; (3) any inspections of the Franchised Location by Franchisor are not being undertaken for the purpose of insuring the safety or security of Franchisee's guests, customers, agents, employees, and invitees. Franchisee shall be solely responsible for (1) determining the level of exterior lighting; (2) determining the type of locks to install in guest rooms; (3) determining the type, location and monitoring of any surveillance equipment; and (4) otherwise ensuring the safety and security of the Franchised Location.

(Z) Internet and Phone Lines. Franchisee shall not be permitted to use any of the Marks or other word, name, symbol, or logo which is confusingly similar to any of the Marks in any website, home page, or other presence on the Internet (collectively, an "Electronic Presence") without

Franchisor's prior, express written consent, which may be granted or denied in Franchisor's sole discretion. Franchisor's official website is protected by copyrights and Franchisee is not authorized to utilize its contents, in whole or in part, in the development of other websites or an Electronic Presence. If Franchisor approves Franchisee's Electronic Presence, such Electronic Presence will be subject to ongoing review by Franchisor for content, proper trademark usage, accuracy, quality, current content, and consistency. Franchisor reserves the right to require changes to or removal of an Electronic Presence or postings that do not meet the above review criteria. In addition, Franchisor may require that Franchisee include in any such Electronic Presence a hypertext or other direct link to any Electronic Presence maintained by Franchisor. Franchisee agrees that it shall not attempt to register or otherwise obtain any interest in any Internet domain name containing any of the Marks or any other word, name, symbol, or devise which is likely to cause confusion with any of the Marks. Franchisee must purchase, lease, or otherwise acquire, at Franchisee's expense, the hardware, software, maintenance, training and support for wireless hospitality grade High Speed Internet Access ("HSIA"), including all specifications for static IP addresses and such number of telephone and facsimile transmission lines dedicated exclusively for use with the CRS and PMS as Franchisor may prescribe from time to time. Franchisee shall make complimentary HSIA available in all of the guest rooms, meeting rooms, and hospitality rooms, and shall also provide a station with a personal computer in the lobby or business center for complimentary guest use, all as set forth in greater detail in the Rules and Regulations. The HSIA which is made available by Franchisee must satisfy Franchisor's requirements, standards, and specifications as set forth in the Rules and Regulations and system operating requirements, which may be changed by Franchisor from time to time in its sole discretion. Franchisee must register and actively use Franchisor's Hospitality Information Portal ("HIP") and acknowledges that this electronic media is the primary method for chain wide communications. Time sensitive information and important correspondence may be provided through the HIP and, therefore, must be actively accessed on at least a daily basis by Franchisee or Franchisee's manager(s) or staff. If Franchisor, in its sole discretion, believes that there are a significant number of telephone calls or data transfers to the Franchised Location which are not being answered or delivered in a timely fashion. Franchisee shall, upon being notified in writing by Franchisor, add additional telephone lines, call waiting, voicemail, and/or other features to resolve the problem.

(AA) Customer Satisfaction Systems. Franchisee shall comply with the Rules and Regulations concerning comment cards, emails, telephone calls, letters, and other communications received from guests. Franchisee shall participate in all customer satisfaction systems sponsored or maintained by Franchisor (the "Customer Satisfaction Systems"). Franchisee shall take all actions necessary to fully participate in the Customer Satisfaction Systems and will follow all procedures related to the Customer Satisfaction Systems, as the same may be changed from time to time by Franchisor. Franchisor reserves the right, at any time and from time to time to modify the terms and conditions of the Customer Satisfaction Systems, discontinue on or more of such systems, and/or establish or implement one or more new Customer Satisfaction Systems.

(BB) Technology Services. Franchisor has the right to provide to Franchisee (either directly or through a designated third-party provider) and to require Franchisee to purchase from Franchisor certain maintenance, training and support services for the PMS and/or CRS, certain firewall and anti-virus services and protection, certain connection services, including the generation of email confirmation and thank you notes to guests, and other services. Franchisee shall purchase such services from Franchisor and pay Franchisor the fees and charges established by Franchisor for these services from time to time, all as to be set forth in the Rules and Regulations. Unless otherwise provided in the Rules and Regulations, such fees and charges shall be payable by Franchisee upon

receipt of Franchisor's invoices for the same. Franchisor has the right, at any time, to modify the terms and conditions under which it provides such services or discontinue the provision of services, and Franchisee must promptly adhere to any such modifications.

(CC) Marketing Fund. Franchisor will administer the fund that Franchisee's Marketing Fund Fees are applied to (the "Marketing Fund"). Franchisor may use Marketing Fund contributions in its sole discretion for any purpose relating to sales, marketing or advertising initiatives or programs that Franchisor may adopt from time to time, including sales, marketing or advertising initiatives or programs that we may adopt periodically, including developing, producing, distributing, and placing advertising, engaging in telemarketing/Internet activities, establishing, maintaining, updating and upgrading one or more Web sites, obtaining sponsorships and endorsements, and conducting public relations activities. Franchisor may, at its option, elect to administer the Marketing for the combined benefit of one or more types of Cobblestone branded hotels, including "Boarders Inn and Suites by Cobblestone," "Cobblestone Hotel and Suites," and "Cobblestone Inn and Suites." The Marketing Fund will not be used to defray any of Franchisor's general operating expenses, except for reasonable salaries, administrative costs and overhead Franchisor may incur in activities related to the administration of the Marketing Fund and its programs, including preparing advertising and marketing materials and collecting and accounting for contributions to the Marketing Fund.

Franchisor will have sole control over the creative concepts, content, form, and media placement of all advertising and promotional materials developed with Marketing Fund Fees, and the allocation of Marketing Fund monies to production, placement, or other costs and may, among other things, in Franchisor's sole discretion create and allocate funds for conducting advertising and marketing programs on a national, regional or local basis. Franchisor may use the Marketing Fund contributions for creating or placing advertisements that are principally for the solicitation for new franchisees. Additionally, Franchisor may include in all advertising prepared from Marketing Fund contributions (including Internet advertising) information concerning franchise opportunities, and a portion of Marketing Fund contributions may be used to create and maintain one or more Web sites or interior pages on Web sites devoted to advertising franchise opportunities and identifying and screening inquiries and applications submitted by franchise candidates.

Although one of the goals of the Marketing Fund is to maximize general recognition and patronage of the Marks for the benefit of all Cobblestone branded hotels Franchisor cannot assure Franchisee that its Franchised Location will benefit directly or pro rata from the placement of advertising.

Marketing Fund Fees payable pursuant to this Agreement will be contributed to the Marketing Fund. The Marketing Fund will be accounted for separately from Franchisor's other funds, but its funds may be deposited in any of Franchisor's general accounts and commingled with Franchisor's other funds. Franchisor shall not be obligated to credit the Marketing Fund with interest. Franchisor may spend in any fiscal year an amount greater or less than the aggregate contributions of all Cobblestone branded hotels to the Marketing Fund in that year. The Marketing Fund may borrow from Franchisor or other lenders to cover deficits in the Marketing Fund. The Marketing Fund may invest any surplus for future use by the Marketing Fund or use Marketing Fund monies to repay loans made to the Marketing Fund by Franchisor or other lenders. Franchisor will prepare annually a statement of monies collected and costs incurred by the Marketing Fund and furnish Franchisee with a copy upon Franchisee's written request. Except as otherwise expressly provided in this Article 6(CC), Franchisor assumes no direct or indirect liability or obligation with

respect to the maintenance, direction or administration of the Marketing Fund. Franchisor does not act as trustee or in any other fiduciary capacity with respect to the Marketing Fund.

ARTICLE 7: CONFIDENTIAL INFORMATION

(A) Confidential Information. For purposes of this Agreement, "Confidential Information" shall include Franchisor's proprietary and confidential information relating to the development and operation of a hotel using the Marks and Business system, including, but not limited to: (1) site selection criteria for such hotels; (2) sales, marketing and advertising programs for, and information pertaining to hotels using the Marks and Business System; (3) the CRS, PMS and Customer Satisfaction Survey; (4) all information, knowledge, and know-how, including, without limitation, drawings, materials, equipment, methods, procedures, specifications, techniques, computer programs, systems, and other data which Franchisor copyrights or designates as confidential and proprietary, including, but not limited to, information on suppliers, goods and services, Rules and Regulations, and Plans and Specifications; (5) knowledge of operating results and financial performance of hotels using the Marks and Business System, other than hotels Franchisee owns; (6) training programs and all other information relating to the management and operation of hotels using the Marks and Business System; (7) computer systems and software programs; (8) all information pertaining to guests of hotels using the Marks and Business System, including the Franchised Location, regardless of whether collected by Franchisor, Franchisee or third parties, through the CRS, on the Internet, at the Franchised Location or otherwise; and (9) knowledge, or know-how concerning the Business System or the methods of operation of a hotel using the Marks and Business System.

(B) Protecting Confidential Information. Franchisor will disclose parts of the Confidential Information to Franchisee solely for its use in the operation of the Franchised Location. The Confidential Information is proprietary and includes Franchisor's trade secrets. During the term of this Agreement and thereafter: (a) Franchisee, or any of its owners, shareholders, members, officers, directors, employees, agents or representatives, may not use the Confidential Information in any other business or capacity (Franchisee acknowledges such use is an unfair method of competition); (b) Franchisee shall exert its best efforts to maintain the confidentiality of the Confidential Information; (c) Franchisee, or any of its owners, shareholders, members, officers, directors, employees, agents or representatives may not make unauthorized copies of any portion of the Confidential Information disclosed in written, electronic or other form; and (d) Franchisee shall implement all reasonable procedures Franchisor prescribes from time to time pertaining to the proper use of, and to prevent unauthorized use or disclosure of, the Confidential Information, including the use of nondisclosure agreements with Franchisee's officers, directors, managers and assistant managers and the delivery of such agreements to Franchisor.

ARTICLE 8: FRANCHISOR'S TERMINATION RIGHTS

(A) Conditions of Breach. In addition to the other rights of termination contained herein. Franchisor will have the right and privilege to terminate this Agreement if (1) Franchisee fails to open and commence operations of its Franchised Location when it is ready for Franchisee's occupancy; (2) Franchisee violates any material term or condition of (a) this Agreement, including, but not limited to, failure to timely pay any Monthly Fees, Reservation Fees, or other monetary obligations or fees to Franchisor; (b) any of the Manuals; or (c) any other agreement between Franchisor on the one hand and Franchisee or any of its affiliates on the other hand; (3) Franchisee or any of its managers, partners, members, directors, governors, officers, or majority stockholders are

convicted of, or plead guilty to or no contest to a charge of violating any law relating to the Franchised Location, or any felony; (4) Franchisee fails to conform to the Business System or the standards of quality and uniformity for the products and services promulgated by Franchisor in connection with the Business System; (5) Franchisee fails to timely pay any of its uncontested obligations or liabilities due and owing to any of its creditors, including Franchisor, or any federal, state, or municipal governmental authority (including, if applicable, any taxes); (6) Franchisee is deemed insolvent within the meaning of any state or federal law or Franchisee or any of the personal guarantors voluntarily file, or have filed against it/him involuntarily a petition under the United States Bankruptcy Code; (7) Franchisee makes an assignment for the benefit of creditors or enters into any similar arrangement for the disposition of its assets for the benefit of creditors; (8) any check issued by Franchisee is dishonored because of insufficient funds (except where the check is dishonored because of an error in bookkeeping or accounting) or closed accounts; (9) Franchisee voluntarily or otherwise commits any act of omission or commission, indicating a willingness, desire, or intent of Franchisee to discontinue operating its Franchised Location in accordance with the quality standards, uniformity requirements, and Business System as set forth in this Agreement and the Manuals (hereinafter referred to as "Abandons"): (10) Franchisee is involved in any act or conduct which materially impairs the goodwill associated with any of the Marks or the Business System; (11) construction of the Franchised Location has not commenced at the Franchised Location within nine (9) months of the Effective Date; or (12) remodeling, modernizing, redecorating, and renovating of the Franchised Location has not commenced within six (6) months of the date that Franchisee receives Franchisor's notice specifying the required remodeling, modernization, redecorating, and renovation; (13) Franchisee fails for whatever reason to complete construction and open its Franchised Location for business as a Cobblestone branded hotel within eighteen (18) months of the commencement of construction for new construction projects or within six (6) months of the Effective Date of this Franchise Agreement for conversion projects; (14) Franchisee defaults on any mortgage, contract for deed, deed of trust, lease, or other similar instrument relating to the Franchised Location, or otherwise loses possession of all or a significant portion of the Franchised Location; (15) Franchisee fails to complete any of the remodeling, modernization, redecoration, or renovations set forth on a property improvement plan provided by Franchisor to Franchisee by the date or dates set forth in such property improvement plan; (16) Franchisee or any of its shareholders, partners, members, or other owners attempt to sell, assign, or otherwise transfer this Agreement, Franchisee's Business Assets (as hereinafter defined) and/or shares of capital stock, partnership interests, membership interests, or other ownership interests in Franchisee in violation of the requirements of Article 17; and/or (17) Franchisee intentionally understates or underreports its Gross Revenue to Franchisor. For purposes of this Article 8(A) Franchisee will not be deemed to have commenced construction until: (ii) with respect to a newly constructed hotel Franchisee has, at a minimum, completed the building foundation and be framing; or (ii) with respect to the remodeling or renovation of an existing hotel. Franchisee has, at a minimum, removed all furniture, fixtures, and equipment that Franchisor has not approved to be retained at the premises and commenced substantial remodeling.

(B) Notice of Default. Franchisor will not have the right to terminate this Agreement unless and until: (1) written notice setting forth the nature of the alleged breach has been delivered to Franchisee by Franchisor; and (2) after receiving the notice Franchisee fails to correct the alleged breach within the period of time specified by applicable law. In the event that applicable law does not specify a time period to correct an alleged breach, then Franchisee will have sixty (60) days after receipt of notice to correct the alleged breach, except where such notice states that Franchisee is delinquent in the payment of any fees or other payments payable to Franchisor pursuant to this Agreement or otherwise, in which case Franchisee will have ten (10) days after receipt of such notice

to correct the breach by making full payment (including interest as provided for herein) to Franchisor. If Franchisee fails to correct the alleged breach set forth in the notice within the applicable period of time, then this Agreement may be terminated by Franchisor as provided in this Agreement. For the purposes of this Agreement, an alleged breach of this Agreement by Franchisee will be deemed to be "corrected" if both Franchisor and Franchisee agree in writing that the alleged breach has been corrected. If Franchisor has agreed in this Agreement or in an amendment or addendum hereto to charge Franchisee Monthly Fees, Reservation Fees, and/or any other fees or charges that are less than the corresponding fees or charges payable by the Franchisee to Franchisor pursuant to the Franchisor's standard form of franchise agreement in use by Franchisor as of the Effective Date, then notwithstanding any provision of this Agreement or any such amendment or addendum to the contrary, upon Franchisee's receipt of Franchisor's written notice of default, the Monthly Fees, Reservation Fees, and other fees and charges payable by Franchisee to Franchisor pursuant to this Agreement shall increase to the rate of such fees and charges payable by the Franchisee to Franchisor pursuant to Franchisor's standard rates, as set forth in the then-standard Franchise Agreement and then-current Franchise Disclosure Document.

(C) Notice of Termination. If Franchisor has timely complied with the notice provisions of Article 8(B) hereof and if Franchisee has not corrected the alleged breach set forth in the written notice within the time period specified in Article 8(B), then Franchisor will have the absolute right to terminate this Agreement by giving Franchisee written notice.

(D) Grounds for Immediate Termination. Notwithstanding any provision of this Agreement to the contrary franchisor will have the absolute right and privilege, unless precluded by applicable law, to immediately terminate this Agreement if: (1) Franchisee or any of its managers, partners, members, directors, governors, officers, or shareholders or other owners are convicted of, or plead guilty to or no contest to a charge of violating any law relating to the Franchised Location, or any felony; (2) Franchisee voluntarily or otherwise abandons its Franchised Location or its franchised business (including by compliance will Article 9, below); (3) Franchisee is involved in any act or conduct which materially impairs the goodwill associated with any of the Marks or the Business System, and Franchisee fails to correct the breach within twenty-four (24) hours of receipt of written notice from Franchisor of the breach; or (4) Franchisee breaches this Agreement, resulting in a Notice of Default by Franchisor, on three (3) or more occasions for the same or a similar breach, within any 36-month period.

(E) Notice of Immediate Termination. In the event Franchisor has grounds for immediate terminate, as provided in Article 8(D) above, then Franchisor will have the absolute right to terminate this Agreement by giving Franchisee written notice.

(F) Liquidated Damages. If this Agreement is terminated by Franchisor pursuant to this Article 8, Franchisee acknowledges that Franchisor will be substantially damaged by the loss of prospective fees and other amounts payable to Franchisor and that the actual amount of damages will be difficult, if not impossible, to ascertain. Therefore, upon such termination, Franchisee shall pay to Franchisor upon demand as liquidated damages and not as a penalty, the Monthly Fees payable to Franchisor multiplied by twenty-four (24) or, if franchisee is within twenty-four (24) months of the end of the term of this Agreement, the number of months remaining in such term.

ARTICLE 9: FRANCHISEE'S TERMINATION RIGHTS

(A) Conditions of Breach. Franchisee will have the right and privilege to terminate this Agreement, if: (1) Franchisor violates any material provision, term or condition of this Agreement; (2) Franchisor fails to timely pay any material non-contested and liquidated obligations due and owing to Franchisee; (3) Franchisor voluntarily files or has filed against it involuntarily, a petition under the United States Bankruptcy Code; or (4) Franchisor makes an assignment for the benefit of creditors or enters into any similar arrangement for the disposition of its assets for the benefit of creditors.

(B) Notice of Breach. Franchisee will not have the right to terminate this Agreement or to commence an action or lawsuit against Franchisor for breach of this Agreement, injunctive relief, violation of any state, federal, or local law, violation of common law (including allegations of fraud and misrepresentation), rescission, general or punitive damages, or termination, unless and until; (1) written notice setting forth the nature of the alleged breach has been delivered to Franchisor by Franchisee; (2) Franchisee is itself in material compliance with this Agreement at the time of the notice; and (3) Franchisor fails to correct the alleged breach or violation within thirty (30) days after receipt of the written notice. If Franchisor fails to correct the alleged breach within thirty (30) days after receiving written notice, then this Agreement may be terminated by Franchisee as provided for in this Agreement. If Franchisor's alleged breach is not reasonably capable of being cured within thirty (30) days, Franchisor will be deemed to have cured for purposes of this Article 9(B) as long as Franchisor commences its cure within thirty (30) days after receipt of Franchisee's notice and pursues such cure to its completion with reasonable diligence under the circumstances.

(C) Notice of Termination. If Franchisee has timely complied with the notice provisions of Article 9(B) hereof and if Franchisor has not corrected the alleged breach set forth in the written notice within the time period specified in Article 9(B), then Franchisee will have the absolute right to terminate this Agreement by giving Franchisor written notice.

ARTICLE 10: FRANCHISEE'S OBLIGATIONS UPON TERMINATION OR EXPIRATION

(A) Termination of Use of Marks; Other Obligations. If this Agreement expires or is terminated for any reason, the Franchisee will: (1) unless Franchisor requests return of materials as provided below, immediately destroy and certify the destruction of all Confidential Information within five (5) days after expiration or termination of this Agreement, pay all amounts due and owing to Franchisor under this Agreement or otherwise; (2) if requested by Franchisor, immediately return to Franchisor by first class prepaid United States mail all Confidential Information; (3) within ten (10) days after expiration or termination date, discontinue the use of all items bearing the Marks or that otherwise identifies or is related to the Marks or Business System; (4) within ten (10) days after the expiration or termination date, remove all signs containing any of the Marks and cease all use of the distinctive sign shape; (5) within ten (10) days after the termination date, terminate or assign to Franchisor, as Franchisor may elect, any Internet website, domain name, or URL that identifies Franchisee as currently or formally associated with Franchisor or that displays any of the Marks; (6) take such action to comply with all other applicable provisions of this Agreement; and (7) furnish to Franchisor within (30) days of the termination date or expiration date, evidence satisfactory to Franchisor of Franchisee's compliance with the post-termination or post expiration obligations contained in this Agreement, on or before the deadlines set forth in this Article. Upon expiration or termination of this Agreement, for any reason, Franchisee's right to use the Marks and Business System and to participate in any CRS or PMS will terminate immediately and Franchisee shall

surrender all reservations made for the Franchised Location prior to the effective date of such expiration or termination and will honor all rates quoted at the time such reservations were made. In addition, Franchisor shall have the right, without liability to Franchisee, to notify customers holding reservations that the Franchised Location may no longer be associated with the Marks and Business System at the time of their stay.

(B) Alteration of Franchised Location. If this Agreement expires or is terminated for any reason or if the Franchised Location ever ceases to use the Marks and Business System, then Franchisee will, at its expense, promptly alter, modify, and change both the exterior and interior appearance and trade dress of the Franchised Location so that it will be easily distinguished from the standard appearance and trade dress of a hotel using the Marks and Business System. At a minimum, such changes and modifications to the Franchised Location will include; (1) repainting and, where applicable, recovering both the exterior and interior of the Franchised Location with colors which are not identified with the Marks and Business System, including removing any distinctive colors and designs from the walls; (2) removing any and all fixtures and other decor items which are unique to the Marks and Business System and replacing them with decor items not of the general type and appearance customarily used in hotels using the Marks and Business System; (3) removing all exterior and interior signs bearing the Marks; and (4) immediately discontinuing use of the approved graphics, employee uniforms, wall décor items, and window decals, and refraining from using any items which are confusingly similar.

