



DATE March 2, 2012

TO Honorable Mayor and Members of the City Council

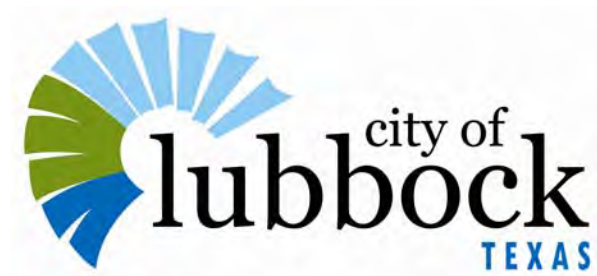
FROM Lee Ann Dumbauld, City Manager

SUBJECT Notice of Regular City Council Meeting

The Regular City Council meeting will convene at 7:30 a.m. on Tuesday, March 6, 2012, in the Council Chambers at City Hall, 1625 13th Street, Lubbock, Texas.

The City Council will go into a closed Executive Session under Chapter 551 of the Texas Government Code to receive advice from legal counsel, to discuss matters of land acquisition, to discuss personnel matters, to discuss or take action on a “competitive matter” of the municipal electric utility as provided for under Section 551.086, or for other reasons permitted by law as specifically listed on this agenda. If necessary, the City Council may go into a closed session as permitted by law regarding any item on this agenda. The Regular City Council meeting will reconvene after the Executive Session.

To facilitate flow of the Council meeting and to provide accurate and timely response to Council concerns, please contact me or department heads in advance of the meeting if you have specific questions of facts on any of the items on the agenda. This will allow appropriate staff to research and respond and, if necessary, be present at the meeting.



City of Lubbock, Texas
Regular City Council Meeting
Tuesday, March 6, 2012

Tom Martin, Mayor
Floyd Price, Mayor Pro Tem, District 2
Victor Hernandez, Councilman, District 1
Todd R. Klein, Councilman, District 3
Paul R. Beane, Councilman, District 4
Karen Gibson, Councilwoman, District 5
Jim Gilbreath, Councilman, District 6



Lee Ann Dumbauld, City Manager
Sam Medina, City Attorney
Rebecca Garza, City Secretary

<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 775-2025 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.

7:30 a.m. -- City Council Convenes in Council Chambers

1. **Citizen Comments - Any citizen wishing to appear before any regular meeting of the City Council shall advise the City Manager's office of that fact no later than seven calendar days before the meeting at which the citizen wishes to appear. Any citizen wishing to so appear shall inform the City Manager's office, in writing, of the subject of the appearance. The subject matter shall be sufficiently detailed as to inform the City Council and the public of its nature. Such notice shall contain the name and address of the requestor. The appearance of any citizen giving such notice to the City Manager's office shall take precedence in addressing the City Council during the Citizen Comments period. Any citizen failing to advise the City Manager's office of his/her wish to appear before the City Council as hereinabove set forth shall, time permitting, be permitted to address the City Council after those having given notice. In accordance with the Texas Open Meetings Act, the City Council may not take action on public matters during Citizen Comments.**
1. 1. Scott Stephenson will appear before the City Council to discuss Knox Box requirements.
1. 2. Maurice Stanley will appear before the City Council to discuss night meetings.
1. 3. Kay Rudd will appear before the City Council to discuss service from Lubbock Power & Light.
2. **Executive Session**
2. 1. Hold an executive session in accordance with Vernon's Texas Codes Annotated (V.T.C.A.) Government Code, Section 551.071, to discuss pending or contemplated litigation or settlement agreement, and hold a consultation with attorney.
2. 1. 1. Atmos Gas Utility
2. 1. 2. Health Benefits: In the matter of arbitration between the City of Lubbock and HealthSmart Holdings, Inc., et al Case No.71-193-Y-00084-08

2. 1. 3. Cause No. 2007-538,383; City of Lubbock v. The Parker Group, Inc., et al; 72nd District Court; Lubbock County, Texas
Cause No. 2007-540,024; In Re: Icon Benefit Administrators, II, L.P. and AAG, Inc., 72nd District Court; Lubbock County, Texas
2. 1. 4. Cause No. 2011-559,814; City of Lubbock v. Christopher Hennsley; 72nd District Court; Lubbock County, Texas
2. 1. 5. Appaloosa Development, LP and Lubbock Water Rampage, LLC v. City of Lubbock; Cause No. 2011-559,102; 99th District Court; Lubbock County, Texas
2. 1. 6. Airport: Contract 10686 with Four Sevens Exploration Company, LTD
2. 1. 7. Hancock Land Application Site - Potential Contract
2. 1. 8. Public Works - Wastewater: Contract 10684 with Four Sevens Exploration Company, LTD
2. 1. 9. Solid Waste: Contract 10685 with Four Sevens Exploration Company, LTD
2. 1. 10. Electric Utility Board - Appointments
2. 1. 11. Water Rights in Real Property Transactions
2. 2. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.072, to deliberate the purchase, exchange, lease, or value of real property.
 2. 2. 1. Airport: Contract 10686 with Four Sevens Exploration Company, LTD
 2. 2. 2. Public Works - Wastewater: Contract 10684 with Four Sevens Exploration Company, LTD
 2. 2. 3. Solid Waste: Contract 10685 with Four Sevens Exploration Company, LTD
 2. 2. 4. Hancock Land Application Site - Potential Contract
2. 3. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.074 (a)(1), to discuss personnel matters and take appropriate action.
 2. 3. 1. City Attorney
 2. 3. 2. City Manager
 2. 3. 3. City Secretary
2. 4. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.086, on the following competitive matters (Electric Utilities):
 2. 4. 1. to discuss, vote, and take final action on customer billing and electric power pricing
 2. 4. 2. to discuss and deliberate plans, studies, proposals, and analyses for system improvements and risk management information and related strategies

2. 4. 3. to discuss and deliberate bidding and pricing information for purchased power, generation and fuel, purchased power agreements, and related services and strategies
2. 5. Hold an executive session in accordance with V.T.C.A. Government Code, §551.071 (1)(A) seeking the advice of its legal counsel about pending or contemplated litigation or settlement agreements and hold a consultation with the attorney (Electric Utility - demand by Republic Power against WTMPA and the City of Lubbock).
2. 6. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.074(a), to discuss personnel matters regarding the duties, responsibilities, and/or appointments to the Electric Utility Board, North Overton Tax Increment Finance Reinvestment Zone Board, Urban Design and Historic Preservation Commission, and Urban Renewal and Neighborhood Redevelopment Commission.
3. **Proclamations and Presentations**
 3. 1. Invocation by Pastor Ryan Smallwood, Aldersgate United Methodist Church
 3. 2. Pledges of Allegiance
 3. 3. Presentation of a special recognition commemorating March 2012 as Women Veterans Month
 3. 4. Presentation of a special recognition commemorating March 2012 as Red Cross Month
 3. 5. Presentation of a special recognition to City of Lubbock employee, Jesse Flores, for earning the Field Excellence Award at the Texas Public Works Association Conference
4. **Minutes**
 4. 1. February 9, 2012, Regular City Council Meeting
February 14, 2012, Special 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. Page 47 **Budget Ordinance Amendment 2nd Reading - Finance:** Ordinance 2012-00016 Consider Budget Ordinance Amendment 11 amending the Adopted FY 2011-12 Budget respecting the Grant Fund to accept and appropriate additional funding from the Texas Department of Transportation (TxDOT) for a Section 5304 Grant, Grant No. 88024; accept and appropriate funding from the Texas Department of Housing and Community Affairs (TDHCA) for the Community Services Block Grant (CSBG), Grant No. 82047; respecting the Capital Program to amend Capital Improvement Project (CIP) No. 92171, "Lake Alan Henry Water Treatment Plant and Terminal Reservoir;" amend CIP No. 92069, "Lake Alan Henry Raw Water Line/Pump Stations;" and amend CIP No. 91003, "Bailey County Wellfield Improvements."
 5. 1. 1. **Contract Resolution - Citibus :** Consider a resolution authorizing the Mayor to execute Contract 51205F7118, a Section 5304 Grant, with TxDOT for regionally coordinated transportation planning in the South Plains Region.

5. 1. 2. **Contract Resolution - Community Development** : Consider a resolution authorizing the Mayor to execute Contract 61120001291 with TDHCA for the CSBG to provide assistance to reduce poverty, revitalize low-income communities, and empower low-income families and individuals to become self-sufficient.
5. 2. Page 77 **Ordinance 1st and Only Reading - Finance**: Consider and take action on an ordinance providing for the issuance of City of Lubbock, Texas, Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2012, in an amount not to exceed \$81,000,000; levying a tax and pledging surplus Waterworks System revenues in payment thereof; approving the official statement; approving execution of a purchase contract; and enacting other provisions relating thereto.
5. 3. Page 127 **Ordinance 1st and Only Reading - Finance**: Consider and take action on an ordinance providing for the issuance of City of Lubbock, Texas, General Obligation Bonds, Series 2012, in an amount not to exceed \$14,000,000; levying a tax in payment thereof; approving the official statement; approving execution of a purchase contract; and enacting other provisions relating thereto.
5. 4. Page 172 **Ordinance 1st and Only Reading - Finance**: Consider and take action on an ordinance providing for the issuance of City of Lubbock, Texas, General Obligation Refunding Bonds, Series 2012, in an amount not to exceed \$45,000,000; levying a tax in payment thereof; approving the official statement; approving execution of a purchase contract and escrow agreement; and enacting other provisions relating thereto.
5. 5. Page 217 **Statement of Intent Resolution - Finance**: Consider a resolution suspending the effective date for 90 days in connection with the rate increase filing of Atmos Energy Corporation on February 7, 2012; requiring the reimbursement of municipal rate case expenses; authorizing participation in related rate proceedings; authorizing the retention of special counsel; and declaring an effective date.
5. 6. Page 237 **Contract Resolution - Finance**: Consider a resolution authorizing the Mayor to execute a tax abatement agreement with Red River Commodities, Inc., dba SunGold Foods, Inc. (Red River).
5. 7. Page 246 **Ordinance 1st Reading – Right-of-Way**: Consider an ordinance abandoning and closing two LP&L underground utility easements, a portion of an underground utility easement, and an LP&L electrical transmission line manhole easement located in Fiesta Autoland Addition, 4801 South Loop 289.
5. 8. Page 254 **Contract Resolution - Right-of-Way**: Consider a resolution authorizing the Mayor to execute Contract 10687 with South Plains Archery Club for the lease of 156 pasture acres of City-owned property for a nonprofit 3-D Archery Club, 5905 FM 835 County Road 3000.
5. 9. Page 263 **Contract Resolution - Public Works Water Utility**: Consider a resolution authorizing the Mayor to execute Contract 10503 with South Plains Communications for a data radio system for the Lake Alan Henry Treated Water Pipeline, RFP 12-10503-RH.
5. 10. Page 278 **Contract Resolution - Public Works Engineering**: Consider a resolution authorizing the Mayor to execute unit price Contract 10284 with Utility Contractors of America, Inc., for the Northwest Lubbock Drainage Improvements Project Phase 1, RFP 12-10284-MA.

5. 11. Page 290 **Contract Resolution - Public Works Engineering:** Consider a resolution authorizing the Mayor to execute Contract 10684 with Four Sevens Exploration Company, LTD, for the lease of City owned mineral rights in Lubbock County, Texas.
5. 12. Page 312 **Contract Resolution - Airport:** Consider a resolution authorizing the Mayor to execute Contract 10686 with Four Sevens Exploration Company, LTD, for the lease of City owned mineral rights in Lubbock County, Texas.
5. 13. Page 330 **Contract Resolution - Solid Waste:** Consider a resolution authorizing the Mayor to execute Contract 10685 with Four Sevens Exploration Company, LTD, for the lease of City owned mineral rights in Lubbock County, Texas.
5. 14. Page 346 **Contract Resolution - Parks and Recreation:** Consider a resolution authorizing the Mayor to execute Contract 10515 with Circle R Lawn and Sprinkler Company for granular fertilization of various parkland properties, BID-12-10515-CI.
5. 15. Page 355 **Contract Resolution - Civic Center:** Consider a resolution authorizing the Mayor to execute lump sum price Contract 10495 with CS Advantage USAA, Inc., for replacement of the Lubbock Memorial Civic Center Physical Plant Roof, Bid 12-10495-CI.
5. 16. Page 362 **Contract Resolution - Information Technology:** Consider a resolution authorizing the Mayor to execute purchase order Contract 10004862 with Dell Marketing, LP, for rugged laptops and mounting hardware for the Lubbock Fire Department.
5. 17. Page 367 **Contract Resolution - Fleet Services:** Consider a resolution authorizing the Mayor to execute purchase order Contract 10004866 with Scoggin-Dickey Chevrolet-Buick for 11 police sedans, BID 12-10512-CI.
5. 18. Page 370 **Contract Resolution - Community Development:** Consider a resolution authorizing the Mayor to execute a Community Development Funding Contract 10689 with the South Plains Association of Governments (SPAG) to conduct information and referral services for Lubbock County residents and to produce and update the Information and Referral Guide through the Community Service Block Grant (CSBG) for the 2-1-1 Information and Referral Program.
5. 19. Page 383 **Ordinance 2nd Reading - Planning:** Ordinance 2012-O0017 Consider an ordinance prohibiting the use of intermodal shipping containers (sea containers) as components for primary and accessory structures in R-1 (Single-Family District) and R-2 (Two-Family District).
5. 20. Page 387 **Contract Resolution - Police:** Consider a resolution authorizing the Mayor to execute a Memorandum of Understanding (MOU) with the Texas Department of Public Safety (DPS) for access to the DPS Mobile Identification System and the Federal Bureau of Investigation's (FBI) Rapid Search of the Repository for Individuals of Special Concern.
5. 21. Page 395 **Contract Resolution - Police:** Consider a resolution authorizing the Mayor to execute Contract 10681 with the Texas Department of Public Safety (DPS) for the submission of electronically reportable arrests and fingerprints using the LiveScan Fingerprinting System.
5. 22. Page 400 **Contract Resolution - Police:** Consider a resolution authorizing the Mayor to execute Contract 10682 with the Lubbock County Juvenile Justice Center for submission of electronically reportable arrest and fingerprints to the Texas Department of Public Safety for the LiveScan Fingerprinting System.

6. **Regular Agenda**
 6. 1. Page 405 **Variance Resolution - Planning:** Consider a resolution approving and granting a variance from the applicable 300-foot minimum distance provisions of City of Lubbock Ordinance 2009-O0060 at the location of 2701 26th Street for Capital Pizza Restaurant, a business requesting an on premise alcoholic beverage permit.
 6. 2. Page 410 **Contract Resolution - Community Development:** Consider a resolution authorizing the Mayor to execute a Community Development Funding Contract 10691 with Catholic Charities, Diocese of Lubbock (CCDL) to provide assistance to families to transition them out of poverty through the Community Service Block Grant (CSBG) for the Parent Empowerment Program (PEP).
 6. 3. Page 424 **Ordinance Amendment 1st Reading – City Council:** Consider an ordinance amending Chapter 22 of the City of Lubbock Code of Ordinances with regard to the Drought and Emergency Contingency Plan.
 6. 4. Page 429 **Resolution - City Council:** Consider a resolution amending certain policies and procedures, as set forth in the City of Lubbock Council Rules, Order of Business, and Procedures manual, respecting evening City Council meetings.
 6. 5. Page 432 **Resolution - City Council:** Consider a resolution directing the Lubbock Board of Health to continue communication with representatives of University Medical Center, Covenant Health System, Lubbock County, Texas, and other public or private entities to explore the feasibility of a City/County Health Department; and consider health issues related to the City.
 6. 6. Page 435 **Board Appointments - City Secretary:** Consider three appointments to the North Overton Tax Increment Finance Reinvestment Zone Board, one appointment to the Urban Design and Historic Preservation Commission, three appointments to the Urban Renewal and Neighborhood Redevelopment Commission, and ten appointments to the Community Development and Services Board.
7. **Work Session/Business Agenda - Items for presentations and discussions on such issues that may require more in-depth consideration of the City Council than Regular Agenda items. Action may be taken on a Work Session/Business Agenda item posting of the item indicates to the public the action to be taken.**
 7. 1. Budget discussion identifying core services and prioritization of the FY 2012-13 Operating Budget and Capital Program, Lee Ann Dumbauld, City Manager

**Board Appointments for
Regular City Council Meeting, March 6, 2012 - Executive Session**

Officer of City	Board Name & No.	Member Name	Term Expires	Attend %	Membership Requirements	Recommended Action	Eligible?
*	1 NORTH OVERTON TIF REINVESTMENT ZONE BOARD	DRISKILL, JACK	03.01.12	100%		REAPPOINT	Y
		MCDUGAL, CAROLYN	03.01.12	N/A		REPLACE	N/A
		MURFEE, PATRICK	03.01.12	100%		REAPPOINT	Y
*	2 URBAN DESIGN & HISTORIC PRESERVATION COMMISSION	CHAPA, DAVID	02.01.12	N/A	AT-LARGE	REPLACE	N/A
*	3 URBAN RENEWAL NEIGHBORHOOD REDEVELOPMENT COMMISSION	FERGUSON, GARY	03.01.12	100%	GENERAL PUBLIC	REAPPOINT	Y
		GIVENS, R.J.	03.01.12	67%	REAL ESTATE	REAPPOINT	Y
		NUGENT, SHERI	03.01.12	100%	ACCOUNTING	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 .

City of Lubbock
Board and Commission Recruiting Database

Updated: 2/15/2012

Sorted: No Preference

Key: CS - Currently serving on board(s)
X - Prior service on board(s)
PCI - Possible Conflict of Interest
T - Temporary

Date Refer	Key	Last Name	First Name	Gender M/F	Ethnic A,H,AA,O	Quad	Age Range	Occupation	Business	Council District	References Name
0601		Austin	Nicole	F	A	S	18-29	Computer Spe	Self-employed	4	
0601		Chesnutt	Gary	M	A	S	50-59	Cotton Broker	Chesnutt Cotto	5	
0501		Grant	Mack	M	A	S	40-49	Project Admin	TX Dept of Cri	4	
0707		Guerra	Julian	M	H	S	60+	New York Life	New York Life	4	
0509		Guerrero	Mary Lynn	F	H	C	18-29	PSO Officer	PD - City of Lu	6	
0803		Hamer	Darla	F	A		40-49	Banker	Peoples Bank	6	
0405		Hancock	Jennifer	F	A	S	18-29	Homemaker/P		6	
0906		Henson	Matthew	M	A		30-39	Self Employed	Matt Henson In	5	
0610		Hobgood	John	M	A		30-39	Social Worker	LIFE/RUN Cen	5	
0502		Hodges	Tom	M	A	C	40-49	Bank Manage	Wells Fargo B	4	
1002		Jackson	Winnie	M	A		60+	Retired Minist		4	
1012		Lynn	Samuel	M	A		40-49	Human Resou	Caprock Home	5	
0501		Nichols	Kathleen	F	A	S	30-39	Dentist	Kathleen Nicho	5	
0509		Pena	Esther	F	H	S	18-29	Sales Develop	American Stat	5	
0605		Perez	Jody	M	H	S	50-59	Self-employed	JMP Consultan	4	
0707		Ramsey	Chad	M	A			Self-employed	Ramsey Auto	3	
0407		Riojas	Michael	M	H	C	40-49	Sr Acct Mana	GE Lighting	3	
0804		Stephens	Sherry	F	A		30-39	Administrative	High Plains W	5	
0409		Terry	Dianna	F	A	S	50-59	Grant Develop	Covenant Foun	4	
0404		Williams	Peggy	F	A	S	50-59	Banker	American Bank	5	
0803		Wilson	Margaret	F	A	C	60+	Retired - Tech	Retired	5	

NORTH OVERTON TAX INCREMENT FINANCING REINVESTMENT ZONE

	<u>Lubbock Population</u>	<u>Lubbock Adult Population</u>	<u>All City Boards</u>	<u>This Board</u>
<u>ETHNICITY</u>				
Anglo	55.0%	64.4%	78.0%	100.0% (6)
Hispanic	32.6%	24.0%	13.0%	0.0% (0)
African-American	8.7%	7.9%	7.0%	0.0% (0)
Other	3.7%	2.7%	2.0%	0.0% (0)

GENDER

Male	48.5%	47.0%	70.9%	85.3% (5)
Female	51.5%	53.0%	29.1%	16.7% (1)

GEOGRAPHIC DISTRIBUTION

District 1	16.1%	15.0%	9.4%	0.0% (0)
District 2	16.4%	15.6%	3.7%	0.0% (0)
District 3	16.3%	16.4%	13.4%	33.3% (2)
District 4	17.0%	17.5%	23.4%	33.3% (2)
District 5	16.7%	19.0%	29.1%	33.3% (2)
District 6	17.3%	17.5%	16.3%	0.0% (0)
Other/Unknown	0.0%	0.0%	4.7%	0.0% (0)

PURPOSE:

To encourage development and redevelopment in the North Overton area. Responsible for administering the North Overton Tax Increment Financing Reinvestment Zone throughout its 30-year life span and for recommending projects to be financed by the district with the approval of the City Council.

QUALIFICATIONS: Members of this board must be at least 18 years of age and owners of real property in the TIF zone or employees or agents of someone who owns property in the zone.