(C) Transfer of Telephone Numbers and Directory Listings. Upon the expiration or termination of this Agreement by Franchisor, Franchisor will have the absolute right to notify the telephone company and all listing agencies (including all internet travel sites) of the expiration or termination of Franchisee's right to use all telephone numbers and all classified and other directory listings under the Marks and to authorize the telephone company and all listing agencies to transfer to Franchisor or its assignee all telephone numbers and directory listings for the Franchised Location. Franchisee acknowledges that Franchisor has the absolute right and interest in and to all such telephone numbers and listings associated with the Marks, and Franchisee hereby authorizes Franchisor to direct the telephone company and all listing agencies to transfer all telephone numbers and directory listings to Franchisor or its assignee if this Agreement expires or is terminated for any reason whatsoever. The telephone company and all listing agencies may accept this Agreement as evidence of the exclusive rights of Franchisor to such telephone numbers and directory listings and this Agreement will constitute the authority from Franchisee for the telephone company and listing agency to transfer all telephone numbers and directory listings to Franchisor upon expiration or termination of this Agreement. In addition, upon the termination or expiration of this Agreement, Franchisor shall have the right to notify and instruct the publishers of any and all telephone and other directories which contain a listing for the Franchised Location to remove any reference to the Marks in Franchisee's listings. Franchisee will not make any claims or commence any actions against the telephone company or the listing agencies for complying with this provision.

ARTICLE 11: TRAINING PROGRAM; OPENING ASSISTANCE

(A) Training. Franchisor will provide the management training program (described in the Rules and Regulations) for Franchisee's General Manager at such location or locations as may be designated by Franchisor to educate, familiarize, and acquaint him or her with the operations of a hotel operating under the Marks and Business System.

The management training program will include both classroom and on-the-job instruction on basic operations, purchasing management, cost control management, and other topics selected by Franchisor. The training program will be scheduled by Franchisor in its sole discretion and must be completed no more than one hundred twenty (120) days prior to the Opening Date. Franchisee's General Manager must successfully complete the management training program, prior to commencing operations at the Franchised Location, unless this requirement is waived by Franchisor in writing in its sole discretion. Franchisee must pay Franchisor its then-current management training fee for each person (including the initial General Manager and each new General Manager) who attends Franchisor's management training program within thirty (30) days of receiving Franchisor's invoice for the same. Franchisee must pay all travel, wages, lodging, and other related expenses for trainees and for on-site training, for Franchisor's staff. Training fees are subject to change by Franchisor from time-to-time in its sole discretion. If Franchisee does not serve as its own General Manager, franchisee must attend Franchisor's owner's orientation program that is provided by Franchisor from time-to-time. Franchisee must at its expense provide its General Manager and all front desk staff with a minimum of seven days training from the third party PMS provider; and this training must be completed approximately two (2) weeks prior to the opening of the Franchised Location.

(B) Changes in Management Personnel. Franchisee will promptly notify Franchisor in writing of any personnel changes in the management positions of the Franchised Location. If Franchisee hires a new General Manager who has not successfully completed Franchisor's management training program, then unless the successful completion of such program is waived by Franchisor in writing in its sole discretion, Franchisor will require the new General Manager to register to attend Franchisor's management training program prior to the time that he or she will be allowed to manage the Franchised Location and to thereafter successfully complete the management training program as soon as reasonably practicable.

(C) Payment of Salaries and Expenses. Except as provided in Articles 11(D) and 11(E) and this Article 11(C), during the management training program, Franchisor will pay all salary, expenses and other costs incurred by Franchisor's personnel arising in connection with the training program. All wages, salary, expenses, and other costs, including room, board, and travel expenses, incurred by Franchisee or its personnel in connection with the management training program or owner's orientation will be paid by Franchisee. In addition, within thirty (30) days of receiving Franchisor's invoice, Franchisee shall pay Franchisor such fees as Franchisor may establish from time to time to cover its out-of-pocket costs and expenses incurred in providing its owner's orientation program to Franchisee.

(D) Opening Assistance. After Franchisee's General Manager has successfully completed Franchisor's management training program, Franchisor will provide up to five (5) days of opening assistance and staff training at the Franchised Location, and up to an additional four (4) days of training at the Franchised Location on the use and operation of the PMS, if applicable. Franchisee must provide Franchisor with a copy of the Certificate of Occupancy for its Franchised Location at least seventy-two (72) hours before Franchisor's representatives are scheduled to arrive at the Franchised Location for on-site training. Training and opening approval will occur only after all conditions set forth in Article 18(F) are satisfied and a copy of the Certificate of Occupancy is received by Franchisor. In the event the Franchised Location is not ready to be opened for business when Franchisor's representatives arrive to provide such opening assistance and on-site training, Franchisee shall reimburse Franchisor upon demand for all salary, expenses, and other costs incurred

by the personnel of Franchisor and its agents while they are delayed in providing such opening assistance and on-site training.

(E) Complimentary Rooms. Franchisee shall be required to provide complimentary rooms or pay all lodging expenses incurred by the personnel of Franchisor and its agents in connection with inspections (including quality assurance evaluations and re-evaluations) of the Franchised Location, providing opening assistance and on-site training and marketing and other sales visits to the Franchised Location.

ARTICLE 12: FRANCHISOR'S OTHER OBLIGATIONS

(A) Business System. Consistent with Franchisor's standards of quality and uniformity Franchisor or its authorized representative will: (1) provide Franchisee with a copy of, or access to, a written summary of all furniture, fixtures, supplies and equipment required for the operation of the Franchised Location; (2) provide Franchisee with a copy of, or access to, a list of approved suppliers of the furniture, fixtures, supplies and equipment, including the standard Sign (as defined in Article 13) required for the Franchised Location; (3) provide Franchisee with a copy of, or access to, a list of approved sources from whom Franchisee can purchase products, printed materials, items, Goods and Services; (4) provide Franchisee with business procedures required for the operation of the Franchised Location, including information in connection with the CRS and PMS; (5) inspect the Franchised Location as often as Franchisor deems necessary and render written reports to Franchisee as deemed appropriate by Franchisor; (6) legally protect the Marks and the Business System for the benefit of all franchisees using the Marks and Business System; (7) render, upon written request by Franchisee, advisory services pertaining to guest service and operation of the Franchised Location (however, all reasonable administrative and out-of-pocket expenses and other fees for certain services or training that are incurred by Franchisor in rendering such advisory service will be paid for by Franchisee); (8) provide Franchisee with a copy of, or access to, the Rules and Regulations, Plans and Specifications, and any continuing supplements and modifications thereto; and (9) provide, upon written request by Franchisee, a copy of Franchisor's then current Plans and Specifications.

ARTICLE 13: SIGNAGE

(A) Approved Sign. During the term of this Agreement, Franchisee will, at its expense, either lease or purchase the standard free standing sign bearing one of the Marks designated by Franchisor (the "Sign") which will be displayed at the Franchised Location. Franchisee will pay for all costs incurred in connection with the erection and installation of the Sign, including all electrical work, construction of the base and foundation, relocation of the power lines, and all required soil preparation work. The Sign must conform exactly to the Rules and Regulations and Plans and Specifications and must be installed at the Franchised Location in the precise place, location, and manner specified by Franchisor in writing. Franchisee will display only the approved Sign and will not use or display any other signs of any kind or nature at the Franchised Location without obtaining the express written approval of Franchisor prior to their installation or use, which approval shall not be unreasonably withheld. Franchisor may charge Franchisee a fee of up to five thousand and no/100 dollars ($5,000) to review the Sign, its placement, and its compliance with the Rules and Regulations and Plans and Specifications ("Signage Review Fee"). Payment of the Signage Review Fee and reimbursement for out-of-pocket expenses are payable to Franchisor immediately upon receipt of invoice.

(B) Payment of Costs and Expenses. Franchisee will, at its expense, be responsible for any and all permits, licenses, repairs, maintenance, utilities, insurance, taxes, assessments, and levies in connection with the erection or use of the Sign.

(C) Modification and Replacement. Franchisee may not alter, remove, change, modify, or redesign the Sign unless approved by this Franchisor in writing. Franchisor will have the right, in its sole discretion, (1) to redesign the sign plans and specifications from time to time during the term of this Agreement, without the approval or consent of Franchisee; (2) to modify the trademark, trade name, service mark, logo, and/or color combinations required to appear on the Sign and/or to substitute a new or different trademark, trade name, service mark, logo, and/or color combination required to appear on the Sign pursuant to Article 3(C); and (3) to require Franchisee, at its expense, to either modify or replace the Sign so that the Sign displayed at the Franchised Location complies with Franchisor's redesigned Rules and Regulations and Plans and Specifications.

ARTICLE 14: INSURANCE

(A) General Liability Insurance. Franchisee must procure and maintain in full force and effect, at its sole cost and expense, an insurance policy or policies insuring Franchisee, Franchisor, and their respective officers, manager, directors, governors, and employees from and against any loss, liability, claim, or expense of any kind whatsoever, including bodily injury, personal injury, death, property damage, products liability, and all other occurrences resulting from the condition, operation, use, business, and occupancy of the Franchised Location, including the surrounding premises, the parking area, and the sidewalks of the Franchised Location.

(B) Automobile Insurance. Franchisee must also procure and maintain in full force and effect, at its sole cost and expense, automobile liability coverage insuring Franchisee, Franchisor, and their respective officers, managers, directors, governors, and employees from any and all loss, liability, claim, or expense of any kind whatsoever resulting from the use, operation, or maintenance of any automobile or vehicle used by Franchisee or any of its employees in connection with the Franchised Location.

(C) Coverage Limits. Liability coverage for both the general liability coverage and the automobile liability coverage must have limits of two million and no/100 dollars ($2,000,000) combined single limit. Franchisee must also maintain "all risks" property insurance coverage for the building, machinery, equipment, fixtures, furnishings, and signs at the Franchised Location (including fire and extended coverage) with limits equal to at least "replacement" cost. Franchisor may, in its discretion, periodically change the types of insurance and/or increase the limits of coverage of the insurance that Franchisee is required to maintain hereunder.

(D) Additional Insured. All insurance policies must name Franchisor as an additional insured, must contain endorsements by the insurance companies waiving all rights of subrogation against Franchisor, and must stipulate that Franchisor will receive copies of all notices of cancellation, nonrenewal, or coverage reduction or elimination at least thirty (30) days prior to the effective date of such cancellation, nonrenewal or coverage change.

(E) Insurance Companies; Evidence of Coverage. All insurance companies providing coverage to Franchisee must have an "A," "A+" or "A-" rating by A.M. Best & Co. and must be licensed in the state where the coverage is provided. Franchisee will provide Franchisor with certificates of insurance evidencing the required insurance coverage no later than the date Franchisee

takes possession of the Franchised Location and annually thereafter in connection with the renewal of Franchisee's insurance policies.

(F) Other Insurance. Franchisee will, at its sole cost and expense, procure and pay for all other insurance required by state or federal law, including workers' compensation insurance for its employees, together with all insurance required under any lease, mortgage, deed of trust, contract for deed, or other legal contract in connection with the Franchised Location or the Franchised Location.

(G) Defense of Claims. All liability insurance policies procured and maintained by Franchisee will require the insurance companies to provide and pay for legal counsel to defend any covered legal actions, lawsuits, or claims brought against Franchisee, Franchisor, and their respective officers, managers, directors, governors, and employees.

(H) Material Breach. If Franchisee fails to comply with the provisions of this Article 14, Franchisor will have the right, but not the obligation, to procure on behalf of Franchisee any and all insurance required under this Agreement with the agent and insurance company of Franchisor's choice. Franchisee agrees to cooperate fully with Franchisor in its effort to obtain such insurance policies, promptly execute all forms or instruments required to obtain or maintain any such insurance, and allow any inspections of the Franchised Location that are required to obtain or maintain any such insurance. Franchisor will invoice Franchisee for all costs and expenses incurred by Franchisor to procure the required insurance coverage on behalf of Franchisee and Franchisee shall pay any such invoice in full within ten (10) days of its receipt of the same from Franchisor. Franchisor shall be under no duty to ascertain the existence of or to examine any such policy or to advise Franchisee in the event any such policy shall not comply with the requirements of this Article 14.

ARTICLE 15: INDEPENDENT CONTRACTORS; INDEMNIFICATION

(A) Independent Contractors. Franchisor and Franchisee are each independent contractors and, as a consequence, there is no employer-employee or principal-agent relationship between Franchisor and Franchisee. Franchisee will not have the right to and will not make any agreements, representations, or warranties in the name of or on behalf of Franchisor or represent that their relationship is other than that of franchisor and franchisee. Neither Franchisor nor Franchisee will be obligated by or have any liability to the other under any agreements or representations made by the other to any third parties.

(B) Indemnification. Franchisee shall indemnify Franchisor against and shall reimburse Franchisor upon demand for any and all losses, costs, expenses (including without limitation, reasonable attorneys' fees, disbursements of counsel, investigation expenses, expert witness fees, court costs, deposition expenses, and travel and living expenses), liabilities, damages, fines, penalties, charges, assessments, judgments, settlements, claims, causes of action, and other obligations of any nature whatsoever that Franchisor may at any time, directly or indirectly, suffer, sustain or incur, arising out of, based upon or resulting from (1) the breach by Franchisee of its obligations hereunder; (2) the design, construction and/or operation of the Franchised Location; and/or (3) any act, omission, event, or inaccuracy taking place on or about the Franchised Location. Franchisor will always have the right to defend any claim made against it with respect to which it is entitled to indemnification hereunder and Franchisee shall reimburse Franchisor upon demand for any and all costs and expenses, including reasonable attorneys' fees incurred by Franchisor in connection therewith.

(C) Continuation of Obligations. The indemnification and other obligations contained in this Article will continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement.

ARTICLE 16: FINANCIAL STATEMENTS, SALES REPORTS, FORMS AND ACCOUNTING

(A) Monthly, Year-To-Date and Annual Financial Statements. Franchisee will, at its expense, provide Franchisor with annual financial statements for the Franchised Location (which exclude from the balance sheet, income statement and statement of cash flow items which are unrelated to the Franchised Location) and, upon request by Franchisor, for Franchisee (which include all balance sheet, income statement, and statement of cash flow items of Franchisee). In addition, Franchisee will, at its expense and upon the written request by Franchisor, provide Franchisor with monthly and year-to-date financial statements for the Franchised Location and/or Franchisee. All such financial statements will (1) consist of a balance sheet, income statement, statement of cash flows, and explanatory footnotes; (2) be verified by Franchisee; (3) be presented in the exact form and format prescribed by Franchisor in writing; and (4) will be categorized according to the chart of accounts prescribed by Franchisor. All such financial statements will be prepared in accordance with generally accepted accounting principles applied on a consistent basis. The monthly and year-to-date financial statements for the preceding month will be delivered to Franchisor within ten (10) days of receiving Franchisor's request and the annual financial statements for Franchisee and/or its Franchised Location will be delivered to Franchisor within ninety (90) days of Franchisee's fiscal year end.

(B) Tax Returns. Franchisee will, within thirty (30) days of receiving a request from Franchisor, furnish Franchisor with signed copies of Franchisee's annual federal, and if applicable, state income tax returns for Franchisee's most recent fiscal year end.

(C) Reports of Gross Revenue Records. Franchisee will maintain an accurate written record of daily Gross Revenues for the Franchised Location and will remit a signed and-verified statement of franchisee's monthly Gross Revenues using such forms as Franchisor may prescribe in writing. The monthly statement of Gross Revenues will accompany Franchisee's Monthly Fee and Reservation Fees and, thus, unless otherwise provided in Franchisor's Manuals, will be delivered to Franchisor on or before the tenth (10th) day of each month for the preceding month. Franchisor may, at its discretion gather daily Gross Revenues, occupancy, and other related information through any computerized or automated information reporting system that Franchisor may establish to Franchisor in the manner and at such frequencies as Franchisor may specify. Franchisee shall participate in all computerized or automated information reporting programs that Franchisor may adopt for use by Cobblestone branded hotels. Franchisee shall purchase any computer hardware, computer software, and related high-speed Internet access or telephone services necessary to participate in such programs.

(D) Franchisor's Audit Rights. Franchisee and Franchisee's accountants will make all of their books, records, ledgers, work papers, accounts, and financial information, including state and local sales tax reports and federal, state, and local income tax returns (collectively "Financial Records") available to Franchisor at all reasonable times for review and audit by Franchisor or its designee, and the Financial Records for each fiscal year will be kept in a secure place by Franchisee and will be available for audit by Franchisor for at least five (5) years.

(E) Waiver by Franchisee. Franchisor will have the right to review the books and records maintained by the vendors or suppliers that supply products, goods, or services to Franchisee regarding the purchases made by Franchisee. This Agreement will serve as evidence of Franchisor's right to review such information and will constitute the authority from Franchisee for its vendors and suppliers to provide such information to Franchisor.

(F) Use and Disclosure of Information. Without limiting any other provision of this Agreement, Franchisor shall have the right to use in any appropriate manner all reports, data and other information that Franchisee submits to Franchisor or that Franchisor obtains. Franchisor shall have the right to disclose such reports, data and other information to third parties, including, but not limited to consultants and existing franchisees. Franchisor's affiliates, third party consultants engaged by the Franchisor or its affiliates, or any of their respective employees will be on an anonymous basis.

(G) Construction Cost Summary. Within sixty (60) days of the Opening Date, Franchisee shall submit to Franchisor a summary of all costs and expenses incurred by Franchisee in acquiring the Franchised Location and in designing and constructing the Franchised Location in such form as Franchisor may prescribe in writing.

(H) Organizational Documents. Franchisee shall, within ten (10) days of receiving a written request from Franchisor, provide Franchisor with true, correct, and complete copies of Franchisee's Articles of Incorporation, Articles of Organization, Bylaws, Operating Agreement, Member Control Agreement, Shareholder Control Agreement, Partnership Agreement, or comparable governing documents or instruments, as well as all amendments thereto. In addition, Franchisee shall, within ten (10) days of receiving a written request from Franchisor, provide Franchisor with a list of all of the shareholders, members, partners, or other equity owners of Franchisee showing the number of shares of stock, percentage interest, or other ownership interest of each such shareholder, member, partner, or other equity owner in Franchisee which is certified as being true, correct, and complete by the President, Chief Executive Officer, Managing Partner, or comparable officer or manager of Franchisee.

ARTICLE 17: ASSIGNMENT

(A) Assignment by Franchisor. This Agreement may be unilaterally assigned and transferred by Franchisor without the approval or consent of Franchisee and will inure to the benefit of Franchisor's successors and assigns. Franchisor will provide Franchisee with written notice of any such assignment or transfer, and the assignee will be required to fulfill Franchisor's obligations under this Agreement.

(B) Assignment upon Death or Disability of Franchisee. If Franchisee is an individual, then in the event of the death or permanent disability of Franchisee, the Franchisee's right to operate the Franchised Location pursuant to this Agreement may, subject to compliance with Articles 17(C), (D) and (F) hereof, be assigned, transferred or bequeathed by Franchisee to any designated person or beneficiary.

(C) Approval of Transfer. Subject to the provision of Article 17(B), (D), (E) and (F) hereof, (1) this Agreement; (2) shares of capital stock, partnership interests, membership interests, or other ownership interests in Franchisee or any entity that beneficially owns, directly or indirectly, an interest in Franchisee; or (3) the material assets associated with the Franchised Location (the

"Business Assets"), may be sold, assigned, or otherwise transferred by Franchisee or its direct or indirect shareholders, partners, or members only with the prior written approval of Franchisor. Any such purported sale, assignment, or other transfer without the prior written consent of Franchisor shall be void and constitute a material breach of the material provisions of this Agreement and good cause for the termination of this agreement by Franchisor unless Franchisor exercises its rights of first refusal under Article 17(E) hereof. Franchisor will not unreasonably withhold its consent to any sale, assignment, or other transfer of (1) this Agreement; (2) shares of capital stock, partnership interests, membership interest, or other ownership interests in Franchisee or any entity that beneficially owns, directly or indirectly, an interest in Franchisee; or (3) any of the Business Assets provided that Franchisee and the transferee comply with any and all reasonable conditions imposed by Franchisor in its sole discretion, including, but not limited to, the following: (1) all of Franchisee's monetary obligations due to Franchisor have been paid in full, and Franchisee is not otherwise in default under this Agreement; (2) the transferee must demonstrate to Franchisor's reasonable satisfaction that he, she, or it meets Franchisor's managerial standards, financial resources standards, and business standards for new franchisees, possesses a good business reputation and credit rating, and possesses the aptitude and ability to conduct the franchised business (as may be evidenced by prior related business experience or otherwise); (3) the transferee must execute, and cause all parties having a legal or beneficial interest in the transferee to execute Franchisor's then-current standard Franchise Agreement (the "New Franchise Agreement") and such other ancillary agreements as Franchisor may require for the Franchised Location for a term equal to the then unexpired term of this Agreement or such longer period (not to exceed the then-current term applicable to a Cobblestone branded hotel) as Franchisor may establish in its reasonable discretion; (4) the transferee and all of its shareholders, partners, members, or other owners of the transferee and any entity that beneficially owns all or any part of the transferee sign or have signed the personal guaranty included as part of the New Franchise Agreement and agree to be unconditionally bound by the terms and conditions of the New Franchise Agreement or Franchisor's then-current Franchise Agreement; (5) the transferee must assume (a) Franchisee's obligations to Franchisor with respect to any Loyalty Programs sponsored by Franchisor, including, without limitation. Franchisee's obligation to reimburse Franchisor for payments made by Franchisor under any such Loyalty Programs after the effective date of the transfer with respect to nights spent in the Franchised Location prior to such effective date; and (b) Franchisee's obligations with respect to any gift certificates sold or issued by Franchisee prior to the effective date of the transfer; (6) unless otherwise agreed by Franchisor in writing, prior to the date of transfer, the transferee (or its General Manager) have successfully completed Franchisor's management training program and, in connection therewith, the transferee will pay the salaries, fringe benefits, payroll taxes, unemployment compensation, workers' compensation insurance, travel costs, and all other expenses for all persons sent to the training programs, and will pay the training fees referenced in Article 11(A); (7) the transferee must purchase the real estate and building at the Franchised Location; (8) the transferee must agree, in writing, to remodel, modernize, redecorate, and renovate the Franchised Location and to purchase and replace the furniture, fixtures, supplies, equipment, and amenities to be used in the Franchised Location by the dates established by Franchisor so that the Franchised Location will be compliant with the Rules and Regulations and the Plans and Specifications. All such remodeling, modernizing, redecorating, and renovating shall be conducted in accordance with Article 6(F) hereof; (9) the transferee must demonstrate to Franchisor's reasonable satisfaction that the material terms and conditions of the transfer or assignment, including, without limitation, the price and terms of payment, are not so burdensome as to adversely affect the subsequent operation or financial results of the Franchised Location; and (10) the transferee must agree to continue to operate the Franchised Location using the Marks and Business System for the full unexpired term of this Agreement or such longer period (not to exceed the duration of the New Franchise Agreement applicable to a newly constructed hotel using

the Marks and Business System) as Franchisor may establish in its reasonable discretion. While the transferee will not be required to pay the Initial Fee, if any, specified in the New Franchise Agreement, the transferee will be required to make the local advertising expenditures and pay the Monthly Fees, Reservation Fees, and all other fees at the rates specified in the New Franchise Agreement, plus any additional fees not provided for in this Agreement but which are required to be paid to Franchisor or others by the terms of the New Franchise Agreement. Franchisee acknowledges that the terms, conditions, and economics of the New Franchise Agreement may, at that time, vary in substance and form from the terms, conditions, and economics of this Agreement. Specifically, and without limiting the manner in which the terms, conditions, and economics of the New Franchise Agreement may vary from this Agreement, Franchisee acknowledges and agrees that (1) the Monthly Fees, Reservation Fees, training fees, Transfer Fee (as defined in Article 17(D)), and other fees payable to Franchisor under the New Franchise Agreement may be greater than that provided for herein; and (2) the New Franchise Agreement may provide for the payment of fees by the transferee to Franchisor which are not provided for herein. Franchisee further acknowledges and agrees that Franchisor's consent to a transfer or assignment shall not constitute a waiver of any claims that Franchisor may have against Franchisee of its obligations hereunder, nor shall it be deemed a waiver of Franchisor's right to demand full compliance with all of the terms and conditions of this Agreement by the transferee or assignee. Acceptance by Franchisor of any Monthly Fees, Reservation Fees, or any other amounts due and payable hereunder from any third party, including, but not limited to, any transferee or assignee of this Agreement or the Business Assets, shall not constitute Franchisor's consent or approval to such assignment or transfer.