APPOINTMENT INFORMATION:

Member Name &

<u>Demographic Facts</u>	<u>Attend</u>	<u>Eligible</u>	<u>Action</u>
Driskill, Jack (M,A,5)	100%	Y	Reappoint
McDougal, Carolyn (F,A,5)	N/A	N/A	Replace
Murfee, Patrick (M,A,3)	100%	Y	Reappoint

APPOINTMENTS ADVISORY BOARD RECOMMENDATIONS:

To reappoint Jack Driskill and Patrick Murfee

To replace Carolyn McDougal:

Kent Moore (Unknown) Leonards / Blue Monkey Café

NORTH OVERTON TIF - CONTINUED

STAFF RECOMMENDATIONS:

To replace Carolyn McDougal:

Kent Moore (Unknown) Leonards / Blue Monkey Café

North Overton Tax Increment Finance District

Date Refer	Key	Last Name	First Name	Gender M/F	Ethnic A,H,AA,O	Quad	Age Range	Occupation	Business	Council District

First Preference:

		Moore	Kent	M					LKM Matador Real Estat	

Second Preference:

Third Preference:

1005		Davidson	Lea	F	A		50-59	Coordinator Special Event	Texas Tech University	3
0509		Pena	Esther	F	H	S	18-29	Sales Development	American State Bank	5

Fourth Preference:

Fifth Preference:

0501		Bounds	Jack	M	A	C	60+	Investments	Jack Bounds Investmen	2

Sixth Preference:



Committee #81 North Overton Tax Increment Finance DistrictPerm./Temp. Board: **P***Confidential***Home****Business***Reappt
Elig.***Driskill**
Mr. Jack4909 93rd St
Lubbock TX 79424

(806) 794-5207

CEL

E-mail jdriskill@mcjllp.comMcWhorter, Cobb & Johnson
1722 Broadway
Lubbock TX 79401

(806) 762-0214

Curr: **3/1/2010** - **3/1/2012**
2nd: 3/1/2008 - 3/1/2010
1st: 3/14/2006 - 3/1/2008

Fax: (806) 762-8014

Y

Mayfield
Mr. Stan3714 67th St
Lubbock TX 79413

(806) 797-0708

CEL

E-mail smayfield@citybanktexas.comCity Bank
611 University
Lubbock TX 79401

(806) 687-2265

Curr: **3/1/2011** - **3/1/2013**
2nd: 3/1/2009 - 3/1/2011
1st: 3/1/2007 - 3/1/2009

Fax: (806) 687-5638

Y

McDougal
Ms. CarolynY 4303 97th St
Lubbock TX 79423

Y (806) 794-5223

CEL

E-mail carolynm@mcDougal.comCurr: **3/1/2010** - **3/1/2012**
2nd: 3/1/2008 - 3/1/2010
1st: 6/9/2006 - 3/1/2008

Fax:

Y

Murfee
Mr. Patrick3113 28th Street
Lubbock TX 79410

(806) 791-5905

CEL

*E-mail*P.O. Box 10313
Lubbock TX 79408

(806) 765-8015

Curr: **3/1/2010** - **3/1/2012**
2nd: 3/1/2008 - 3/1/2010
1st: 3/14/2006 - 3/1/2008

Fax:

Y

Rushing
Mr. Don3801 107th St
Lubbock TX 79423

(806) 745-7984

CEL

E-mail don@lubbocklease.comLubbock Commercial Building
2737 82nd St
Lubbock TX 79423

(806) 748-7310

Curr: **3/1/2011** - **3/1/2013**
2nd: 3/1/2009 - 3/1/2011
1st: 3/1/2007 - 3/1/2009

Fax: (806) 748-7375

Y

Chair/Pres: Jack Driskill
Vice Chair/V.P.: Patrick Murfee
Sec./Treasurer:Staff Liaison: Cheryl Brock
Term: 2 Years
Ex-Officio Mbr.:

Council appoints Chair; Council consensus - Members can serve more than two terms. Mayfield 1st term 3.14.05-3.01.07; Rushing 4.24.03-03.01.07

Driskill served 03.2002-03.2004, 03.2004-03.2006; Murfee served 03.2002-03.2004, 03.2004-03.2006

*** **CONFIDENTIAL INFORMATION NOT TO BE RELEASED!!** ***

Last Update: 2/15/2012

*Confidential***Home****Business***Reappt
Elig.***Thrash**
Mr. Howard3001 24th Street
Lubbock TX 79410

(806) 792-6998

CEL

H.G. Thrash Clothing
2010 Broadway
Lubbock TX 79410

(806) 741-0303

Curr: **3/1/2011** - **3/1/2013****2nd:** 5/28/2009 - 3/1/2011**1st:** 11/1/2008 - 3/1/2009**Fax:** (806) 744-4271**Y***E-mail* howard@hgthrash.com**Chair/Pres:** Jack Driskill
Vice Chair/V.P.: Patrick Murfee
Sec./Treasurer:**Staff Liaison:** Cheryl Brock
Term: 2 Years
Ex-Officio Mbr.:Council appoints Chair; Council consensus - Members can serve more than two terms. Mayfield 1st term
3.14.05-3.01.07; Rushing 4.24.03-03.01.07

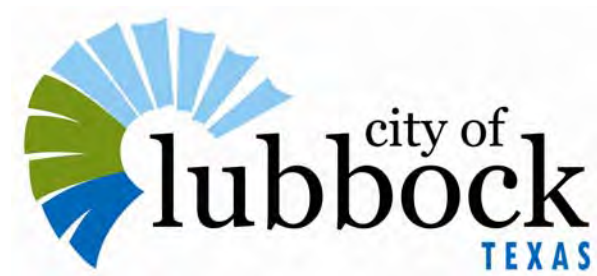
Driskill served 03.2002-03.2004, 03.2004-03.2006; Murfee served 03.2002-03.2004, 03.2004-03.2006

***** CONFIDENTIAL INFORMATION NOT TO BE RELEASED!! *******Last Update:** 2/15/2012

Board Demographic Information

#81 North Overton Tax Increment Finance District

<i>Member</i>	<i>Beg. Date</i>	<i>Exp. Date</i>	<i>Gender</i>	<i>Ethnic</i>	<i>Quad</i>	<i>District</i>	<i>Age</i>	<i>Eligibility</i>
Driskill, Jack	3/1/2010	3/1/2012	Male	Anglo	S	5	60+	Y
Mayfield, Stan	3/1/2011	3/1/2013	Male	Anglo	C	4	30-39	Y
McDougal, Carolyn	3/1/2010	3/1/2012	Female	Anglo	S	5	50-59	Y
Murfee, Patrick	3/1/2010	3/1/2012	Male	Anglo	C	3	50-59	Y
Rushing, Don	3/1/2011	3/1/2013	Male	Anglo	S	4	50-59	Y
Thrash, Howard	3/1/2011	3/1/2013	Male	Anglo		3	50-59	Y



URBAN DESIGN & HISTORIC PRESERVATION COMMISSION

	<u>Lubbock</u>	<u>Lubbock</u>	<u>All</u>	<u>This</u>
	<u>Population</u>	<u>Adult</u>	<u>City</u>	<u>Board</u>
<u>ETHNICITY</u>				
Anglo	55.0%	61.0%	78.2%	90.9% (10)
Hispanic	32.6%	27.6%	10.9%	9.1% (1)
African-American	8.7%	7.4%	7.1%	0.0% (0)
Other	3.7%	4.0%	3.8%	0.0% (0)
<u>GENDER</u>				
Male	48.5%	47.0%	71.0%	81.8% (9)
Female	51.5%	53.0%	29.0%	18.2% (2)
<u>GEOGRAPHIC DISTRIBUTION</u>				
District 1	16.1%	14.9%	10.9%	27.3% (3)
District 2	16.4%	12.7%	2.2%	0.0% (0)
District 3	16.3%	16.1%	20.2%	27.3% (3)
District 4	17.0%	17.0%	19.7%	9.0% (1)
District 5	16.7%	19.4%	22.4%	18.2% (2)
District 6	17.2%	19.9%	18.0%	9.0% (1)
Other/Unknown	0.0%	0.0%	6.6%	0.0% (0)

PURPOSE:

Permanent advisory board with officer of city status serves as advisory committee to Planning and Zoning Commission; recommends buildings, structures, sites, districts, areas and lands within city which may be eligible for designation as historic landmarks and historic landmark districts and reviews applications for rehabilitation, renovation or expansion of landmark buildings.

QUALIFICATIONS: Seven representatives shall possess special interest, knowledge or expertise in architecture, urban planning, history or political science, archeology or paleontology, sociology or anthropology, building construction, and landscape architecture. Four members shall be at large residents within the city of Lubbock. All members must possess knowledge and experience in the architectural, landscape architectural, archeological, cultural, social, economic, ethnic or political history of Lubbock.

APPOINTMENT INFORMATION:

Member Name &

<u>Demographic Facts</u>	<u>Requirement</u>	<u>Attend</u>	<u>Eligible</u>	<u>Action</u>
Chapa, David (M,H,5)	At-Large	N/A	N/A	Replace

APPOINTMENTS ADVISORY BOARD RECOMMENDATIONS:

To replace David Chapa, At-Large:

Ivey Brenner (M,A,6) TAO Development Group

Jeanette Nathan (F,AA,2) Consultant

Sorted: By Preference

Urban Design/Historic Preservation Commission

Date Refer	Key	Last Name	First Name	Gender M/F	Ethnic A,H,AA,O	Quad	Age Range	Occupation	Business	Council District
First Preference:										
1002		Brenner	Ivey	M	A		18-29	Real Estate Development	Tao Development Group	6
0503		Downey	Nancy	F	A	E	50-59	Registered Dietician	Early Childhood Interven	1
0602		Hill	Russell	M	A	C	30-39	Web Designer	Lubbock AJ	3
1008		Nathan	Jeanette	F	AA		60+	Consultant		2
Second Preference:										
0808		Clary	Sue	F	A		60+	Volunteer		5
0901		Whittenbur	Kristin	F	A		30-39	Senior Education Specialis	Region 17	6
Third Preference:										
0906		Brown-Mey	Casey	M	A		40-49	Sales Manager	All Star Auto Glass	4
1005		Bruegel	Jon	M	A		18-29	Student		4
1009		Chambers	Tosha	F	AA		30-39	Homemaker		4
1004		Davis	Jon	M	A		40-49	Accountant	Capital Farm Credit	3
0910		Hail	Brian	M	A		30-39	Insurance Agent	Brian Hail State Farm	3
1011		McNamara	William	M	A		40-49	Attorney	McNamara Law Firm	1
0405		Pearson	Neale	M	A	C	60+	Semi-Retired Professor	Semi-Retired Professor	3
0609		Schellhase	Scott	M	A		50-59	Architect	SLS Partnership	5
Fourth Preference:										
0803		Baker	Robert	M	A	C	50-59	ICU Nurse	Lubbock Heart Hospital	4
1111		Boatman	Don	M	A		60+	Retired Electrical Engineer	Retired	5
1009		Bryant	LeEarl	F	A		60+	Retired		1
0707		Lunsford	Douglas	M	A			Marketing and Media	Lancer Productions	5
0905		Marberry	William	M	A		18-29	Realtor	Coldwell Banker	3
1004		Williams	Herbert	M	AA		40-49	Correctional Officer	TX Dept of Criminal Just	2
Fifth Preference:										
0906		Clark	Timothy	M	A		40-49	CADD Tech	Parkhill, Smith & Cooper	3
0909		Cole	Ronald	M	A		18-29	Agent	Mass Mutual Financial S	6
0907		Melendez	Jill	F	A		18-29	Social Worker	Montford Psychiatric Pri	6
0609		Villalobos	Esteban	M	H			Tile Setter's Apprentise	Custom Tiling	2
Sixth Preference:										
1108		Amor	Cherif	M			50-59	Dept. Chair/Assoc Prof.	Texas Tech	5
0806		Kelly	David	M	A		30-39	Department Supervisor	Texas Tech University	6
0803		Lunsford	Jeremy	M	A			Student	LNG Productions Inc.	3
0803		Sosebee	Rick	M	A		50-59	Fire Protection Contractor	Koetter Fire Protection	3

Committee #42 Urban Design/Historic Preservation CommissionPerm./Temp. Board: **P***Confidential***Home****Business***Reappt
Elig.*

MEMBER AT LARGE

Adams
Mr. CharlesY 2312 33rd Street
Lubbock TX 79401

Y (806) 252-9939

CEL

E-mail lubbart@yahoo.comCharles Adams Gallery
4210 82nd Street
Lubbock TX 79423

(806) 788-1008

Curr: 2/1/2012 - 2/1/2014
2nd: -
1st: 2/1/2010 - 2/1/2012

Fax:

N

LANDSCAPE ARCHITECT

Barber
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Y (806) 792-6500

CEL

*E-mail*Avante
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(806) 794-6300

Curr: 2/1/2012 - 2/1/2014
2nd: -
1st: 3/25/2010 - 2/1/2012

Fax: (806) 794-6301

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CEL

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Curr: 2/1/2012 - 2/1/2014
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1st: 2/1/2010 - 2/1/2012

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NHISTORY / POLITICAL
SCIENCE**Carlson**
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Y (806) 829-2463
N

CEL

*E-mail*Curr: 2/1/2011 - 2/1/2013
2nd: -
1st: -

Fax:

Y

MEMBER-AT-LARGE

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Mr. DavidY 6824 Hyden
Lubbock TX 79424Y (806) 783-0880
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15th & University
Lubbock TX 79409

(806) 742-2661

Curr: 2/1/2010 - 2/1/2012
2nd: -
1st: 2/1/2008 - 2/1/2010

Fax: (806) 742-8677

NChair/Pres: Scott White
Vice Chair/V.P.: Brianna Ingram
Sec./Treasurer:Staff Liaison: Andrew Paxton
Term: 2 Years
Ex-Officio Mbr.:*** **CONFIDENTIAL INFORMATION NOT TO BE RELEASED!!** ***

Last Update: 2/15/2012

Committee #42 Urban Design/Historic Preservation CommissionPerm./Temp. Board: **P***Confidential***Home****Business***Reappt
Elig.*

URBAN PLANNER

Ellis
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CEL

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TTU

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Curr: 2/1/2010 - 2/1/2012

2nd: 2/1/2008 - 2/1/2010

1st: 9/27/2007 - 2/1/2008

Fax: (806) 742-2855

N

ARCHEOLOGY/PALEONTOLOGY

Houk
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CEL

E-mail

TTU

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Lubbock TX 79409

(806) 742-2401

Curr: 2/1/2010 - 2/1/2012

2nd: -

1st: 2/1/2008 - 2/1/2010

Fax:

N

SOCIOLOGY/ANTHROPOLOGY

Hurst
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Lubbock TX 79423

N

Y (806) 224-5109

Y

CEL

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Museum of TTU

Box 43191
Lubbock TX 79423

(806) 742-1117

Curr: 2/24/2011 - 2/1/2013

2nd: -

1st: -

Fax: (806) 742-1136

Y

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Y (806) 789-2832

CEL

E-mail brianna.ingram@ferguson.com

Ferguson Enterprises, Inc.

6002 42nd St
Lubbock TX 79407

(806) 784-3140

Curr: 2/1/2012 - 2/1/2014

2nd: 2/1/2010 - 2/1/2012

1st: 4/27/2009 - 2/1/2010

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N

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E-mail john.white@ttu.edu

Texas Tech University

MS 2091
Lubbock TX 79409

(806) 742-3136

Curr: 2/1/2011 - 2/1/2013

2nd: -

1st: 3/23/2009 - 2/1/2011

Fax: (806) 742-2855

NChair/Pres: Scott White
Vice Chair/V.P.: Brianna Ingram
Sec./Treasurer:Staff Liaison: Andrew Paxton
Term: 2 Years
Ex-Officio Mbr.:*** **CONFIDENTIAL INFORMATION NOT TO BE RELEASED!!** ***

Last Update: 2/15/2012

Committee #42 Urban Design/Historic Preservation Commission**Perm./Temp. Board: P***Confidential***Home****Business***Reappt
Elig.*

MEMBER AT LARGE

**White
Mr. Scott**Y 2614 Ridge Road
Lubbock TX 79403

Y (806) 741-0405

National Ranching Heritage Ce
3121 4th Street
Lubbock TX 79409

(806) 742-0498

Curr: 2/1/2011 - 2/1/2013
2nd: -
1st: 2/12/2009 - 2/1/2011**Fax:** (806) 742-0616

Y

E-mail

CEL

Chair/Pres: Scott White
Vice Chair/V.P.: Brianna Ingram
Sec./Treasurer:**Staff Liaison:** Andrew Paxton
Term: 2 Years
Ex-Officio Mbr.:***** CONFIDENTIAL INFORMATION NOT TO BE RELEASED!! *******Last Update:** 2/15/2012

Board Demographic Information

24

#42 Urban Design/Historic Preservation Commission

<i>Member</i>	<i>Beg. Date</i>	<i>Exp. Date</i>	<i>Gender</i>	<i>Ethnic</i>	<i>Quad</i>	<i>District</i>	<i>Age</i>	<i>Eligibility</i>
Adams, Charles	2/1/2012	2/1/2014	Male	Anglo		1	60+	N
Barber, Virgil	2/1/2012	2/1/2014	Male	Anglo		6	60+	N
Brink, Pamela	2/1/2012	2/1/2014	Female	Anglo		3	60+	N
Carlson, Paul	2/1/2011	2/1/2013	Male	Anglo		0		Y
Chapa, David	2/1/2010	2/1/2012	Male	Hispanic	S	5	18-29	N
Ellis, Clifton	2/1/2010	2/1/2012	Male	Anglo		3	50-59	N
Houk, Brett	2/1/2010	2/1/2012	Male	Anglo		1	30-39	N
Hurst, Stance	2/24/2011	2/1/2013	Male	Anglo		4	30-39	Y
Ingram, Brianna	2/1/2012	2/1/2014	Female	Anglo		5	18-29	N
White, John	2/1/2011	2/1/2013	Male	Anglo		3	60+	N
White, Scott	2/1/2011	2/1/2013	Male	Anglo		1	40-49	Y

URBAN RENEWAL / NEIGHBORHOOD REDEVELOPMENT COMMISSION

	<u>Lubbock</u>	<u>Lubbock</u>	<u>All</u>	
	<u>Population</u>	<u>Adult</u>	<u>City</u>	<u>This</u>
<u>ETHNICITY</u>				
Anglo	55.0%	61.0%	78.2%	77.8% (7)
Hispanic	32.6%	27.6%	10.9%	0.0% (0)
African-American	8.7%	7.4%	7.1%	22.2% (2)
Other	3.7%	4.0%	3.8%	0.0% (0)
<u>GENDER</u>				
Male	48.5%	47.0%	71.0%	66.7% (6)
Female	51.5%	53.0%	29.0%	33.3% (3)
<u>GEOGRAPHIC DISTRIBUTION</u>				
District 1	16.1%	14.9%	10.9%	22.2% (2)
District 2	16.4%	12.7%	2.2%	11.1% (1)
District 3	16.3%	16.1%	20.2%	11.1% (1)
District 4	17.0%	17.0%	19.7%	11.1% (1)
District 5	16.7%	19.4%	22.4%	33.3%(3)
District 6	17.2%	19.9%	18.0%	11.1% (1)
Other/Unknown	0.0%	0.0%	6.6%	0.0% (0)

PURPOSE:

Advisory board with Officer of City status. This board consists of two boards. Neighborhood Redevelopment Commission studies the need for neighborhood rehabilitation in older sections of Lubbock and makes recommendations of rehabilitation projects to be funded annually by the Community Development Program. Urban Renewal Board oversees the sale and conditions of sale of Urban Renewal lots and any items involving land owned by the Urban Renewal Agency.

QUALIFICATIONS: All members must be residents of the city of Lubbock. Six members shall be representatives of mortgage banking, residential construction, accounting, real estate, engineering, and legal. Three members shall be appointed from the general public with emphasis given to representatives of low and moderate income citizens and residents of target areas.

APPOINTMENT INFORMATION:

<u>Member Name &</u>	<u>Requirement</u>	<u>Attend</u>	<u>Eligible</u>	<u>Action</u>
<u>Demographic Facts</u>				
Ferguson, Gary (M,A,1)	General Public	100%	Y	Reappoint
Givens, R.J. (M,AA,2)	Real Estate	67% [♦]	Y	Reappoint
Nugent, Sheri (F,A,1)	Accounting	100%	Y	Reappoint

[♦] Please note, the Commission only had three meetings.

URBAN RENEWAL / NEIGHBORHOOD REDEVELOPMENT COMMISSION – CONTINUED

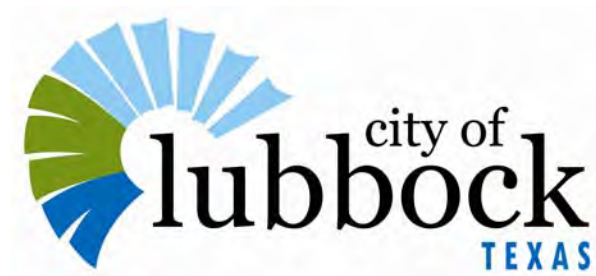
APPOINTMENTS ADVISORY BOARD RECOMMENDATIONS:

To reappoint Gary Ferguson, General Public; R.J. Givens, Real Estate; & Sheri Nugent, Accounting

Sorted: By Preference

Urban Renewal / Neighborhood Redevelopment Commission

Date Refer	Key	Last Name	First Name	Gender M/F	Ethnic A,H,AA,O	Quad	Age Range	Occupation	Business	Council District
First Preference:										
1004		Davis	Jon	M	A		40-49	Accountant	Capital Farm Credit	3
0630		Dial	Reginald	M	AA		30-39	Business to Business Sale	Hollands Office Technol	5
0609		Hurt	William	M	A		30-39	Police Officer	Lubbock PD	3
1010		Kotal	Clint	M	A		18-29	Hospital Administration	Covenant Health Syste	4
0804		Oatman	Mark	M	A			Financial Advisor	Merrill Lynch	3
Second Preference:										
1002		Brenner	Ivey	M	A		18-29	Real Estate Development	Tao Development Group	6
0803		Hester	Steve	M	A	S	50-59	Forms Manufacturing	Caprock Business Form	5
0602		Howard	Dennis	M	A	S	50-59	Retired	Retired	4
0907		Hunter	Patrick	M	AA		40-49	Law Librarian	Texas Dept. of Criminal	3
0411		Jordan	Lori	F	A	S	40-49	Program Director	Covenant Medical	4
1003		Mitchell	Bret	M	A		40-49	Self Employed	Queso's	4
0405		Pearson	Neale	M	A	C	60+	Semi-Retired Professor	Semi-Retired Professor	3
1106		Podrebartz	Keith	M	A		30-39			
Third Preference:										
1108		Amor	Cherif	M			50-59	Dept. Chair/Assoc Prof.	Texas Tech	5
0803		Baker	Robert	M	A	C	50-59	ICU Nurse	Lubbock Heart Hospital	4
0707		Holland	Paige	F	A	S		Assistant Athletic Director	TTU - Athletics	5
0803		Lunsford	Jeremy	M	A			Student	LNG Productions Inc.	3
1006		Regner	Elizabeth	F	A		30-39	Executive Director	Lubbock Arts Alliance	4
1004		Williams	Herbert	M	AA		40-49	Correctional Officer	TX Dept of Criminal Just	2
Fourth Preference:										
1005		Bruegel	Jon	M	A		18-29	Student		4
1009		Chambers	Tosha	F	AA		30-39	Homemaker		4
0611		Conwright	James	M	AA		18-29	Credit Analyst	City Bank Texas	6
0707		Jacks	Holly	F	A			Registered Nurse	Covenant Emergency	5
0509		Pena	Esther	F	H	S	18-29	Sales Development	American State Bank	5
0501		Ray	Harold	M	A	S	50-59	Asst Business Agent-IBE	IBEW Local Union 602	0
0609		Schellhase	Scott	M	A		50-59	Architect	SLS Partnership	5
Fifth Preference:										
1009		Bryant	LeEarl	F	A		60+	Retired		1
0905		Cantrell	Jimmy	M	A		60+	Appliance Sales	Sears	6
0905		Marberry	William	M	A		18-29	Realtor	Coldwell Banker	3
0803		Sosebee	Rick	M	A		50-59	Fire Protection Contractor	Koetter Fire Protection	3
Sixth Preference:										
0907		Melendez	Jill	F	A		18-29	Social Worker	Montford Psychiatric Pri	6
1002		Tidwell	Joseph	M	A		18-29	Project Manager	Tao Development Group	3



Confidential

Home

Business

Reappt
Elig.

MORTGAGE BANKING

Covington
Ms. Christine

N 6812 87th Street
Lubbock TX 79424

N

N (806) 788-2607

N (806) 548-6284 CEL

E-mail ccovington@firstunited.net

First United Bank

P.O. Box 16500

Lubbock TX 79490

(806) 784-3715

Curr: 3/1/2011 - 3/1/2013

2nd: -

1st: 6/11/2009 - 3/1/2011

Fax: (806) 784-3795

N

GENERAL PUBLIC

Ferguson
Mr. Gary

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Lubbock TX 79411

Y

Y (806) 687-0943

Y

CEL

E-mail gferguson@team-psc.com

Parkhill, Smith & Cooper

4222 85th St

Lubbock TX 79423

(806) 473-2200

Curr: 3/1/2010 - 3/1/2012

2nd: -

1st: 3/1/2008 - 3/1/2010

Fax: (806) 473-3500

Y

REAL ESTATE

Givens
Mr. R.J.

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Lubbock TX 79411

Y

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Y (806) 778-0824 CEL

E-mail givreal@aol.com

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Curr: 3/1/2010 - 3/1/2012

2nd: -

1st: -

Fax:

Y

GENERAL PUBLIC

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Ms. Juanita

N 5111 97th St
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N

Y (806) 794-2618

Y (806) 239-3540 CEL

E-mail nkiesling@westmarkcommerci

WestMark, Realtors

4105 84th St

Lubbock TX 79423

(806) 794-3300

Curr: 3/1/2011 - 3/1/2013

2nd: -

1st: -

Fax: (806) 794-5550

Y

LEGAL

Lewis
Mr. Calvin

8406 Vicksburg
Lubbock TX 79424

(806) 698-6194

CEL

E-mail calvin.lewis@ttu.edu

TTU School of Law

1802 Hartford Ave

Lubbock TX 79409

(806) 742-3990

Curr: 9/8/2011 - 3/1/2013

2nd: -

1st: -

Fax: (806) 742-4014

Y

Chair/Pres: Gary Ferguson Vice Chair/V.P.: Christine Covington Sec./Treasurer: Dustin Burrows, NRC	Staff Liaison: Bill Howerton / Phyllis Brown Term: 2 Years Ex-Officio Mbr.:

Confidential

Home

Business

*Reappt
Elig.*

ENGINEER

Morris
Mr. Daniel

4632 Grinnell Street
Lubbock TX 79416

(806) 744-2826

CEL

TripleDubs, LLC

10104 Elkhart Ave.
Lubbock 79424

Curr: 3/1/2011 - 3/1/2013

2nd: -

1st: -

Fax:

Y

E-mail

ACCOUNTING

Nugent
Ms. Sheri

Y 903 East Kent
Lubbock TX 79403

Y
Y **(806) 789-7903**

Y *CEL*

E-mail sheri.nugent@lubbockbiz.org

Lubbock Chamber of Commer

1301 Broadway, Suite 101
Lubbock TX 79401

(806) 761-7004

Curr: 3/1/2010 - 3/1/2012

2nd: -

1st: -

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Y

GENERAL PUBLIC

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Mr. Maurice

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CEL

Curr: 9/8/2011 - 3/1/2012

2nd: -

1st: -

Fax:

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RESIDENTIAL
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Vitale
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Y **(806) 795-9765**

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602 Indiana

Lubbock TX

(806) 241-0282

Curr: 3/1/2011 - 3/1/2013

2nd: -

1st: 3/1/2009 - 3/1/2011

Fax:

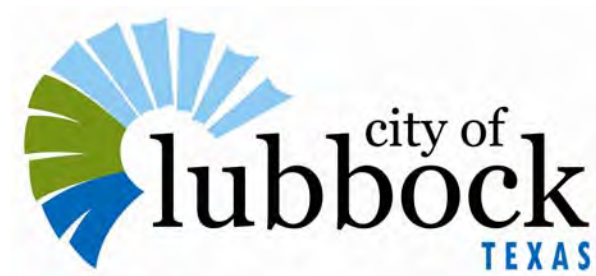
N

Chair/Pres: Gary Ferguson Vice Chair/V.P.: Christine Covington Sec./Treasurer: Dustin Burrows, NRC	Staff Liaison: Bill Howerton / Phyllis Brown Term: 2 Years Ex-Officio Mbr.:

Board Demographic Information

#30 Urban Renewal / Neighborhood Redevelopment Commission

<i>Member</i>	<i>Beg. Date</i>	<i>Exp. Date</i>	<i>Gender</i>	<i>Ethnic</i>	<i>Quad</i>	<i>District</i>	<i>Age</i>	<i>Eligibility</i>
Covington, Christine	3/1/2011	3/1/2013	Female	Anglo		5		N
Ferguson, Gary	3/1/2010	3/1/2012	Male	Anglo		1	30-39	Y
Givens, R.J.	3/1/2010	3/1/2012	Male	African-American		2		Y
Kiesling, Juanita	3/1/2011	3/1/2013	Female	Anglo	S	5	50-59	Y
Lewis, Calvin	9/8/2011	3/1/2013	Male	African-American		5	50-59	Y
Morris, Daniel	3/1/2011	3/1/2013	Male	Anglo		6	18-29	Y
Nugent, Sheri	3/1/2010	3/1/2012	Female	Anglo		1	30-39	Y
Stanley, Maurice	9/8/2011	3/1/2012	Male	Anglo		3	60+	Y
Vitale, Jeffrey	3/1/2011	3/1/2013	Male	Anglo		4	18-29	N



**CITY OF LUBBOCK
REGULAR CITY COUNCIL MEETING
February 9, 2012
7:30 A. M.**

The City Council of the City of Lubbock, Texas met in regular session on the 9th of February, 2012, in City Council Chambers, City Hall, 1625 13th Street, Lubbock, Texas at 7:30 a. m.

**7:33 A.M. CITY COUNCIL CONVENED
City Council Chambers, 1625 13th Street, Lubbock, Texas**

Present: Mayor Tom Martin; Mayor Pro Tem Floyd Price; Council Member Paul R. Beane; Council Member Karen Gibson; Council Member Jim Gilbreath; Council Member Victor Hernandez; Council Member Todd R. Klein; City Manager Lee Ann Dumbauld; City Secretary Rebecca Garza; City Attorney Sam Medina

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

- 6.6; *Citizen Comments (1.1-1.5); Sign-ups (1.6); Executive Session; 3.1-3.3; 3.5; 3.4; 4.1; 5.2-5.4; 5.7-5.11; 5.14-5.19; 6.4; 5.1; 5.5-5.6; 5.12-5.13; 5.20; 6.1-6.3; 6.5; 6.8; 7.1; Executive Session; and 7.2.*
- *Item 6.7 was deleted.*

- 1. Citizen Comments - Any citizen wishing to appear before any regular meeting of the City Council shall advise the City Manager's office of that fact no later than seven calendar days before the meeting at which the citizen wishes to appear. Any citizen wishing to so appear shall inform the City Manager's office, in writing, of the subject of the appearance. The subject matter shall be sufficiently detailed as to inform the City Council and the public of its nature. Such notice shall contain the name and address of the requestor. The appearance of any citizen giving such notice to the City Manager's office shall take precedence in addressing the City Council during the Citizen Comments period. Any citizen failing to advise the City Manager's office of his/her wish to appear before the City Council as hereinabove set forth shall, time permitting, be permitted to address the City Council after those having given notice. In accordance with the Texas Open Meetings Act, the City Council may not take action on public matters during Citizen Comments.**

- 1. 1. Dan Seale will appear before the City Council to discuss stormwater runoff fees assessed to Lubbock business owners.**

Dan Seale appeared before Council to discuss stormwater runoff fees assessed to Lubbock business owners.

Lee Ann Dumbauld, City Manager, gave comments and answered questions from Council.

- 1. 2. Steven Lee will appear before the City Council to discuss Stage 2 Drought Contingency Plan restrictions associated with hot tub usage.**

Steven Lee, family owner of Alcoe, appeared before Council to discuss Stage 2 Drought Contingency Plan restrictions associated with hot tub usage.

1. 3. Irene Howell will appear before the City Council to discuss the proposed closing of municipal pools due to the Stage 2 Drought Contingency Plan.

Irene Howell appeared before Council to discuss the proposed closing of municipal pools due to the Stage 2 Drought Contingency Plan.

1. 4. Maggie Trejo will appear before the City Council to the proposed closing of municipal pools due to the Stage 2 Drought Contingency Plan.

Maggie Trejo appeared before Council to discuss the closing of municipal pools due to the Stage 2 Drought Contingency Plan.

1. 5. Jason Hodges will appear before the City Council to discuss the proposed closing of municipal pools due to the Stage 2 Drought Contingency Plan.

Jason Hodges appeared before Council to discuss landscaping issues due to the Stage 2 Drought Contingency Plan.

1. 6. **Citizen Comments (sign-ups)**

Lile Quirino appeared before Council to discuss the proposed closing of municipal pools due to the Stage 2 Drought Contingency Plan.

2. **Executive Session**

The meeting was called into a closed public session at 8:09 a.m. under the provisions of Section 552, Texas Government Code. The meeting was called back into open session at 9:18 a.m.

Council recessed into Executive Session again at 11:33 a.m. and reconvened in open session at 12:42 p.m.

2. 1. Hold an executive session in accordance with Vernon's Texas Codes Annotated (V.T.C.A.) Government Code, Section 551.071, to discuss pending or contemplated litigation or settlement agreement, and hold a consultation with attorney.

2. 1. 1. Health Benefits: In the matter of arbitration between the City of Lubbock and HealthSmart Holdings, Inc., et al Case No.71-193-Y-00084-08

2. 2. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.072, to deliberate the purchase, exchange, lease, or value of real property.

2. 3. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.074 (a)(1), to discuss personnel matters and take appropriate action.

2. 3. 1. City Attorney

2. 3. 2. City Manager

2. 3. 3. City Secretary

2. 4. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.086, on the following competitive matters (Electric Utilities):

2. 4. 1. to discuss, vote, and take final action on customer billing and electric power pricing
2. 4. 2. to discuss and deliberate plans, studies, proposals, and analyses for system improvements and risk management information and related strategies
2. 4. 3. to discuss and deliberate bidding and pricing information for purchased power, generation and fuel, purchased power agreements, and related services and strategies

2. 5. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.074(a), to discuss personnel matters regarding the duties, responsibilities, and/or appointments to the Housing Finance Corporation Board of Directors.

3. **Proclamations and Presentations**

3. 1. Invocation by Father Jim Haney, St. Paul's on the Plains Episcopal Church

Father Jim Haney, St. Paul's on the Plains Episcopal Church, led the invocation.

3. 2. Pledges of Allegiance

Pledges of allegiance were given by those in City Council Chambers to the United States flag and the Texas flag.

3. 3. Presentation commemorating February 7 through 14, 2012, as Congenital Heart Defect Awareness Week.

Mayor Martin presented special recognition commemorating February 7 - 14, 2012, as Congenital Heart Defect Awareness Week. Heather Winn, with Mended Hearts Group, gave comments on the importance of screenings. Ms. Winn was joined by families, nurses, and doctors associated with Mended Hearts.

3. 4. Mayor Tom Martin will present a \$5,000 check on behalf of the Lubbock Apartment Association to the South Plains Food Bank from proceeds of the Mayor's State of the City Address.

Mayor Martin along with James Pipkin, Lubbock Apartment Association Board of Directors member, presented a \$5,000 check on behalf of the Lubbock Apartment Association to the South Plains Food Bank from proceeds of the Mayor's State of the City Address. David Weaver, Chief Executive Officer for the South Plains Food Bank, and Lyn Garcia, Board Member, appeared to accept the check. Mr. Weaver gave comments and expressed his gratitude for the donation.

3. 5. Presentation of special recognition commemorating February 2012 as National Apartment Careers Month.

4. **Minutes**

4. 1. January 12, 2012 Regular City Council Meeting
January 17, 2012 Special City Council Meeting
January 19, 2012 Special City Council Meeting

Motion by Mayor Pro Tem Floyd Price, seconded by Council Member Paul R. Beane to approve the January 12, 2012 Regular City Council minutes, the January 17, 2012 Special City Council minutes, and the January 19, 2012 Special City Council minutes.

Vote: 7 - 0 Motion carried

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 Mayor Pro Tem Floyd Price, seconded by Council Member Todd R. Klein to approve items 5.2-5.4; 5.7-5.11; and 5.14-5.19.

Vote: 7 - 0 Motion carried

5. 1. Budget Ordinance Amendment 1st Reading - Finance : Ordinance No. 2012-O0013, Amendment 9, amending the Adopted FY 2011-12 Budget respecting the Grant Fund to accept and appropriate funding from the Texas Department of Public Safety / Texas Homeland Security State Administrative Agency (DPS/THSSAA) for the Metropolitan Medical Response System (MMRS), Grant No. 87070; respecting the General Fund and the Emergency Management Special Revenue Fund to amend civil service classifications and positions; respecting the 2011-12 Master Lease; respecting the Lubbock Power & Light Fund (LP&L) Capital Program, as recommended by the Electric Utility Board on January 24, 2012, to amend Capital Improvement Project No. 92267, "FY 2011-12 Overhead Distribution", No. 92268, "FY 2011-12 Underground Distribution", and No. 92269, "FY 2011-12 Distribution Transformers"; and respecting the LP&L Fund, as recommended by the Electric Utility Board on January 24, 2012 to increase transfers to the Capital Program and increase the utilization of LP&L Fund net assets.

Gary Zheng, Chief Executive Officer for LP&L, and Matthew Wade, Legal Chief Counsel for LP&L, gave comments and answered questions from Council.

Motion by Mayor Pro Tem Floyd Price, seconded by Council Member Victor Hernandez to approve Ordinance No. 2012-O0013.

Vote: 7 - 0 Motion carried

5. 2. Contract Resolution - Finance : Resolution No. 2012-R0058 authorizing the Mayor to execute an engagement letter with Andrews Kurth, LLP, for bond counsel services.

5. 3. Contract Resolution - Purchasing & Contract Management : Resolution No.'s 2012-R0059 and 2012-R0060 authorizing the Mayor to execute Contract 9908 with Rene Bates Auctioneers, Inc., and Contract 9908-1 with The Public Group for online auction services, RFP 11-9908-MA.

5. 4. Contract Resolution - Right-of-Way : Resoluion No. 2012-R0061 authorizing the Mayor to execute a Quitclaim Deed in favor of Danny Watson for an excess portion of Buddy Holly Avenue right-of-way, 421 Buddy Holly Avenue.

5. 5. Contract Resolution - Public Works Engineering : Resolution No. 2012-R0071 authorizing the Mayor to execute Contract 10647 for Professional Services with Parkhill, Smith & Cooper, Inc., (PSC) for construction phase services on the 34th Street Paving Improvement Project from Indiana Avenue to Avenue Q (US 84).

Motion by Council Member Todd R. Klein, seconded by Council Member Karen Gibson to approve Resolution No. 2012-R0071.

Vote: 6 - 0 Motion carried

Other: Council Member Jim Gilbreath (RECUSE)

5. 6. **Contract Amendment Resolution - Public Works Engineering** : Resolution No. 2012-R0072 authorizing the Mayor to execute Change Order 1 to Contract 9418 with Duinneck, Inc., for the Quaker Avenue Paving Improvement Project from 114th Street to FM 1585, BID 10-053-FO.

Motion by Council Member Todd R. Klein, seconded by Mayor Pro Tem Floyd Price to approve Resolution No. 2012-R0072.

Vote: 6 - 1 Motion carried

NAY: Council Member Paul R. Beane

5. 7. **Contract Resolution - Public Works Stormwater** : Resolution No. 2012-R0062 authorizing the Mayor to execute Contract 10618, a pipeline license agreement, with Burlington Northern Santa Fe (BNSF) Railway Company allowing the City to construct a storm sewer pipeline across the BNSF rail corridor crossing located at Clovis Highway (US 84) and Fordham Street.
5. 8. **Contract Resolution - Public Works Stormwater** : Resolution No. 2012-R0063 authorizing the Mayor to execute Contract 10275 with Alan Plummer Associates, Inc., for engineering and design services related to concrete drainage channel repairs at area playa lakes, RFQ 11-10275-DT.
5. 9. **Contract Amendment Resolution – Public Works Engineering** : Resolution No. 2012-R0064 authorizing the Mayor to execute Amendment 2 to Contract 9065 with Kimley-Horn and Associates, Inc., for design services for Phase 1, Bid Package B, of the South Lubbock Sanitary Sewer System Expansion Project.
5. 10. **Contract Resolution - Information Technology** : Resolution No. 2012-R0065 authorizing the Mayor to execute purchase order Contract 93000014 with GTSI Corporation for network switches for traffic signal upgrades.
5. 11. **Contract Resolution - Facilities Management** : Resolution No. 2012-R0066 authorizing the Mayor to execute lump sum price Contract 10388 with Bruce Thornton Air Conditioning, Inc., for chiller replacement at Municipal Square, BID 12-10388-CI.
5. 12. **Contract Resolution - Facilities Management** : Resolution No. 2012-R0073 authorizing the Mayor to execute Job Order Contract 10560 with Minnix Commercial for asbestos abatement and demolition of the south wing of the Traveler's Inn, located at 714 Avenue Q, for the widening of Glenna Goodacre Boulevard from Avenue R to Avenue Q.

Lee Ann Dumbauld, City Manager; and Mark Yearwood, Assistant City Manager, gave comments and answered questions from Council.

Motion by Mayor Pro Tem Floyd Price, seconded by Council Member Jim Gilbreath to approve Resolution No. 2012-R0073.

Vote: 7 - 0 Motion carried

5. 13. **Ordinance 2nd Reading - Planning** : Ordinance 2012-O0007 changing the Zoning Code regarding the adoption of Central Business District 5 (CB-5).

Andrew Paxton, Senior Planner, gave comments and answered questions from Council.

Motion by Mayor Pro Tem Floyd Price, seconded by Council Member Todd R. Klein to approve Ordinance No. 2012-O0007 with the following amendments:

- remove 'commercial' from the permitted use "Art gallery, commercial."
- add 'base ball field/park' to the permitted use section
- add 'museum' to the permitted use section

Vote: 7 - 0 Motion carried

5. 14. **Ordinance 2nd Reading – Planning** : Ordinance No. 2012-O0008, Zone Case 2163-C (2812 4th Street): request of Hunn Designs (for Savoy Apartment and Condominiums) for a zoning change from IHC (Interstate Highway Commercial District) to A-2 (High-Density Apartment District) Specific Use for a three story apartment building on the south part of the west 369.69 feet of Lot A, Blankenship No. 2 Addition.
5. 15. **Ordinance 2nd Reading – Planning** : Ordinance No. 2012-O0009, Zone Case 1147-B (Southwest corner of North Martin Luther King, Jr. Boulevard and Northeast Loop 289): request of Bobby McQueen for a zoning change from A-3 (High-Rise Apartment District) to M-1 (Light Manufacturing District) with nine uses excluded on 8.1 acres of unplatted land out of Block A, Section 77.
5. 16. **Ordinance 2nd Reading – Planning** : Ordinance No. 2012-O0010, Zone Case 3172 (7750 and 7752 19th Street and 1806 Alcove Avenue): request of Sheri White (for Carlisle Land Development) for a zoning change from R-1 (Single-Family District) to C-4 (Commercial District) on Lot 11, Furgeson Addition.
5. 17. **Contract Amendment Resolution - Community Development** : Resolution No. 2012-R0067 authorizing the Mayor to execute an amendment a Texas Workforce Commission (TWC) Information Release Contract from the Community Service Block Grant (CSBG) for access to wage information.
5. 18. **Contract Resolution - Citibus** : Resolution No. 2012-R0068 authorizing the Mayor to execute Contract 10389 with Duo-Gard Industries for 18 bus shelters, BID 12-10389-DG
5. 19. **Contract Resolution - LP&L** : Resolution No. 2012-R0069 authorizing the Mayor to execute Contract 10597 with Ventyx, Inc., as previously approved by the Director of Electric Utilities, for Micro Focus COBOL licenses for compiling programs in the utility billing and payment system.
5. 20. **Ordinance 2nd Reading - City Secretary** : Ordinance 2012-O0011 ordering the 2012 Regular Municipal Election of the City of Lubbock to be held May 12, 2012.

Motion by Council Member Victor Hernandez, seconded by Council Member Karen Gibson to approve Ordinance No. 2012-O0011.

Vote: 6 - 0 Motion carried

Other: Council Member Paul R. Beane (RECUSE)

6. Regular Agenda

- 6. 1. Public Hearing 9:30 a.m. – Planning :** Ordinance No. 2012-O0014, Zone Case 3145-A (south of Marsha Sharp Freeway to 10th Street between Avenue R and Avenue K): request of the City of Lubbock for a zoning change from IHC (Interstate Highway Commercial District) and C-4 (Commercial District) to CB-5 (Central Business District 5) on Blocks 1, 2, 4-9A, Memorial Center Addition; Blocks 1 and 2, Ratliff Addition; Blocks 1 and 2, Safeway Addition; Tract A, Emmett Plaza Addition; Blocks 1, 4, 17, and 84, Original Town; Blocks 5 and 6, Merritt and Wilde Addition; Blocks 106, 109, 113, 114, and 117, Overton Addition; and Tracts 19-A, 19-B, Overton Park Addition; and more generally described as the northwestern portion of downtown Lubbock.

Andrew Paxton, Senior Planner, gave comments and answered questions from Council.

Mayor Martin opened the public hearing at 10:36 a.m.

No one appeared to speak in favor or opposition.

Mayor Martin closed the public hearing at 10:36 a.m.

Motion by Council Member Jim Gilbreath, seconded by Council Member Paul R. Beane to approve Ordinance No. 2012-O0014.

Vote: 7 - 0 Motion carried

- 6. 2. Public Hearing 9:30 a.m. – Planning :** Ordinance No. 2012-O0015, Zone Case 2968-A (south of 98th Street west of Miami Avenue): appeal of AMD Engineering, LLC, (for Texas Tech University Federal Credit Union) for a zoning change from GO (Garden Office District) to AM (Apartment-Medical District) Specific Use for a bank on 1.46 acres of unplatted land out of Block E-2, Section 17.

Andrew Paxton, Senior Planner, gave comments and answered questions from Council.

Mayor Martin opened the public hearing at 10:40 a.m.

Nathan Nash, with Hunter Equity; and Jay House appeared to speak in favor.

No one appeared to speak in opposition.

Mayor Martin closed the public hearing at 10:48 a.m.

Motion by Mayor Pro Tem Floyd Price, seconded by Council Member Todd R. Klein to approve Ordinance No. 2012-O0015, over-ruling the Planning and Zoning Commission and subject to conditions on the site plan that have been agreed to by the proponents and the opponents. The conditions include the following:

- THAT the change be tied to the site plan dated January 11, 2012, including an 8' masonry screening fence along the south property and extending 55' east of the property along the alley.
- THAT the screening fence materials shall match the construction of the main building.
- THAT the photometric study/plan shall be restricted to near zero candles at the south property line.

Vote: 7 - 0 Motion carried

6. 3. **Variance Resolution - Planning** : Resolution No. 2012-R0074 approving and granting a variance from the applicable 300-foot minimum distance provisions of City of Lubbock Ordinance 2009-O0060 at the location of 1025 University for Tully's Corner Store, a business requesting an off premise alcoholic beverage permit.

Andrew Paxton, Senior Planer, gave comments and answered questions from Council.

Motion by Council Member Karen Gibson, seconded by Council Member Jim Gilbreath to approve Resolution No. 2012-R0074.

Vote: 6 - 1 Motion carried

NAY: Council Member Paul R. Beane

6. 4. **Resolution - City Council** : Resolution No. 2012-R0070 authorizing the Mayor to call a public hearing to be held on March 29, 2012, to adopt changes to Chapter 2, Article 2.03, Division 12.

Andy Burcham, Chief Financial Officer; Matthew Wade, Legal Chief Counsel for LP&L; Sam Medina, City Attorney; and Rebecca Garza, City Secretary, gave comments and answered questions from Council.

Motion by Council Member Victor Hernandez, seconded by Council Member Todd R. Klein to approve Resolution No. 2012-R0070 calling the public hearing for March 29, 2012, and to include within the publication the following:

• **Sec. 2.03.417 Disbursement of funds from the General Reserve**

- "(a) Prior to paying any fee equivalent to a franchise fee, making any payment in lieu of taxes (PILOT), and prior to disbursing any funds from appropriable net assets (the 'General Reserve') of the city's electric utility, the board shall first fully meet all bond reserve or fund obligations defined in any bond covenant for the city's electric utility.
- (b) After providing for sufficient funds to meet the obligations contained in subsection (a) above, the board shall ensure that the General Reserve is equal to 25% gross revenue generated from all retail electric sales (the 'GRR') as determined by taking the average monthly GRR from the previous fiscal year. The term 'GRR' as used herein shall include all receipts from the sale of retail electric lighting and power in LP&L's certificated territory.
- (c) The board may use the General Reserve for rate stabilization, unforeseen emergency situations, and for meeting the electric utility demand of any rapid or unforeseen increase in residential and/or commercial development.
- (d) LP&L shall transfer to the city a fee equivalent to a franchise fee in the amount of five percent (5%) of the GRR and a PILOT in the amount of one percent (1%) of the GRR. The transfers shall be made on the 15th day of each month and shall be based on the GRR of LP&L during the preceding calendar month. For budgeting purposes, on or before May 1st of each year, the board shall report to the city council their estimate of the General Reserve, the GRR, and the resulting franchise fee and PILOT.
- (e) Subject to the approval of the board, any remaining General Reserve may be refunded to the ratepayers of the city's electric utility within six (6) months following the fiscal year in which the General Reserve balance exceeds three (3) months of GRR.
- (f) The General Reserve shall be based on funds not otherwise committed, and generally defined as 'current assets' less 'current liabilities' as those terms are defined in (1) and (2) below:
 - (1) Current assets, as classified in the latest CAFR of the city's electric utility fund, excluding cash committed to capital projects and, other non-cash assets.
 - (2) Current liabilities, as classified in the latest CAFR of the city's electric utility fund, excluding non-cash liabilities. Current liabilities will also exclude accrued

interest payable, leases payable, and bonds payable (as these current liabilities will be paid from revenues generated in the subsequent fiscal year)."