(D) Transfer Fee. If, pursuant to the terms of Article 17(B) or 17(C), (1) this Agreement or the Business Assets is/are directly or indirectly sold, assigned, transferred, or bequeathed to another person or entity; or (2) if Franchisee is an entity, over fifty percent (50%) of the direct or indirect beneficial ownership of Franchisee is directly or indirectly transferred to another person or entity, then Franchisee will pay Franchisor (a) the Franchisor's then-current Interior Design Review Fee to inspect the Franchised Location and to generate a list of the remodeling, modernization, redecorating and renovation of the Franchised Location and the furniture, fixtures, supplies, equipment and amenities used in the Franchised Location required to be purchased and replaced so that the Franchised Location will be compliant with the Rules and Regulations and Plans and Specifications, as well as the dates by which the same must be completed; provided, however, that if Franchisee shall have paid Franchisor an Interior Design Review Fee within six (6) months of the effective date of such sale, assignment, or other transfer, the amount of such Interior Design Review Fee received by Franchisor shall be credited against the Transfer Fee, as hereinafter defined, payable by Franchisee; and (b) a transfer fee of two thousand five hundred and no/100 dollars ($2,500) ("Transfer Fee"). Notwithstanding the foregoing, if Franchisee is an entity and fifty percent (50%) or less of the direct or indirect beneficial ownership of Franchisee is being directly or indirectly transferred to another person or entity, then Franchisee shall not be required to pay Franchisor an Interior Design Review Fee or Transfer Fee in connection with such transfer.

(E) Franchisor's Rights of First Refusal. Notwithstanding any provisions of this Agreement to the contrary, neither Franchisee nor its shareholders, partners, members, or other owners shall, except as provided in Article 17(B) hereof, directly or indirectly sell, assign, or otherwise transfer in one or a series of related transactions this Agreement, all or substantially all of the Business Assets and/or over fifty percent (50%) of the issued and outstanding shares of capital stock, partnership interests, membership interests, or other ownership interests in Franchisee unless it/he/they shall have first (1) given Franchisor a written notice setting forth all of the material terms and conditions of the proposed transaction; and (2) offered to sell, assign, or otherwise transfer this

Agreement or such Business Assets, capital stock, partnership interests, membership interests, or ownership interests to Franchisor, as the case may be, on the same terms and conditions. Franchisor shall have thirty (30) days from its receipt of Franchisee's notice to exercise its rights of first refusal contained in this Article 17(E) by giving written notice of such exercise to Franchisee. If Franchisor does not exercise its rights of first refusal contained in this Article 17(E), Franchisee shall remain subject to the terms and conditions of Article 17(C), (D) and (F) and shall have ninety (90) days within which to consummate the transaction on the terms and conditions set forth in the notice to Franchisor. If Franchisee does not consummate the transaction within a ninety (90) day period, then Franchisee must again comply with the terms of this Article 17(E) prior to any sale or transfer.

(F) Documentation. Notwithstanding any provision of this Agreement to the contrary, no transfer or assignment of this Agreement or the Business Assets will be valid or effective until Franchisor has received the duly signed legal documents which its legal counsel deems necessary to properly and legally document the transfer or assignment of this Agreement as provided for in this Article 17.

(G) Security Interest. This Agreement and the franchise granted to Franchisee hereunder may not be the subject of a security interest, lien, levy, attachment, or execution by Franchisee's creditors or any financial institution, except with the prior written approval of Franchisor.

ARTICLE 18: SITE SELECTION, BUILDING PLANS AND SPECIFICATIONS

(A) Site Selection. Franchisee will be solely responsible for selecting the site for the Franchised Location, for purchasing the real estate and constructing or remodeling the building for the Franchised Location for a term equal to the term of this Agreement. Accordingly, no provision of this Agreement may be interpreted to impose any obligation upon Franchisor to locate a suitable site for the Franchised Location, to assist Franchisee in the selection of a suitable site for the Franchised Location, or to provide any assistance to Franchisee in the purchase of the Franchised Location.

(B) Site Approval; Feasibility Study. Franchisee will not purchase, lease, or otherwise acquire possession of a site for the Franchised Location until the proposed site has been approved by Franchisor. Franchisee acknowledges that neither Franchisor's approval of the proposed site for the Franchised Location nor any assistance that may be provided by Franchisor in the selection or review of the site will be deemed to be a representation, warranty, or guaranty by Franchisor regarding the potential financial success of the Franchised Location operated at that site, and Franchisee assumes all business and economic risks associated with the site. Franchisor will have the right to require Franchisee to obtain, at Franchisee's expense, an economic feasibility study for the proposed site of the Franchised Location. Any feasibility study required by Franchisor will be completed by an expert mutually agreed upon by Franchisor and Franchisee.

(C) Compliance with Plans and Specifications. Franchisee shall take any and all action necessary to cause the development, construction, renovation, furnishing, and equipping of its Franchised Location (collectively, "Construction Work") to be performed in strict compliance with: (1) Franchisor's then-current Plans and Specifications; (2) Franchisor's Rules and Regulations Manual; (3) the Detailed Plans (as hereinafter defined); and (4) all applicable federal, state, and local laws, codes, and regulations, including, but not limited to, the applicable provisions of the ADA. Franchisor will provide to Franchisee a copy of Franchisor's then-current Rules and Regulations and Plans and Specifications. Franchisee acknowledges that neither the Rules and Regulations, nor the Plans and Specifications contain all of the requirements of any federal, state, or local law, code, or

regulation, including those concerning the ADA or similar governing public accommodations for persons with disabilities. In addition, such Rules and Regulations and Plans and Specifications do not contain the requirements of, and shall not be used for, construction drawings or other documentation necessary to obtain permits or authorization for the Construction Work. Rather, Franchisee shall, at its sole cost and expense, cause complete and detailed building plans and specifications for the Construction Work, including, but not limited to, site plans, civil engineering plans, structural, mechanical, and electrical plans, and Franchisee's proposed furnishings, fixtures, equipment, signs, furniture, and building finishes (collectively, the "Detailed Plans") to be prepared and certified by a licensed architect. Prior to submission of the Detailed Plans to Franchisor as hereinafter provided, Franchisee shall furnish Franchisor with the resume of the architect, whom Franchisee desires to retain to prepare the Detailed Plans and such additional information and detail concerning the architect's training, experience, and financial responsibility as Franchisor may request. Franchisee may not use an architect to prepare its Detailed Plans who is not willing and able to provide the certification of ADA compliance hereinafter provided for. The Detailed Plans shall not be approved and the Construction Work shall not be commenced until Franchisor has approved the architect who is to prepare the Detailed Plans and such architect has provided Franchisor with such certification of ADA compliance. Prior to commencement of the Construction Work, Franchisee shall submit to Franchisor the resume of the general contractor and/or any major subcontractors for the Construction Work and such additional information concerning their experience and financial responsibility as Franchisor shall request. Franchisee may not use a general contractor to perform the Construction Work who is not willing to provide the certification of ADA compliance hereinafter provided for. Construction Work, including the ordering of furniture, fixtures, and/or equipment, shall not commence until Franchisor has approved such contractors, which approval may be conditioned on bonding of such contractors. If Franchisee is acting as its own general contractor, Franchisee shall cause its architect to (1) provide Franchisor with three (3) copies of all preliminary and final Detailed Plans for the Franchised Location for review and approval by Franchisor, that such Detailed Plans comply with the ADA and all other related or similar federal, state, or local laws, codes, and regulations. Within fifteen (15) days of receipt of such Detailed Plans and certification of ADA compliance, Franchisor will review the same to determine if they are consistent with Franchisor's then-current Rules and Regulations and Plans and Specifications and will provide Franchisee with written comments and a list of any recommended and/or required changes. If Franchisor requires Franchisee to make changes to its Detailed Plans, Franchisee shall prepare or cause to be prepared revised Detailed Plans to incorporate such required changes. Franchisee shall submit three (3) copies of such revised Detailed Plans to Franchisor and Franchisor will, within fifteen (15) days of receipt thereof, review the same and provide Franchisee with any further written comments and recommended and/or required changes which it may have. Franchisee shall not retain a contractor or commence any Construction Work until its Detailed Plans have been reviewed and approved by Franchisor in writing. Franchisor's review and approval of Franchisee's Detailed Plans shall be limited to determining whether such plans comply with the then-current Rules and Regulations and Plans and Specifications. Such review is not designed to assess compliance of the Detailed Plans with applicable federal, state, or local laws, codes, or regulations, including the ADA, or for ensuring the safety and security of the Franchised Location. Franchisee is solely responsible for ensuring that its Detailed Plans are, and Construction Work is, in full compliance with all federal, state, and local laws, codes, and regulations, including the ADA, and that the Franchised Location is safe and secure. Franchisee's architect shall accept this Agreement as Franchisee's consent, authorization and instruction for such architect to provide three (3) copies of all preliminary and final Detailed Plans for the Franchised Location to Franchisor and to discuss the same with Franchisor's employees or other representatives. In the design and construction of the Franchised Location, Franchisee shall not deviate or vary from the then-current Rules and Regulations and Plans and Specifications or

Franchisee's Detailed Plans, which have been approved by Franchisor without, in each instance, the prior written approval of Franchisor, which approval shall not be unreasonably withheld. Any such variances approved by Franchisor shall only apply with respect to the Franchised Location and in no event may Franchisee incorporate any such variances into any future hotel project using the Marks and Business System, which it may construct pursuant to a separate Franchise Agreement with Franchisor, unless such variance is again approved by Franchisor pursuant to such Franchise Agreement. Any unauthorized variance from the then-current Rules and Regulations, Plans and Specifications, the Detailed Plans, or required shop drawing submittals which have been approved by Franchisor, will be a material breach of this Agreement.

(D) Construction. Franchisee will be solely responsible for ascertaining that the Construction Work for the Franchised Location is in compliance with the then-current Rules and Regulations, Plans and Specifications, the Detailed Plans approved in writing by Franchisor, and all applicable laws, codes, and regulations, including, but not limited to the ADA. Franchisee will be solely responsible for, and will retain a licensed architect for the purpose of, inspecting the Franchised Location during the performance of the Construction Work to ensure that such work is being performed according to the then-current Rules and Regulations, Plans and Specifications, the Detailed Plans which have been approved by Franchisor in writing, and all applicable laws, codes, and regulations, including, but not limited to the ADA. Franchisee will be responsible for complying with all laws and for acquiring, at its expense, all licenses and building permits required in connection with the Construction Work. Franchisee shall not during the term of this Agreement or after the expiration or termination here of directly or indirectly use all or any part of the Rules and Regulations, Plans and Specifications, and/or the Detailed Plans in connection with the construction or remodeling of any hotel, motel, or other lodging property other than a hotel using the Marks and Business System pursuant to a Franchise Agreement.

(E) Inspection During Construction or Renovation. Franchisor may, at its expense, view the Franchised Location during the performance of Construction Work at such times as it deems necessary for the purpose of determining the progress of the Construction Work and to ascertain whether the interior and exterior of the Franchised Location conform to the then-current Rules and Regulations, Plans and Specifications, the Detailed Plans approved in writing by Franchisor, and have or will have the physical appearances of a hotel properly using the Marks and Business System. Neither Franchisor's review or approval of Franchisee's Detailed Plans or shop drawing submittals, nor Franchisor's viewing of the Franchised Location during the performance of Construction Work will be for the purposes of determining that the Construction Work is being performed according to the approved Detailed Plans, in a good workmanlike manner or in compliance with any applicable laws, codes, or regulations, including, but not limited to the ADA. Accordingly, Franchisor will have no responsibility to Franchisee or any other person if the Construction Work is not performed by the contractor (1) in compliance with the Detailed Plans which have been approved by Franchisor; (2) in compliance with applicable laws, codes, or regulations, including, but not limited to the ADA; or (3) in a good workmanlike manner, or if the contractor breaches its contract with Franchisee. Franchisee agrees to promptly replace or change at its expense any Construction Work which does not comply with the then-current Rules and Regulations Manual, Plans and Specifications, the Detailed Plans approved by Franchisor, and/or applicable laws, codes, or regulations, including, but not limited to the ADA.

(F) Pre-Opening Inspection. Franchisee will not open its Franchised Location and commence initial business operation until Franchisor has inspected the Franchised Location and has given Franchisee written approval to open for business. It is expressly agreed that Franchisee will not

be permitted to open its Franchised Location for business unless and until: (1) Franchisee's Sign has been installed in accordance with Article 13 hereof; (2) the pool/recreation area and other common areas for the Franchised Location have been completed, are operational, and are "guest ready," (3) the lobby area, including the front desk, have been finished and fully equipped; (4) at least fifty percent (50%) of the guest rooms have been completed, are fully equipped, "guest ready," and are accessible to Franchisee's customers without having to cross through uncompleted portions of the Franchised Location; (5) all Construction Work which could reasonably be expected to materially diminish the quality of a customer's stay at the Franchised Location has been completed; (6) Franchisee's architect and general contractor has certified to Franchisor, in accordance with the ADA certification in the form attached hereto as Attachment 2, that the Franchised Location complies with the ADA and all other related or similar federal, state, or local laws, codes, and regulations; (7) Franchisor has received from Franchisee all documentation and other items required under this Agreement, including, but not limited to; (a) a signed receipt for Franchisor's Franchise Disclosure Document; (b) an application for a franchise agreement completed and signed by Franchisee; (c) all financial information required under Article 4(B) or elsewhere in this Agreement; (d) the full Initial Fee; (f) any and all site approvals, feasibility studies, architect and contractor resumes, approved plans, and accepted contractor's bids that are required under Article 18 of this Agreement; (g) any organizational documents requested under Article 16(H) of this Agreement; and (h) any certificates of insurance required under Article 14 of this Agreement; and (8) Franchisee's General Manager and other personnel must have satisfactorily completed all training required by Franchisor as outlined in Article 11.

(G) Construction Review Fee. Franchisor may charge Franchisee a fee of up to ten thousand and no/100 dollars ($10,000) for reviewing the Detailed Plans, inspecting the construction site, and monitoring the progress of Franchisee's construction ("Construction Review Fee"). The Construction Review Fee is due immediately upon receipt of invoice.

ARTICLE 19: ENFORCEMENT; MISCELLANEOUS

(A) Injunctive Relief. Franchisor has the right to petition a court of competent jurisdiction for the entry of temporary and permanent injunctions and orders of specific performance restraining violations and threatened violations of the terms and conditions of this Agreement and/or enforcing the terms and conditions of this Agreement, including, but not limited to, the terms and conditions of this Agreement relating to: (1) Franchisee's improper use of the Marks and/or the Business System; (2) the obligations of Franchisee upon termination or expiration of this Agreement; (3) the sale, assignment, or other transfer of this Agreement, the Business Assets or shares of capital stock, partnership interests, membership interests, or other ownership interests of Franchisee; (4) requiring Franchisee to exhibit the approved Sign during the term of this Agreement and requiring Franchisee to remove the Sign upon the termination or expiration of this Agreement; and (5) any act or omission by Franchisee or Franchisee's employees that, (a) constitutes a violation of any applicable law, ordinance, or regulation, (b) is dishonest or misleading to customers of the Franchised Location or other Cobblestone branded hotels, (c) constitutes a danger to the employees, public, or customers of the Franchised Location, or (d) may impair the goodwill associated with the Marks and/or the Business System. In addition, notwithstanding any provision of Article 9 of this Agreement to the contrary, if Franchisee gives Franchisor any notice of any alleged breach or violation of this Agreement or of any laws that give rise to a claim for damages or the termination of this Agreement in favor of Franchisee, then Franchisor will have the right to immediately commence legal action seeking to enjoin and prevent Franchisee from terminating this Agreement without regard to any waiting period that may be contained in this Agreement. Upon issuance of such injunctive relief

against Franchisee, Franchisee will not have the right to terminate this Agreement as provided herein unless and until a court of competent jurisdiction has ruled on the merits that Franchisor has breached this Agreement in the manner alleged by Franchisee, and then only if Franchisor fails to correct the breach determined by the court within thirty (30) days after a final judgment has been entered against Franchisor and all time for appeals by Franchisor expired. Franchisor shall be entitled to obtain any such injunctive relief without the posting of any bond or other security in such action.

(B) Waiver. Franchisor and Franchisee may, by written instrument signed by Franchisor and Franchisee, waive any obligation of or restriction upon the other under this Agreement. Acceptance by Franchisor of any payment by Franchisee and the failure, refusal, or neglect of Franchisor to exercise any right under this Agreement or to insist upon full compliance by Franchisee of any of its obligations hereunder will not constitute a waiver by Franchisor of any provision of this Agreement. Franchisee must give Franchisor prompt written notice of an alleged breach or violation of this Agreement after Franchisee has knowledge of, determines, or is of the opinion that there has been an alleged breach or violation of this Agreement by Franchisor. If Franchisee fails to give written notice to Franchisor of an alleged breach or violation of this Agreement within one (1) year from the date that Franchisee has knowledge of, determines, or is of the opinion that there has been an alleged breach or violation by Franchisor, then the alleged breach or violation will be deemed to be condoned, approved, and waived by Franchisee, and the alleged breach or violation will not be deemed to be a breach or violation of this Agreement by Franchisor, and Franchisee will be barred from commencing any action or asserting any claim against Franchisor for that alleged breach or violation.

(C) Payments to Franchisor. Franchisee will not for any reason withhold payment of any Monthly Fees, Reservation Fees, or any other payments due to Franchisor pursuant to this Agreement or otherwise. Franchisee will not have the right to "offset" any liquidated or unliquidated amounts allegedly due to Franchisee from Franchisor against the Monthly Fees, Reservation Fees, or any other payment due to Franchisor pursuant to this Agreement or otherwise. Consequently, Franchisee will timely pay all such amounts due to Franchisor regardless of any claims that Franchisee may allege against Franchisor.

(D) Effect of Wrongful Termination. If Franchisor or Franchisee takes any action to terminate this Agreement or to convert the Franchised Location to another business without first complying with the terms and conditions (including written notice and opportunity to cure provisions) of Articles 8 or 10 hereof, as applicable, then such action will not relieve either party of, or release either party from, any of its obligations under this Agreement, and the terms and conditions of this Agreement will remain in full force and effect until such time as this Agreement expires or is terminated in accordance with the provisions of this Agreement and applicable law. If this Agreement is terminated by Franchisor pursuant to Article 8, or if Franchisee breaches this Agreement by attempting to terminate this Agreement other than in full compliance with the terms and conditions of Article 9 hereof, then unless Franchisee pays Franchisor upon demand the Liquidated Damages provided for in Article 8(F) hereof, Franchisor will be entitled to seek recovery from Franchisee of all damages that Franchisor has sustained and will sustain in the future as a result of Franchisee's breach of this Agreement, taking into consideration the Monthly Fees that would have been payable by Franchisee to Franchisor for what would have been the remaining term of this Agreement.

(E) Cumulative Rights. The rights and remedies of Franchisor hereunder are cumulative and no exercise or enforcement by Franchisor of any right or remedy hereunder will preclude the

exercise or enforcement by Franchisor of any other right or remedy hereunder or which Franchisor is entitled by law to enforce.