● **Sec. 2.03.418**

- "All LP&L Board meetings shall be made public in the same manner, frequency, and through the same mediums as City Council meetings effective April 1, 2012."

Vote: 3 - 4 Failed

NAY: Mayor Tom Martin

Council Member Paul R. Beane

Council Member Karen Gibson

Council Member Jim Gilbreath

Motion by Council Member Victor Hernandez, seconded by Council Member Todd R. Klein to approve Resolution No. 2012-R0070 calling the public hearing for March 29, 2012, and to include within the publication the following:

● **Sec. 2.03.417 Disbursement of funds from the General Reserve**

- "(a) Prior to paying any fee equivalent to a franchise fee, making any payment in lieu of taxes (PILOT), and prior to disbursing any funds from appropriable net assets (the 'General Reserve') of the city's electric utility, the board shall first fully meet all bond reserve or fund obligations defined in any bond covenant for the city's electric utility.
- (b) After providing for sufficient funds to meet the obligations contained in subsection (a) above, the board shall ensure that the General Reserve is equal to 25% gross revenue generated from all retail electric sales (the 'GRR') as determined by taking the average monthly GRR from the previous fiscal year. The term 'GRR' as used herein shall include all receipts from the sale of retail electric lighting and power in LP&L's certificated territory.
- (c) The board may use the General Reserve for rate stabilization, unforeseen emergency situations, and for meeting the electric utility demand of any rapid or unforeseen increase in residential and/or commercial development.
- (d) LP&L shall transfer to the city a fee equivalent to a franchise fee in the amount of five percent (5%) of the GRR and a PILOT in the amount of one percent (1%) of the GRR. The transfers shall be made on the 15th day of each month and shall be based on the GRR of LP&L during the preceding calendar month. For budgeting purposes, on or before May 1st of each year, the board shall report to the city council their estimate of the General Reserve, the GRR, and the resulting franchise fee and PILOT.
- (e) Subject to the approval of the board, any remaining General Reserve may be refunded to the ratepayers of the city's electric utility within six (6) months following the fiscal year in which the General Reserve balance exceeds three (3) months of GRR.
- (f) The General Reserve shall be based on funds not otherwise committed, and generally defined as 'current assets' less 'current liabilities' as those terms are defined in (1) and (2) below:
 - (1) Current assets, as classified in the latest CAFR of the city's electric utility fund, excluding cash committed to capital projects and, other non-cash assets.
 - (2) Current liabilities, as classified in the latest CAFR of the city's electric utility fund, excluding non-cash liabilities. Current liabilities will also exclude accrued interest payable, leases payable, and bonds payable (as these current liabilities will be paid from revenues generated in the subsequent fiscal year)."

Vote: 7 - 0 Motion carried

- 6. 5. Resolution - City Council :** Resolution No. 2012-R0075 amending certain policies and procedures, as set forth in the City of Lubbock Council Rules, Order of Business, and Procedures manual, in subparagraph IV(D).

Motion by Council Member Todd R. Klein, seconded by Mayor Pro Tem Floyd Price to approve Resolution No. 2012-R0075.

Vote: 7 - 0 Motion carried

6. 6. **Budget Ordinance Amendment 1st Reading – City Council :** Ordinance No. 2012-O0012, Amendment 10, amending the Adopted FY 2011-12 Budget respecting the General Fund to increase the Parks and Recreation Department Budget and increase the utilization of fund balance.

Motion by Council Member Todd R. Klein, seconded by Council Member Jim Gilbreath to approve Ordinance No. 2012-O0012.

Vote: 7 - 0 Motion carried

6. 7. **Resolution - City Council :** Consider a resolution directing the City Manager to delay the seasonal opening of all municipal pools while Stage 2 of the Drought Contingency Plan is in effect or until the City Manager receives further notice or instruction.

This item was deleted.

6. 8. **Board Appointments - City Secretary :** Consider one appointment to the Housing Finance Corporation Board of Directors.

Motion by Council Member Todd R. Klein, seconded by Mayor Pro Tem Floyd Price to appoint Tom Couture to the Housing Finance Corporation Board of Directors.

Vote: 7 - 0 Motion carried

7. **Work Session/Business Agenda - Items for presentations and discussions on such issues that may require more in-depth consideration of the City Council than Regular Agenda items. Action may be taken on a Work Session/Business Agenda item posting of the item indicates to the public the action to be taken.**

7. 1. **Finance :** FY 2012-13 Operating Budget and Capital Program discussion and direction to the City Manager to include all funds and operations of the City.

Andy Burcham gave a presentation on the FY 2012-13 Operating Budget and Capital Program and answered questions from Council.

Lee Ann Dumbauld, City Manager, and Roger Ellis, Police Chief, gave comments and answered questions from Council.

7. 2. **Parks & Recreation :** Discuss municipal parks water sources and irrigation cycles and improvements.

Randy Truesdell, Director of Parks and Recreation, gave a presentation on municipal parks water sources and irrigation cycles and improvements and answered questions from Council.

Marsha Reed, Chief Operating Officer, gave comments and answered questions from Council.

1:50 P.M. CITY COUNCIL ADJOURNED

There being no further business to come before Council, Mayor Martin adjourned the meeting.

TOM MARTIN, MAYOR

ATTEST:

Rebecca Garza, City Secretary



**CITY OF LUBBOCK
SPECIAL CITY COUNCIL MEETING
February 14, 2012
10:00 A. M.**

The City Council of the City of Lubbock, Texas met in special session on the 14th of February, 2012, at 3101 35th Street, YMCA Building Parking Lot, SW Corner of 34th Street and Flint Avenue, Lubbock, Texas at 10:00 a. m.

10:05 A.M. CITY COUNCIL CONVENED

**3101 35th Street, YMCA Building Parking Lot, SW Corner of 34th
Street and Flint Avenue, Lubbock, Texas**

Present: Mayor Tom Martin; Mayor Pro Tem Floyd Price; Council Member Paul R. Beane; Council Member Karen Gibson; Council Member Victor Hernandez; Council Member Todd R. Klein; City Manager Lee Ann Dumbauld; City Secretary Rebecca Garza; City Attorney Sam Medina

Absent: Council Member Jim Gilbreath

1. Regular Agenda

1. Welcome & Introductions

Marsha Reed, Chief Operating Officer, introduced Council Members and other elected officials; Lee Ann Dumbauld, City Manager; the 34th Street Association members; Lubbock Bond Advisory Committee members; and City staff in attendance.

2. Speakers

Mayor Tom Martin and Council Member Todd R. Klein gave comments on the 34th Street Construction Project.

Kyra Jenkins, President of 34th Street Association, also gave comments and presented the 34th Street sponsored wrapped Citibus.

3. Presentation of Orange Cones and Kickoff

Marsha Reed, Chief Operating Officer, and the Lubbock Chamber Ambassadors initiated ribbon cutting.

4. Refreshments were provided by Glenda Mathis, Executive Director - YMCA

10:40 A.M. CITY COUNCIL ADJOURNED

There being no further business to come before Council, the meeting was adjourned.

TOM MARTIN, MAYOR

ATTEST:

Rebecca Garza, City Secretary



Regular City Council Meeting

5. 1.

Meeting Date: 03/06/2012

Information

Agenda Item

Budget Ordinance Amendment 2nd Reading - Finance: Ordinance 2012-00016 Consider Budget Ordinance Amendment 11 amending the Adopted FY 2011-12 Budget respecting the Grant Fund to accept and appropriate additional funding from the Texas Department of Transportation (TxDOT) for a Section 5304 Grant, Grant No. 88024; accept and appropriate funding from the Texas Department of Housing and Community Affairs (TDHCA) for the Community Services Block Grant (CSBG), Grant No. 82047; respecting the Capital Program to amend Capital Improvement Project (CIP) No. 92171, "Lake Alan Henry Water Treatment Plant and Terminal Reservoir;" amend CIP No. 92069, "Lake Alan Henry Raw Water Line/Pump Stations;" and amend CIP No. 91003, "Bailey County Wellfield Improvements."

Item Summary

On February 23, 2012, the City Council approved the first reading of the ordinance.

- I. Accept and appropriate an additional \$20,845 from TxDOT for a Section 5304 Grant, for a total grant appropriation of \$33,847. The City appropriated \$13,002 of Section 5304 funds in the Adopted FY 2011-12 Operating Budget. TxDOT allocated the public transportation funds to the City for regionally coordinated transportation planning in the South Plains Region. Citibus is the lead agency for the South Plains Region. The City is not required to provide a local match for the funds. Funds are used to carry out activities in the South Plains Region Regionally Coordinated Transportation Plan, as mandated by the State. The contract term is January 20, 2012, through August 31, 2012.

A companion item on today's City Council agenda is Item 5.1.1:

Item 5.1.1

Contract Resolution - Citibus: Consider a resolution authorizing the Mayor to execute Contract 51205F7118, a Section 5304 Grant, with TxDOT for regionally coordinated transportation planning in the South Plains Region.

- II. Accept and appropriate \$77,269 from the TDHCA for the CSBG to provide assistance to reduce poverty, revitalize low-income communities, and empower low-income families and individuals to become self-sufficient. The funding source for the contract is a pass through grant from the TDHCA. The actual amount allocated to the City for FY 2012 is \$381,035. TDHCA has released approximately 20%, or \$77,269 of the allocation, and will notify the City as more funds are available. The period of performance is January 1, 2012, through December 31, 2012.

A companion item on today's City Council agenda is Item 5.1.2:

Item 5.1.2

Contract Resolution - Community Development: Consider a resolution authorizing the Mayor to execute Contract 61120001291 with TDHCA for the CSBG to provide assistance to reduce poverty, revitalize low-income communities, and empower low-income families and individuals to become self-sufficient.

- III. Amend CIP No. 92171, "Lake Alan Henry Water Treatment Plant and Terminal Reservoir," by decreasing

the appropriation \$5 million, from \$65.7 million to \$60.7 million; amend CIP No. 92069, "Lake Alan Henry Raw Water Line/Pump Stations," by decreasing the appropriation \$5 million, from \$92.5 million to \$87.5 million; and amend CIP No. 91003, "Bailey County Wellfield Improvements," by increasing the appropriation \$10 million, from \$3,650,260 to \$13,650,260, for the expansion of the Bailey County Wellfield to meet current and future water demands.

Fiscal Impact

Included in Item Summary.

Staff/Board Recommending

Andy Burcham, Chief Financial Officer

Attachments

Ordinance - Budget Amendment 11

Resolution & Contract - Citibus 5304

Grant Detail - Citibus 5304

Resolution & Contract - CSBG

Grant Detail - CSBG

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FY 2011-12 BUDGET FOR MUNICIPAL PURPOSES RESPECTING THE GRANT FUND TO ACCEPT AND APPROPRIATE ADDITIONAL FUNDING FROM THE TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT) FOR A SECTION 5304 GRANT, GRANT NO. 88024; ACCEPT AND APPROPRIATE FUNDING FROM THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS (TDHCA) FOR THE COMMUNITY SERVICES BLOCK GRANT (CSBG), GRANT NO. 82047; RESPECTING THE CAPITAL PROGRAM TO AMEND CAPITAL IMPROVEMENT PROJECT (CIP) NO. 92171, LAKE ALAN HENRY WATER TREATMENT PLANT AND TERMINAL RESERVOIR; AMEND CIP NO. 92069, LAKE ALAN HENRY RAW WATER LINE/PUMP STATIONS; AND AMEND CIP NO. 91003, BAILEY COUNTY WELLFIELD IMPROVEMENTS.

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 2011-12 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 2011-12 (Budget Amendment #11) for municipal purposes, as follows:

- I. Accept and appropriate an additional \$20,845 from TxDOT for a Section 5304 Grant, for a total grant appropriation of \$33,847.
- II. Accept and appropriate \$77,269 from TDHCA for the CSBG.
- III. Amend CIP No. 92171, Lake Alan Henry Water Treatment Plant and Terminal Reservoir, by decreasing the appropriation \$5 million, from \$65.7 million to \$60.7 million.
- IV. Amend CIP No. 92069, Lake Alan Henry Raw Water Line/Pump Stations, by decreasing the appropriation \$5 million, from \$92.5 million to \$87.5 million.

- V. Amend CIP No. 91003, Bailey County Wellfield Improvements, by increasing the appropriation \$10 million, from \$3,650,260 to \$13,650,260, for the expansion of the Bailey County Wellfield to meet current and future water demands.

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 this _____ day of _____, 2012.

Passed by the City Council on second reading this _____ day of _____, 2012.

TOM MARTIN, MAYOR

ATTEST:

Rebecca Garza
City Secretary

APPROVED AS TO CONTENT:

Andy Burcham
Chief Financial Officer

APPROVED AS TO FORM:


Amy Sims, Assistant City Attorney

Ordinance-Budget Amendment 11
2.17.12

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 Section 5304 Grant Contract No. 51205F7118 to assist with Regional Coordination Planning, by and between the City of Lubbock and the Texas Department of Transportation, 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 on _____.

TOM MARTIN, MAYOR

ATTEST:

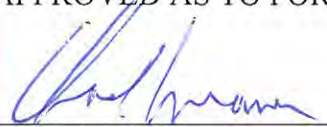
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Bill Howerton, Community Development Director

APPROVED AS TO FORM:



Chad Weaver, Assistant City Attorney

vw:ccdcs/RES.Citibus-Sec. 5304 Grant
February 6, 2012

PGA: SECTION 5304 FEDERAL- PLANNING
TRANSIT PROVIDER: City of Lubbock / Citibus
FTA GRANT #: **TX-80-0019**
CFDA #: **20.515**
TXDOT PROJECT #: **REG 1201 (05) 19**
PROJECT GRANT AGREEMENT #: **51205F7118**
MASTER GRANT AGREEMENT #: **512XXF7081**
FEDERAL TRANSIT ADMINISTRATION
NOT RESEARCH AND DEVELOPMENT

STATE OF TEXAS §

COUNTY OF TRAVIS §

**FEDERAL PLANNING
FISCAL YEAR FY 2012
PROJECT GRANT AGREEMENT**

THIS PROJECT GRANT AGREEMENT (PGA) is made by and between the State of Texas, acting through the Texas Department of Transportation, called the "State," and **City of Lubbock / Citibus**, called the "Transit Provider."

WITNESSETH

WHEREAS, 49 United States Code Section 5304, Planning, provides that eligible recipients may receive federal funds for public transportation planning; and

WHEREAS, Texas Transportation Code Chapter 455 authorizes the State to assist the Transit Provider in procuring aid for the purpose of establishing and maintaining public and mass transportation projects and to administer funds appropriated for public transportation under Texas Transportation Code Chapter 456; and

WHEREAS, the U.S. Secretary of Transportation approved the State's request for funding; and

WHEREAS, the Governor of the State of Texas has designated Texas Department of Transportation to receive federal funds under the Section 5304 grant program; and

WHEREAS, the Transit Provider submitted a Fiscal Year FY 2012 Grant Application, Part I (GA Part I) (if applicable) for state financial assistance, and the Texas Transportation Commission approved the application by Minute Order Number **112746**; and

WHEREAS, the Transit Provider must execute a GA Part I (if applicable) and a Fiscal Year Grant Application, Part II (GA Part II) each fiscal year grant period for consideration for new state and federal grants; and

WHEREAS, a Master Grant Agreement (MGA) between the Transit Provider and the State has been adopted and states the general terms and conditions for grant projects developed through this PGA;

City of Lubbock / Citibus

State Project #REG 1201 (05) 19

NOW THEREFORE, the State and the Transit Provider agree as follows:

AGREEMENT

ARTICLE 1. GRANT TIME PERIOD

This PGA becomes effective when fully executed by both parties or on **January 20, 2012**, whichever is later. This PGA shall remain in effect until **August 31, 2012**, unless terminated or otherwise modified in an Amendment. This PGA will not be considered fully executed until both parties have executed a MGA, and the Transit Provider has submitted the GA Part I (if applicable) and the GA Part II (federal funds only) to the State. The time period of this PGA cannot be extended past the MGA, without exception. Any cost incurred before or after the contract period shall be ineligible for reimbursement.

ARTICLE 2. PROJECT DESCRIPTION

- A.** The Transit Provider shall complete the public transportation project described in the GA Part I, the Attachment A - Approved Project Description, and the Attachment B – Project Budget. Attachments A and B are attached to and made a part of this agreement. The Transit Provider shall complete the project in accordance with all of the documents associated with the MGA and with all applicable federal and state laws and regulations.
- B.** If applicable, the Transit Provider shall begin competitive procurement procedures by issuing an invitation for bids or a request for proposals no later than sixty (60) days after the effective date of this grant agreement for the purchase of the approved line items referenced in Attachment A. No later than sixty (60) days after the issuance of public notification, the Transit Provider shall publicly open all bids or privately review proposals. The Transit Provider shall enter into a binding agreement with a supplier no later than thirty (30) days after the opening of an acceptable bid or proposal. The Transit Provider shall notify the department in writing when it is necessary to exceed these deadlines.

ARTICLE 3. COMPENSATION

The maximum amount payable under this PGA without modification is **\$33,847.00** provided that expenditures are made in accordance with the amounts and for the purposes authorized in the GA Part I, the Attachment A, and the Attachment B.

The original and one copy of the invoice are to be submitted to the following address:

**Texas Department of Transportation
Attn: Mr. Lynn Castle
Public Transportation Coordinator
135 Slaton Hwy.
Lubbock, TX 79404**

ARTICLE 4. AMENDMENTS

Except as noted in the MGA, changes in the scope, objectives, cost, or duration of the project authorized in this agreement shall be enacted by written amendment approved by the parties before additional work may be performed or additional costs incurred. Any

amendment must be executed by both parties within the grant period specified in Article 1, Grant Time Period.

ARTICLE 5. INCORPORATION OF MGA PROVISIONS

This PGA incorporates all of the governing provisions of the MGA in effect on the date of final execution of this PGA, unless an exception has been made in this agreement.

ARTICLE 6. SIGNATORY WARRANTY

Each signatory warrants that the signatory has necessary authority to execute this agreement on behalf of the entity represented.

THIS AGREEMENT IS EXECUTED by the State and the Transit Provider in duplicate.

THE TRANSIT PROVIDER

Signature

Typed, Printed, or Stamped Name

Title

Date

THE STATE OF TEXAS

Signature

Lynn Castle

Public Transportation Coordinator

Date

List of Attachments

A - Approved Project Description

B - Project Budget

C - Estimated Cost/Payment Schedule

APPROVED

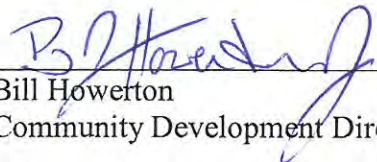
RECIPIENT

ATTEST:

Rebecca Garza
City Secretary

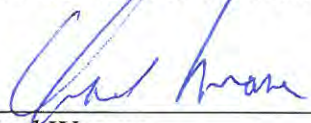
Date: _____

APPROVED AS TO CONTENT:



Bill Howerton
Community Development Director

APPROVED AS TO FORM:



Chad Weaver
Assistant City Attorney

**ATTACHMENT A
APPROVED PROJECT DESCRIPTION
FY 2012**

Each deliverable shall include agendas and minutes (or summary notes) of Stakeholder Steering Committee meetings documenting the committee's discussion of respective deliverables. All deliverables shall be approved by the Public Transportation Division prior to reimbursement.

TASK 1

Refine a detailed work plan for FY 2012

Scope:

- Prepare a draft of a refined work plan for FY 2012
- Present draft to the Steering Committee for input
- Finalize FY 2012 work plan

Deliverables:

1. A refined work plan for FY 2012
2. Agenda & minutes of steering meeting documenting discussion & approval of final FY 2012 work plan

TASK 2

Develop promotional and market-specific outreach materials to be shared with passenger survey respondents (as described below under Task 4) in an effort to promote utilization of health and human service resources within the South Plains Region

Scope:

- Design bus passes and other materials to be used as incentives to participate in the passenger feedback survey as described below under Task 4
- Coordinate with transportation providers, health and human services agencies and others as appropriate
- Develop and assess draft materials
- Finalize materials

Deliverables

1. Bus passes and other materials to be used as incentives to participate in the passenger feedback

TASK 3

Conduct research on funding options to support transportation needs of people in Planning Region 2 by looking at the Coordinated Call and private sources

Scope:

- Identify any new or existing funding opportunities available through various and diverse sources including but not limited to the Texas Department of Transportation's coordinated call, other sources of public funding, as well as private funding sources
- Conduct this research as part of an inclusive process engaging the regional steering committee and other relevant stakeholders
- Determine funding opportunities to pursue
- Present a draft report to the regional steering committee for input
- Finalize report and present to the regional steering committee for discussion and approval

Deliverables

1. A report including a list of identified funding sources & opportunities as well as a description of funding pursued during FY 2012 and the outcomes of these funding applications

2. Agenda & minutes (or summary notes) of steering committee meeting(s) documenting discussion & approval of this report

TASK 4

Plan, conduct & analyze passenger feedback surveys for riders of all public transportation providers in Planning Region 2 and summarize for future coordination/service efforts

Scope:

- Plan & design this research as part of an inclusive process engaging the regional steering committee, transportation providers in Planning Region 2, members of the public/riders & other relevant stakeholders
- Prepare & design draft questionnaires (or other survey instruments) as part of a passenger feedback survey on trip purpose, travel times, payment methods, fare costs and overall utilization of rural and urban transportation services. Surveys will also seek information on age, race, income, home language, persons with Limited English Proficiency (LEP), educational level and other information as needed to fulfill Title VI obligations
- Plan & design questionnaires in both English and Spanish
- Present draft questionnaire and proposed methodology and timeline for stakeholder input
- Finalize questionnaires (or other research instruments) and methodology
- Distribute & collect questionnaires (or other research instruments)
- Analyze data gained from this survey
- Prepare a report on the methodology/process used to conduct and analyze these surveys & include observations & recommendations.
- Present a draft report to the regional transportation steering committee for input
- Finalize report & present to the regional transportation steering committee for discussion & approval

Deliverables

1. A final report with a description of the methodology used to conduct and analyze these surveys, observations, and recommendations based on data retrieved; include completed questionnaires (or other survey instruments used to conduct research)
2. Agendas and minutes of steering committee meetings documenting discussion & approval of questionnaires, methodology & report

TASK 5

Conduct research on effective methods for connecting individuals in rural communities to Greyhound's transportation and freight services

Scope:

- Identify new or existing methods of connectivity between Greyhound's services and the 15-county South Plains region
- Identify transportation barriers and constraints preventing connectivity
- Prepare and present a draft report on potential methods of connectivity between Greyhound and rural communities to the regional transportation steering committee for input
- Finalize report & present to the regional transportation steering committee for discussion & approval

Deliverables

1. A final report on potential methods of connectivity between Greyhound and rural communities
2. An agenda and minutes of stakeholder meeting approving this report

TASK 6

Plan and conduct regularly scheduled stakeholder steering committee meetings and refine Regional Transportation Plan

Scope:

- Prepare agendas
- Conduct meetings
- Prepare minutes
- Consolidate *Plan* content into one document
- *Plan* submittal
- Finalize consolidated plan & present to the regional transportation steering committee for discussion & approval

Deliverables

1. Agendas and sign-in sheets of all conducted meetings.
2. A report detailing the discussion and focus of the meetings (i.e. minutes).
3. Final draft of the *Regional Transportation Plan*, as approved by the regional steering committee