(F) Venue and Jurisdiction. Except for injunctive relief sought by Franchisor, which Franchisor may bring in a court of competent jurisdiction in the state where Franchisee resides or has its principal place of business or in which the Hotel is located, Franchisee agrees that the U.S. District Court for the Eastern District of Wisconsin, or if such court lacks jurisdiction, the District Court (or its successor) for Winnebago County, Wisconsin shall be the venue and exclusive forum in which to adjudicate any case or controversy arising from or relating to this Agreement. Franchisee, each of its officers, managers, directors, governors, shareholders, partners, and/or members and any personal guarantors do hereby submit to the jurisdiction of such courts and waives any objections to either the jurisdiction of or venue in such courts.

(G) Binding Agreement. This Agreement is binding upon the parties hereto and their respective executors, administrators, personal representatives, heirs, permitted assigns, and successors in interest, but nothing in this Agreement is to be construed as an authorization or right of Franchisee to assign, license, franchise, or otherwise transfer its rights or delegate its duties under this Agreement except as expressly permitted in Article 17.

(H) Entire Agreement. The recitals to this Agreement are a part of this Agreement. This Agreement supersedes and terminates all prior agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof. This Agreement constitutes the entire agreement of the parties, and except for any representations contained in Franchisor's Franchise Disclosure Document or in any exhibits or amendments thereto, there are no other oral or written representations, inducements, promises, understandings, or agreements between Franchisor and Franchisee relating to the subject matter of this Agreement.

(I) Headings; Terms. The headings of the Articles are for convenience only and do not define, limit, or construe the contents of such Articles. The term "Franchisee" as used herein is applicable to one or more persons, a corporation, partnership, limited liability company, or other entity, as the case may be, and the singular usage includes the plural, the masculine usage includes the neuter and the feminine, and the neuter usage includes the masculine and the feminine. References to "Franchisee," "assignee" and "transferee" which are applicable to an individual or individuals will mean the principal owner or owners of the equity or operating control of Franchisee or any such assignee or transferee if Franchisee or such assignee or transferee is a corporation, partnership, limited liability company, or other entity.

(J) Collection Costs. Franchisee shall reimburse Franchisor for any and all costs and expenses, including, but not limited to, reasonable attorneys' fees, expert witness fees, costs of investigation, court costs, disbursements of counsel, and travel and living expenses, reasonably incurred by Franchisor in collecting any amount due and payable by Franchisee to Franchisor under this Agreement or otherwise, in enforcing the terms and conditions of this Agreement, and/or in pursuing any of its rights and remedies, including, but not limited to, any and all such costs and expenses incurred by Franchisor in (1) collecting any unpaid and past due Monthly Fees, Reservation Fees, and other amounts from Franchisee; and/or (2) seeking equitable relief against Franchisee, including orders of specific performance enforcing the terms and conditions of this Agreement and/or temporary and/or permanent injunctions enjoining violations of the terms and conditions of this Agreement.

(K) Interest. Any amounts payable by Franchisee to Franchisor, including, but not limited to, amounts payable by Franchisee to Franchisor under this Agreement, shall bear interest from the date it is due and until paid in full at the lesser of eighteen percent (18%) per annum or the maximum rate permitted by law in the state in which the Franchised Location is located.

(L) Joint and Several Liabilities. If Franchisee consists of more than one individual or entity, then the liability of all such individuals or entities under this Agreement will be deemed to be joint and several.

(M) No Oral Modifications. No oral modification, change, addition, rescission, release, amendment, or waiver of this Agreement and no approval, consent, or authorization required by any provision of this Agreement may be made except by a written agreement subscribed to by a duly authorized manager, officer, governor, director, or partner of Franchisee and the president or other duly authorized manager of Franchisor.

(N) Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

(O) Parties in Interest. Nothing expressed or implied in this Agreement is intended or shall be construed to confer any rights or remedies under or by reason of this Agreement upon any person or entity other than Franchisor and Franchisee and their respective heirs, personal representatives, successors, and permitted assigns. Nothing in this Agreement is intended to relieve or discharge debts, liabilities, or obligations of any third person or entity to Franchisor or Franchisee.

ARTICLE 20: NOTICES

All notices to Franchisor will be in writing and will be made by personal service upon a manager or governor of Franchisor or sent by prepaid registered or certified United States mail addressed to the Chief Executive Officer of Franchisor at 980 American Drive, Neenah, WI 54956 or such other place as Franchisor may designate. All notices to Franchisee, unless otherwise provided in this Agreement, will (1) be by personal service upon Franchisee (or, if applicable, upon an officer, manager, director, governor or partner of Franchisee); (2) be sent by prepaid registered or certified United States mail addressed to Franchisee at the Franchised Location, or such other address as Franchisee may designate in writing; or (3) be given in such manner as Franchisor may determine in its sole discretion to be reasonably likely to be received by the intended recipient. Notices delivered by a recognized delivery service that requires written receipt will be deemed to have been personally served under this Agreement.

ARTICLE 21: GOVERNING LAW AND INTERPRETATION

(A) Governing Law; Severability. Except to the extent governed by the United States Trademark Act of 1946 (Lanham Act, I5 U.S.C. § 1051 et seq.), this Agreement and the relationship between the parties will be governed by the laws of the state of Wisconsin. All provisions of this Agreement are severable and this Agreement will be interpreted and enforced as if all completely invalid or unenforceable provisions were not contained herein and partially valid and unenforceable provisions will be enforced to the extent valid and enforceable. If any applicable law or rule of any relevant jurisdiction requires a greater prior notice of the termination of or refusal to renew this Agreement than is required hereunder or the taking of some other action not required hereunder, or if

under any applicable law of any relevant jurisdiction, any provision of this Agreement or any specification, standard, or operating procedure prescribed by Franchisor is invalid or unenforceable, the prior notice or other action required by such law or rule will be substituted for the notice requirements hereof, or such invalid or unenforceable provision, specification, standard, or operating procedure will be modified to the minimum extent required to be valid and enforceable. Such modifications to this Agreement will be effective only in such jurisdiction and will be enforced as originally made and entered into in all other jurisdictions. All other provisions of this Agreement shall be enforceable as originally made and entered into upon the execution of this Agreement by Franchisor and Franchisee.

(B) Franchisor's Reasonable Business Judgment. Whenever Franchisor reserves or is deemed to have reserved discretion in a particular area or where Franchisor agrees or is deemed to be required to exercise its rights reasonably or in good faith, Franchisor will have satisfied its obligations whenever Franchisor exercises reasonable business judgment in making its decision or exercising its rights. A decision or action by Franchisor will be deemed to be the result of reasonable business judgment, even if other reasonable or even arguably preferable alternatives are available, if Franchisor's decision or action is intended, in whole or significant part, to promote or benefit the Business System generally even if the decision or action also promotes a financial or other individual interest of Franchisor. Examples of items that will promote or benefit the Business System include enhancing the value of the Marks, improving customer service and satisfaction, improving product quality, improving uniformity, enhancing or encouraging modernization, and improving the competitive position of the Business System. Neither the Franchisee nor any third party (including, a trier of fact) may substitute its judgment for Franchisor's reasonable business judgment.

ARTICLE 22: ACKNOWLEDGMENTS

(A) Legal Representation. Franchisee acknowledges that this Agreement constitutes a legal document which grants certain rights to and imposes certain obligations upon Franchisee. Franchisee acknowledges that Franchisor recommended to Franchisee that Franchisee should consult an attorney or other advisor prior to the execution of this Agreement to review Franchisor's Franchise Disclosure Document and this Agreement in detail, to review the potential economic benefits, operations, and other business aspects of the Cobblestone branded hotel business, to determine compliance with franchising and other applicable laws, and to advise Franchisee regarding its economic risks, liabilities, obligations, and rights under this Agreement.

(B) Anti-Terrorism Laws. Franchisee represents and warrants that Franchisee, and all persons and entities owning (directly or indirectly) an ownership interest in Franchisee and all personal guarantors: (1) are not, and shall not become, a person or entity with whom Franchisor is restricted from doing business with under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including, but not limited to, those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order (including, but not limited to, the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action; (2) are not knowingly engaged in, and shall not engage in, any dealings or transactions or be otherwise associated with such persons or entities described in (1) above; and (3) are not, and shall not become, a person or entity whose activities are regulated by the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001 or the regulations or orders thereunder.

IN WITNESS WHEREOF, Franchisor, Franchisee and the shareholders, partners, members, or other owners of Franchisee have respectively signed this Agreement as of the Effective Date.

FRANCHISOR:
COBBLESTONE HOTELS, LLC
a Wisconsin limited liability company

By: _____
Name: Brian Wogernese
Title: President

Date: 5-1-14

FRANCHISEE:
Bozeman Development, LLC
Andy Hutchison

By: _____
Name: Andy Hutchison
Title: Principal

Date: 4-7-14

FIRST AMENDMENT TO FRANCHISE AGREEMENT

THIS FIRST AMENDMENT TO FRANCHISE AGREEMENT ("First Amendment") dated for reference purposes this 2 day of April, 2014 ("Effective Date"), by and between Cobblestone Hotels, LLC, a Wisconsin limited liability company ("Franchisor") and Boomer Development LLC, a _____ ("Franchisee"), is attached to and hereby made a part of that certain Franchise Agreement ("Agreement"), with an Effective Date of April 2, 2014. All terms and conditions remain the same as stated in the Agreement except for the following:

WHEREAS, Franchisor and Franchisee desire to amend the Franchise Agreement as herein set forth.

NOW THEREFORE, for and in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree to amend the Agreement as follows:

1. **Term**. The following paragraph is hereby added to Article 2(A) of the Agreement:

   "Notwithstanding the foregoing, Franchisor and Franchisee, provided Franchisee is in full compliance with this Agreement and executes a General Release as Franchisor may prescribe, shall each have the right to terminate this Agreement without any reason at all effective on the fifth (5th), tenth (10th), and fifteenth (15th) anniversary of the Opening Date, provided, however that if then-current applicable law would prohibit Franchisor from terminating this Agreement pursuant to this Article 2(A) then Franchisee will likewise not have the foregoing right to terminate this Agreement."

2. **Interior Design Review Fee**. The Interior Design Review Fee referenced in Article 6(A) of the Agreement is hereby capped at two thousand five hundred and no/100 dollars ($2,500.00).

3. **Signage Review Fee**. The Signage Review Fee referenced in Article 13(A) of the Agreement is hereby waived in its entirety.

4. **Construction Review Fee**. The Construction Review Fee referenced in Article 18(G) of the Agreement is hereby capped at two thousand five hundred and no/100 dollars ($2,500.00).

5. **Full Force and Effect**. Except as amended by this First Amendment, the Agreement remains in full force and effect.

6. **Conflict**. In the event of conflict between the terms and conditions of this First Amendment and the terms and conditions of the Agreement, the terms and conditions of this First Amendment shall control.

7. **Defined Terms**. Capitalized terms used, but not otherwise defined in this First Amendment shall be given the meaning given said terms in the Agreement.

8. **Confidentiality**. Franchisee agrees (and Franchisee shall cause all of its principals and agents to agree) to keep confidential the terms of this First Amendment and not to disclose any of the terms, or the negotiations leading to those terms, without the prior written consent of Franchisor, provided however, Franchisee may make such disclosures as are necessary for the sole purpose of complying with, and only to the extent required by, federal or state law or regulation.

IN WITNESS WHEREOF, the parties have executed this First Amendment as of the date first written above.

COBBLESTONE HOTELS, LLC
a Wisconsin limited liability company

By: _____
Name: Brian Wogernese
Title: President

Date: 5-1-14

Boomer Development, LLC

By: _____
Name: Andy Hutchison
Title: Principal

Date: 4-7-14

EXHIBIT A
HOTEL SPECIFIC INFORMATION

1. FRANCHISED LOCATION:

6002 N. ~~[illegible]~~ 427
Lubbock TX 79403

(If the exact street address is not known at the time this Agreement is signed, the street address shall be left blank at time of execution and inserted by the parties when it is known. Franchisee shall select the site for the hotel at a location within the Protected Area in accordance with Article 18 of this Agreement.)

2. FRANCHISED NAME:

Cobblestone Inn & Suites

3. NUMBER OF ROOMS:

~~[illegible]~~

4. PROTECTED AREA OF PROTECTION:

5-mile radius around the Franchised Location

The Protected Area is determined by Franchisor in its sole and absolute discretion. In the event of any inconsistency between this Exhibit and the cover page of the Franchise Agreement, this Exhibit controls.

ATTACHMENT 1 – CLOSING ADDENDUM

As you know, Franchisee ("you") and Franchisor ("we" or "us") are entering into a Franchise Agreement for the operation of a "Cobblestone Inn & Suites®" or "Cobblestone Hotel & Suites®". The purpose of this Closing Addendum is to determine whether any statements or promises were made to you that we have not authorized or that may be untrue, inaccurate, or misleading, and to be certain that you understand the limitations on claims that may be made by you regarding the offer and sale of the franchise and operation of your business. Please review each of the following questions carefully and provide honest responses to each question.

Acknowledgments and Representations

1. Did you receive a copy of our Disclosure Document (and all exhibits and attachments) at least 14 calendar days before signing the Franchise Agreement?

   Check one: (X) Yes ( ) No

   If no, please comment:

   _____

   _____

2. Have you carefully reviewed our Disclosure Document and Franchise Agreement?

   Check one: (X) Yes ( ) No

   If no, please comment:

   _____

   _____

3. Did you receive a copy of the Franchise Agreement that was substantially the same as the Franchise Agreement that you signed (except for fill-in-the-blank provisions or negotiated changes initiated by you) at least 7 calendar days before the date on which the Franchise Agreement was signed?

   Check one: (X) Yes ( ) No

   If no, please comment:

   _____

   _____

4. Did you review and understand all the information contained in both the Disclosure Document and Franchise Agreement?

   Check one: (X) Yes ( ) No

   If no, please comment:

   _____

   _____

5. Were you given the opportunity to consult with an attorney regarding the Disclosure Document and Franchise Agreement?

   Check one: (X) Yes ( ) No

   If yes, state your attorney's name and contact info:

   _____

   _____

6. Was any representation of any kind made to you that contradicted the statements made in the Disclosure Document?

   Check one: ( ) Yes (X) No

   If no, please comment:

   _____

   _____

7. Did any employee or other person speaking on behalf of Cobblestone Hotels, LLC make any statement, promise or representation to you that stated, suggested, predicted or project regarding past or potential sales, revenues, earnings, income or profit levels at any Cobblestone branded hotel, or the likelihood of success at your franchised hotel other than the information contained in Item 19 our Disclosure Document?

   Check one: ( ) Yes (X) No

   If yes, please state in detail the nature of the representation:

   _____

   _____

8. Do you understand that your franchised hotel will have a limited Protected Area and that Cobblestone Hotels, LLC can and may locate another Cobblestone branded hotel anywhere outside the limited Protected Area and that Cobblestone Hotels, LLC and its affiliates have the right, both within and outside of your Protected Area to: (1) distribute products or services through alternative channels of distribution (including the Internet or any other existing or future form of electronic commerce) under the "Cobblestone" trademarks; and (2) license or operate other lodging properties using trade names other than the "Cobblestone" trademarks either within your Protected Area, or outside of your Protected Area, even if such lodging properties offer services similar to those offered at your Cobblestone branded hotel?

   Check one: (X) Yes ( ) No

   If no, please comment:

   _____

   _____

9. Are you a party to any other agreement that would prevent you from becoming a Cobblestone Hotels, LLC franchisee at the Franchised Location stated in the Franchise Agreement (e.g., a franchise agreement with a different hotel brand)?

Check one: ( ) Yes (X) No

If yes, please comment:

_____

_____

Your answers are important to us and we will rely on them. By signing this Closing Addendum, you are representing that you have considered each question carefully and responded truthfully to the above questions. If more space is needed for any answer, continue on a separate sheet and attach.

*These representations are not intended to nor shall they act as a release, estoppel or waiver of any liability incurred under the Illinois Franchise Disclosure Act or the Maryland Franchise Registration and Disclosure Law.

NOTE: If the Franchisee is a corporation, partnership, limited liability company, or other entity, each of its personal guarantors must execute this acknowledgment.

Signature	Signature
Andy Hutchison	
Name (printed or typed)	Name (printed or typed)
7704 Trenton Ave	
Address	Address
Lubbock, TX 79424	
City, State, Zip Code	City, State, Zip Code
806-698-0990	
Telephone	Telephone
Signature	Signature
Name (printed or typed)	Name (printed or typed)
Address	Address
City, State, Zip Code	City, State, Zip Code
Telephone	Telephone

ATTACHMENT 2 – NEW CONSTRUCTION ADA CERTIFICATION FORM

I. Hotel Information

Property Name: _____

Street Address: _____

City/State/Zip: _____

II. Inspection Questions:

A. Did you complete the Accessibility Certification Checklist ("ACC") for the place of lodging in section I? ☐ Yes ☐ No

B. Did you answer "Yes" or "Not Applicable" accurately to all of the questions on the "ACC"? ☐ Yes ☐ No

C. Did you inspect the place of lodging before completing the "ACC" and this Certification form? ☐ Yes ☐ No

D. Have you reviewed all of the ADA Regulations in 28 C.F.R, pt. 36 including the Standards for Accessible Design in Appendix A – the ADA Standards- that are applicable to places of lodging? ☐ Yes ☐ No

E. Does the place of lodging comply with all applicable ADA Standards? ☐ Yes ☐ No

III. Architect's Certification:

I am either the Architect of Record or an Architect hired to provide advice on the ADA compliance for the place of lodging identified above. By signing below, I certify the answers to the questions on this page and the Accessibility Certification Checklist is true and accurate to the best of my knowledge, information, and belief.

_____

Architect Signature Date

_____

Printed Name

_____

Firm

_____

Address

_____

City / State / Zip

_____

Telephone Number State Registration Number

IV. Contractors Certification:

I am the General Contractor for the place of lodging identified above. By signing below, I certify the answers to the questions on this page and the Accessibility Certification Checklist is true and accurate to the best of my knowledge, information, and belief.

Contractor Signature _____ Date _____

Printed Name _____

Firm _____

Address _____

City / State / Zip _____

Telephone Number _____ State License Number _____

COBBLESTONE HOTELS, LLC
STATE SPECIFIC ADDENDA TO
THE FRANCHISE DISCLOSURE DOCUMENT AND
THE FRANCHISE AGREEMENT

EXHIBIT E TO THE DISCLOSURE DOCUMENT

ADDENDUM TO
COBBLESTONE HOTELS, LLC
FRANCHISE DISCLOSURE DOCUMENT
FOR THE STATE OF CALIFORNIA

Preliminary Comment: Each provision of this Appendix to the Franchise Disclosure Document shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the California Franchise Investment Law, Cal. Corp. Code §§31000 - 31516, and the California Franchise Relations Act, Cal Bus. & Prof. Code §§2000 - 20043, are met independently without reference to this Addendum to the Franchise Disclosure Document.

1. Item 3 is amended to reflect that:

   Neither we nor any person or broker identified in Item 2 of the Franchise Disclosure Document is subject to any current effective order of any national securities association or national securities exchange as defined in the Securities Exchange Act of 1934, U.S.C.A. 78a et seq., suspending or expelling such persons from membership is such association or exchange.

2. Item 17 is amended by the addition of the following statements:

   California Business and Professions Code Sections 20000 through 20043 provide rights to you concerning termination or nonrenewal of a franchise. If the Franchise Agreement contains a provision that is inconsistent with the law, the law will control.

   The Franchise Agreement provides for termination upon bankruptcy. This provision may not be enforceable under federal bankruptcy law (11 U.S.C.A. Sec. 101 et seq.).

   The California Corporations Code, Section 31125, requires that we give you a disclosure document, approved by the Department of Corporations, before we solicit a proposed material modification of an existing franchise.

   The Franchise Agreement contains a liquidated damages clause, under California Civil Code Section 1671, certain liquidated damages clauses are unenforceable.

   The Franchise Agreement requires the application of the laws and forum of Wisconsin. This provision may be unenforceable under California Law.

   The Franchise Agreement requires you to sign a general release of claims if you renew or transfer your franchise. California Corporations Code Section 31512 provides that any condition, stipulation or provision purporting to bind any person acquiring a franchise to waive compliance with any provision of that law or any rule or order is void. Section 31512 voids a waiver of your rights under the Franchise Investment Law (California Corporations Code Sections 31000 through 31516). California Business and Professions Code Section 20010 voids a waiver of your rights under the Franchise Relations Act (Business and Professions Code Sections 20000 through 20043).

3. THE CALIFORNIA FRANCHISE INVESTMENT LAW REQUIRES THAT A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE BE DELIVERED TOGETHER WITH THE FRANCHISE DISCLOSURE DOCUMENT.

4. OUR WEB SITE HAS NOT BEEN REVIEWED OR APPROVED BY THE CALIFORNIA DEPARTMENT OF CORPORATIONS. ANY COMPLAINTS CONCERNING THE CONTENT OF THIS WEB SITE MAY BE DIRECTED TO THE CALIFORNIA DEPARTMENT OF CORPORATIONS AT www.corp.ca.gov.

5. Prospective franchisees are encouraged to consult private legal counsel to determine the applicability of California and federal laws (such as Business Professions Code Section 20040.5, Code of Civil Procedure Section 1281, and the Federal Arbitration Act) to any provisions of a Franchise Agreement restricting venue to a forum outside the State of California.

ADDENDUM TO
COBBLESTONE HOTELS, LLC
FRANCHISE AGREEMENT
FOR THE STATE OF CALIFORNIA

The Cobblestone Hotels, LLC Franchise Agreement between Cobblestone Hotels, LLC ("Franchisor") and _____ ("Franchisee") dated _____ (the "Agreement") shall be amended by the addition of the following language, which shall be considered an integral part of the Agreement (the "State Addendum"):

CALIFORNIA LAW MODIFICATIONS

1. The California Department of Corporations requires that certain provisions contained in franchise documents be amended to be consistent with California law, including the California Franchise Investment Law, CAL. CORP. CODE Section 31000 et. seq., and the California Franchise Relations Act, CAL. BUS. & PROF. CODE Section 20000 et. seq. To the extent that the Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

a. California Business and Professions Code Sections 20000 through 20043 provide rights to the franchisee concerning termination or non-renewal of a franchise. If the franchise agreement contains a provision that is inconsistent with the law, the law will control.

b. The Agreement provides for termination upon bankruptcy. This provision may not be enforceable under federal bankruptcy law (11 U.S.C.A. Sec. 101 et seq.).

c. The Agreement requires application of the laws of Wisconsin. This provision may not be enforceable under California law.

d. The Agreement contains a liquidated damages clause. Under California Civil Code Section 1671, certain liquidated damages clauses are unenforceable.

2. Each provision of this State Addendum shall be effective only to the extent that the jurisdictional requirements of the California Business and Professions Code, with respect to each such provision, are met independent of this State Addendum. This State Addendum shall have no force or effect if such jurisdictional requirements are not met.

<Signatures on Following Page>

IN WITNESS WHEREOF, the Franchisee on behalf of itself and its owners, acknowledges that it has read and understands the contents of this State Addendum, that it has had the opportunity to obtain the advice of counsel, and that it intends to comply with this State Addendum and be bound thereby. The parties have duly executed and delivered this State Addendum to the Agreement on the date first set forth above.

FRANCHISOR:
COBBLESTONE HOTELS, LLC
d/b/a Cobblestone Inn and Suites

By_____

Its_____

FRANCHISEE:

_____

_____

By _____

Its_____

ADDENDUM TO
COBBLESTONE HOTELS, LLC
FRANCHISE DISCLOSURE DOCUMENT
FOR THE STATE OF ILLINOIS

The following information applies to franchises and franchisees subject to the Illinois Disclosure Act of 1987. Item numbers correspond to those in the main body:

Item 17

The conditions under which your franchise may be terminated or not renewed may be affected by Illinois law, 815 ILCS §§ 705/19 and 705/20. Provisions regarding jurisdiction and venue and choice of law may be affected by Illinois law, 815 ILCS §§ 705/4 and 705/41.

Item 5

Pursuant to Section 200.508 of the Illinois Franchise Disclosure Act of 1987 and as imposed by the Illinois Attorney General's Office based on our financial condition, we shall defer the payment of all initial franchise fees owed to us, or our affiliate, by you until such time as all initial obligations owed to you under the Franchise Agreement or other agreements have been fulfilled by us and you have commenced doing business pursuant to the Franchise Agreement.

ADDENDUM TO
COBBLESTONE HOTELS, LLC
FRANCHISE AGREEMENT
FOR THE STATE OF ILLINOIS

The Cobblestone Hotels, LLC Franchise Agreement between Cobblestone Hotels, LLC ("Franchisor") and _____ ("Franchisee") dated _____ (the "Agreement") shall be amended by the addition of the following language, which shall be considered an integral part of the Agreement (the "State Addendum"):

ILLINOIS LAW MODIFICATIONS

1. The Illinois Attorney General's Office requires that certain provisions contained in franchise documents be amended to be consistent with Illinois law, including the Franchise Disclosure Act of 1987, 515 ILCS 705/1 et. seq. To the extent that this Agreement contains provisions that are inconsistent with the following, such provision are hereby amended:

a. Illinois Franchise Disclosure Act paragraphs 705/19 and 705/20 provide rights to Franchisee concerning nonrenewal and termination of this Agreement. If this Agreement contains a provision that is inconsistent with the Act, the Act will control.

b. Any release or claims or acknowledgments of fact contained in the Agreement that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Act, or a rule or order under the Act shall be void and are hereby deleted with respect to claims under the Act.

c. If this Agreement requires litigation to be conducted in a forum other than the State of Illinois, the requirement is void with respect to claims under the Illinois Franchise Disclosure Act.

d. If this Agreement requires that it be governed by a state's law, other than the State of Illinois, to the extent that such law conflicts with the Illinois Franchise Disclosure Act, Illinois law governing claims arising under the Act will control.

2. Article 19(F) and 21(A) should be amended by the addition of the following as the last sentence of each section:

"However, this Section shall not act as a condition, stipulation or provision intended to bind any person acquiring any franchise to waive compliance with any provision of the Illinois Franchise Disclosure Act of 1987 at Section 705/41."

3. Notwithstanding anything in the Agreement to the contrary, all initial fees will be deferred by the Franchisor until such time as the Franchisor, or an affiliate, has completed all initial obligations owed the Franchisee and they have commenced doing business. This deferral is required by the Illinois Attorney General's office based on our financial statements/condition.

4. Each provision of this State Addendum shall be effective only to the extent that the jurisdictional requirements of the Illinois Franchise Disclosure Act, with respect to each such provision, are met independent of this State Addendum. This State Addendum shall have no force or effect if such jurisdictional requirements are not met.

IN WITNESS WHEREOF, the Franchisee on behalf of itself and its owners, acknowledges that it has read and understands the contents of this State Addendum, that it has had the opportunity to obtain the advice of counsel, and that it intends to comply with this State Addendum and be bound thereby. The parties have duly executed and delivered this State Addendum to the Agreement on the date first set forth above.

FRANCHISOR:
COBBLESTONE HOTELS, LLC
d/b/a Cobblestone Inn and Suites

By_____

Its_____

FRANCHISEE:

_____

_____

By _____

Its_____

ADDENDUM TO
COBBLESTONE HOTELS, LLC
FRANCHISE DISCLOSURE DOCUMENT
FOR THE STATE OF MARYLAND

Item 17 of the Franchise Disclosure Document is amended to include the following paragraph:

The general release required as a condition of renewal, sale, and/or assignment/transfer shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law.

Item 17 of the Franchise Disclosure Document is amended to include the following sentence:

A provision in the Franchise Agreement that provides for termination on your bankruptcy may not be enforceable under federal bankruptcy law (11 U.S.C. Section 101 et seq.).

Item 17 of the Franchise Disclosure Document is modified to include the words:

"arising franchisee may bring a lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law."

Item 17 is amended to state that any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within 3 years after the grant of the franchise.

ADDENDUM TO
COBBLESTONE HOTELS, LLC
FRANCHISE AGREEMENT
FOR THE STATE OF MARYLAND

The Cobblestone Hotels, LLC Franchise Agreement between Cobblestone Hotels, LLC ("Franchisor") and _____ ("Franchisee") dated _____ (the "Agreement") shall be amended by the addition of the following language, which shall be considered an integral part of the Agreement (the "State Addendum"):

MARYLAND LAW MODIFICATION

1. The Maryland Securities Division requires that certain provisions contained in franchise documents be amended to be consistent with Maryland law, including the Maryland Franchise Registration and Disclosure Law, MD CODE ANN., BUS. REG. Sections 14-201 to 14-233 (2010 Repl. Vol. and Supp. 2010) (the "Law"). To the extent that this Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

a. The general release required as a condition of renewal, sale, and/or assignment/transfer shall not apply to any liability under the Law.

b. All representations requiring prospective franchisees to assent to a release, estoppel or waiver of liability are not intended to nor shall they act as a release, estoppel or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law.

c. Franchisee may bring a lawsuit in Maryland for claims arising under the Law.

d. Any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within 3 years after the grant of the franchise.

2. Each provision of this State Addendum shall be effective only to the extent that the jurisdictional requirements of the Maryland Franchise Registration and Disclosure Law, with respect to each such provision, are met independent of this State Addendum. This State Addendum shall have no force or effect if such jurisdictional requirements are not met.

<Signatures on Following Page>

IN WITNESS WHEREOF, the Franchisee on behalf of itself and its owners, acknowledges that it has read and understands the contents of this State Addendum, that it has had the opportunity to obtain the advice of counsel, and that it intends to comply with this State Addendum and be bound thereby. The parties have duly executed and delivered this State Addendum to the Agreement on the date first set forth above.

FRANCHISOR:
COBBLESTONE HOTELS, LLC
d/b/a Cobblestone Inn and Suites

By_____

Its_____

FRANCHISEE:

_____

_____

By _____

Its_____

ADDENDUM TO
COBBLESTONE HOTELS, LLC
FRANCHISE DISCLOSURE DOCUMENT
FOR THE STATE OF MINNESOTA

Item 13 of the Franchise Disclosure Document is amended to state that we will protect your right to use the trademarks, service marks, trade names, logotypes of other commercial symbols ("Marks") or indemnify you from any loss, costs or expenses arising out of any claim, suit or demand regarding the use of the Marks.

The following is added to Item 17 of the Franchise Disclosure Document:

Under Minnesota law and except in certain specified cases, Cobblestone Hotels, LLC must give you 90 days' notice of termination with 60 days to cure. Cobblestone Hotels, LLC also must give you at least 180 days' notice of its intention not to renew a franchise, and sufficient opportunity to recover the fair market value of the franchise as a going concern. To the extent that the Franchise Agreement is inconsistent with the Minnesota law, the Minnesota law will control.

To the extent that any condition, stipulation or provision contained in the Franchise Agreement (including any choice of law provision) purports to bind any person who, at the time of acquiring a franchise is a resident of Minnesota, or, in the case of a partnership or corporation, organized or incorporated under the laws of Minnesota, or purporting to bind a person acquiring any franchise to be operated in Minnesota to waive compliance with the Minnesota Franchises law, such condition, stipulation or provision may be void and unenforceable under the nonwaiver provision of the Minnesota Franchises Law.

Minn. Stat. §80C.21 and Minn. Rule 2860.4400J. prohibit us from requiring litigation to be conducted outside Minnesota. In addition, nothing in the Franchise Disclosure Document or Franchise Agreement can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C, or your rights to any procedure, forum or remedies provided for by the laws of the jurisdiction.

Minn. Rule 2860.4400J. prohibits us from requiring you to consent to liquidated damages and prohibits waiver of a jury trial. If the Franchise Agreement contains a provision that is inconsistent with the Minn. Rule, the provisions of the Franchise Agreement will be superseded by the Minn. Rule's requirements and will have no force or effect.

Minn. Rule 2860.4400J. prohibits us from requiring you to assent to a general release. To the extent that the Franchise Agreement requires you to sign a general release as a condition of renewal or transfer, the Franchise Agreement will be considered amended to the extent necessary to comply with Minnesota law.

Minn. Rule 2860.4400J. prohibits us from requiring you to pay a termination fee. To the extent that the Franchise Agreement requires you to pay a termination fee, the provisions

of the Franchise Agreement will be superseded by the Minn. Rule's requirements and will have no force or effect.

ADDENDUM TO
COBBLESTONE HOTELS, LLC
FRANCHISE AGREEMENT
FOR THE STATE OF MINNESOTA

The Cobblestone Hotels, LLC Franchise Agreement between Cobblestone Hotels, LLC ("Franchisor") and _____ ("Franchisee") dated _____ (the "Agreement") shall be amended by the addition of the following language, which shall be considered an integral part of the Agreement (the "State Addendum"):

MINNESOTA LAW MODIFICATION

1. The Commissioner of Commerce for the State of Minnesota requires that certain provisions contained in franchise documents be mended to be consistent with Minnesota Franchise Act. Minn. Stat. Section 80C.01 et. seq., and the Rules and Regulations promulgated under the Act (collectively the "Franchise Act"). To the extent that the Agreement and/or Franchise Disclosure Document contains provisions that are inconsistent with the following, such provisions are hereby amended:

a. The Minnesota Department of Commerce requires that franchisors indemnify Minnesota franchisees against liability to third parties resulting from claims by third parties that the franchisee's use of the franchisor's proprietary marks infringes trademark rights of the third party.

b. Minn. Stat. Sec. 80C.14. Subds. 3, 4, and 5 requires, except in certain specified cases, that a franchisee be given 90 days notice of termination (with 60 days to cure) and 180 days notice for non-renewal of the franchise agreement. If the Agreement contains a provision that is inconsistent with the Franchise Act, the provisions of the Agreement shall be superseded by the Act's requirements and shall have no force or effect.

c. If the Franchisee is required in the Agreement to execute a release of claims or to acknowledge facts that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Franchise Act, such release shall exclude claims arising under the Franchise Act, and such acknowledgments shall be void with respect to claims under the Franchise Act.

d. If the Agreement requires that it be governed by the law of a State other than the State of Minnesota or arbitration or mediation, those provisions shall not in any way abrogate or reduce any rights of the Franchisee as provided for in the Franchise Act, including the right to submit matters to the jurisdiction of the courts of Minnesota.

e. Any provision that requires the Franchisee to consent to a claims period that differs from the applicable statute of limitations period under Minn. Stat. 80C.1, Subd. 5, may not be enforceable under Minnesota law.

2. Minn. Stat. 80C.21 and Minn. Rule 2860.4400J prohibit us from requiring litigation to be conducted outside Minnesota. In addition, nothing in the Franchise Disclosure Document or Agreement can abrogate or reduce any of your rights as provided for in Minnesota Statutes Ch. 80C, including your rights to any procedure, forum, or remedies provided for in that law.

3. The Agreement and/or Franchise Disclosure Document is hereby amended to delete all referenced to Liquidated Damages (as defined) in violation of Minnesota law; provided, that no such deletion shall excuse Franchisee from liability for actual or other damages and the formula for Liquidated Damages in the Agreement and/or Franchise Disclosure Document shall be admissible as evidence of actual damages.

4. To the extent required by Minnesota Law, the Agreement and/or Franchise Disclosure Document is amended to delete all references to a waiver of jury trial.

5. All sections of the Agreement and/or Franchise Disclosure Document referencing Franchisor's right to obtain injunctive relief are hereby amended to refer to Franchisor's right to seek to obtain such relief.

6. Each provision of this State Addendum shall be effective only to the extent that the jurisdictional requirements of Minnesota Law applicable to the provision are met independent of this State Addendum. This State Addendum shall have no force or effect if such jurisdictional requirements are not met.

<Signatures on Following Page>

IN WITNESS WHEREOF, the Franchisee on behalf of itself and its owners, acknowledges that it has read and understands the contents of this State Addendum, that it has had the opportunity to obtain the advice of counsel, and that it intends to comply with this State Addendum and be bound thereby. The parties have duly executed and delivered this State Addendum to the Agreement on the date first set forth above.

FRANCHISOR:
COBBLESTONE HOTELS, LLC
d/b/a Cobblestone Inn and Suites

By_____

Its_____

FRANCHISEE:

_____

_____

By _____

Its_____

ADDENDUM TO
COBBLESTONE HOTELS, LLC
FRANCHISE DISCLOSURE DOCUMENT
FOR THE STATE OF NEW YORK

1. The Cover Page of the Franchise Disclosure Document is supplemented by the following language:

THE FRANCHISOR MAY, IF IT CHOOSES, NEGOTIATE WITH YOU ABOUT ITEMS COVERED IN THE PROSPECTUS. HOWEVER, THE FRANCHISOR CANNOT USE THE NEGOTIATING PROCESS TO PREVAIL UPON A PROSPECTIVE FRANCHISEE TO ACCEPT TERMS WHICH ARE LESS FAVORABLE THAN THOSE SET FORTH IN THE PROSPECTUS.

2. Item 3 of the Franchise Disclosure Document is supplemented by the following language:

Neither we, our predecessor, any person identified in Item 2 above, nor an affiliate of ours offering franchises under our principal trademark, has pending any administrative, criminal or material civil action (or a significant number of civil actions irrespective of materiality) alleging a violation of any franchise law, securities law, fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices, misappropriation of property or comparable allegations.

Neither we, our predecessor, any person identified in Item 2 above, nor an affiliate of ours offering franchises under our principal trademark, has been convicted of a felony or pleaded nolo contendere to a felony charge or, within the ten-year period immediately preceding the date of this Franchise Disclosure Document, has been convicted of a misdemeanor or pleaded nolo contendere to a misdemeanor charge or been held liable in a civil action by final judgment or been the subject of a material complaint or other legal proceeding if such misdemeanor conviction or charge or civil action, complaint or other legal proceeding involved a violation of any franchise law, securities law, fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices, misappropriation of property or comparable allegations.

Neither we, our predecessor, any person identified in Item 2 above, nor an affiliate of ours offering franchises under our principal trademark, is subject to any injunctive or restrictive order or decree relating to franchises or under any Federal, State or Canadian franchise, securities, antitrust, trade regulation or trade practice law as a result of a concluded or pending action or proceeding brought by a public agency, is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities and Exchange Act of 1934, suspending or expelling such person from membership in such association or exchange; or is subject to a currently effective injunctive or restrictive order relating to any other business activity as a result of

an action brought by a public agency or department, including, without limitation, actions affecting a license as a real estate broker or sales agent.

3. Item 4 of the Franchise Disclosure Document is supplemented by the following language:

Neither we, nor any of our affiliates, predecessors, officers, or general partners have within the 10-year period immediately before the date of this Franchise Disclosure Document: (a) filed as a debtor (or had filed against it) a petition to start an action under U.S. Bankruptcy Code; (b) obtained a discharge of its debts under the U.S. Bankruptcy Code; (c)or was a principal officer of a company or general partner in a partnership that either filed as a debtor (or that had filed against it)a petition to start an action under U.S. Bankruptcy Code or that obtained a discharge of its debts under the U.S. Bankruptcy Code during or within 1 year after the officer or general partner held the position with the company or partnership.

4. Item 5 is amended by adding the following: We will use the Initial Fee for the purposes of covering the costs of selling the franchise and other franchises, for your initial training, for general overhead and for profit.

5. Item 17, "Renewal, Termination, Transfer and Dispute Resolution" is amended in the Franchise Agreement chart as follows:

(a) By adding the following in the "Summary" column opposite category d., "Termination by you":

"To the extent required by the New York General Business Law, you may terminate the Agreement on any grounds available by law."

(b) By adding the following in the "Summary" column opposite category j., "Assignment":

"However, no assignment will be made except to an assignee who in good faith and judgment of the franchisor, is willing and financially able to assume the franchisor's obligations under the multi-unit development or franchise agreement."

(c) By adding the following in the "Summary" column opposite category w., "Choice of Law";

"The foregoing choice of law should not be considered a waiver of any right conferred upon the franchisor or upon the franchisee by Article 33 of the General Business Law of the State of New York."

ADDENDUM TO
COBBLESTONE HOTELS, LLC
FRANCHISE AGREEMENT
FOR THE STATE OF NEW YORK

The Cobblestone Hotels, LLC Franchise Agreement between Cobblestone Hotels, LLC ("Franchisor") and _____ ("Franchisee") dated _____ (the "Agreement") shall be amended by the addition of the following language, which shall be considered an integral part of the Agreement (the "State Addendum"):

NEW YORK LAW MODIFICATION

1. The New York Department of Law requires that certain provisions contained in franchise documents be amended to be consistent with New York law, including the General Business Law, Article 33, Sections 680 to 695 (1989). To the extent that the Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

a. If Franchisee is required in the Agreement to execute a release of claims or to acknowledge facts that would negate or remove from judicial review any statement, misrepresentation or action that would violate the General Business Law, regulation, rule or order under the Law, such release shall exclude claims arising under the New York General Business Law, Article 33, Sections 680 to 695 and the regulations promulgated thereunder, and such acknowledgments shall be void. It is the intent of this provision that non-waiver provisions of Sections 687.4 and 687.5 of the General Business Law be satisfied.

b. If the Agreement requires that it be governed by the law of a state other than the State of New York, the choice of law provisions shall not be considered to waive any rights conferred upon the Franchisee under the New York General Business Law, Article 33, Sections 680 to 695.

2. Each provision of this State Addendum shall be effective only to the extent that the jurisdictional requirements of New York General Business Law, with respect to each such provision are met independent of this State Addendum. This State Addendum shall have no force or effect if such jurisdictional requirements are not met.

<Signatures on Following Page>

IN WITNESS WHEREOF, the Franchisee on behalf of itself and its owners, acknowledges that it has read and understands the contents of this State Addendum, that it has had the opportunity to obtain the advice of counsel, and that it intends to comply with this State Addendum and be bound thereby. The parties have duly executed and delivered this State Addendum to the Agreement on the date first set forth above.

FRANCHISOR:
COBBLESTONE HOTELS, LLC
d/b/a Cobblestone Inn and Suites

By_____

Its_____

FRANCHISEE:

_____

_____

By _____

Its_____

ADDENDUM TO
COBBLESTONE HOTELS, LLC
FRANCHISE DISCLOSURE DOCUMENT
FOR THE STATE OF NORTH DAKOTA

The North Dakota Securities Commissioner has held the following to be unfair, unjust, or inequitable to North Dakota franchisees (Section 51-19-09, N.D.C.C.):

A. Restrictive Covenants: Franchise Disclosure Documents which disclose the existence of covenants restricting competition contrary to Section 9-08-06, N.D.C.C., without further disclosing that such covenants will be subject to this statute.

B. Situs of Arbitration Proceedings: Franchise agreements providing that the parties must agree to arbitrate disputes at a location that is remote from the site of the franchisee's business.

C. Restriction on Forum: Requiring North Dakota franchisees to consent to the jurisdiction of courts outside of North Dakota.

D. Liquidated Damages and Termination Penalties: Requiring North Dakota franchisees to consent to liquidated damages or termination penalties.

E. Applicable Laws: Franchise agreements which specify that any claims arising under the North Dakota franchise law will be governed by the laws of a state other than North Dakota.

F. Waiver of Trial by Jury: Requiring North Dakota franchisees to consent to the waiver of a trial by jury.

G. Waiver of Exemplary and Punitive Damages: Requiring North Dakota franchisees to consent to a waiver of exemplary and punitive damages.

H. General Release: Requiring North Dakota franchisees to execute a general release of claims as a condition of renewal or transfer of a franchise.

I. Fees: Franchisees shall not be required to remit any fees to Cobblestone until such time as Cobblestone has fulfilled all its initial obligations owed to Franchisee under the Franchise Agreement, or other documents, and the Franchisee has commenced doing business pursuant to the Franchise Agreement.