**ATTACHMENT B
BUDGET WORKSHEET
FISCAL YEAR 2012**

DESCRIPTION	UNITS	RATE	COST
Personnel			
Compliance and Procurement Officer			\$9,603.36
General Manager			\$11,738.21
Marketing & Sales Coordinator			\$2,281.86
Administrative Assistant			\$2,520.21
Total Personnel			\$26,143.64
Fringe			
Compliance and Procurement Officer			\$1,951.68
Marketing & Sales Coordinator			\$902.16
Administrative Assistant			\$900.90
Total Fringe			\$3,754.74
Equipment			
Total Equipment			\$0.00
Supplies			
Paper	20 Reams	\$3.40	\$68.00
Pencils	6 doz	\$1.99	\$11.94
Clipboards	15	\$5.29	\$79.35
Printing	6,000	\$0.12	\$720.00
Other supplies as needed			\$1,120.71
Total Supplies			\$2000.00
Travel			
10 round trips to Levelland (20 trips total)	10 x 63.83 miles=638.3 miles		
	638.3 miles	\$ 0.555	\$354.26
1 overnight trip to Austin for 4 persons			
Mileage or airfare			\$ 737.60
Lodging	1 night x 4 persons	\$108.00 per night	\$432.00
Per Diem	2 days x 4 persons + 8 days	\$53.25 per day	\$426.00
Total Travel			\$ 1,949.86
Contractual			
Total Contractual			\$0.00
Indirect			
Total Indirect			\$0.00
TOTAL			\$33,847.00

ATTACHMENT C
PROJECTED COST / PAYMENT SCHEDULE
FISCAL YEAR 2012

This **estimated payment schedule** is for planning purposes and guidance. **Reimbursement shall be based on actual costs which may be more or less than estimated costs.** Reimbursement shall be based on receipt of approved deliverables and correct invoices for reimbursable expenses judged to be acceptable by the Public Transportation Division coordinator assigned to this particular grant

Tasks and Deliverables	Projected Cost / Payment
Task 1 Deliverables – Detailed Workplan for FY 2012	
1. A refined work plan for FY 2012 2. Agenda & minutes of steering meeting documenting discussion & approval of final FY 2012 work plan	\$1,519.70
Task 2 Deliverables – Develop promotional and market-specific outreach materials to be shared with passenger survey respondents (as described below under Task 4) in an effort to promote utilization of health and human service resources within the South Plains Region	
1. Bus passes and other materials to be used as incentives to participate in the passenger feedback	\$3,272.25
Task 3 Deliverables – Conduct research on funding options to support transportation needs of people in Planning Region 2 by looking at the Coordinated Call and private sources	
1. A report including a list of identified funding sources & opportunities as well as a description of funding pursued during FY 2012 and the outcomes of these funding applications 2. Agenda & minutes (or summary notes) of steering committee meeting(s) documenting discussion & approval of this report	\$4,093.40
Task 4 Deliverables – Plan, conduct & analyze passenger feedback surveys for riders of all public transportation providers in Planning Region 2 and summarize for future coordination/service efforts	
1. A final report with a description of the methodology used to conduct and analyze these surveys, observations, and recommendations based on data retrieved; include completed questionnaires (or other survey instruments used to conduct research) 2. Agendas and minutes of steering committee meetings documenting discussion & approval of questionnaires, methodology & report	\$13,085.26
Task 5 Deliverables – Conduct research on effective methods for connecting individuals in rural communities to Greyhound's transportation and freight services	
1. Final report on potential methods of connectivity between Greyhound & rural communities 2. An agenda & minutes of stakeholder meeting approving this report	\$4,361.15
Task 6 Deliverables – Plan and conduct regularly scheduled stakeholder steering committee meetings and refine Regional Transportation Plan	
1. Agendas and sign-in sheets of all conducted meetings 2. A report detailing the discussion and focus of the meetings (i.e. minutes) 3. Final <i>Regional Transportation Plan</i> as approved by steering committee	\$7,679.65
Total	\$33,847.00

TEXAS TRANSPORTATION COMMISSION

VARIOUS Counties

MINUTE ORDER

Page 1 of 1

ALL Districts

The Texas Transportation Commission (commission) desires to award funds to support the continued development of coordinated regional planning in public transportation.

Transportation Code, Chapter 455 assigns a broad spectrum of public transportation roles and missions to the Texas Department of Transportation (department).

Transportation Code, Chapter 456 authorizes the commission to administer funds appropriated for public transportation.

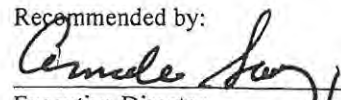
Under various sections of the United States Code, the Federal Transit Administration (FTA) provides the department with funds to be used for planning and coordination projects. Additionally the state legislature appropriates state funds as matching funds for those FTA planning programs which require a non-federal match.

IT IS THEREFORE ORDERED by the commission that the executive director or the director's designee is authorized to distribute funds as described in Exhibit A, to lead agencies responsible for regionally coordinated transportation planning, submit the necessary state application to the FTA, and enter into the necessary contracts in accordance with the priorities established in this minute order.

Submitted and reviewed by:


Deputy Director, Public Transportation Division

Recommended by:


Executive Director

112746 JUL 28 11

Minute
Number

Date
Passed

Exhibit A
REGIONAL PUBLIC TRANSPORTATION PLANNING AWARDS
FOR FISCAL YEAR 2012

Planning Region	Lead Agency	Award
1	Panhandle Regional Planning Commission	\$80,000
2	City of Lubbock/Citibus	33,847
5	Ark-Tex Council of Governments	76,000
6	East Texas Council of Governments	60,062
7	Central Texas Rural Transit District	60,340
8	County of El Paso	103,150
9	Midland-Odessa Transportation Organization	80,112
10	Concho Valley Transit District	56,724
11	Heart of Texas Council of Governments	20,362
12	Capital Area Metropolitan Planning Organization	21,820
13	Brazos Valley Council of Governments	75,000
14	Deep East Texas Council of Governments	39,550
15	South East Texas Regional Planning Commission	80,006
17	Golden Crescent Regional Planning Commission	22,334
18	Alamo Area Council of Governments	49,286
21	Lower Rio Grande Valley Development Council	16,517
24	Community Council of Southwest Texas, Inc.	59,500
Total		\$ 934,610

City of Lubbock, TX
Grant Award
Existing Grant - Budget Detail
March 6, 2012

Administrative Information

Grant Number:	88024
Grant Name:	Section 5304
Grant Effective Date:	01/01/2012-08/31/2012
Grant Provider Agency:	Texas Department of Transportation
Grant Award Amount:	\$ 33,847
Original Appropriation Date:	September 8, 2011
Original Appropriation - Ordinance:	2011-O0080

Budget Information:	FY 2011-12		
	Appropriation	Amendment	Total
Grant Detail			
Salaries	\$ 13,002	13,141	26,143
Benefits		3,754	3,754
Supplies		2,000	2,000
Professional Services/ Training		1,950	1,950
Total	\$ 13,002	20,845	33,847

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 Contract, by and between the City of Lubbock and Texas Department of Housing and Community Affairs, from the Community Services Block Grant to provide assistance to reduce poverty, and all 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.

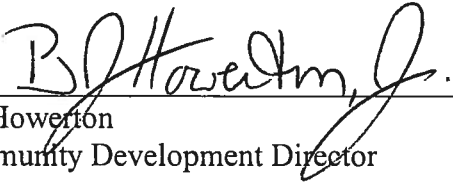
Passed by the City Council this _____, 2012

TOM MARTIN, MAYOR

ATTEST:

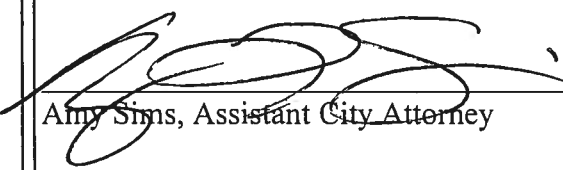
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Bill Howerton
Community Development Director

APPROVED AS TO FORM:



Amy Sims, Assistant City Attorney

gs/ccdocs/CDBG-TexDept of Housing&Community Affairs.12
1.8.12

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CONTRACT NO. **61120001291** FOR THE
FY 2012 COMMUNITY SERVICES BLOCK GRANT PROGRAM ("CSBG")
CFDA#93.569

SECTION 1. PARTIES TO THE CONTRACT

This CSBG Contract No. **61120001291** (herein the "Contract") is made by and between the Texas Department of Housing and Community Affairs, a public and official agency of the State of Texas, (herein the "Department") and **City of Lubbock** a political subdivision of the State of Texas (herein the "Subrecipient") hereinafter (the "Parties").

SECTION 2. CONTRACT PERIOD

This Contract shall commence on **January 01, 2012**, and, unless earlier terminated, shall end on **December 31, 2012** (herein the "Contract Period").

SECTION 3. SUBRECIPIENT PERFORMANCE

Pursuant to Chapter 106 of the Community Services Block Grant Act (42 U.S.C. §9901 et seq.) (herein the "CSBG Act"), as amended by the "Community Services Block Grant Amendments of 1994" (P.L. 103-252) and the Coats Human Services Reauthorization Act of 1998 (P.L. 105-285); Chapter 2306 of the Texas Government Code (herein the "State Act"); the implementing State regulations under Title 10, Part 1, Chapter 5, Subchapters A (except those sections in Subchapter A that relate to the suspension, reduction, withholding or termination of funding) and B of the Texas Administrative Code, as amended or supplemented from time to time (herein the "CSBG State Rules"); and the Department's guidance related to CSBG; Subrecipient shall operate on an equitable basis throughout Subrecipient's service area and shall utilize funds for the reduction, the revitalization of communities, and the empowerment of low-income families and individuals to become fully self-sufficient. Subrecipient shall provide services and activities of the type specified in 42 U.S.C. §§ 9901, 9907 excluding (c), and 9908. Subrecipient agrees to perform all activities in accordance with the annual Community Action Plan (as defined in Section 35 of this Contract); the terms of the performance statement and budget submitted with the annual Community Action Plan approved by the Department as said performance state and budget may be amended from time to time; the Certifications attached hereto as Exhibit A; all such Exhibits incorporated herein for all relevant purposes; the assurances, certifications, and all other statements made by Subrecipient in its application for funding under this Contract; and with all other terms, provisions, and requirements herein set forth. Subrecipient's service area consists of the following counties:

LUBBOCK

SECTION 4. DEPARTMENT OBLIGATIONS

- A. In consideration of Subrecipient's full and satisfactory performance of this Contract, Department shall reimburse the actual allowable costs incurred by Subrecipient in an amount up to: **\$77,269.00** in accordance with the budget as approved by the Department and the terms of this Contract.
- B. Any decision to obligate additional funds or deobligate funds shall be made in writing by Department in its sole discretion based upon the status of funding under grants to Department and Subrecipient's overall compliance with the terms of this Contract.
- C. Department's obligations under this Contract are contingent upon the actual receipt of adequate CSBG funds from the U.S. Department of Health and Human Services (hereinafter "HHS") and the State of Texas. If sufficient funds are not available to make payments under this Contract, Department shall notify Subrecipient in writing within a reasonable time after such fact is determined. Department shall then terminate this Contract and will not be liable for the failure to make any payment to Subrecipient under this Contract.
- D. Subrecipient shall refund to Department any sum of money which has been paid to Subrecipient by Department, which Department determines has resulted in an overpayment, or which Department determines has not been spent strictly in accordance with the terms of this Contract. Subrecipient shall make such refund within fifteen (15) days after the Department's request.

- E. Department shall not release any funds under this Contract until Department has determined in writing that Subrecipient's fiscal control and fund accounting procedures are adequate to assure the proper disbursement of and accounting for such funds.

SECTION 5. METHOD OF PAYMENT/CASH BALANCES

- A. Subrecipients may request an advance for up to 30 days. As per 2 CFR Part 215.21, a cash advance must be limited to the minimum amount needed and be timed to be in accordance with the actual, immediate cash requirements.
- B. In order to request an advance payment, subrecipient must submit to Department a properly completed Expenditure Report that includes a request for advance funds (Projected Expenses) together with such supporting documentation as the Department may reasonably request.
- C. Subrecipient shall establish procedures to minimize the time elapsing between the transfer of funds from Department to Subrecipient and the disbursement of such funds by Subrecipient.
- D. Department may use a cost reimbursement method of payment, and suspend reimbursements, if at any time (1) Department determines that Subrecipient has maintained cash balances in excess of need, (2) Department identifies any deficiency in the cash controls or financial management system used by Subrecipient, or (3) Subrecipient fails to comply with the reporting requirements of Section 11.
- E. All funds paid to Subrecipient pursuant to this Contract are for the payment of allowable expenditures to be used for the exclusive benefit of the low-income population of Subrecipient's service area.
- F. Department may offset or withhold any amounts otherwise owed to Subrecipient under this Contract against any amount owed by Subrecipient to Department arising under this Contract.

SECTION 6. COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

- A. Except as expressly modified by law or the terms of this Contract, Subrecipient shall comply with the cost principles and uniform administrative requirements set forth in the Uniform Grant Management Standards, 1 T.A.C. §5.141 et seq. (herein "Uniform Grant Management Standards"). All references therein to "local government" shall be construed to mean Subrecipient.
- B. Except as expressly modified by law or the terms of this Contract, Subrecipient shall comply with the uniform cost principles for governments set forth in OMB Circular A-87, as implemented by 2 C.F.R. Part 225 and for non-profit organizations in OMB Circular A-122, as implemented by 2 C.F.R. Part 230; Uniform administrative requirements for governments set forth in OMB Circular A-102, and for private non-profits in OMB Circular A-110. OMB Circular A-133 "Audits of States, Local Governments, and Non-Profit Organizations," sets forth audit standards for governmental organizations and other organizations expending Federal funds. The expenditure threshold requiring an audit under circular A-133 is \$500,000 of Federal funds or \$500,000 of State funds.
- C. Notwithstanding any other provision of this Contract, Department shall only be liable to Subrecipient for costs incurred or performances rendered for activities specified in the CSBG Act.
- D. Department shall not be liable to Subrecipient for certain costs, including but not limited to costs which:
- (1) have been reimbursed to Subrecipient or are subject to reimbursement to Subrecipient by any source other than Department;
 - (2) are not allowable costs, as set forth in the CSBG Act and Section 6(A) of this Contract;
 - (3) are not strictly in accordance with the terms of this Contract, including the exhibits;
 - (4) have not been reported to Department within sixty (60) days following termination of this Contract; or
 - (5) are not incurred during the Contract Period.

SECTION 7. TERMINATION AND SUSPENSION

- A. As per 10 TAC 5.206, Department may terminate or suspend this Contract, in whole or in part, at any time Department determines that there is cause for termination. Cause for termination includes, but is not limited to, Subrecipient's failure to comply with any term of this Contract or reasonable belief that Subrecipient cannot or will not comply with the requirements of this Contract. If the Department determines that an Subrecipient has failed to comply with the terms of the Contract, or to provide services that meet appropriate standards, goals, or other requirements established by the Department, the Department will notify Subrecipient of the deficiencies to be corrected and require the deficiencies be corrected prior to implementing suspension.
- B. Nothing in this Section shall be construed to limit Department's authority to withhold payment and immediately suspend this Contract if Department identifies possible instances of fraud, abuse, waste, fiscal mismanagement, or other deficiencies in Subrecipient's performance. Suspension shall be a temporary measure pending either corrective action by Subrecipient or a decision by Department to terminate this Contract.
- C. Department shall not be liable for any costs incurred by Subrecipient after termination or during suspension of this Contract.
- D. Notwithstanding any exercise by Department of its right of termination or suspension, Subrecipient shall not be relieved of any liability to Department for damages by virtue of any breach of this Contract by Subrecipient.

SECTION 8. CHANGES AND AMENDMENTS

- A. Any change, addition, or deletion to the terms of this Contract required by a change in state or federal law or regulation is automatically incorporated herein and is effective on the date designated by such law or regulations.
- B. Except as specifically provided otherwise in this Contract, any changes, additions, or deletions to the terms of this Contract shall be in writing and executed by both Parties to this Contract. If any Party returns an executed copy by facsimile machine or electronic transmission, the signing party intends the copy of its authorized signature printed by the receiving machine or the electronic transmission, to be its original signature.

SECTION 9. TECHNICAL ASSISTANCE AND MONITORING

Department or its designee may conduct periodic on-site monitoring and evaluation of the efficiency, economy, and efficacy of Subrecipient's performance of this Contract. Department will advise Subrecipient in writing of any deficiencies noted during such monitoring. Department will provide technical assistance to Subrecipient and will require or suggest changes in Subrecipient's program implementation or in Subrecipient's accounting, personnel, procurement, and management procedures in order to correct any deficiencies noted. Department may conduct follow-up visits to review and assess the efforts Subrecipient has made to correct previously noted deficiencies. Department may place Subrecipient on a cost reimbursement method of payment, suspend or terminate this Contract, or invoke other remedies in the event monitoring or other reliable sources reveal material deficiencies in Subrecipient's performance or if Subrecipient fails to correct any deficiency within the time allowed by federal or state law or regulation or by the terms of this Contract.

SECTION 10. RETENTION AND ACCESSIBILITY OF RECORDS

- A. Subrecipient shall maintain fiscal and programmatic records and supporting documentation for all expenditures made under this Contract in accordance with the Uniform Grant Management Standards, Section III, Common Rule: State Uniform Administrative Requirements for Grants and Cooperative Agreements, Subpart C -Post Award Requirements, __.42.
- B. Open Records. Subrecipient acknowledges that all information collected, assembled, or maintained by Subrecipient pertaining to this Contract is subject to the Texas Public Information Act, Chapter 552 of Texas Government Code and must provide citizens, public agencies, and other interested parties with reasonable access to all records pertaining to this Contract subject to and in accordance with the Texas Public Information Act.

C. Subrecipient shall give the HHS, the U.S. General Accounting Office, the Texas Comptroller, the State Auditor's Office, and Department, or any of their duly authorized representatives, access to and the right to examine and copy, on or off the premises of Subrecipient, all records pertaining to this Contract. Such right to access shall continue as long as the records are retained by Subrecipient. Subrecipient agrees to maintain such records in an accessible location for the greater of: (i) four (4) years; (ii) if notified by the Department in writing, the date that the final audit is accepted with all audit issues resolved to the Department's satisfaction; (iii) if any litigation claim, negotiation, inspection, or other action has started before the expiration of the required retention period records must be retained until completion of the action and resolution of all issues which arise under it; (iv) a date consistent with any other period required by federal or state law or regulation. Subrecipient agrees to cooperate with any examination conducted pursuant to this Subsection. Upon termination of this Contract, all records are property of the Department.

D. Subrecipient shall include the substance of this Section 10 in all subcontracts.

SECTION 11. REPORTING REQUIREMENTS

A. Subrecipient shall submit to Department such reports on the performance of this Contract as may be required by Department including, but not limited to, the reports specified in this Section.

B. Subrecipient shall electronically submit a Performance Report and Expenditure Report to the Department on or before the fifteenth (15th) day of each month following the reported month in the Contract Period, regardless of whether Subrecipient makes a fund request. Subrecipient must file a monthly Performance and Expenditure report in a timely manner, prior to accessing funds. The failure of Subrecipient to provide a full accounting of all funds expended under this Contract shall result in the automatic suspension of the ability of Subrecipient to request reimbursements and shall be identified as a finding in any monitoring review in accordance with the State CSBG Rules.

C. Subrecipient shall submit a final Performance Report and a final Expenditure Report to the Department after the end of the Contract Period. Subrecipient must file a final Performance and Expenditure report prior to accessing funds in the subsequent fiscal year. The failure of Subrecipient to provide a full accounting of all funds expended under this Contract shall impact the ability of Subrecipient to request reimbursements and shall be identified as findings in monitoring reviews.

D. Subrecipient shall annually submit to Department, no later than the last day of February, a cumulative inventory of all equipment acquired, in whole or in part, with funds received under this or previous CSBG contracts. Upon the termination of this Contract, Department may transfer title to any equipment to the Department or to any other entity receiving CSBG funds from the Department.

E. If Subrecipient fails to submit within forty-five (45) days of its due date, any report or response required by this Contract, including responses to monitoring reports, Department may, in its sole discretion, suspend payments, place Subrecipient on cost reimbursement method of payment, and initiate proceedings to terminate the Contract. If Subrecipient receives CSBG funds from Department over two or more contract periods, termination proceedings may be initiated on this Contract for Subrecipient's failure to submit a report, including an audit report, past due from a prior contract.

F. Subrecipient shall provide the Department with a Data Universal Numbering System (DUNS) number and a Central Contractor Registration (CCR) System number. The DUNS number must be provided in a document from Dun and Bradstreet and the current CCR number must be submitted from a document retrieved from the <https://www.bpn.gov/ccr/default.aspx> website. These documents must be provided to the Department prior to the processing first payment to Subrecipient. Subrecipient shall maintain a current DUNS number and CCR number for the entire Contract Period.

SECTION 12. PROCUREMENT STANDARDS

- A. Subrecipient shall comply with 24 C.F.R. Part 84, this contract, and all applicable federal, state, and local laws, regulations, and ordinances for making procurements under this contract.
- B. Subrecipient may not use funds provided under this Contract to purchase personal property, equipment, goods, or services with a unit acquisition cost (the net invoice unit price of an item of equipment) of more than \$5,000 unless Subrecipient has received the prior written approval of Department for such purchase.
- C. When the Subrecipient no longer needs equipment purchased with CSBG grant funds, regardless of purchase price, or upon the termination of this Contract, Department may take possession and transfer title to any such property or equipment to the Department or to a third party or may seek reimbursement from Subrecipient of the current unit price of the item of equipment, in Department's sole determination. Subrecipient must request permission from the Department to transfer title or dispose of equipment purchased with CSBG grant funds.

SECTION 13. INDEPENDENT CONTRACTOR

Subrecipient is an independent contractor. Subrecipient agrees to hold Department harmless and, to the extent allowed by law, indemnify it against any disallowed costs or other claims which may be asserted by any third party in connection with Subrecipient's performance of this Contract.

SECTION 14. SUBCONTRACTS

- A. Subrecipient may not subcontract the primary performance of this Contract and only may enter into contractual agreements for consulting and other professional services, if Subrecipient has received Department's prior written approval. Subrecipient may subcontract for the delivery of client assistance without obtaining Department's prior approval. Any subcontract for the delivery of client assistance will be subject to monitoring by the Department as per Section 9.
- B. In no event shall any provision of this Section 14, specifically the requirement that Subrecipient obtain Department's prior written approval of a subcontractor, be construed as relieving Subrecipient of the responsibility for ensuring that the performances rendered under all subcontracts are rendered so as to comply with all of the terms of this Contract, as if such performances rendered were rendered by Subrecipient. Department's approval under this Section does not constitute adoption, ratification, or acceptance of Subrecipient's or subcontractor's performance hereunder. Department maintains the right to monitor and require Subrecipient's full compliance with the terms of this Contract. Department's approval under this Section does not waive any right of action which may exist or which may subsequently accrue to Department under this Contract.

SECTION 15. CONFLICT OF INTEREST

It is the responsibility of the Subrecipient to comply with all applicable laws, rules, regulations, ordinances, and other legal requirements regarding conflicts of interest and nepotism. In that regard the Subrecipient is required to have in place and at all times follow policies to ensure such compliance and to avoid prohibited conflicts of interest or the appearance thereof. If an actual or suspected conflict of interest or the appearance thereof occurs or is alleged, Subrecipient shall promptly identify same, review the matter with its counsel, and advise the Department (i) what, factually, occurred, (ii) was there any violation of legal requirements or policy, and (ii) if there was a violation, what will be the corrective action to address that matter and prevent any recurrences.

SECTION 16. COMPLIANCE WITH LAWS

- A. **FEDERAL, STATE AND LOCAL LAW.** Subrecipient shall comply with the CSBG Act, the federal rules and regulations promulgated under the CSBG Act, the State Act, the State CSBG Rules, and all federal, state, and local laws and regulations applicable to the performance of this Contract.
- B. **DRUG-FREE WORKPLACE ACT OF 1988.** The Subrecipient affirms by signing this contract that it is implementing the Drug-Free Workplace Act of 1988.
- C. **PRO-CHILDREN ACT OF 1994.** Subrecipient shall follow the requirements of the Pro-Children Act of 1994, (20 U.S.C. Sec. 6081 et seq.) which requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18 if the services are funded by Federal programs either directly or through States or local governments by Federal grant, contract, loan or loan guarantee.