ADDENDUM TO
COBBLESTONE HOTELS, LLC
FRANCHISE AGREEMENT
FOR THE STATE OF NORTH DAKOTA

The Cobblestone Hotels, LLC Franchise Agreement between Cobblestone Hotels, LLC ("Franchisor") and _____ ("Franchisee") dated _____ (the "Agreement") shall be amended by the addition of the following language, which shall be considered an integral part of the Agreement (the "State Addendum"):

NORTH DAKOTA LAW MODIFICATION

1. The North Dakota Securities Commissioner requires that certain provisions contained in franchise documents be amended to be consistent with North Dakota law, including the North Dakota Franchise Investment Law, North Dakota Century Code Annotated Chapter 51-19, Sections 51-19-01 to 51-19-17 (1995). To the extent that the Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

a. If the Franchisee is required in the Agreement to execute a release of claims or to acknowledge facts that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Law, or a rule or order under the Law, such release shall exclude claims arising under the North Dakota Franchise Investment Law, and such acknowledgments shall be void with respect to claims under the Law.

b. Covenants not to compete during the term of and upon termination or expiration of the Agreement are enforceable only under certain conditions according to North Dakota Law. If the Agreement contains a covenant not to compete which is inconsistent with North Dakota Law, the covenant may be unenforceable.

c. If the Agreement requires litigation to be conducted in a forum other than the State of North Dakota, the requirement is void with respect to claims under the North Dakota Franchise Investment Law.

d. If the Agreement requires that it be governed by the law of a state other than the State of North Dakota, to the extent that such law conflicts with North Dakota Law, North Dakota Law will control.

e. If the Agreement requires mediation or arbitration to be conducted in a forum other than the State of North Dakota, the requirement may be unenforceable under the North Dakota Franchise Investment Law. Arbitration involving a franchise purchased in the State of North Dakota must be held either in a location mutually agreed upon prior to the arbitration or if the parties cannot agree on a location, the location will be determined by the arbitrator.

f. If the Agreement requires payment of a termination penalty, the requirement may be unenforceable under the North Dakota Franchise Investment Law.

g. Any provision that provides that the parties waive their right to a jury trial may not be enforceable under North Dakota law.

h. Any provision that provides that Franchisee consent to a waiver of punitive and exemplary damages may not be enforceable under North Dakota law.

i. Any provision that requires Franchisee to consent to a claims period that differs from the applicable statute of limitations period under North Dakota law may not be enforceable under North Dakota law.

j. Notwithstanding any provision in the Agreement to the contrary, Franchisee shall not be required to remit any fees to Cobblestone until such time as Cobblestone has fulfilled all its initial obligations owed to Franchisee under the Agreement, or other documents, and Franchisee has commenced doing business pursuant to the Agreement.

2. Each provision of this State Addendum shall be effective only to the extent that the jurisdictional requirements of North Dakota Franchise Investment Law, with respect to each such provision are met independent of this State Addendum. This State Addendum shall have no force or effect if such jurisdictional requirements are not met.

IN WITNESS WHEREOF, the Franchisee on behalf of itself and its owners, acknowledges that it has read and understands the contents of this State Addendum, that it has had the opportunity to obtain the advice of counsel, and that it intends to comply with this State Addendum and be bound thereby. The parties have duly executed and delivered this State Addendum to the Agreement on the date first set forth above.

FRANCHISOR:
COBBLESTONE HOTELS, LLC

By _____

Its _____

FRANCHISEE:

_____

_____

By _____

Its _____

ADDENDUM TO
COBBLESTONE HOTELS, LLC
FRANCHISE AGREEMENT
FOR THE STATE OF RHODE ISLAND

The Cobblestone Hotels, LLC Franchise Agreement between Cobblestone Hotels, LLC ("Franchisor") and _____ ("Franchisee") dated _____ (the "Agreement") shall be amended by the addition of the following language, which shall be considered an integral part of the Agreement (the "State Addendum"):

RHODE ISLAND LAW MODIFICATIONS

1. The Rhode Island Securities Division requires that certain provisions contained in franchise documents be amended to be consistent with Rhode Island law, including the Franchise Investment Act, R.I. Gen. Law Tit. 19 Ch. 28.1 Sections 19-28.1-1 to 19-28.1-34. To the extent that this Agreement contains provisions that re inconsistent with the following, such provisions are hereby amended:

a. If this Agreement requires litigation to be conducted in a forum other than the State of Rhode Island, the requirement is void with respect to any claims brought under Rhode Island Franchise Investment Act Sec. 19-21.1-14.

b. If this Agreement requires that it be governed by a state's law, other than the State of Rhode Island, to the extent that such law conflicts with Rhode Island Franchise Investment Act it is void under Section 19-28.1-14.

c. If Franchisee is required in this Agreement to execute a release of claims or to acknowledge facts that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Act, or a rule or order under the Act, such release shall exclude claims arising under the Rhode Island Franchise Investment Act, and such acknowledgments shall be void with respect to claims under the Act.

2. Each provision of this State Addendum shall be effective only to the extent that the jurisdictional requirements of Rhode Island Franchise Investment Act, with respect to each such provision are met independent of this State Addendum. This State Addendum shall have no force or effect if such jurisdictional requirements are not met.

<Signatures on Following Page>

IN WITNESS WHEREOF, the Franchisee on behalf of itself and its owners, acknowledges that it has read and understands the contents of this State Addendum, that it has had the opportunity to obtain the advice of counsel, and that it intends to comply with this State Addendum and be bound thereby. The parties have duly executed and delivered this State Addendum to the Agreement on the date first set forth above.

FRANCHISOR:
COBBLESTONE HOTELS, LLC
d/b/a Cobblestone Inn and Suites

By_____

Its_____

FRANCHISEE:

_____

_____

By _____

Its_____

ADDENDUM TO
COBBLESTONE HOTELS, LLC
FRANCHISE DISCLOSURE DOCUMENT
FOR THE STATE OF VIRGINIA

1. In recognition of the restrictions contained in Section 13.1-564 of the Virginia Retail Franchising Act, Item 17.h. of the Franchise Disclosure Document for Cobblestone Hotels, LLC is supplemented by the following:

"Under Section 13.1-564 of the Virginia Retail Franchising Act, it is unlawful for a franchisor to cancel a franchise without reasonable cause. If any ground for default or termination stated in the franchise agreement does not constitute "reasonable cause," as that term may be defined in the Virginia Retail Franchising Act or the laws of Virginia, that provision may not be enforceable."

"Any securities offered or sold by the Investor Franchisee as part of the Cobblestone Hotels, LLC Franchise must either be registered or exempt from registration under Section 13.1-514 of the Virginia Securities Act."

ADDENDUM TO
COBBLESTONE HOTELS, LLC
FRANCHISE DISCLOSURE DOCUMENT
FOR THE STATE OF WASHINGTON

1. Item 17, "Renewal, Termination, Transfer and Dispute Resolution," shall be amended by the addition of the following paragraphs at the conclusion of the Item:

> The state of Washington has a statute, RCW 19.100.180, which may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise. There may also be court decisions which may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise.

In any arbitration involving a franchise purchased in Washington, the arbitration site shall be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration, or as determined by the arbitrator.

In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW shall prevail.

A release or waiver of rights executed by a franchisee shall not include rights under the Washington Franchise Investment Protection Act except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel. Provisions such as those which unreasonably restrict or limit the statute of limitations period for claims under the Act, rights or remedies under the Act such as a right to a jury trial may not be enforceable.

Transfer fees are collectable to the extent that they reflect the franchisor's reasonable estimated or actual costs in effecting a transfer.

ADDENDUM TO
COBBLESTONE HOTELS, LLC
FRANCHISE AGREEMENT
FOR THE STATE OF WASHINGTON

The Cobblestone Hotels, LLC Franchise Agreement between Cobblestone Hotels, LLC ("Franchisor") and _____ ("Franchisee") dated _____ (the "Agreement") shall be amended by the addition of the following language, which shall be considered an integral part of the Agreement (the "State Addendum"):

WASHINGTON LAW MODIFICATIONS

1. The Director of the Washington Department of Financial Institutions requires that certain provisions contained in franchise documents be amended to be consistent with Washington law, including the Washington Franchise Investment Protection Act, WA Rev. Code Section 19.100.010 to 19.100.940 (1994). To the extent that the Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

a. The Washington Franchise Investment Protection Act provides rights to Franchisee concerning non-renewal and termination of the Agreement. If the Agreement contains a provision that is inconsistent with the Act, the Act will control.

b. If Franchisee is required in the Agreement to execute a release of claims, such release shall exclude claims arising under the Washington Franchise Investment Protection Act; except when the release is executed under a negotiated settlement after the Agreement is in effect and where the parties are represented by independent counsel. If there are provisions in the Agreement that unreasonably restrict or limit the statute of limitations period for claims brought under the Act, or other rights or remedies under the Act, those provisions may be unenforceable.

c. If the Agreement requires litigation, arbitration, or mediation to be conducted in a forum other than the State of Washington, the requirement may be unenforceable under Washington law. Arbitration involving a franchise purchased in the State of Washington must either be held in the State of Washington or in a place mutually agreed upon at the time of the arbitration, or as determined by the arbitrator.

d. If the Agreement requires that it be governed by the law of a state other than the State of Washington and there is a conflict between the law and the Washington Franchise Investment Protection Act, the Washington Franchise Investment Protection Act will control.

2. Each provision of this State Addendum shall be effective only to the extent that the jurisdictional requirements of Washington law, with respect to each such provision are met independent of this State Addendum. This State Addendum shall have no force or effect if such jurisdictional requirements are not met.

IN WITNESS WHEREOF, the Franchisee on behalf of itself and its owners, acknowledges that it has read and understands the contents of this State Addendum, that it has had the opportunity to obtain the advice of counsel, and that it intends to comply with this State Addendum and be bound thereby. The parties have duly executed and delivered this State Addendum to the Agreement on the date first set forth above.

FRANCHISOR:
COBBLESTONE HOTELS, LLC
d/b/a Cobblestone Inn and Suites

By_____

Its_____

FRANCHISEE:

_____

_____

By _____

Its_____

ADDENDUM TO
COBBLESTONE HOTELS, LLC
FRANCHISE AGREEMENT
FOR THE STATE OF WISCONSIN

The Cobblestone Hotels, LLC Franchise Agreement between Cobblestone Hotels, LLC ("Franchisor") and _____ ("Franchisee") dated _____ (the "Agreement") shall be amended by the addition of the following language, which shall be considered an integral part of the Agreement (the "State Addendum"):

WISCONSIN LAW MODIFICATIONS

1. Notwithstanding anything that may be contained in the body of the Franchise Agreement to the contrary, the Agreement is hereby amended to add the following provision:

> For all franchises sold in the State of Wisconsin, the Company will provide Franchisee at least 90 days' prior written notice of termination, cancellation, nonrenewal or substantial change in competitive circumstances. The notice will state all the reasons for termination, cancellation, nonrenewal or substantial change in competitive circumstances and will provide that Franchisee have 60 days in which to rectify any claimed deficiency. If the deficiency is rectified within 60 days, the notice will be void. These notice requirements shall not apply if the reason for termination, cancellation or nonrenewal is insolvency, the occurrence of an assignment for the benefit of creditors or bankruptcy. If the reason for termination, cancellation, nonrenewal or substantial change in competitive circumstances is nonpayment of sums due under the franchise, Franchisee will be entitled to written notice of such default, and will have not less than 10 days in which to remedy such default from the date of delivery or posting of such notice.

2. Ch. 135, Stats., the Wisconsin Fair Dealership Law, supersedes any provisions of this Agreement or a related document between the Company and Franchisee inconsistent with the Law.

3. Each provision of this State Addendum shall be effective only to the extent that the jurisdictional requirements of Washington law, with respect to each such provision are met independent of this State Addendum. This State Addendum shall have no force or effect if such jurisdictional requirements are not met.

<Signatures on Following Page>

IN WITNESS WHEREOF, the Franchisee on behalf of itself and its owners, acknowledges that it has read and understands the contents of this State Addendum, that it has had the opportunity to obtain the advice of counsel, and that it intends to comply with this State Addendum and be bound thereby. The parties have duly executed and delivered this State Addendum to the Agreement on the date first set forth above.

FRANCHISOR:
COBBLESTONE HOTELS, LLC
d/b/a Cobblestone Inn and Suites

By_____

Its_____

FRANCHISEE:

_____

_____

By _____

Its_____

COBBLESTONE HOTELS, LLC
TABLES OF CONTENTS OF FRANCHISOR'S MANUALS

EXHIBIT F TO THE DISCLOSURE DOCUMENT

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  Insurance 4
  Safety, Security, and Risk Control 6
  Required Hotel Policies 7
Operating Procedures 8
  Staffing and Training 8
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  Hotel Programs 9
  Cobblestone Brand Training 9
  Quality Assurance Process 9
  Charging Station 10
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EXHIBIT G TO THE DISCLOSURE DOCUMENT

Franchised Cobblestone Inn and Suites as of December 31, 2013

Colorado

Holyoke Hotel, LLC
805 Interocean Avenue
Holyoke, CO 80734
970-854-3222

Wray Hotel, LLC
35952 U.S. 385
Wray, CO 80758
970-332-5000

Iowa

Bloomfield Hotel Group, LLC
509 S. Washington Street
Bloomfield, IA 52537
614-664-2000

Marquette Hotel Group, LLC
100 North Street
Marquette, IA 52158
563-873-8900

Kansas

Harper Hotel Group, LLC
899 Frontage Road
Harper, KS 67058
620-896-2400

Anthony Hotel Group, LLC
423 West Main
Anthony, KS 67003
620-842-5200

North Dakota

Harvey Hotel Group, LLC
410 West Brewster
Harvey, ND 58341
701-635-2222

Langdon Hotel Group, LLC
510 9th Avenue East
Langdon, ND 58249

Bottineau Cobblestone Group, LLC
1109 11th Street East
Bottineau, ND 58318
701-534-2121

Carrington Hotel Group, LLC
835 5th Avenue
Carrington, ND 58421
701-652-3000

Rugby Hotel Group, LLC
402 Highway 2 East
Rugby, ND 58368
701-881-3000

Wisconsin

Brillion Hotel Group, LLC
800 West Ryan Street
Brillion, WI 54110
920-756-3800

Durand Hotel Group, LLC
325 Passport Street
Durand, WI 54736
715-672-5055

DGB Hotel Group, LLC
1515 Planeview Drive
Oshkosh, WI 54914
920-230-7400

Cobblestone Hotel Group, LLC
175 Waupaca Street
Clintonville, WI 54929

715-823-2000

Franchised Cobblestone Hotel and Suites as of December 31, 2013

Franchised Cobblestone Inn and Suites
Executed but not Open as of December 31, 2013

Colorado

Kiowa County Investment Group, LLC
501 East Lowell Avenue
Eads, CO 81036
888-693-8262

Texas

Big Lake Hotel Group, LLC
1318 East US Hwy 67
Big Lake, TX 76932
432-682-2445

Franchised Cobblestone Hotel and Suites
Executed but not Open as of December 31, 2013

Indiana

Salem Hotel Group, LLC
1015 E. Hackberry Street
Salem, IN 47167

Pennsylvania

Destination Group, LLC
12695 Washington Township Blvd.
Waynesboro, PA 17268
717-765-2165

Cobblestone Corry, LLC
Location TBD
Corry, PA 16407
814-451-1101

Texas

Stanton Hotel Group, LLC
3394 IH-20
Stanton, TX 79782

Colorado City Hotel Group, LLC
715 West IH-20
Colorado City, TX 79512
888-693-8262

Cobblestone Inn and Suites Franchisees who had Outlet Terminated, Cancelled, Not Renewed or Otherwise Voluntarily or Involuntarily Ceased to do Business under a Franchise Agreement During the Year Ended December 31, 2013

NONE

Cobblestone Hotel and Suites Franchisees who had Outlet Terminated, Cancelled, Not Renewed or Otherwise Voluntarily or Involuntarily Ceased to do Business under a Franchise Agreement During the Year Ended December 31, 2013

NONE

Note: If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

GENERAL RELEASE FORM

EXHIBIT H TO THE DISCLOSURE DOCUMENT

GENERAL RELEASE FORM

This General Release (this "Release") is made and entered into effective as of April 7, 2014 (the "Effective Date") by and among Cobblestone Hotels, LLC, a Wisconsin limited liability company ("Franchisor"), Boomer Development LLC ("Franchisee"), and Andy Hutchison ("Principal Owners").

RECITALS

WHEREAS, Franchisor and Franchisee entered into a Franchise Agreement dated April 7, 14 (the "Franchise Agreement") (each capitalized term used but not defined herein shall have the meaning assigned to that term in the Franchise Agreement), pursuant to which Franchisee was granted the right and license (the "Franchise") to operate a lodging facility under the Cobblestone system of operation and using certain Cobblestone Marks to be located at 6002 N. 4th Lubbock, TX 79403 (the "Facility");

WHEREAS, Franchisee desires, and Franchisor has agreed, to [transfer the Facility]/[renew the Franchise Agreement]; and

WHEREAS, in connection with such [transfer]/[renewal], Franchisor requires a General Release.

NOW, THEREFORE, for and in consideration of the mutual covenants set forth below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

RELEASE

1. Franchisee. Franchisee, and its respective officers, directors, employees, successors, assigns, heirs, personal representatives, and all other persons acting on their behalf or claiming under them, past or present, hereby unconditionally release, remise and forever discharge Franchisor, its predecessors, parents, subsidiaries, and affiliates and their respective officers, directors, shareholders, employees, past or present, successors, and assigns (collectively, the "Franchisor Released Parties"), from any and all claims, debts, liabilities, demands, obligations, actions, and causes of action, known or unknown, vicarious, derivative or direct, vested or contingent ("Claims"), which any of them may now have, have ever had, or may hereafter have by reason of any event, transaction, or circumstance, whether under federal, state or local law or otherwise, arising out of or relating to the disclosure, application, negotiation, formation, execution or performance of the Franchise Agreement or arising out of or in any way relating to the Facility from the beginning of time through the date of this Release.

2. Franchisor. Except as otherwise set forth in this Release, Franchisor, for itself and its successors and assigns and all other persons acting on its behalf or claiming under it,

hereby releases and forever discharges Franchisee and its respective officers, directors, employees, successors, assigns, heirs and personal representatives from all Claims which Franchisor may have ever had, now has, or may hereafter have by reason of any event, transaction, or circumstance arising out of or relating to the performance of the Franchise Agreement from the beginning of time through the date of this Release.

[If Franchisee or any of Franchisee's Principals is located in California: In executing this General Release, Franchisee and Franchisee's Principals hereby waives all rights and benefits which it now has or in the future may have under and by virtue of the terms of Section 1542 of the Civil Code of the State of California, which Section reads as follows:

> **A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.]**

This Release is made in the State of Wisconsin and its provisions shall be governed by and enforced and interpreted under the laws of that State, except that conflicts of law rules shall be excluded.

IN WITNESS WHEREOF, the parties have duly executed this Release on this 7 day of April 2014.

FRANCHISOR: **COBBLESTONE HOTELS, LLC,** a Wisconsin limited liability company By: _____ Name: Brian Wogernese Title: President	**FRANCHISEE:** Andy Hutchison [Name] _____ [Signature]

COBBLESTONE HOTELS, LLC
DISCLOSURE DOCUMENT RECEIPTS

EXHIBIT I TO THE DISCLOSURE DOCUMENT

RECEIPT

(Franchisor's Copy)

This disclosure document summarizes certain provisions of the franchise agreement and other information in plain language. Read this disclosure document and all agreements carefully.

If we offer you a franchise, we must provide this disclosure document to you 14 calendar days before you sign a binding agreement with, or make a payment to, us or our affiliate in connection with the proposed franchise sale. Iowa, New York, Oklahoma and Rhode Island require that we give you this disclosure document at the earlier of the first personal meeting or 10 business days (or 14 calendar days in Iowa) before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship. Michigan and Washington require that we give you this disclosure document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first.

If we do not deliver this disclosure document on time or if it contains a false or misleading statement, or a material omission, a violation of federal law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and those state administrators listed on Exhibit B.

The franchisor is Cobblestone Hotels, LLC, located at 980 American Drive, Neenah, WI 54956. Its telephone number is (920) 230-2622.

Issuance Date – February 19, 2014

The following is the name, principal business address, and telephone number of each franchise seller involved in the offer or sale of this franchise:

FOR FRANCHISOR'S USE ONLY – TO BE FILLED IN BY FRANCHISOR AT CLOSING

Cobblestone Hotels authorizes the respective state agencies identified on Exhibit B to receive service of process for it in the particular state.

I received a Disclosure Document dated February 19, 2014 that included the following Exhibits:

A. Application for Cobblestone Franchise
B. List of State Agencies and Agents for Service of Process
C. Our Financial Statements
D. Franchise Agreement
E. State Specific Addenda to the Franchise Disclosure Document and the Franchise Agreement
F. Table of Contents of Franchisor's Manual
G. List of Current Franchisees
H. General Release Form
I. Disclosure Document Receipts

Date: 3-11-14
(Do not leave blank)

Proposed Location of Hotel: Lubbock, TX

Signature

Andy Hutchison, Principal
Print Name and Title

Brewer Development, LLC
Name of Franchisee Entity

RECEIPT

(Franchisee's Copy)

This disclosure document summarizes certain provisions of the franchise agreement and other information in plain language. Read this disclosure document and all agreements carefully.

If we offer you a franchise, we must provide this disclosure document to you 14 calendar days before you sign a binding agreement with, or make a payment to, us or our affiliate in connection with the proposed franchise sale. Iowa, New York, Oklahoma and Rhode Island require that we give you this disclosure document at the earlier of the first personal meeting or 10 business days (or 14 calendar days in Iowa) before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship. Michigan and Washington require that we give you this disclosure document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first.

If we do not deliver this disclosure document on time or if it contains a false or misleading statement, or a material omission, a violation of federal law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and those state administrators listed on Exhibit B.

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FOR FRANCHISOR'S USE ONLY – TO BE FILLED IN BY FRANCHISOR AT CLOSING

_____

_____

Cobblestone Hotels authorizes the respective state agencies identified on Exhibit B to receive service of process for it in the particular state.

I received a Disclosure Document dated February 19, 2014 that included the following Exhibits:

A. Application for Cobblestone Franchise
B. List of State Agencies and Agents for Service of Process
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D. Franchise Agreement
E. State Specific Addenda to the Franchise Disclosure Document and the Franchise Agreement
F. Table of Contents of Franchisor's Manual
G. List of Current Franchisees
H. General Release Form
I. Disclosure Document Receipts

Date: 3-11-14
(Do not leave blank)

Proposed Location of Hotel: Lubbock, TX

Signature

Andy Hutchison, Principal
Print Name and Title

Pecanner Development LLC
Name of Franchisee Entity

Keep this copy for your records.

Regular City Council Meeting **6. 11.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - Mayor Robertson: Consider a resolution concerning the rights of certain eligible City of Lubbock employees to carry concealed handguns in the workplace.

Item Summary

As stated above.

Fiscal Impact

None.

Staff/Board Recommending

Glen Robertson, City Mayor

Attachments

Resolution - Employee Concealed Carry 1 - Robertson

RESOLUTION

WHEREAS, Chapter 411 of the Texas Government Code sets forth a process whereby an eligible citizen may apply for, and receive, a state-issued license to carry a handgun; and

WHEREAS, certain employees of the City of Lubbock have applied for, and have received, a state-issued license to carry a handgun; and

WHEREAS, Chapter 411 of the Texas Government Code allows public employers to prohibit or permit persons licensed under the law to carry a handgun on the premises of the employer; and

WHEREAS, the City Manager is charged under Article X, Section 4 of the City Charter of the City of Lubbock with the proper administration of all affairs of the City placed under his control, to include other duties required of him by the City Council; and

WHEREAS, the City Council of the City of Lubbock, in recognition of the authority of the State of Texas to issue licenses to citizens for the purposes of carrying a handgun in public, and in further recognition of a City of Lubbock employee's right to obtain said license and to carry on their person a handgun not otherwise prohibited by law, does now desire to direct the City Manager to institute a revised policy governing the possession by City of Lubbock employees of handguns in the workplace. NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK, TEXAS:

THAT the City Manager is hereby directed to promulgate and enforce a policy governing the possession by City employees of handguns in the workplace, consistent with the following principles:

1. Any City employee lawfully possessing a license in good standing, issued to them by the State of Texas under Chapter 411 of the Texas Government Code, to carry a handgun may carry said handgun on their person, during the performance of their work duties, in a City vehicle, and at the workplace, provided that the handgun is not openly discernible to the ordinary observation of a reasonable person, and so long as the carrying of said handgun is done in compliance with all applicable state and federal laws.

2. Permission from any other employee or official of the City of Lubbock shall not be required by an employee described above to exercise his/her rights under the policy.

3. The policy shall not affect the rights of, nor be applicable to, City of Lubbock employees licensed or otherwise permitted to carry a handgun

under state or federal authority other than Chapter 411 of the Texas Government Code.

Adopted by the City Council this, the _____ day of December, 2015.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
GLEN C. ROBERTSON, MAYOR

sj:\RES-Employee Concealed Carry.11.23.15

Regular City Council Meeting **6. 12.**

Meeting Date: 12/03/2015

Information

Agenda Item

Resolution - Councilman Hernandez: Consider a resolution concerning the rights of certain eligible City of Lubbock employees to carry concealed handguns in the workplace.

Item Summary

As stated above.

Fiscal Impact

None.

Staff/Board Recommending

Victor Hernandez, City Councilman

Attachments

Resolution - Employee Concealed Carry I Hernandez

RESOLUTION

WHEREAS, Chapter 411 of the Texas Government Code sets forth a process whereby an eligible citizen may apply for, and receive, a state-issued license to carry a handgun; and

WHEREAS, certain employees of the City of Lubbock have applied for, and have received, a state-issued license to carry a handgun; and

WHEREAS, Chapter 411 of the Texas Government Code allows public employers to prohibit or permit persons licensed under the law to carry a handgun on the premises of the employer; and

WHEREAS, the City Manager is charged under Article X, Section 4 of the City Charter of the City of Lubbock with the proper administration of all affairs of the City placed under his control, to include other duties required of him by the City Council; and

WHEREAS, the City Council of the City of Lubbock, in recognition of the authority of the State of Texas to issue licenses to citizens for the purposes of carrying a handgun in public, and in further recognition of a City of Lubbock employee's right to obtain said license and to carry on their person a handgun not otherwise prohibited by law, does now desire to direct the City Manager to institute a revised policy governing the possession by City of Lubbock employees of handguns in the workplace. NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK, TEXAS:

THAT the City Council of the City of Lubbock does hereby establish, and direct the City Manager to enforce, a City policy governing the possession by City of Lubbock employees of handguns in the workplace, consistent with the following principles:

1. Any City employee lawfully possessing a license in good standing, issued to them by the State of Texas under Chapter 411 of the Texas Government Code, to carry a handgun may carry said handgun on their person, during the performance of their work duties, in a City vehicle, and at the workplace, provided that the handgun is not openly discernible to the ordinary observation of a reasonable person, and so long as the carrying of said handgun is done in compliance with all applicable state and federal laws.

2. Application must be made to, and approved by, the City Manager or his designee by any employee before availing themselves of the policy. The applicant must present proof of a valid Texas handgun license with the application, and permission may be granted with restrictions or conditions

allowed by law. Permission may be revoked by the City Manager, in writing, with or without cause, and shall terminate automatically without notice upon the suspension, revocation, or expiration of the employee's license.

3. The policy shall not affect the rights of, nor be applicable to, City of Lubbock employees licensed or otherwise permitted to carry a handgun under state or federal authority other than Chapter 411 of the Texas Government Code.

Adopted by the City Council this the _____day of December, 2015.

GLEN C. ROBERTSON, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Victor Hernandez, Councilman, District 1

gs:\RES-Employee Concealed Carry.11.23.15

Regular City Council Meeting **6. 13.**

Meeting Date: 12/03/2015

Information

Agenda Item

Board Appointments - City Secretary: Consider four appointments to the Central Business District Tax Increment Financing Reinvestment Zone Board of Directors, two appointments to the Libraries Board, one appointment to the Lubbock Housing Finance Corporation Board of Directors, and one appointment to the Lubbock Emergency Communications District Board of Managers.

Item Summary

As stated above.

Fiscal Impact

None.

Staff/Board Recommending

Rebecca Garza, City Secretary

Attachments

Regular Session - Board Appointments

BOARD APPOINTMENTS FOR
REGULAR CITY COUNCIL MEETING, DECEMBER 3, 2015 - REGULAR

Officer of City		Board Name & No.	Member Name	Term Expires	Attend %	Membership Requirements	Recommended Action	Eligible?
	1	LIBRARIES BOARD	ESQUEDA, ADELA	1/1/2016	N/A	DISTRICT 5 REP.	REPLACE	N/A
			KING, DAVID	1/1/2016	77%	DISTRICT 4 REP.	REAPPOINT	Y

*Officer of City Status board members as an individual or business shall not contract with the City of Lubbock and serve as a board member.

Applicants No Preference

Update Date	Last Name	First Name	Gender	Ethnicity	Age	Occupation	Business Name	District
01/27/2011	Aguero	Olga	Female	Hispanic or Latino				1
11/03/2014	Alderson	David	Male	Anglo	50-59	Auto Dealer	Alderson Enterprises, LP	5
09/09/2014	Arnett	Claire	Female	Anglo	50-59	Education	Covenant School of Nursing	4
06/18/2010	Ashley	Kyle	Male	Anglo	40-49	CEO	Alliance Federal Credit Union	4
01/27/2011	Bass	Byrn	Male	Anglo				6
10/28/2010	Beck	Jim	Male	Anglo	50-59	Professor of Mission	Lubbock Christian University	6
01/14/2015	Been	Mattie	Female	Anglo	18-29	Director of Development	Texas Tech University Health Sciences Center	4
07/01/2003	Bennett	James	Male	Anglo	50-59		Economic Development	4
11/02/2010	Bentley	Donnie	Male	Anglo	60+	Owner	Don Bentley Roofing Co.	3
02/02/2010	Berry	Timothy	Male	Anglo	40-49	Paramedic	UMC Lubbock EMS	5
03/24/2010	Berryhill	Korbi	Female	Anglo		RN Instructor	South Plains College, Reese	5
11/01/2010	Beversdorf	Cynthia	Female	Anglo	40-49			5
10/27/2010	Beversdorf	Fredrick	Male	Anglo	50-59	Senior Training Instructor	Atmos Energy	5
10/28/2010	Billings	Toby	Male	Anglo	30-39	Custodial Staff	Broadway Church of Christ	1
10/28/2010	Bosscher	Karen	Female	Anglo	50-59	Business Manager	Hemmo A. Bosscher, MD.	4
10/26/2010	Bryant	Gary	Male	African-American	40-49	House Manager	Lubbock Faith Center	2
02/06/2014	Carlson	Paul	Male	Anglo				7
10/28/2010	Clayton	Letitia	Female	Anglo	40-49	Orthopedic Tech	Dr. Kenneth Stephenson	5
07/06/2009	Coppola	Martin	Male	Anglo	40-49	Associate Professor & Program Director	Texas Tech HSC	5
10/25/2010	Craig	Karl	Male	Anglo	60+			5
07/22/2004	Craig	Mickey	Male	Anglo	60+		Retired	2
11/15/2010	Dingle	Darnell	Female	Anglo	60+			5
09/06/2006	Dirks	James	Male	Anglo	60+	Architect	Cox/Dirks Architects P.C.	5
01/14/2010	Dulin	Jim	Male	Anglo	60+	Judge	Lubbock County	4
01/15/2015	Dumas	Seanloui	Male	African-American	18-29	CEO	Unite Clothing	7
02/15/2010	Eggenberger	Florence	Female	Anglo	60+			6
11/29/2010	Elliott	John	Male	Anglo	60+	Banking	Southwest Bank	4
01/14/2010	Epps	Mike	Male	Anglo	50-59	CFO	American State Bank	5
11/02/2010	Finley	Kathleen	Female	Anglo	40-49	Captain	Lubbock Co. Sheriff's Office	4
10/27/2010	Ford	Laura	Female	Hispanic or Latino	30-39	Clinic Manager	Lubbock Regional MHMR	1
12/01/2010	Gerlach	Mary	Female	Anglo	40-49			3
10/29/2010	Gifford	Gretchen	Female	Anglo	18-29	Legal Secretary	Buerner, Dennis, & Franklin	4
11/08/2010	Green	Velda	Female	Anglo	50-59	Non-Profit Relations		5
04/19/2010	Griswold	Mary	Female	Anglo	50-59	Activities/Edcuation Director	Redr Frame & Art	4
01/15/2015	Guetersloh	Mary	Female	Anglo	60+		Self-Employed	7
03/05/2008	Hamer	Darla	Female	Anglo	40-49	Banker	Peoples Bank	6

Update Date	Last Name	First Name	Gender	Ethnicity	Age	Occupation	Business Name	District
09/11/2014	Harvey	Larry	Male	Anglo	50-59	Architect	Chapman Harvey Architects, Inc	4
08/23/2005	Harvill	Natalie	Female	Anglo	30-39	Structural Engineer	Parkhill, Smith & Cooper	5
01/14/2010	Henry	Alan	Male	Anglo	60+	Insurance Agent	Alan Henry Insurance	3
06/10/2009	Henson	Matthew	Male	Anglo	30-39	Self Employed	Matt Henson Inc.	5
11/11/2010	Herrera	Gilbert	Male	Hispanic or Latino	60+	Evangelist	Gilbert Herrera Evangelistic Association	4
11/15/2010	Jackson	Emma	Female	African-American	60+			2
02/22/2010	Jackson	Winnie	Male	Anglo	60+	Retired Minister		4
11/01/2010	Kinserlow	Ray	Male	Anglo	60+			4
12/08/2010	Madison	Harvey	Male	Anglo	60+	Photography	Madison Photography	4
08/22/2013	McCarty	Charlotte	Female	African-American	40-49	Self employed	Lil' Precious	6
10/27/2011	McDonald	Carroll	Male	Anglo	60+			1
10/27/2011	McDougal	Marc	Male	Anglo	40-49		McDougal Companies	4
12/24/2014	McDougal	Michael	Male	Anglo	40-49	CEO	McDougal Capital	3
02/26/2009	McKee	Todd	Male	Anglo				5
11/09/2010	Mitchell	Walter	Male	Anglo	30-39	Pastor	Westminister Presbyterian Church	4
11/30/2010	Morton	Philip	Male	Anglo	30-39	Associate Director	Texas Tech	5
10/27/2011	Musselman	Robert	Male	Anglo				6
01/10/2002	Noble	Brent	Male	Anglo			Service Title	4
01/15/2015	Osborne	John	Male	Anglo	40-49	President & CEO	LEDA / MLI	7
11/05/2010	Perry	Wilson	Male	African-American	50-59		City of Lubbock	1
11/01/2010	Pickett	Benjamin	Male	Anglo	40-49	Associate Minister	Monterey Church of Christ	4
09/09/2014	Pierce	Tim	Male	Anglo	50-59	Executive Director	South Plains A	5
12/01/2006	Podrebartz	Keith	Male	Anglo	30-39	Counselor	Texas Tech University	1
05/23/2013	Porter	Karen	Female	Anglo	40-49			2
08/11/2015	Putteet	Janis	Female	Anglo		Vice President	United Way - Lubbock	3
11/01/2010	Read	Alan	Male	Anglo	60+	Agent	AFLAC	5
09/09/2014	Riley	Nolan	Male	American Indian	30-39	Optometrist / Business Owner	8067931927	7
	Rios	Roy	Male	Hispanic or Latino			Women's Protective Services	2
04/29/2008	Schmedes	Gregg	Male	Anglo		Medical Student	Texas Tech	6
05/27/2010	Smith	David	Male	Anglo	30-39	Construction Director	Lee Lewis Construction	5
06/28/2012	Spitzer	Michelle	Female	Anglo	50-59	CFO	Sunwest Construction Inc.	4
04/01/2008	Stephens	Sherry	Female	Anglo	30-39	Administrative Assistant	High Plains Water District	5
05/17/2012	Stephenson	Pat	Male	Anglo	50-59	Service Manager	Bruce Thornton Air Conditioning	4
01/27/2011	Stevens	Mike	Male	Anglo				5
11/01/2010	Swoboda	Tami	Female	Anglo	40-49	Grants & Communications	Lubbock Area Foundation	3
08/08/2013	Walz	Donna	Female	Anglo				5
12/01/2006	Walz	John	Male	Anglo	60+	Attorney	Retired	5
09/09/2014	Wierzba	Susan	Female	Anglo	40-49	Partner/ Director	Commodity Export Corporation	5

Update Date	Last Name	First Name	Gender	Ethnicity	Age	Occupation	Business Name	District
10/06/2006	Wilkerson	David	Male	Anglo	40-49	Real Estate Developer	Wilkerson Properties	5
08/14/2014	Wilkes	Morris	Male	Anglo				6
12/02/2010	Williams	Shirley	Female	African-American	60+	Career Consultant	Workforce Solutions	2
02/24/2010	Woordward	Tracey	Female	Anglo	50-59	Registered Nurse	Covenant School of Nursing	4
11/20/2007	York	Martha	Female	Anglo		Real Estate Broker	The Real Estate Company	5
	Young	Andy	Male	Anglo				5

LIBRARIES BOARD

	Lubbock Population	Lubbock Adult Population	All City Boards	This Board
ETHNICITY				
Anglo	55.0%	61.0%	78.6%	77.8% (7)
Hispanic	32.6%	27.6%	9.8%	22.2% (2)
African-American	8.7%	7.4%	8.3%	0.0% (0)
Other	3.7%	4.0%	3.3%	0.0% (0)
GENDER				
Male	48.5%	47.0%	72.6%	33.3% (3)
Female	51.5%	53.0%	27.4%	66.7% (6)
GEOGRAPHIC DISTRIBUTION				
District 1	16.1%	17.3%	8.3%	22.2% (2)
District 2	16.4%	15.2%	4.8%	0.0% (0)
District 3	16.3%	16.6%	12.5%	11.1% (1)
District 4	17.0%	16.7%	19.6%	33.3% (3)
District 5	16.7%	17.8%	34.0%	11.1% (1)
District 6	17.3%	16.4%	18.2%	22.2% (2)
Other/Unknown	0.0%	0.0%	2.6%	0.0% (0)

PURPOSE:
Makes recommendations to the City Council regarding the operation of the public libraries in Lubbock.

QUALIFICATIONS: One member appointed from each Council Member's district, two members appointed At-Large (to represent the Mayor), and one member shall be the newly elected president of the Friends of the Lubbock City-County Library.

APPOINTMENT INFORMATION:

Member Name & Demographic Facts	Requirement	Attend	Eligible	Action
Esqueda, Adela (F,H,4)	District 5 Rep.	N/A	N/A	Replace
King, David (M,A,4)	District 4 Rep.	77%	Y	Reappoint

APPOINTMENTS ADVISORY BOARD RECOMMENDATIONS:
To replace Adela Esqueda:
Julie Childs (F,A,5) Remax Commerical Real Estate

City of Lubbock
Board and Commision Recruiting Database

Updated: 10/27/2015

Libraries Board

Date Updated	Last Name	First Name	Gender M/F	Ethnicity A,H,AA,O	Age	Occupation	Business	District
First Preference								
08/09/2011	Amor	Cherif	M	AI	50-59	Dept. Chair/Assoc. Prof.	Texas Tech	5
04/14/2010	Davis	Jon	M	A	40-49	Accountant	Capital Farm Credit	3
	Gonzales	Armando	M	H	50-59			2
02/06/2006	Howard	Dennis	M	A	50-59		Retired	4
09/13/2006	Hurt	William	M	A	30-39	Police Officer	Lubbock PD	3
07/01/2007	Judd	Kimberly	F	A	50-59	Vice President	University Medical Center	3
11/19/2014	Lewis	Sheri	F	A	50-59	Associate director & media advisor	Texas Tech University -- Student Media	4
05/19/2004	Pearson	Neale	M	A	60+	Professor	Semi-Retired Professor	3
09/29/2005	Pena	Esther	F	H	30-39	Sales & Marketing Manager	Amerigroup	5
01/06/2015	Syma	Carrye	F	A	30-39	Associate Librarian	Texas Tech University	4
09/11/2014	Trost	Theresa	F	A	60+			3
12/01/2007	Willis	Roy	M	A	60+	Retired	United Postal Service	5
Second Preference								
03/01/2008	Baker	Robert	M	A	50-59	ICU Nurse	Lubbock Heart Hospital	4
12/02/2013	Barnes	Melanie	F	A	50-59	Geologist	Texas Tech University	3
09/02/2010	Chambers	Tosha	F	AA	30-39			4
09/17/2014	Childs	Julie	F	A	40-49	Commercial Realtor	RE/MAX Commercial Real Estate	5
12/01/2011	de Riese	Cornelia	F	A	50-59		Comprehensive Family and Women's Healthcare	3
03/01/2008	Hester	Steve	M	A	50-59	Forms Manufacturing	Caprock Business Forms	5
07/30/2007	Jacks	Holly	F	A		Registered Nurse	Covenant Emergency	5
06/01/2015	Lonngren	Chris	M	A	50-59	Restaurant Operator	Schlotzsky's	6
03/07/2008	Lunsford	Jeremy	M	A			LNG Productions Inc.	3
03/01/2010	Mitchell	Bret	M	A	40-49		Queso's	4
04/09/2010	Williams	Herbert	M	AA	40-49	Correctional Officer IV	TX Dept of Criminal Justice	2
Third Preference								

City of Lubbock
Board and Commision Recruiting Database

Updated: **10/27/2015**

Libraries Board

Date Updated	Last Name	First Name	Gender M/F	Ethnicity A,H,AA,O	Age	Occupation	Business	District
07/30/2015	Aguilar	John	M	H	18-29			1
09/29/2010	Bryant	LeEarl	F	A	60+			1
02/18/2013	Flores	Isaac	M	H	18-29	Section Coordinator	The Office of Community Engagement	6
05/05/2009	Marberry	William	M	A	18-29	Realtor	Coldwell Banker	3
07/02/2015	Miller	John	M	A	60+	Retired		4
11/30/2010	Nash	Bennie	M	AA	60+	Retired - USN	Inner Circle - Human Services	3
03/20/2013	Ritter	Christopher	M	A	30-39	Attorney	Lubbock County DA Office-Civil	4
Fourth Preference								
06/13/2013	Arnold	Peter	M	A	40-49	Owner	Arnold Enterprises of Lubbock	2
07/07/2015	Ashburn	Lasey	F	A	18-29	Commerical Lender	FirstCapital Bank	6
05/13/2010	Bruegel	Jon	M	A	18-29			4
12/01/2011	Frye	Kate	F	A	50-59			5
05/08/2013	Lamb-Vines	Danna	F	A	50-59	Massage Therapist/ Personal Assistant	Blue Moon Massage	3
	Lopez	Tammy	F	A	40-49			3
07/06/2009	Melendez	Jill	F	A	18-29	Social Worker	Montford Psychiatric Prison	6
01/18/2013	Powell	Joseph	M	A	30-39	Insurance	Scott Powell State Farm	5
03/05/2008	Sosebee	Rick	M	A	50-59	Fire Protection Contractor	Koetter Fire Protection	3
Fifith Preference								
02/08/2010	Tidwell	Joseph	M	A	18-29	Project Manager	Tao Development Group	3