D. **LIMITED ENGLISH PROFICIENCY (LEP).** Subrecipients must provide program applications, forms, and educational materials in English, Spanish, and any appropriate language, based on the needs of the service area and in compliance with the requirements in Executive Order 13166 of August 11, 2000. To ensure compliance, the Subrecipient must take reasonable steps to insure that persons with Limited English Proficiency have meaningful access to the program. Meaningful access may entail provide language assistance services, including oral and written translation, where necessary.

SECTION 17. PROGRAM INCOME

Subrecipient shall account for and expend program income derived from activities financed in whole or in part with funds provided under this contract in accordance with the Uniform Grant Management Standards, Common Rule, §_25, OMB Circular A-110 §_24, and OMB Circular A-102, Attachment, 2e.

SECTION 18. TECHNICAL GUIDANCE

Department may issue technical guidance to explain the rules and provide directions on terms of this Contract.

SECTION 19. NON-DISCRIMINATION AND EQUAL OPPORTUNITY

- A. A person shall not be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in the administration of or in connection with any program or activity funded in whole or in part with funds made available under this Contract, on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief.
- B. Subrecipient agrees to carry out an Equal Employment Opportunity Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965.
- C. Subrecipient will include the substance of Section 19 in all subcontracts.

SECTION 20. LEGAL AUTHORITY

- A. Subrecipient assures and guarantees that it possesses the legal authority to enter into this Contract, to receive and manage the funds authorized by this Contract, and to perform the services Subrecipient has obligated itself to perform hereunder. The execution, delivery, and performance of this Contract will not violate Subrecipient's constitutive documents or any requirement to which Subrecipient is subject and represents the legal, valid, and binding agreement of Subrecipient, enforceable in accordance with its terms.
- B. The person signing this Contract on behalf of Subrecipient hereby warrants that he/she has been duly authorized by Subrecipient's governing board to execute this Contract on behalf of Subrecipient and to validly and legally bind Subrecipient to the terms, provisions and performances herein.
- C. Department shall have the right to terminate this Contract if there is a dispute as to the legal authority of either Subrecipient or the person signing this Contract on behalf of Subrecipient to enter into this Contract or to render performances hereunder. Subrecipient is liable to Department for any money it has received from Department for performance of the provisions of this Contract, if the Department has terminated this Contract for reasons enumerated in this Section 20.

SECTION 21. AUDIT

- A. Subrecipient shall submit to Department, within sixty (60) days after the end of each fiscal year, an Audit Certification Form as specified by Department for each fiscal year in which any month of the Subrecipient's fiscal year overlaps a month of the Contract Period. Unless otherwise directed by Department, Subrecipient shall arrange for the performance of an annual financial and compliance audit of funds received and performances rendered under this Contract, subject to the following conditions and limitations:
 - (i) Subrecipient shall have an audit conducted in accordance with 24 C.F.R. §84.26, OMB Circular A-133; and 31 U.S.C. 7501 for any of its fiscal years included within the Contract Period in which Subrecipient has expenses of more than \$500,000 in state funds or \$500,000 in federal financial assistance provided by a federal agency in the form of grants, contracts, loans, loan guarantees, property, cooperative agreements, interest subsidies, insurance or direct appropriations, but does not include direct federal cash assistance to individuals. The term federal financial assistance includes awards of financial assistance received directly from federal agencies, or indirectly through other units of State and local government.

- (ii) At the option of Subrecipient, each audit required by this section may cover Subrecipient's entire operations or each department, agency, or establishment of Subrecipient which received, expended, or otherwise administered federal funds.
- (iii) Notwithstanding anything to the contrary herein, Subrecipient may utilize funds budgeted under this Contract to pay for that portion of the cost of such audit services properly allocable to the activities funded by Department under this Contract.
- (iv) Unless otherwise specifically authorized by Department in writing, Subrecipient shall submit two (2) copies of the audit report to the Department's Compliance and Asset Oversight Division and one (1) copy of the audit report to the Department's Community Affairs Division within thirty (30) days after completion of the audit, but no later than nine (9) months after the end of each fiscal period included within the period of this Contract. Audits performed under this section are subject to review and resolution of findings by the Department or its authorized representative.

- B. Notwithstanding anything herein to the contrary, Department reserves the right to conduct an annual financial and compliance audit of funds received and performances rendered under this Contract. Subrecipient agrees to permit Department, or its authorized representative, to audit Subrecipient's records and to obtain any documents, materials, or information necessary to facilitate such audit. Such financial and compliance audits may occur after the close of the Contract Period.
- C. Subrecipient understands and agrees that it shall be liable to Department for any costs disallowed pursuant to financial and compliance audit(s) of funds received under this Contract. Subrecipient further understands and agrees that reimbursement to Department of such disallowed costs shall be paid by Subrecipient from funds which were not provided or otherwise made available to Subrecipient under this Contract.
- D. Subrecipient shall facilitate the performance of such audit or audits conducted pursuant to this section as Department may require of Subrecipient.
- E. All approved CSBG audit reports shall be made available for public inspection within thirty (30) days after completion of the audit.
- F. The Subrecipient shall include language in any subcontract that provides the Department the ability to directly review, monitor, and/or audit the operational and financial performance and/or records of work performed under this Contract.
- G. Department reserves the right to conduct additional audits of the funds received and performances rendered under this Contract. Subrecipient agrees to permit Department or its authorized representative to audit Subrecipient's records and to obtain any documents, materials, or information necessary to facilitate such audit.

SECTION 22. TRAVEL

Subrecipient shall adhere to OMB Circulars (A-87 and A-122 as appropriate), and either its board-approved travel policy, or the State of Texas travel policies. Subrecipient's written travel policy shall delineate the rates which Subrecipient shall use in computing the travel and per diem expenses of its board members and employees.

SECTION 23. POLITICAL ACTIVITY PROHIBITED

- A. None of the funds provided under this contract shall be used for influencing the outcome of any election, or the passage or defeat of any legislative measure. This prohibition shall not be construed to prevent any official or employee of Subrecipient from furnishing to any member of its governing body upon request, or to any other local or state official or employee or to any citizen, information in the hands of the employee or official not considered under law to be confidential information. Any action taken against an employee or official for supplying such information shall subject the person initiating the action to immediate dismissal from employment.
- B. No funds provided under this contract may be used directly or indirectly to hire employees or in any other way fund or support candidates for the legislative, executive, or judicial branches of government of Subrecipient, the State of Texas, or the government of the United States.

SECTION 24. FAITH BASED AND SECTARIAN ACTIVITY

Funds provided under this Contract may not be used for sectarian or inherently religious activities such as worship, religious instruction or proselytization, and must be for the benefit of persons regardless of religious affiliation. Subrecipient shall comply with the regulations promulgated by the HHS at 45 C.F.R. §87.2.

SECTION 25. USE OF ALCOHOLIC BEVERAGES

Funds provided under this Contract may not be used for the payment of salaries to any Subrecipient's employees who use alcoholic beverages while on active duty, for travel expenses expended for alcoholic beverages, or for the purchase of alcoholic beverages.

SECTION 26. COPYRIGHT

Subrecipient may copyright materials developed in the performance of this Contract or with funds expended under this Contract. Department and HHS shall each have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the copyrighted work for government purposes.

SECTION 27. PREVENTION OF WASTE, FRAUD, AND ABUSE

- A. Subrecipient shall establish, maintain, and utilize systems and procedures to prevent, detect, and correct waste, fraud, and abuse in activities funded under this Contract. The systems and procedures shall address possible waste, fraud, and abuse by Subrecipient, its employees, clients, vendors, subcontractors and administering agencies. Subrecipient's internal controls systems and all transactions and other significant events are to be clearly documented, and the documentation is to be readily available for monitoring by Department.
- B. Subrecipient shall give Department complete access to all of its records, employees, and agents for the purpose of monitoring or investigating the CSBG program. Subrecipient shall immediately notify Department of any discovery of waste, fraud, or abuse. Subrecipient shall fully cooperate with Department's efforts to detect, investigate, and prevent waste, fraud, and abuse.
- C. Subrecipient shall not discriminate against any employee or other person who reports a violation of the terms of this Contract, or of any law or regulation, to Department or to any appropriate law enforcement authority, if the report is made in good faith.

SECTION 28. CERTIFICATION REGARDING UNDOCUMENTED WORKERS

Pursuant to Chapter 2264 of the Texas Government Code, by execution of this Contract, Subrecipient hereby certifies that Subrecipient, or a branch, division, or department of Subrecipient does not and will not knowingly employ an undocumented worker, where "undocumented worker" means an individual who, at the time of employment, is not lawfully admitted for permanent residence to the United States or authorized under law to be employed in that manner in the United States. If, after receiving a public subsidy, Subrecipient or a branch, division, or department of Subrecipient is convicted of a violation under 8 U.S.C. Section 1324a (f), Subrecipient shall repay the public subsidy with interest, at the rate of five percent (5%) per annum, not later than the 120th day after the date the Department notifies Subrecipient of the violation.

SECTION 29. CERTIFICATION REGARDING CERTAIN DISASTER RELIEF CONTRACTS

The Department may not award a Contract that includes proposed financial participation by a person who, during the five year period preceding the date of this Contract, has been convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or assessed a penalty in a federal, civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005.

By execution of this Contract, the Administrator hereby certifies that it is eligible to participate in this Program and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

SECTION 30. EXCLUDED DEBARRED AND SUSPENDED PARTIES

By signing this Contract, Subrecipient certifies that neither it nor its current principle parties are included in the Excluded Parties List System (EPLS) maintained by the General Services Administration (GSA). Subrecipient also certifies that it will not award any funds provided by this Contract to any party that is debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549. Subrecipient agrees that prior to entering into any agreement with a potential subcontractor that the verification process to comply with this requirement will be accomplished by checking the Excluded Parties List System at <http://www.epls.gov/> or by collecting a certification from the potential subcontractor.

SECTION 31. MAINTENANCE OF EFFORT

Funds provided to Subrecipient under this Contract may not be substituted for funds or resources from any other source or in any way serve to reduce the funds or resources which would have been available to or provided through Subrecipient had this Contract never been executed.

SECTION 32. NO WAIVER

Any right or remedy given to Department by this Contract shall not preclude the existence of any other right or remedy, nor shall any action taken in the exercise of any right or remedy be deemed a waiver of any other right or remedy. The failure of Department to exercise any right or remedy on any occasion shall not constitute a waiver of Department's right to exercise that or any other right or remedy at a later time.

SECTION 33. SEVERABILITY

If any section or provision of this Contract is held to be invalid or unenforceable by a court or an administrative tribunal of competent jurisdiction, the remainder shall remain valid and binding.

SECTION 34. ORAL AND WRITTEN AGREEMENTS

- A. All oral and written agreements between the parties to this Contract relating to the subject matter of this Contract have been reduced to writing and are contained in this Contract.
- B. The attachments enumerated and denominated below are a part of this Contract and constitute promised performances under this Contract:
 - 1. Exhibit A-- Certification Regarding Lobbying for Contracts, Grants, Loans, and Cooperative Agreements

SECTION 35. COMMUNITY ACTION PLAN

Each eligible entity, as a condition of receipt of funding under this Act, shall submit to the Department a community action plan annually by October 31 that includes:

- A. a community needs assessment every five years (next one due October 31, 2015);
- B. a description of the service delivery system targeted to low-income individuals and families in the service area, including homeless individuals and families, migrants, and the elderly poor;
- C. a description of how linkages will be developed to fill identified gaps in services through information, referral, case management, and follow-up consultations;
- D. a description of how funding under this Act will be coordinated with other public and private resources; and,
- E. a description of outcome measures to be used to monitor success in promoting self-sufficiency, family stability, and community revitalization.

SECTION 36. FORCE MAJURE

If the obligations are delayed by the following, an equitable adjustment will be made for delay or failure to perform hereunder:

- A. Any of the following events: (i) catastrophic weather conditions or other extraordinary elements of nature or acts of God; (ii) acts of war (declared or undeclared), (iii) acts of terrorism, insurrection, riots, civil disorders, rebellion or sabotage; and (iv) quarantines, embargoes and other similar unusual actions of federal, provincial, local or foreign Governmental Authorities; and
- B. The non-performing party is without fault in causing or failing to prevent the occurrence of such event, and such occurrence could not have been circumvented by reasonable precautions and could not have been prevented or circumvented through the use of commercially reasonable alternative sources, workaround plans or other means.

SECTION 37. TIME IS OF THE ESSENCE

Time is of the essence with respect to Subrecipient's compliance with all covenants, agreements, terms and conditions of this Contract.

SECTION 38. COUNTERPARTS AND FACSIMILE SIGNATURES

This Contract may be executed in one or more counterparts each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Signed signature pages may be transmitted by facsimile or other electronic transmission, and any such signature shall have the same legal effect as an original.

SECTION 39. NUMBER, GENDER

Unless the context requires otherwise, the words of the masculine gender shall include the feminine, and singular words shall include the plural.

SECTION 40. NOTICE

A. If notice is provided concerning this Contract, notice may be given at the following (herein referred to as "Notice Address"):

As to Department:

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
P. O. Box 13941
Austin, Texas 78711-3941
Attention: Alfredo Mycue
Telephone: (512) 936-7823
Fax: (512) 475-3539
alfredo.mycue@tdhca.state.tx.us

As to Subrecipient:

City of Lubbock
PO Box 2000
Lubbock, TX 79457
Attention: Phyllis Brown, Executive Director
Telephone: (806) 775-7523 Fax: (806) 775-7539 Email: pbrown@mylubbock.us

B. All notices or other communications hereunder shall be deemed given when delivered, mailed by overnight service, or five days after mailing by certified or registered mail, postage prepaid, return receipt requested, addressed to the appropriate Notice Address as defined in the above Subsection A of this Section 40.

SECTION 41. VENUE AND JURISDICTION

This Contract is delivered and intended to be performed in the State of Texas. For purposes of litigation pursuant to this Contract, venue shall lie in Travis County, Texas.

EXECUTED to be effective on **January 01, 2012**

City of Lubbock

a political subdivision of the State of Texas

By:
Title:
Date:

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, a public and official agency of the State of Texas

By:
Title: Its duly authorized officer or representative
Date:

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CONTRACT NO. **61120001291** FOR THE
FY 2012 COMMUNITY SERVICES BLOCK GRANT PROGRAM ("CSBG")
CFDA#93.569

EXHIBIT A

**CERTIFICATION REGARDING LOBBYING FOR
CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS**

City of Lubbock
a political subdivision of the State of Texas

The undersigned certifies, to the best of its knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an 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, or modification of any federal contract, grant, loan, or cooperative agreement.
2. 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, the undersigned shall complete and submit standard form -LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
3. The undersigned shall require that the language 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 sub-recipients shall certify and disclose accordingly.

This certification is material representation of fact on 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.

City of Lubbock
a political subdivision of the State of Texas

By:
Title:
Date:

City of Lubbock, TX
Grant Award
New Grant - Budget Detail
March 6, 2012

Administrative Information:

Grant Number:	82047
Grant Name:	Community Services Block Grant
Grant Effective Date:	1/1/2012-12/31/2012
Grant Provider/Agency:	Texas Department of Housing and Community Affairs

Personnel Information:

No. of full-time positions funded w/grant 5

Title of Position	Annual Salary	Annual Benefits	Grant	Other Grant	General Fund
Program Specialist	\$ 41,431	21,393	4,650	58,174	-
Account Analyst	60,902	26,668	2,036	85,534	-
Administrative Assistant	22,734	16,247	3,875	35,106	-
CD Director & Citibus Liaison	84,863	33,380	2,955	115,288	-
CD Contract Coordinator	57,251	25,760	4,127	78,884	-
	\$ 267,181	123,448	17,643	372,986	-

Budget Information:

Grant Appropriation Detail

	Cost
Salaries	\$ 11,762
Benefits	5,881
Travel	426
Supplies	777
Audit	1,014
Advertising	122
Indirect Cost	2,433
Contractual	
Catholic Charities, Diocese of Lubbock	40,253
South Plains Association of Governments	9,531
Comprehensive Energy Assistance Program Support	5,070
Total Appropriation	\$ 77,269



Regular City Council Meeting

5. 2.

Meeting Date: 03/06/2012

Information

Agenda Item

Ordinance 1st and Only Reading - Finance: Consider and take action on an ordinance providing for the issuance of City of Lubbock, Texas, Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2012, in an amount not to exceed \$81,000,000; levying a tax and pledging surplus Waterworks System revenues in payment thereof; approving the official statement; approving execution of a purchase contract; and enacting other provisions relating thereto.

Item Summary

On January 26, 2012, the City Council approved the first step in the issuance process by authorizing publication of a Notice of Intent to Issue Certificates of Obligation. Upon approval of this ordinance, the City will be able to sell the Certificates of Obligation on a negotiated basis.

The ordinance is a "parameters ordinance" delegating authority to the City Manager or Chief Financial Officer (Authorized Officers) authorizing the timing, terms (including the number of series), and interest rates, of the issuance. The ordinance designates parameters to which the Authorized Officers must conform while executing the sale of the certificates. The designated authority allows the City to attain the most attractive rates or terms by timing the issuance under the best market conditions.

The following conditions must be satisfied in order for the Authorized Officers to act on behalf of the City in selling and delivering the Certificates to the Underwriter:

- a) the Certificates shall not bear interest at a rate greater than the maximum rate allowed by Chapter 1204, Texas Government Code, as amended;
- b) the aggregate principal amount of the Certificates shall produce proceeds in an amount sufficient, as determined by the Authorized Officer, to fund the purposes described in Section 3.01 and such aggregate principal amount shall not exceed \$81,000,000;
- c) the maximum maturity for the Certificates shall not exceed 21 years; and
- d) the Certificates to be issued, prior to delivery, must have been rated by a nationally recognized rating agency for municipal securities in one of the four highest rating categories for long term obligations.

On the date of execution, the City will sell the Certificates on a negotiated basis. The City and RBC Capital Markets, the City's financial advisor, will negotiate a purchase price for the Certificates with the City's underwriters (Citigroup Global Markets, senior underwriter, Morgan Keegan & Company, Inc., Barclays Capital Inc., and Hutchinson Shockey Erley & Company). The projects scheduled to be funded with the Certificates are included in Attachment A with a total cost of \$72,107,650.

Senate Bill 1759 of the 77th Legislative Session amends Subchapter B, Chapter 1201, of the Texas Government Code under Section 1201.028(3) allowing the authorization of a public security with only one reading of the ordinance. The ordinance excludes certain information that is unknown as of the printing of the backup material.

Examples include annual principal and interest amounts and maturity dates. Once negotiations have concluded, the information is included and a final ordinance provided to the City Council.

Fiscal Impact

Included in Item Summary.

Staff/Board Recommending

Andy Burcham, Chief Financial Officer

Attachments

Ordinance - CO 2012

Attachment A - CO Capital Project

ORDINANCE

relating to

CITY OF LUBBOCK, TEXAS
TAX AND WATERWORKS SYSTEM SURPLUS REVENUE
CERTIFICATES OF OBLIGATION
SERIES 2012

Adopted: March 6, 2012

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AN ORDINANCE PROVIDING FOR THE ISSUANCE OF CITY OF LUBBOCK, TEXAS, TAX AND WATERWORKS SYSTEM SURPLUS REVENUE CERTIFICATES OF OBLIGATION, SERIES 2012 IN AN AMOUNT NOT TO EXCEED \$81,000,000 LEVYING A TAX AND PLEDGING SURPLUS WATERWORKS SYSTEM REVENUES IN PAYMENT THEREOF; APPROVING THE OFFICIAL STATEMENT; APPROVING EXECUTION OF A PURCHASE CONTRACT; AND ENACTING OTHER PROVISIONS RELATING THERETO

WHEREAS, under the provisions of Subchapter C, Chapter 271, Texas Local Government Code, as amended, the City of Lubbock, Texas (the "City"), after giving proper notice, is authorized to issue and sell for cash its certificates of obligation (herein defined as the "Certificates") that are secured by and payable from the ad valorem taxes and other revenues specified in Article II of this Ordinance, and that are issued in the amount, for the purposes, and with the provisions set forth in Section 3.01 of this Ordinance;

WHEREAS, pursuant to a resolution heretofore passed by the City Council, notice of intention to issue the Certificates was published in a newspaper of general circulation in the City in accordance with applicable law;

WHEREAS, no petition has been filed with the City Secretary, any member of the City Council or any other official of the City, protesting the issuance of the Certificates;

WHEREAS, the City Council is now authorized and empowered to proceed with the issuance and sale of the Certificates, and has found and determined that it is necessary and in the best interests of the City and its citizens that it authorize the issuance of the Certificates in accordance with the terms and provisions of this Ordinance at this time;

WHEREAS, the City Council desires to delegate, pursuant to Chapter 1371, Texas Government Code, as amended, and the parameters of this Ordinance, to the Authorized Officer, the authority to approve the amount, the interest rate, the price and terms of the Certificates authorized hereby and to otherwise take such actions as are necessary and appropriate to effect the sale of the Certificates;

WHEREAS, the meeting at which this Ordinance is considered is open to the public as required by law, and public notice of the time, place, and purpose of said meeting was given as required by Chapter 551, Texas Government Code, as amended; therefore,

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

ARTICLE I

DEFINITIONS AND OTHER PRELIMINARY MATTERS

Section 1.01. Definitions.

Unless otherwise expressly provided or unless the context clearly requires otherwise in this Ordinance, the following terms shall have the meanings specified below:

“Authorized Officer” means each of the City Manager and the Chief Financial Officer.

“Certificate” means any of the Certificates.

“Certificate Date” means the date designated as the initial date of the Certificates by Section 3.02(a) of this Ordinance.

“Certificates” means the certificates of obligation authorized to be issued by Section 3.01 of this Ordinance and designated as “City of Lubbock, Texas, Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2012.”

“City” means the City of Lubbock, Texas.

“Closing Date” means the date of the initial delivery of and payment for the Certificates.

“Code” means the Internal Revenue Code of 1986, as amended.

“Designated Payment/Transfer Office” means (i) with respect to the initial Paying Agent/Registrar named in this Ordinance, the Designated Payment/Transfer Office as designated in the Paying Agent/Registrar Agreement, or at such other location designated by the Paying Agent/Registrar and (ii) with respect to any successor Paying Agent/Registrar, the office of such successor designated and located as may be agreed upon by the City and such successor.

“DTC” means The Depository Trust Company of New York, New York, or any successor securities depository.

“DTC Participant” means brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

“EMMA” means the Electronic Municipal Market Access System.

“Event of Default” means any event of default as defined in Section 10.01 of this Ordinance.

“Fiscal Year” means such fiscal year as shall from time to time be set by the City Council.

“Gross Proceeds” means any proceeds of the Certificates and replacement proceeds of the Certificates, as defined in Section 1.148-1(b) of the Regulations.

“Gross Revenues” means, with respect to any period, all income, revenues and receipts received from the operation and ownership of the System.

“Initial Certificate” means the initial Certificate authorized by Section 3.04 of this Ordinance.

“Interest and Sinking Fund” means the “Series 2012 Interest and Sinking Fund” established in Section 2.02 hereof.

“Interest Payment Date” means the date or dates on which interest on the Certificates is scheduled to be paid until their respective dates of maturity or prior redemption, such dates being February 15 and August 15 of each year, commencing on the date set forth in the Pricing Certificate.

“Investment” means any investment property as defined in Sections 148(b)(2) and 148(b)(3) of the Code, and any other tax-exempt obligation.

“MSRB” means the Municipal Securities Rulemaking Board.

“Net Revenues” means the Gross Revenues of the System, with respect to any period, after deducting the System’s Operating and Maintenance Expenses during such period.

“Operating and Maintenance Expenses” means all reasonable and necessary expenses directly related and attributable to the operation and maintenance of the System, including, but not limited to, the costs of insurance, the purchase and carrying of stores, materials, and supplies, the payment of salaries and labor, and other expenditures reasonably and properly charged, under generally accepted accounting principles, to the operation and maintenance of the System or by statute deemed to be a first lien against the Gross Revenues. Depreciation charges on equipment, machinery, plants and other facilities comprising the System and expenditures classed under generally accepted accounting principles as capital expenditures shall not be considered as “Operating and Maintenance Expenses” for purposes of determining “Net Revenues.”

“Owner” means the person who is the registered owner of a Certificate or Certificates, as shown in the Register.

“Paying Agent/Registrar” means initially The Bank of New York Mellon Trust Company, National Association, or any successor thereto as provided in this Ordinance.

“Pricing Certificate” means a certificate or certificates to be signed by the Authorized Officer.

“Prior Lien Obligations” means all bonds or other similar obligations of the City presently outstanding or that may be hereafter issued, payable in whole or in part from and secured by a first lien on and pledge of the Net Revenues of the System or by a lien on and pledge of the Net Revenues subordinate to a first lien on and pledge of the Net Revenues but superior to the lien on and pledge of the Surplus Revenues made for the Certificates.

“Project” means the purposes for which the Certificates are issued as set forth in Section 3.01.

“Purchase Contract” means the purchase contract pursuant to which the Certificates are sold to the Underwriters.

“Record Date” means the last business day of the month next preceding an Interest Payment Date.

“Register” means the Register specified in Section 3.06(a) of this Ordinance.

“Regulations” means all temporary, proposed and final regulations applicable to Sections 103 and 141 through 150 of the Code.

“Representation Letter” means the Blanket Letter of Representations between the City and DTC.

“Representative” means the representative for the Underwriters named in the Purchase Contract.

“Rule” means SEC Rule 15c2-12, as amended from time to time.

“SEC” means the United States Securities and Exchange Commission.

“Special Payment Date” means the Special Payment Date prescribed by Section 3.03(b).

“Special Record Date” means the Special Record Date prescribed by Section 3.03(b).

“Surplus Revenues” means the Net Revenues of the System in an amount not to exceed \$1,000 remaining after payment of all debt service, reserve and other requirements in connection with the City’s Prior Lien Obligations.

“System” means the City’s Waterworks System being all properties, facilities and plants currently owned, operated and maintained by the City for the supply, treatment, transmission and distribution of treated, potable water, together with all future extensions, improvements, replacements and additions thereto.

“Term Certificates” has the meaning set forth in Section 4.03 hereof.

“Unclaimed Payments” means money deposited with the Paying Agent/Registrar for the payment of principal of or interest on the Certificates as the same come due and payable and remaining unclaimed by the Owners of such Certificates after the applicable payment or redemption date.

“Underwriters” means the underwriters named in the Purchase Contract.

“Yield” means the yield computed under Section 1.148-4 of the Regulations for an Certificate or issue of Certificates, and yield computed under Section 1.148-5 of the Regulations for an investment.

Section 1.02. Findings.

The declarations, determinations, and findings declared, made, and found in the preamble to this Ordinance are hereby adopted, restated, and made a part of the operative provisions hereof.

Section 1.03. Table of Contents, Titles, and Headings.

The table of contents, titles and headings of the Articles and Sections of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof and shall never be considered or given any effect in construing this Ordinance or any provision hereof or in ascertaining intent, if any question of intent should arise.

Section 1.04. Interpretation.

(a) Unless the context requires otherwise, words of the masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa.

(b) This Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein.

ARTICLE II

SECURITY FOR THE CERTIFICATES; INTEREST AND SINKING FUND;
PRIOR LIEN OBLIGATIONS

Section 2.01. Payment of the Certificates.

(a) Pursuant to the authority granted by the Texas Constitution and laws of the State of Texas, there shall be levied and there is hereby levied for the current year and for each succeeding year thereafter while any of the Certificates or any interest thereon is outstanding and unpaid, an ad valorem tax on each one hundred dollars valuation of taxable property within the City, at a rate sufficient, within the limit prescribed by law, to pay the debt service requirements of the Certificates, being (i) the interest on the Certificates, and (ii) a sinking fund for their redemption at maturity or a sinking fund of two percent per annum (whichever amount is the greater), when due and payable, full allowance being made for delinquencies and costs of collection.

(b) The ad valorem tax thus levied shall be assessed and collected each year against all property appearing on the tax rolls of the City most recently approved in accordance with law, and the money thus collected shall be deposited as collected to the Interest and Sinking Fund.

(c) Said ad valorem tax, the collections therefrom, and all amounts on deposit in or required hereby to be deposited to the Interest and Sinking Fund are hereby pledged and

committed irrevocably to the payment of the principal of and interest on the Certificates when and as due and payable in accordance with their terms and this Ordinance.

(d) The City hereby covenants and agrees that the Surplus Revenues are hereby irrevocably pledged equally and ratably to the payment of the principal of and interest on the Certificates. The City reserves the right to issue Prior Lien Obligations for any lawful purpose, at any time, in one or more installments.

(e) The amount of taxes to be assessed annually for the payment of debt service on the Certificates shall be determined in the following manner:

(i) The City's annual budget shall reflect (A) the amount of debt service requirements to become due on the Certificates in the next ensuing Fiscal Year and (B) the amount on deposit in the Interest and Sinking Fund on the date such budget is approved.

(ii) The amount required to be provided in the next succeeding Fiscal Year from ad valorem taxes shall be the amount, if any, that the debt service requirements on the Certificates to be paid during the next Fiscal Year exceeds the amount then on deposit in the Interest and Sinking Fund.

(iii) Following approval of the City's annual budget, the City Council shall, by ordinance, establish a tax rate that is sufficient to produce taxes in an amount which, when added to the amount then on deposit in the Interest and Sinking Fund, will be sufficient to pay debt service on the Certificates when due during the next Fiscal Year.

(f) If the liens and provisions of this Ordinance shall be released in a manner permitted by Article XI hereof, then the collection of such ad valorem tax may be suspended or appropriately reduced, as the facts may permit, and further deposits to the Interest and Sinking Fund may be suspended or appropriately reduced, as the facts may permit. In determining the aggregate principal amount of outstanding Certificates, there shall be subtracted the amount of any Certificates that have been duly called for redemption and for which money has been deposited with the Paying Agent/Registrar for such redemption.

Section 2.02. Interest and Sinking Fund.

(a) The City hereby establishes a special fund or account to be designated the "City of Lubbock, Texas, Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2012, Interest and Sinking Fund" (the "Interest and Sinking Fund"), said fund to be maintained at an official depository bank of the City separate and apart from all other funds and accounts of the City.

(b) Money on deposit in or required by this Ordinance to be deposited to the Interest and Sinking Fund shall be used solely for the purpose of paying the interest on and principal of the Certificates when and as due and payable in accordance with their terms and this Ordinance.

ARTICLE III

AUTHORIZATION; GENERAL TERMS AND PROVISIONS REGARDING THE CERTIFICATES

Section 3.01. Authorization.

The City's certificates of obligation to be designated "City of Lubbock, Texas, Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2012" (the "Certificates"), are hereby authorized to be issued and delivered in accordance with the Constitution and laws of the State of Texas, specifically Subchapter C, Chapter 271, Texas Local Government Code, as amended, Chapter 1371, Texas Government Code, as amended, and Article VIII of the City's Home-Rule Charter. The Certificates shall be issued in the aggregate principal amount designated in the Pricing Certificate, such amount not to exceed \$81,000,000, for the purpose of paying contractual obligations to be incurred for the following purposes, to wit: (i) improvements and renovations to City Hall; (ii) construction of a new Land Application office; (iii) improvements and renovations to the City's Solid Waste Disposal System; (iv) improvements and renovations to the City's Municipal Drainage Utility System; (v) improvements, renovations, replacements, relocations and extensions to the City's Waterworks System including acquisition and construction of new treated water pipelines and acquisition of rights-of-way, improvements to John T. Mortford Dam and improvements to the City's storm water facilities and infrastructure; (vi) park and recreation system improvements; (vii) city fuel system upgrades; (viii) improvements and extensions to City streets including sidewalks, street lighting, traffic signals/controllers, signage, landscaping, utility improvements, extensions, relocations and acquisition of land and rights-of-way in connection therewith; (ix) renovations and improvements to the Lubbock Preston Smith International Airport facilities, including acquisition and installation of HVAC equipment in the Airport terminal; (x) improvements, relocations and extensions to the City's Wastewater System; (collectively, with items (i)-(ix), the "Project") and (xi) payment of professional services of attorneys, financial advisors, engineers and other professionals in connection with the Project and the issuance of the Certificates.

Section 3.02. Date, Denomination, Maturities, and Interest.

(a) The Certificates shall be dated the date set forth in the Pricing Certificate (the "Certificate Date"). The Certificates shall be in fully registered form, without coupons, in the denomination of \$5,000 or any integral multiple thereof and shall be numbered separately from one upward, except the Initial Certificate, which shall be numbered T-1.

(b) The Certificates shall mature on February 15 in the years and in the principal amounts set forth in the Pricing Certificate provided that the maximum maturity for the Certificates shall not exceed twenty-one (21) years.

(c) Interest shall accrue and be paid on each Certificate respectively until its maturity or prior redemption, from the later of the Certificate Date or the most recent Interest Payment Date to which interest has been paid or provided for at the rates per annum for each respective maturity specified in the Pricing Certificate. Such interest shall be payable on each Interest Payment Date until maturity or prior redemption. Interest on the Certificates shall be calculated

on the basis of a three hundred sixty (360) day year composed of twelve (12) months of thirty (30) days each.

Section 3.03. Medium, Method, and Place of Payment.

(a) The principal of and interest on the Certificates shall be paid in lawful money of the United States of America.

(b) Interest on the Certificates shall be payable to the Owners as shown in the Register at the close of business on the Record Date; provided, however, in the event of nonpayment of interest on a scheduled Interest Payment Date and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") shall be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the "Special Payment Date," which shall be fifteen (15) days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by first-class United States mail, postage prepaid, to the address of each Owner of a Certificate appearing on the Register at the close of business on the last business day next preceding the date of mailing of such notice.

(c) Interest shall be paid by check, dated as of the Interest Payment Date, and sent United States mail, first class postage prepaid, by the Paying Agent/Registrar to each Owner, at the address thereof as it appears in the Register, or by such other customary banking arrangement acceptable to the Paying Agent/Registrar and the Owner; provided, however, that the Owner shall bear all risk and expense of such alternative banking arrangement. At the option of an Owner of at least \$1,000,000 principal amount of the Certificates, interest may be paid by wire transfer to the bank account of such Owner on file with the Paying Agent/Registrar.

(d) The principal of each Certificate shall be paid to the Owner thereof on the due date, whether at the maturity date or the date of prior redemption thereof, upon presentation and surrender of such Certificate at the Designated Payment/Transfer Office of the Paying Agent/Registrar.

(e) If the date for the payment of the principal of or interest on the Certificates shall be a Saturday, Sunday, legal holiday, or day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are required or authorized by law or executive order to close, then the date for such payment shall be the next succeeding day that is not a Saturday, Sunday, legal holiday, or day on which banking institutions are required or authorized to close, and payment on such date shall for all purposes be deemed to have been made on the due date thereof as specified in Section 3.02 of this Ordinance.

(f) Unclaimed Payments shall be segregated in a special escrow account and held in trust, uninvested by the Paying Agent/Registrar, for the account of the Owners of the Certificates to which the Unclaimed Payments pertain. Subject to Title 6 of the Texas Property Code, Unclaimed Payments remaining unclaimed by the Owners entitled thereto for three (3) years after the applicable payment or redemption date shall be applied to the next payment on the

Certificates thereafter coming due; to the extent any such moneys remain three (3) years after the retirement of all outstanding Certificates, such moneys shall be paid to the City to be used for any lawful purpose. Thereafter, neither the City, the Paying Agent/Registrar, nor any other person shall be liable or responsible to any Owners of such Certificates for any further payment of such unclaimed moneys or on account of any such Certificates, subject to Title 6 of the Texas Property Code.

Section 3.04. Execution and Registration of Certificates.

(a) The Certificates shall be executed on behalf of the City by the Mayor and the City Secretary, by their manual or facsimile signatures, and the official seal of the City shall be impressed or placed in facsimile thereon. Such facsimile signatures on the Certificates shall have the same effect as if each of the Certificates had been signed manually and in person by each of said officers, and such facsimile seal on the Certificates shall have the same effect as if the official seal of the City had been manually impressed upon each of the Certificates.

(b) In the event that any officer of the City whose manual or facsimile signature appears on the Certificates ceases to be such officer before the authentication of such Certificates or before the delivery thereof, such manual or facsimile signature nevertheless shall be valid and sufficient for all purposes as if such officer had remained in such office.

(c) Except as provided below, no Certificate shall be valid or obligatory for any purpose or be entitled to any security or benefit of this Ordinance unless and until there appears thereon the Certificate of Paying Agent/Registrar substantially in the form provided herein, duly authenticated by manual execution by an officer or duly authorized signatory of the Paying Agent/Registrar. It shall not be required that the same officer or authorized signatory of the Paying Agent/Registrar sign the Certificate of Paying Agent/Registrar on all of the Certificates. In lieu of the executed Certificate of Paying Agent/Registrar described above, the Initial Certificate delivered at the Closing Date shall have attached thereto the Comptroller's Registration Certificate substantially in the form provided herein, manually executed by the Comptroller of Public Accounts of the State of Texas, or by his duly authorized agent, which Certificate shall be evidence that the Certificate has been duly approved by the Attorney General of the State of Texas, that it is a valid and binding obligation of the City, and that it has been registered by the Comptroller of Public Accounts of the State of Texas.

(d) On the Closing Date, one Initial Certificate reflecting the terms set forth in the Pricing Certificate and representing the entire principal amount of all Certificates, payable in stated installments to the Representative, or its designee, executed by the Mayor and City Secretary of the City by their manual or facsimile signatures, approved by the Attorney General, and registered and manually signed by the Comptroller of Public Accounts, will be delivered to the Representative or its designee. Upon payment for the Initial Certificate, the Paying Agent/Registrar shall cancel the Initial Certificate and deliver a single registered, definitive Certificate for each maturity, in the aggregate principal amount thereof, to DTC on behalf of the Underwriters.

Section 3.05. Ownership.

(a) The City, the Paying Agent/Registrar, and any other person may treat the person in whose name any Certificate is registered as the absolute owner of such Certificate for the purpose of making and receiving payment as herein provided (except interest shall be paid to the person in whose name such Certificate is registered on the Record Date or Special Record Date, as applicable), and for all other purposes, whether or not such Certificate is overdue, and neither the City nor the Paying Agent/Registrar shall be bound by any notice or knowledge to the contrary.

(b) All payments made to the Owner of a Certificate shall be valid and effectual and shall discharge the liability of the City and the Paying Agent/Registrar upon such Certificate to the extent of the sums paid.

Section 3.06. Registration, Transfer, and Exchange.

(a) So long as any Certificates remain outstanding, the City shall cause the Paying Agent/Registrar to keep at the Designated Payment/Transfer Office a register (the "Register") in which, subject to such reasonable regulations as it may prescribe, the Paying Agent/Registrar shall provide for the registration and transfer of Certificates in accordance with this Ordinance.

(b) The ownership of a Certificate may be transferred only upon the presentation and surrender of the Certificate at the Designated Payment/Transfer Office of the Paying Agent/Registrar with such endorsement or other evidence of transfer as is acceptable to the Paying Agent/Registrar. No transfer of any Certificate shall be effective until entered in the Register.

(c) The Certificates shall be exchangeable upon the presentation and surrender thereof at the Designated Payment/Transfer Office of the Paying Agent/Registrar for a Certificate or Certificates of the same maturity and interest rate and in a denomination or denominations of any integral multiple of \$5,000, and in an aggregate principal amount equal to the unpaid principal amount of the Certificates presented for exchange. The Paying Agent/Registrar is hereby authorized to authenticate and deliver Certificates exchanged for other Certificates in accordance with this Section.

(d) Each exchange Certificate delivered by the Paying Agent/Registrar in accordance with this Section shall constitute an original contractual obligation of the City and shall be entitled to the benefits and security of this Ordinance to the same extent as the Certificate or Certificates in lieu of which such exchange Certificate is delivered.

(e) No service charge shall be made to the Owner for the initial registration, subsequent transfer, or exchange for a different denomination of any of the Certificates. The Paying Agent/Registrar, however, may require the Owner to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection with the registration, transfer, or exchange of a Certificate.

(f) Neither the City nor the Paying Agent/Registrar shall be required to issue, transfer, or exchange any Certificate called for redemption, in whole or in part, where such

redemption is scheduled to occur within forty-five (45) calendar days after the transfer or exchange date; provided, however, such limitation shall not be applicable to an exchange by the Owner of the uncalled principal balance of a Certificate.

Section 3.07. Cancellation.

All Certificates paid or redeemed before scheduled maturity in accordance with this Ordinance, and all Certificates in lieu of which exchange Certificates or replacement Certificates are authenticated and delivered in accordance with this Ordinance, shall be cancelled and proper records made regarding such payment, redemption, exchange, or replacement. The Paying Agent/Registrar shall then return such cancelled Certificates to the City or may in accordance with law destroy such cancelled Certificates and periodically furnish the City with certificates of destruction of such Certificates.

Section 3.08. Temporary Certificates.

(a) Following the delivery and registration of the Initial Certificate and pending the preparation of definitive Certificates, the City may execute and, upon the City's request, the Paying Agent/Registrar shall authenticate and deliver, one or more temporary Certificates that are printed, lithographed, typewritten, mimeographed, or otherwise produced, in any denomination, substantially of the tenor of the definitive Certificates in lieu of which they are delivered, without coupons, and with such appropriate insertions, omissions, substitutions, and other variations as the officers of the City executing such temporary Certificates may determine, as evidenced by their signing of such temporary Certificates.

(b) Until exchanged for Certificates in definitive form, such Certificates in temporary form shall be entitled to the benefit and security of this Ordinance.

(c) The City, without unreasonable delay, shall prepare, execute and deliver to the Paying Agent/Registrar; thereupon, upon the presentation and surrender of the Certificate or Certificates in temporary form to the Paying Agent/Registrar, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor a Certificate or Certificates of the same maturity and series, in definitive form, in the authorized denomination, and in the same aggregate principal amount, as the Certificate or Certificates in temporary form surrendered. Such exchange shall be made without the making of any charge therefor to any Owner.

Section 3.09. Replacement Certificates.

(a) Upon the presentation and surrender to the Paying Agent/Registrar of a mutilated Certificate, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor a replacement Certificate of like tenor and principal amount, bearing a number not contemporaneously outstanding. The City or the Paying Agent/Registrar may require the Owner of such Certificate to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection therewith and any other expenses connected therewith.

(b) In the event that any Certificate is lost, apparently destroyed or wrongfully taken, the Paying Agent/Registrar, pursuant to the applicable laws of the State of Texas and in the absence of notice or knowledge that such Certificate has been acquired by a bona fide purchaser,

shall authenticate and deliver a replacement Certificate of like tenor and principal amount, bearing a number not contemporaneously outstanding, provided that the Owner first complies with the following requirements:

(i) furnishes to the Paying Agent/Registrar satisfactory evidence of his or her ownership of and the circumstances of the loss, destruction, or theft of such Certificate;

(ii) furnishes such security or indemnity as may be required by the Paying Agent/Registrar to save it and the City harmless;

(iii) pays all expenses and charges in connection therewith, including, but not limited to, printing costs, legal fees, fees of the Paying Agent/Registrar, and any tax or other governmental charge that is authorized to be imposed; and

(iv) satisfies any other reasonable requirements imposed by the City and the Paying Agent/Registrar.

(c) If, after the delivery of such replacement Certificate, a bona fide purchaser of the original Certificate in lieu of which such replacement Certificate was issued presents for payment such original Certificate, the City and the Paying Agent/Registrar shall be entitled to recover such replacement Certificate from the person to whom it was delivered or any person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost, or expense incurred by the City or the Paying Agent/Registrar in connection therewith.

(d) In the event that any such mutilated, lost, apparently destroyed, or wrongfully taken Certificate has become or is about to become due and payable, the Paying Agent/Registrar, in its discretion, instead of issuing a replacement Certificate, may pay such Certificate when it becomes due and payable.

(e) Each replacement Certificate delivered in accordance with this Section shall constitute an original additional contractual obligation of the City and shall be entitled to the benefits and security of this Ordinance to the same extent as the Certificate or Certificates in lieu of which such replacement Certificate is delivered.

Section 3.10. Book-Entry-Only System.

(a) Notwithstanding any other provision hereof, upon initial issuance of the Certificates, the Certificates shall be registered in the name of Cede & Co., as nominee of DTC. The definitive Certificates shall be initially issued in the form of a single separate certificate for each of the maturities thereof.

(b) With respect to Certificates registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any DTC Participant or to any person on behalf of whom such a DTC Participant holds an interest in the Certificates. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in

the Certificates, (ii) the delivery to any DTC Participant or any other person, other than an Owner, as shown on the Register, of any notice with respect to the Certificates, including any notice of redemption, or (iii) the payment to any DTC Participant or any other person, other than an Owner, as shown in the Register of any amount with respect to principal of or interest on the Certificates. Notwithstanding any other provision of this Ordinance to the contrary, the City and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Certificate is registered in the Register as the absolute owner of such Certificate for the purpose of payment of principal of and interest on Certificates, for the purpose of giving notices of redemption and other matters with respect to such Certificate, for the purpose of registering transfer with respect to such Certificate, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of and interest on the Certificates only to or upon the order of the respective Owners as shown in the Register, as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of interest on the Certificates to the extent of the sum or sums so paid. No person other than an Owner, as shown in the Register, shall receive a certificate evidencing the obligation of the City to make payments of amounts due pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the word "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

(c) The Representation Letter previously executed and delivered by the City, and applicable to the City's obligations delivered in book-entry-only form to DTC as securities depository, is hereby ratified and approved for the Certificates.

Section 3.11. Successor Securities Depository; Transfer Outside Book-Entry-Only System.

In the event that the City determines that it is in the best interest of the City and the beneficial owners of the Certificates that they be able to obtain certificated Certificates, or in the event DTC discontinues the services described herein, the City shall (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Certificates to such successor securities depository; or (ii) notify DTC and DTC Participants of the availability through DTC of certificated Certificates and cause the Paying Agent/Registrar to transfer one or more separate registered Certificates to DTC Participants having Certificates credited to their DTC accounts. In such event, the Certificates shall no longer be restricted to being registered in the Register in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Owners transferring or exchanging Certificates shall designate, in accordance with the provisions of this Ordinance.

Section 3.12. Payments to Cede & Co.

Notwithstanding any other provision of this Ordinance to the contrary, so long as the Certificates are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of and interest on such Certificates, and all notices with respect to such

Certificates shall be made and given, respectively, in the manner provided in the Representation Letter of the City to DTC.

ARTICLE IV

REDEMPTION OF CERTIFICATES BEFORE MATURITY

Section 4.01. Redemption.

The Certificates are subject to redemption before their scheduled maturity only as provided in this Article IV.

Section 4.02. Optional Redemption.

(a) The City reserves the option to redeem Certificates in the manner provided in the Form of Certificate set forth in Section 6.02 of this Ordinance with such changes as are required by the Pricing Certificate.

(b) If less than all of the Certificates are to be redeemed pursuant to an optional redemption, the City shall determine the maturity or maturities and the amounts thereof to be redeemed and shall direct the Paying Agent/Registrar to call by lot the Certificates, or portions thereof, within such maturity or maturities and in such principal amounts for redemption.

(c) The City, at least forty-five (45) days before the redemption date, unless a shorter period shall be satisfactory to the Paying Agent/Registrar, shall notify the Paying Agent/Registrar of such redemption date and of the principal amount of Certificates to be redeemed.

Section 4.03. Mandatory Sinking Fund Redemption.

(a) Certificates designated as "Term Certificates," if any, in the Pricing Certificate are subject to scheduled mandatory redemption and will be redeemed by the City, in part at a price equal to the principal amount thereof, without premium, plus accrued interest to the redemption date, out of moneys available for such purpose in the Interest and Sinking Fund, on the dates and in the respective principal amounts as set forth in the Pricing Certificate.