Sixth Preference

Committee # 17 Libraries Board — Perm/Temp Board: P

	Confidential	Home	Business			Reappt Elig.
Member Mayor **Curtis** **Mr. Andrew**	Y	*4818 104th Street* *Lubbock, TX 79424*	*Craig, Terrill, Jole and* *Grantham, LLP* *9816 Slide Road, Ste. 201* *Lubbock, TX 79424*	*Curr:* *2nd:* *1st:*	01/01/2015-01/01/2018	*Y*
Email: acurtis@thelawfirm.com	Y Y	*8065599882* *8065599882*	*8067443232* *acurtis@thelawfirm.com*	*Fax:*	*8067442211*	
Vice Chair Distric 5 Rep. **Esqueda** **Ms. Adela**	Y	*8314 Hartford* *Lubbock, TX 79423*	*Guadalupe Parkway* *Sommerville Center* *405 N. MLK Jr. Blvd.* *Lubbock, TX 79403*	*Curr:* *2nd:* *1st:*	01/01/2013-01/01/2016 01/01/2010-01/01/2013	*N*
Email: dela-gpnc@hotmail.com	Y	*8065492540*	*8067633963* *dela-gpnc@hotmail.com*	*Fax:*	*8067630379*	
Member Distric 2 Rep. **Heinz** **Ms. Laura**	Y	*4430 80th Street* *Lubbock, tx 79424*	*Texas Tech Univ. Library* *M.S. 0002* *Lubbock, 79409*	*Curr:* *2nd:* *1st:*	01/01/2014-01/01/2017 01/27/2011-01/01/2014 02/26/2009-01/01/2011	*Y*
Email:	N	*806*	*806.742.2238*	*Fax:*	*806.742.1964*	
Member Distric 4 Rep. **King** **Mr. David**	Y	*3410 74th Street* *Lubbock, TX 79423*		*Curr:* *2nd:* *1st:*	01/01/2013-01/01/2016 03/02/2011-01/01/2013	*Y*
Email: daveburnout@sbcglobal.net	Y N	*8065355141* *8065355141*		*Fax:*		
Member Distric 1 Rep. **Lozada** **Mrs. Alice**	Y	*122 S. Avenue N* *Lubbock, TX 79401*		*Curr:* *2nd:* *1st:*	01/01/2014-01/01/2017	*Y*
Email: ach9256@aol.com	N	*8067875794*		*Fax:*		
Chair Mayor **McDonald** **Mrs. Nadine**	Y	*2816 N. Meadow Drive* *Lubbock, TX 79403*		*Curr:* *2nd:* *1st:*	01/01/2015-01/01/2018 01/01/2012-01/01/2015 01/01/2009-01/01/2012	*N*
Email: mccarroll4@aol.com	Y	*8067625011*		*Fax:*		
Member Distric 6 Rep. **Presley** **Mrs. Teresa**	Y	*4612 10th Street* *Lubbock, Texas 79416*	,	*Curr:* *2nd:* *1st:*	12/04/2014-01/01/2017	*Y*
Email: presleyst@gmail.com	Y	*(806) 785-2527*		*Fax:*		
Member President **Strickland** **Ms. Lynne**	Y	*5828 Erskine St.* *Lubbock, TX 79416*		*Curr:* *2nd:* *1st:*	06/01/2014-06/01/2017 05/03/2012-06/01/2014	*N*
Email: m.l.strickland5@gmail.com	Y Y	*8067952726* *8064078229*		*Fax:*		
Member Distric 3 Rep. **Veal** **Mr. Edward**	Y	*2818 25th Street* *Lubbock, TX 79410*		*Curr:* *2nd:* *1st:*	01/01/2014-01/01/2017	*Y*

Committee # 17 *Libraries Board*					*Perm/Temp Board:* P
	Confidential	***Home***	***Business***		*Reappt Elig.*
Email:	Y	*8067977134*	*8889008944*	*Fax:* *8889008944*	
ed.veal@bywatersolutions.com	N	*8064456867*	*ed.veal@bywatersolutions.com*		


City of
Lubbock
TEXAS

City of Lubbock, Texas
Contract & Procurement Related Agenda Items

The City Council has statutory obligations when awarding contracts and contract amendments. The following is provided to assist elected officials when considering contract and procurement related agenda items:

- There exists the general concept that the taxpaying public should receive the best price possible for purchases in the interest of the public good, and that the government should maximize, to the fullest extent practicable, the purchasing value of public funds. McQuillin Municipal Corporations, 3rd Ed.
- During the period between offer submission date and the contract award, offerors, including their agents and representatives, may not discuss or promote their offer with any member of the Lubbock City Council or City staff except upon the request of the Purchasing Department in the course of city-sponsored inquiries, briefings, interviews, or presentations. The provision is not meant to preclude offerors from discussing other matters with City Council members or City staff. The policy is intended to place all offerors upon the same plane of equality, assure that contract decisions are made in public, and to protect the integrity of the bid process. Its purpose is to stimulate competition, prevent favoritism and secure the best work and materials at the lowest practicable price, for the best interests and benefit of the taxpayers and property owners. Sterrett v. Bell, 240 S.W.2d 516, 520 (Tex. Civ. App. – Dallas 1951, no writ)
- Elected officials and employees are prohibited from participating in the profits of a City contract or having an interest in a sale to the City. §1, Art. IX, Sec. 4, City Charter
- Bids from bidders who reside in states that grant resident bidder preference for that state's purchases are reciprocated in the same manner when bidding against a Texas bidder. §2252.002, Texas Govt Code
- Architectural, engineering, and land surveying service providers are prohibited from submitting bids or cost proposals. The City selects the most highly qualified provider of services based on demonstrated competence and qualifications through a Request for Qualifications process; and then attempts to negotiate with that provider a contract at a fair and reasonable price. §2254.004, Texas Govt Code
- The total contract price caused by change orders may not increase more than 25%, and the total price may not be decreased by more than 25% without the consent of the contractor. §252.048, Texas Local Govt Code
- Proposals are opened in a manner that avoids disclosure of the contents to competing offerors and keeps the proposals secret during negotiations. §252.049, Texas Local Govt Code
- Participating in purchasing cooperatives with other local governments and cooperative purchasing organizations satisfies state law requiring the City to solicit competitive bids. §271.102, Texas Local Govt Code
- If the City receives two or more low bids that are identical, the selection of the winner is made be by the casting of lots. If only one of the bidders submitting identical bids is a resident of the City, that bidder will receive the award. §271.901, Texas Local Govt Code
- If the City receives a bid for personal property not affixed to real property, or services, from a resident bidder whose principal place of business is within Lubbock city limits and whose bid is within 5% of the lowest bid received from a bidder whose principal place of business is not within Lubbock city limits, the City may enter into a contract for an expenditure of less than $100,000 with the lowest bidder or the resident bidder if Council determines that the resident bidder offers the City the best combination of contract price and additional economic development opportunities for the City. §271.9051, Texas Local Govt Code
- If there is a conflict between the City's policies and procedures and a state law, or a rule adopted under a state law, the stricter of the two provisions prevails.

Ethics - The City subscribes to National Institute of Governmental Purchasing Code of Ethics. City Charter, Ch. 1, Art. IX, prohibits City Council members, officers, or employees, from having an interest in profits/emoluments of a contract, job, work, or service to the City.

Purchasing Thresholds - Methods for procurement vary depending upon the nature of the procurement, the dollar amount, and the type of vendor will be used. Flexibility in making small buys within a particular dollar range is allowed for efficiency purposes and minimal paperwork. Intermediate ranges in between the smallest procurements (micro purchases) to publicly announced procurements (large purchases) usually allow limited competition and abbreviated paperwork to promote efficiency. Large procurements are publicly announced and vendors are required to respond with written and signed proposals/bids. Tex. Local Govt. Code (LGC) §271.102 and 103 waive the requirement for quotes or bids/proposals if an opportunity to piggy-back another governmental entity's competitive bid is available.

Goods and Services	Approval Authority	Procurement Method	Legal Authority
Up to $500	Using department	No quotes required	City Procurement Policy
$501 – 2,500	Using department	Verbal quotes/proposals, electronic bids	City Procurement Policy
$2,501 – 50,000	City Manager	Written quotes/proposals, electronic bids	LGC §252.0215
More than $50,000	City Council	Written bids/proposals, electronic bids	LGC §252.021, 024, 041, 0415, 042, 043,
Professional Services			
Up to $50,000	City Manager	Written proposals	GC §2254.003
More than $50,000	City Council	Written proposals	GC §2254.003
Architectural/Engineering Services			
Up to $50,000	City Manager	Rotation list	GC §2254.004
More than $50,000	City Council	Statement of qualifications	GC §2254.004
Construction			
Up to $50,000	City Manager	Written quotes/proposals	LGC §252.0215
More than $50,000	City Council	Written quotes/proposals	LGC §252.021, 0215, 043, 0435
Emergencies			
Up to $50,000	City Manager	Verbal or written quotes	City Procurement Policy
More than $50,000	City Council	Verbal or written quotes	LGC §252.022
Interlocal/Real Property			
Any amount	City Council	Negotiated	LGC §252.022, 050 and §272
Change Orders/Amendments			
Up to $50,000	City Manager	Negotiated	LGC §252.048
More than $50,000	City Council	Negotiated	LGC §252.048

Public Notice - For contracts involving an expenditure greater than $50,000, LGC §252 requires the City to publish bid notices in a local newspaper once a week for two consecutive weeks. The date of the first publication is before the 14th day before the date set to open the bid. Bids are posted on the Internet, and potential bidders contacted via E-mail.

Public Works Construction – Pursuant to LGC §271, the City uses the following delivery methods for construction of public works:

- Competitive bidding
- Competitive sealed proposals
- Design-build
- Construction manager
- Job order contract

Tex. Govt. Code (GC) §2253.021 and LGC §2267 require payment bonds for public works contracts more than $50,000 and performance bonds for public works contracts more than $100,000. The City requires a 5% bid bond for public works contracts.

Bidders are required to comply with GC §2258 with respect to payment of prevailing wage rates.

The City may contract with a developer of a subdivision or land for the developer to construct public improvements, excluding a building, provided the City's participation in the cost does not exceed 30%. LGC §212.072

Professional Services - Professional services require specialized skill, training and expertise, use of professional judgment/discretion, and/or a high degree of creativity, and often involve a relationship of personal trust and confidence, and different procurement processes are available, as such.

Generally, the competitive sealed proposal procedure is used to solicit proposals, including price, and to procure professional services.

GC §2254.004 requires that the City use a two-step procedure for procuring architectural, engineering, or surveying services. The most highly qualified provider is first selected on the basis of competence and qualifications, excluding price, and then a contract with the selected provider is negotiated at a fair and reasonable price.

Emergency Purchases - An emergency purchase more than $25,000 that results from the occurrence of a natural disaster, public calamity, or that might lead to impairment of the health, safety or welfare of the public if not immediately addressed is authorized by the City Manager and ratified by City Council. LGC §252.022(a)(2)

Sole Source Purchases - Sole source purchases are made when functional requirements of the City can only be satisfied by only one source involving patents, copyrights, secret processes or natural monopolies. LGC §252.022(a)(7)(A)

Local Preference - If the City receives a bid less than $100,000 from a local bidder whose bid is within 5% of the lowest bid received from a non-local bidder, LGC §271.9051 allows the City to contract with the lowest bidder, or the local bidder if Council determines that the local bidder offers the City the best combination of contract price and additional economic development opportunities.

GC §2252.002 requires that bids from bidders who reside in states that grant a resident bidder preference for that state's purchases are reciprocated in the same manner when bidding against a Texas bidder.

Consideration and Award of Bid or Proposal Requests

From *2008 Texas Municipal Procurement Laws Made Easy*, Texas Attorney General

Can a city adopt additional criteria regarding the qualifications of potential bidders?

Prior to 2001, a city could adopt additional criteria regarding the qualifications of bidders only if such criteria had a definite, objective relationship to matters of quality and competence. For example, prior rulings have allowed a city to consider such criteria as a bidder's experience, manpower, equipment, financial resources, business judgment, ability, efficiency, reliability, reputation, facilities, capacity to perform the work required, and likely supervisory requirements. A city may even consider the bidder's performance on similar contracts and the quality of the goods and services provided.

However, the city must be able to relate the criteria to matters of quality and competence of that specific bidder. For example, the Attorney General concluded that a school district could not adopt policies that judge a bidder based on the bidder's participation in voluntary school programs, the amount of local salaries, wages and taxes paid by the bidder, or the number of local jobs created by the bidder, etc. These criteria did not involve the quality or competence of the work the bidder would perform.

Legislation in 2001 modified the ability of cities to include various factors in awarding a contract. Under current law, if the city wishes to consider additional criteria, the city's bid specifications should clearly specify the various criteria that will be considered. When using additional criteria for competitive bidding, the contract must be awarded to the lowest responsible bidder or to the bidder who provides goods or services at the "best value" for the city using the following criteria:

- the purchase price;
- the reputation of the bidder and of the bidder's goods or services;
- the quality of the bidder's goods or services;
- the extent to which the goods or services meet the municipality's needs;
- the bidder's past relationship with the municipality;
- the impact on the ability of the municipality to comply with laws and rules relating to contracting with historically underutilized businesses and nonprofit organizations employing persons with disabilities;
- the total long-term cost to the municipality to acquire the bidder's goods or services; and
- any relevant criteria specifically listed in the request for bids or proposals.

If no such additional criteria are spelled out in the bid specifications, state law only allows the city to award the contract to the lowest responsible bidder if using competitive bidding.

Can the city take into account the safety record of the bidder in making the award?

When awarding a contract using traditional competitive bidding, the city may only consider a bidder's safety record in regards to the bidder's "responsiveness" if notice has been given that such a criteria is relevant. Specifically, the governing body must have adopted a written definition and criteria for assessing the bidder's safety record, and must have given notice in the bid specifications that the safety record will be considered. Of course, any decision that the city makes must not be arbitrary or capricious.

What options does a city have if the lowest bidder has a prior history of poor performance?

Prior to 2001, a city arguably had two options when faced with a low bidder who had a prior history of poor performance. First, Chapter 252 states that a city may choose to reject any or all of the bids. If all of the bids are rejected, the city can start the bidding process over. This is probably the safest method to use

if the city has not made it clear in the bid specifications that a bidder's prior performance on similar contracts would be a factor in awarding the bid. The city then has an opportunity to include such a requirement in its subsequent bid specifications. Second, some legal analysts argued that a city could individually reject a low bidder who has a poor work history. This theory is based on the argument that the low bidder with such a history would not be considered a "responsible" bidder due to the prior history of poor performance.

Legislation passed in 2001 modified the ability of cities to include various factors in awarding a contract. Under current law, if the city wishes to consider additional criteria, the city's bid specifications should clearly specify the various criteria that will be considered. When using additional criteria for competitive bidding, the contract must be awarded to the lowest responsible bidder or to the bidder who provides goods or services at the "best value" for the city using the following criteria:

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- the bidder's past relationship with the municipality;
- the impact on the ability of the municipality to comply with laws and rules relating to contracting with historically underutilized businesses and nonprofit organizations employing persons with disabilities;
- the total long-term cost to the municipality to acquire the bidder's goods or services; and
- any relevant criteria specifically listed in the request for bids or proposals.

Again, the best practice is to clearly indicate in the city's specifications that a bidder's prior performance on similar contracts may be considered in evaluating the bids.

What options does the city have if the city receives no bids in response to a request?

If competitive bids or proposals are required by Chapter 252 of the Local Government Code, there is no exception which would allow the city to avoid the statutory requirements due to a lack of bids. If a city receives no response to a request, the city must either re-advertise or decide not to undertake the contract.

What options does the city have if the city receives only one bid or proposal in response to a bid request?

If a city receives only one bid or proposal in response to its request, the city may accept the bid or proposal received, reject the bid or proposal and re-advertise, or reject the bid or proposal and decide not to undertake the project.

May competitive bids be rejected by a city staff member or must the city council decide which bids to reject?

State law provides that the governing body of the city may reject any and all bids. There is no provision that would allow the delegation of this decision to city staff. However, in certain cities the city staff will open the bids and provide a recommendation to the city council on whether the bid is responsive to the bid request and whether it should be accepted as the lowest responsible bid.

What is the general procedure for awarding a contract pursuant to competitive bidding?

First, bids must be publicly opened and the bid amounts read aloud at the time and place specified in the bid notice. The city council must then award the contract to the lowest responsible bidder or (if previously

noticed) the bidder that provides that best value to the city. In the alternative, the city may reject all bids. Once a bid has been opened, it may not be changed to correct minor errors in the bid price. However, under certain circumstances, a bidder may be able to withdraw a bid if it contains a substantial mistake that would cause a great hardship if enforced against the bidder.

What is the general procedure for awarding a contract pursuant to competitive sealed proposals?

If a city decides to use the competitive proposal procedures, it must first give notice of the request for proposals in the same manner as required for competitive bids. Generally, this means that the city must publish at least two newspaper notices of the time and place at which the proposals will be opened. These notices must be published at least once a week for two consecutive weeks, and the first notice must be published more than 14 days before the date set for opening the proposals. Requests for proposals must also solicit quotations and specify the relative importance of price and other evaluation factors.

Once proposals have been submitted, the city may conduct discussions with the offeror or offerors whom the city determines to be reasonably qualified for the award of the contract. Such discussions must comply with the request for proposals and with the regulations set by the city council. To obtain the best offers, the city may allow the submission of revisions after proposals are submitted and before the award of the contract. All offerors must be treated fairly and equally with respect to any opportunity for discussion and revision of the proposals.

In the end, the contract must be awarded to the offeror whose proposal is determined to be the most advantageous to the city. The city is to determine which proposal is the most advantageous based on the relative importance of price and the other evaluation factors included in the request for proposals.

Is information contained in a bid or proposal confidential under the Public Information Act?

Section 552.104 of the Government Code provides as follows:

(a) Information is excepted from the requirements of Section 552.021 if it is information that, if released, would give advantage to a competitor or bidder.

(b) The requirement of Section 552.022 that a category of information listed under Section 552.022(a) is public information and not excepted from required disclosure under this chapter unless expressly confidential under law does not apply to information that is excepted from required disclosure under this section.

The purpose of section 552.104(a) is to protect the interests of a governmental body in situations such as competitive bidding and requests for proposals, where the governmental body may wish to withhold information in order to obtain more favorable offers. Significantly, it is not designed to protect the interests of private parties that submit information such as bids and proposals to governmental bodies. Because section 552.104(a) protects only the interests of governmental bodies, it is an exception that a governmental body may waive by, for example, disclosing the information to the public or failing to raise the exception within the ten-day deadline.

Generally, section 552.104(a) protects information from public disclosure if the governmental body demonstrates potential harm to its interests in a particular competitive situation. A general allegation of a remote possibility of harm is not sufficient to invoke section 552.104(a). Section 552.104(a) is frequently raised to protect information submitted to a governmental body in response to a competitive bidding notice or request for proposals. In this context, the protection of section 552.104(a) is temporal in nature. Generally, section 552.104(a) does not except bids from public disclosure after bidding is completed and the contract has been executed. However, bids may continue to be withheld from public disclosure during the period in which the governmental body seeks to clarify bids and bidders remain at liberty to furnish additional information. Section 552.104(a) does not apply when a single individual or entity is seeking a contract as there are no “competitors” for that contract. Note that even when section 552.104(a) does not

protect bids from required public disclosure, section 552.110 will require the governmental body to withhold any portions of those bids that contain trade secrets or other commercial or financial information that is made confidential by law.

In addition to protecting the actual bid proposals, section 552.104(a) may protect information related to the bidding process that is not part of a bid. Although early decisions of the attorney general concluded that section 552.104(a) does not protect the interests of governmental bodies when they engage in competition with private entities in the marketplace, this line of opinions has been reexamined. In Open Records Decision No. 593 (1991), the attorney general concluded that a governmental body may claim section 552.104(a) to withhold information to maintain its competitive advantage in the marketplace if the governmental body can demonstrate: (1) that it has specific marketplace interests and (2) the possibility of specific harm to these marketplace interests from the release of the requested information. A governmental body that demonstrates that section 552.104 applies to information may withhold that information even if it falls within one of the categories of information listed in section 552.022(a).

Is information within a bid request concerning historically underutilized businesses confidential?

In 1997, the Texas Legislature amended the Public Information Act to make confidential certain information about disadvantaged or historically underutilized businesses. General information about these businesses is confidential if it is submitted to a governmental body in connection with an application for certification as a historically underutilized or disadvantaged business. With two exceptions, this information may be disclosed only with the express written consent of the applicant or the applicant's agent.

Without such consent, this information may be disclosed to a state or local governmental entity for one of the following two purposes: (1) to verify an applicant's status as a historically underutilized or disadvantaged business; or (2) to conduct a study of public purchasing programs established under state law for historically underutilized or disadvantaged businesses.

It is important to note that this new law protects only the information submitted with an application for certification as a historically underutilized or disadvantaged business. The business's actual bid is subject to the same rules of disclosure as any other bid. Additionally, information submitted in connection with a specific proposed contractual relationship or within an application to be placed on a bidders' list would be accessible under usual open records provisions. Thus, this information may be accessible even though it involves data that would be confidential if it were contained in the entity's application for certification as a historically underutilized or disadvantaged business.

Must bidders be allowed to speak at a city council meeting to explain or defend their bids?

A bidder does not have any special right to speak at an open meeting of the city council. The Texas Attorney General has concluded that the Open Meetings Act does not give members of the public a right to speak at an open meeting. Further, if the city chooses to allow members of the public to speak at a council meeting, the council may make reasonable rules regulating the number of speakers on a particular subject and the length of each presentation. However, the city council should not discriminate between one speaker and another, and the rules should be applied equally to all members of the public. The only situation in which the city council may be required to allow members of the public to speak would be if state law requires a public hearing on an issue or if state law requires that public comment be allowed on a particular subject.

However, there is no such public hearing or comment requirement that is applicable to competitive bidding issues.