(b) At least forty-five (45) days prior to each scheduled mandatory redemption date, the Paying Agent/Registrar shall select for redemption by lot, or by any other customary method that results in a random selection, a principal amount of Term Certificates equal to the aggregate principal amount of such Term Certificates to be redeemed, shall call such Term Certificates for redemption on such scheduled mandatory redemption date, and shall give notice of such redemption, as provided in Section 4.05.

The principal amount of the Term Certificates required to be redeemed on any redemption date pursuant to subparagraph (a) of this Section 4.03 shall be reduced, at the option of the City, by the principal amount of any Term Certificates which, at least forty-five (45) days prior to the mandatory sinking fund redemption date (i) shall have been acquired by the City at a price not exceeding the principal amount of such Term Certificates plus accrued interest to the

date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation, or (ii) shall have been redeemed pursuant to the optional redemption provisions hereof and not previously credited to a mandatory sinking fund redemption.

Section 4.04. Partial Redemption.

(a) A portion of a single Certificate of a denomination greater than \$5,000 may be redeemed, but only in a principal amount equal to \$5,000 or any integral multiple thereof. If such a Certificate is to be partially redeemed, the Paying Agent/Registrar shall treat each \$5,000 portion of the Certificate as though it were a single Certificate for purposes of selection for redemption.

(b) Upon surrender of any Certificate for redemption in part, the Paying Agent/Registrar, in accordance with Section 3.06 of this Ordinance, shall authenticate and deliver an exchange Certificate or Certificates in an aggregate principal amount equal to the unredeemed portion of the Certificate so surrendered, such exchange being without charge.

(c) The Paying Agent/Registrar shall promptly notify the City in writing of the principal amount to be redeemed of any Certificate as to which only a portion thereof is to be redeemed.

Section 4.05. Notice of Redemption to Owners.

(a) The Paying Agent/Registrar shall give notice of any redemption of Certificates by sending notice by United States mail, first class postage prepaid, not less than thirty (30) days before the date fixed for redemption, to the Owner of each Certificate (or part thereof) to be redeemed, at the address shown on the Register at the close of business on the business day next preceding the date of mailing such notice.

(b) The notice shall state the redemption date, the redemption price, the place at which the Certificates are to be surrendered for payment, and, if less than all the Certificates outstanding are to be redeemed, an identification of the Certificates or portions thereof to be redeemed.

(c) The City reserves the right to give notice of its election or direction to redeem Certificates under Section 4.02 conditioned upon the occurrence of subsequent events. Such notice may state (i) that the redemption is conditioned upon the deposit of moneys and/or authorized securities, in an amount equal to the amount necessary to effect the redemption, with the Paying Agent/Registrar, or such other entity as may be authorized by law, no later than the redemption date or (ii) that the City retains the right to rescind such notice at any time prior to the scheduled redemption date if the City delivers a certificate of the City to the Paying Agent/Registrar instructing the Paying Agent/Registrar to rescind the redemption notice, and such notice and redemption shall be of no effect if such moneys and/or authorized securities are not so deposited or if the notice is rescinded. The Paying Agent/Registrar shall give prompt notice of any such rescission of a conditional notice of redemption to the affected Owners. Any Certificates subject to conditional redemption where redemption has been rescinded shall remain Outstanding, and the rescission shall not constitute an event of default. Further, in the case of a conditional redemption, the failure of the City to make moneys and/or authorized securities

available in part or in whole on or before the redemption date shall not constitute an event of default.

(d) Any notice given as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Owner receives such notice.

Section 4.06. Payment Upon Redemption.

(a) Before or on each redemption date, the City shall deposit with the Paying Agent/Registrar money sufficient to pay all amounts due on the redemption date and the Paying Agent/Registrar shall make provision for the payment of the Certificates to be redeemed on such date by setting aside and holding in trust such amounts as are received by the Paying Agent/Registrar from the City and shall use such funds solely for the purpose of paying the principal of and accrued interest on the Certificates being redeemed.

(b) Upon presentation and surrender of any Certificate called for redemption at the Designated Payment/Transfer Office on or after the date fixed for redemption, the Paying Agent/Registrar shall pay the principal of and accrued interest on such Certificate to the date of redemption from the money set aside for such purpose.

Section 4.07. Effect of Redemption.

(a) Notice of redemption having been given as provided in Section 4.05 of this Ordinance and subject to any conditions or rights reserved by the City under Section 4.05(c), the Certificates or portions thereof called for redemption shall become due and payable on the date fixed for redemption and, unless the City defaults in its obligation to make provision for the payment of the principal thereof or accrued interest thereon, such Certificates or portions thereof shall cease to bear interest from and after the date fixed for redemption, whether or not such Certificates are presented and surrendered for payment on such date.

(b) If the City shall fail to make provision for payment of all sums due on a redemption date, then any Certificate or portion thereof called for redemption shall continue to bear interest at the rate stated on the Certificate until due provision is made for the payment of same by the City.

Section 4.08. Lapse of Payment.

Money set aside for the redemption of Certificates and remaining unclaimed by the Owners of such Certificates shall be subject to the provisions of Section 3.03(f) hereof.

ARTICLE V

PAYING AGENT/REGISTRAR

Section 5.01. Appointment of Initial Paying Agent/Registrar.

The Bank of New York Mellon Trust Company, National Association, is hereby appointed as the initial Paying Agent/Registrar for the Certificates.

Section 5.02. Qualifications.

Each Paying Agent/Registrar shall be a commercial bank, a trust company organized under the laws of the State of Texas, or other entity duly qualified and legally authorized to serve as and perform the duties and services of paying agent and registrar for the Certificates.

Section 5.03. Maintaining Paying Agent/Registrar.

(a) At all times while any Certificates are outstanding, the City will maintain a Paying Agent/Registrar that is qualified under Section 5.02 of this Ordinance. The Mayor is hereby authorized and directed to execute an agreement with the Paying Agent/Registrar specifying the duties and responsibilities of the City and the Paying Agent/Registrar. The signature of the Mayor shall be attested by the City Secretary of the City. The form of the Paying Agent/Registrar Agreement presented at this meeting is hereby approved with such changes as may be approved by bond counsel to the City.

(b) If the Paying Agent/Registrar resigns or otherwise ceases to serve as such, the City will promptly appoint a replacement.

Section 5.04. Termination.

The City, upon not less than sixty (60) days notice, reserves the right to terminate the appointment of any Paying Agent/Registrar by delivering to the entity whose appointment is to be terminated written notice of such termination.

Section 5.05. Notice of Change to Owners.

Promptly upon each change in the entity serving as Paying Agent/Registrar, the City will cause notice of the change to be sent to each Owner by United States mail, first class postage prepaid, at the address thereof in the Register, stating the effective date of the change and the name and mailing address of the replacement Paying Agent/Registrar.

Section 5.06. Agreement to Perform Duties and Functions.

By accepting the appointment as Paying Agent/Registrar and executing the Paying Agent/Registrar Agreement, the Paying Agent/Registrar is deemed to have agreed to the provisions of this Ordinance and that it will perform the duties and functions of Paying Agent/Registrar prescribed thereby.

Section 5.07. Delivery of Records to Successor.

If a Paying Agent/Registrar is replaced, such Paying Agent, promptly upon the appointment of the successor, will deliver the Register (or a copy thereof) and all other pertinent books and records relating to the Certificates to the successor Paying Agent/Registrar.

ARTICLE VI

FORM OF THE CERTIFICATES

Section 6.01. Form Generally.

(a) The Certificates, including the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Certificate of the Paying Agent/Registrar, and the Assignment form to appear on each of the Certificates, (i) shall be generally in the form set forth in this Article, with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance and the Pricing Certificate, and (ii) may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including any reproduction of an opinion of counsel) thereon as, consistently herewith, may be determined by the City or by the officers executing such Certificates, as evidenced by their execution thereof.

(b) Any portion of the text of any Certificates may be set forth on the reverse side thereof, with an appropriate reference thereto on the face of the Certificates.

(c) The definitive Certificates, if any, shall be typewritten, photocopied, printed, lithographed, or engraved, and may be produced by any combination of these methods or produced in any other similar manner, all as determined by the officers executing such Certificates, as evidenced by their execution thereof.

(d) The Initial Certificate submitted to the Attorney General of the State of Texas may be typewritten and photocopied or otherwise reproduced.

Section 6.02. Form of the Certificates.

The form of the Certificates, including the form of the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the form of Certificate of the Paying Agent/Registrar and the form of Assignment appearing on the Certificates, shall be generally as follows, provided, however, that the substantially final form of the Certificates shall be set forth in or attached to the Pricing Certificate and shall incorporate and reflect the final terms of the Certificates set forth in the Pricing Certificate:

(a) Form of Certificate.

REGISTERED
No. _____

REGISTERED
\$ _____

United States of America
State of Texas
County of Lubbock
CITY OF LUBBOCK, TEXAS
TAX AND WATERWORKS SYSTEM SURPLUS REVENUE
CERTIFICATES OF OBLIGATION
SERIES 2012

<u>INTEREST RATE:</u>	<u>MATURITY DATE:</u>	<u>CERTIFICATE DATE:</u>	<u>CUSIP NUMBER:</u>
_____%	_____	_____ ¹	_____

The City of Lubbock (the "City"), in the County of Lubbock, State of Texas, for value received, hereby promises to pay to

or registered assigns, on the Maturity Date specified above, the sum of

_____ DOLLARS

unless this Certificate shall have been sooner called for redemption and the payment of the principal hereof shall have been paid or provided for, and to pay interest on such principal amount from the later of the Certificate Date specified above or the most recent interest payment date to which interest has been paid or provided for until payment of such principal amount has been paid or provided for, at the per annum rate of interest specified above, computed on the basis of a 360-day year of twelve 30-day months, such interest to be paid semiannually on February 15 and August 15 of each year, commencing _____.² All capitalized terms used herein but not defined shall have the meaning assigned to them in the Ordinance (defined below).

The principal of this Certificate shall be payable without exchange or collection charges in lawful money of the United States of America upon presentation and surrender of this Certificate at the corporate trust office in Dallas, Texas (the "Designated Payment/Transfer Office"), of The Bank of New York Mellon Trust Company, National Association, or, with respect to a successor Paying Agent/Registrar, at the Designated Payment/Transfer Office of such successor. Interest on this Certificate is payable by check dated as of the interest payment date, and will be mailed by the Paying Agent/Registrar to the registered owner at the address shown on the registration books kept by the Paying Agent/Registrar or by such other customary banking arrangement acceptable to the Paying Agent/Registrar and the registered owner; provided, however, such registered owner shall bear all risk and expenses of such customary

¹ Information to be inserted from Pricing Certificate.

² Information to be inserted from Pricing Certificate.

banking arrangement. At the option of an Owner of at least \$1,000,000 principal amount of the Certificates, interest may be paid by wire transfer to the bank account of such Owner on file with the Paying Agent/Registrar. For the purpose of the payment of interest on this Certificate, the registered owner shall be the person in whose name this Certificate is registered at the close of business on the "Record Date," which shall be the last business day of the month next preceding such interest payment date; provided, however, that in the event of nonpayment of interest on a scheduled payment date and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the "Special Payment Date," which shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by first-class United States mail, postage prepaid, to the address of each owner of a Certificate appearing in the registration books of the Paying Agent/Registrar at the close of business on the last business day next preceding the date of mailing of such notice.

If the date for the payment of the principal of or interest on this Certificate shall be a Saturday, Sunday, legal holiday, or day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are required or authorized by law or executive order to close, the date for such payment shall be the next succeeding day that is not a Saturday, Sunday, legal holiday, or day on which banking institutions are required or authorized to close, and payment on such date shall have the same force and effect as if made on the original date payment was due.

This Certificate is one of a series of fully registered certificates specified in the title hereof issued in the aggregate principal amount of \$_____ ³ (herein referred to as the "Certificates"), issued pursuant to a certain ordinance of the City (the "Ordinance") for the purpose of paying contractual obligations to be incurred for authorized public improvements (collectively, the "Project"), as described in the Ordinance, and to pay the contractual obligations for professional services of attorneys, financial advisors and other professionals in connection with the Project and the issuance of the Certificates.

[The City has reserved the option to redeem the Certificates maturing on or after February 15, 20____, in whole or in part, before their respective scheduled maturity dates, on _____, 20____, or on any date thereafter, at a price equal to the principal amount of the Certificates so called for redemption plus accrued interest to the date fixed for redemption. If less than all of the Certificates are to be redeemed, the City shall determine the maturity or maturities and the amounts thereof to be redeemed and shall direct the Paying Agent/Registrar to call by lot or other customary method that results in a random selection the Certificates, or portions thereof, within such maturity and in such principal amounts, for redemption.]⁴

[Certificates maturing on February 15 in each of the years ____ through ____, inclusive (the "Term Certificates"), are subject to mandatory sinking fund redemption prior to their scheduled maturity, and will be redeemed by the City, in part at a redemption price equal to the

³ Information to be inserted from Pricing Certificate.

⁴ Insert optional redemption provisions, if any, and revise as necessary to conform to the Pricing Certificate.

principal amount thereof, without premium, plus interest accrued to the redemption date, on the dates and in the principal amounts shown in the following schedule:

<u>Redemption Date</u>	<u>Principal Amount</u>

The Paying Agent/Registrar will select by lot or by any other customary method that results in a random selection the specific Term Certificates (or with respect to Term Certificates having a denomination in excess of \$5,000, each \$5,000 portion thereof) to be redeemed by mandatory redemption. The principal amount of Term Certificates required to be redeemed on any redemption date pursuant to the foregoing mandatory sinking fund redemption provisions hereof shall be reduced, at the option of the City, by the principal amount of any Certificates which, at least forty-five (45) days prior to the mandatory sinking fund redemption date (i) shall have been acquired by the City at a price not exceeding the principal amount of such Certificates plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation, or (ii) shall have been redeemed pursuant to the optional redemption provisions hereof and not previously credited to a mandatory sinking fund redemption.]⁵

Notice of such redemption or redemptions shall be given by first class mail, postage prepaid, not less than thirty (30) days before the date fixed for redemption, to the registered owner of each of the Certificates to be redeemed in whole or in part. In the Ordinance, the City reserves the right in the case of an optional redemption to give notice of its election or direction to redeem Certificates conditioned upon the occurrence of subsequent events. Such notice may state (i) that the redemption is conditioned upon the deposit of moneys and/or authorized securities, in an amount equal to the amount necessary to effect the redemption, with the Paying Agent/Registrar, or such other entity as may be authorized by law, no later than the redemption date or (ii) that the City retains the right to rescind such notice at any time prior to the scheduled redemption date if the City delivers a certificate of the City to the Paying Agent/Registrar instructing the Paying Agent/Registrar to rescind the redemption notice, and such notice and redemption shall be of no effect if such moneys and/or authorized securities are not so deposited or if the notice is rescinded. The Paying Agent/Registrar shall give prompt notice of any such rescission of a conditional notice of redemption to the affected owners. Any Certificates subject to conditional redemption where redemption has been rescinded shall remain Outstanding, and the rescission shall not constitute an event of default. Further, in the case of a conditional redemption, the failure of the City to make moneys and/or authorized securities available in part or in whole on or before the redemption date shall not constitute an event of default.

As provided in the Ordinance, and subject to certain limitations therein set forth, this Certificate is transferable upon surrender of this Certificate for transfer at the designated office of the Paying Agent/Registrar with such endorsement or other evidence of transfer as is acceptable to the Paying Agent/Registrar; thereupon, one or more new fully registered Certificates of the

⁵ Insert mandatory sinking fund redemption provisions, if any, and conform as necessary to the Pricing Certificate.

same stated maturity, of authorized denominations, bearing the same rate of interest, and for the same aggregate principal amount will be issued to the designated transferee or transferees.

Neither the City nor the Paying Agent/Registrar shall be required to issue, transfer or exchange any Certificate called for redemption where such redemption is scheduled to occur within forty five (45) calendar days of the transfer or exchange date; provided, however, such limitation shall not be applicable to an exchange by the registered owner of the uncalled principal balance of a Certificate.

The City, the Paying Agent/Registrar, and any other person may treat the person in whose name this Certificate is registered as the owner hereof for the purpose of receiving payment as herein provided (except interest shall be paid to the person in whose name this Certificate is registered on the Record Date or Special Record Date, as applicable) and for all other purposes, whether or not this Certificate be overdue, and neither the City nor the Paying Agent/Registrar shall be affected by notice to the contrary.

IT IS HEREBY CERTIFIED AND RECITED that the issuance of this Certificate and the series of which it is a part is duly authorized by law; that all acts, conditions, and things to be done precedent to and in the issuance of the Certificates have been properly done and performed and have happened in regular and due time, form, and manner as required by law; that ad valorem taxes upon all taxable property in the City have been levied for and pledged to the payment of the debt service requirements of the Certificates within the limit prescribed by law; that, in addition to said taxes, further provisions have been made for the payment of the debt service requirements of the Certificates by pledging to such purpose Surplus Revenues, as defined in the Ordinance, derived by the City from the operation of the Waterworks System in an amount limited to \$1,000; that when so collected, such taxes and Surplus Revenues shall be appropriated to such purposes; and that the total indebtedness of the City, including the Certificates, does not exceed any constitutional or statutory limitation.

IN WITNESS WHEREOF, the City has caused this Certificate to be executed by the manual or facsimile signature of the Mayor of the City and countersigned by the manual or facsimile signature of the City Secretary, and the official seal of the City has been duly impressed or placed in facsimile on this Certificate.

Mayor, City of Lubbock, Texas

City Secretary,
City of Lubbock, Texas

[SEAL]

(b) Form of Comptroller's Registration Certificate. The following Comptroller's Registration Certificate may be deleted from the definitive Certificates if such certificate on the Initial Certificate is fully executed.

OFFICE OF THE COMPTROLLER	§	
OF PUBLIC ACCOUNTS	§	REGISTER NO. _____
OF THE STATE OF TEXAS	§	

I hereby certify that there is on file and of record in my office a certificate of the Attorney General of the State of Texas to the effect that this Certificate has been examined by him as required by law, that he finds that it has been issued in conformity with the Constitution and laws of the State of Texas, and that it is a valid and binding obligation of the City of Lubbock, Texas; and that this Certificate has this day been registered by me.

Witness my hand and seal of office at Austin, Texas, _____.

[SEAL]

Comptroller of Public Accounts
of the State of Texas

(c) Form of Certificate of Paying Agent/Registrar. The following Certificate of Paying Agent/Registrar may be deleted from the Initial Certificate if the Comptroller's Registration Certificate appears thereon.

CERTIFICATE OF PAYING AGENT/REGISTRAR

The records of the Paying Agent/Registrar show that the Initial Certificate of this series of Certificates was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas, and that this is one of the Certificates referred to in the within-mentioned Ordinance.

The Bank of New York Mellon Trust Company,
National Association, as Paying Agent/Registrar

Dated: _____

By: _____
Authorized Signatory

(d) Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns, and transfers unto (print or typewrite name, address and Zip Code of transferee): _____

(Social Security or other identifying number: _____) the within Certificate and all rights hereunder and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Certificate on the books kept for registration hereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed By:

Authorized Signatory

NOTICE: The signature on this Assignment must correspond with the name of the registered owner as it appears on the face of the within Certificate in every particular and must be guaranteed in a manner acceptable to the Paying Agent/Registrar.

(e) The Initial Certificate shall be in the form set forth in paragraphs (a), (b) and (d) of this Section, except for the following alterations:

(i) immediately under the name of the Certificate the headings "INTEREST RATE" and "MATURITY DATE" shall both be completed with the words "As shown below"; and

(ii) in the first paragraph of the Certificate, the words "on the Maturity Date specified above" shall be deleted and the following will be inserted: "on February 15 in each of the years, in the principal installments and bearing interest at the per annum rates set forth in the following schedule:

<u>Years</u>	<u>Principal Installments</u>	<u>Interest Rate</u>

(Information to be inserted from the Pricing Certificate
pursuant to Section 3.02 of this Ordinance)

Section 6.03. CUSIP Registration.

The City may secure identification numbers through the CUSIP Service Bureau Division of Standard & Poor's, A Division of the McGraw-Hill Companies, New York, New York, and may authorize the printing of such numbers on the face of the Certificates. It is expressly provided, however, that the presence or absence of CUSIP numbers on the Certificates shall be of no significance or effect in regard to the legality thereof and neither the City nor the attorneys

approving said Certificates as to legality are to be held responsible for CUSIP numbers incorrectly printed on the Certificates.

Section 6.04. Legal Opinion.

The approving legal opinion of Andrews Kurth LLP, Bond Counsel, may be attached to or printed on the reverse side of each Certificate over the certification of the City Secretary of the City, which may be executed in facsimile.

Section 6.05. Bond Insurance.

Information pertaining to bond insurance, if any, may be printed on each Certificate.

ARTICLE VII

SALE AND DELIVERY OF CERTIFICATES; DEPOSIT OF PROCEEDS

Section 7.01. Sale of Certificates; Official Statement.

(a) The Certificates shall be sold at negotiated sale to the Underwriters in accordance with the terms of this Ordinance, including this Section 7.01(a) and Exhibit B hereto, provided that all of the conditions set forth in Exhibit B can be satisfied. As authorized by Chapter 1371, Texas Government Code, as amended, the Authorized Officer is authorized to act on behalf of the City upon determining that the conditions set forth in Exhibit B can be satisfied, in selling and delivering the Certificates and carrying out the other procedures specified in this Ordinance, including determining whether to acquire bond insurance for the Certificates, the aggregate principal amount of the Certificates and price at which each of the Certificates will be sold, the number and designation of series of Certificates to be issued, the form in which the Certificates shall be issued, the years in which the Certificates will mature, the principal amount to mature in each of such years, the rate of interest to be borne by each such maturity, the first interest payment date, the dates, prices and terms upon and at which the Certificates shall be subject to redemption prior to maturity at the option of the City and shall be subject to mandatory sinking fund redemption, and all other matters relating to the issuance, sale and delivery of the Certificates, all of which shall be specified in the Pricing Certificate.

The authority granted to the Authorized Officer under this Section 7.01(a) shall expire at 10:00 p.m., on the 180th day following the date of this Ordinance (the "Expiration Date"), unless otherwise extended by the City Council by separate action. Certificates sold pursuant to a Purchase Contract executed on or before the Expiration Date may be delivered after such date.

Any finding or determination made by the Authorized Officer relating to the issuance and sale of the Certificates and the execution of the Purchase Contract in connection therewith shall have the same force and effect as a finding or determination made by the City Council.

(b) The Authorized Officer is hereby authorized and directed to execute and deliver, and the City Secretary is hereby authorized and directed to attest, a certificate purchase contract (the "Purchase Contract") which shall be in the form approved by the Authorized Officer. Upon completion of the terms of the Purchase Contract in accordance with the terms of the Pricing

Certificate and this Ordinance, the Authorized Officer is authorized and directed to execute such Purchase Contract on behalf of the City and the Authorized Officer and all other officers, agents and representatives of the City are hereby authorized to do any and all things necessary or desirable to satisfy the conditions set out therein and to provide for the issuance and delivery of the Certificates. The Certificates shall initially be registered in the name of the Representative.

(c) The form and substance of the Preliminary Official Statement and any addenda, supplement or amendment thereto, with such appropriate variations as shall be approved by the Authorized Officer, are hereby in all respects approved and adopted and is hereby deemed final as of its date within the meaning and for the purposes of paragraph (b)(1) of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended. The Authorized Officer and City Secretary are hereby authorized and directed to cause to be prepared a final Official Statement (the "Official Statement") incorporating applicable pricing information pertaining to the Certificates, and to execute the same by manual or facsimile signature and deliver appropriate numbers of executed copies thereof to the Underwriters. The Official Statement as thus approved, executed and delivered, with such appropriate variations as shall be approved by the Authorized Officer and the Underwriters, may be used by the Underwriters in the public offering and sale thereof. The City Secretary is hereby authorized and directed to include and maintain a copy of the Official Statement and any addenda, supplement or amendment thereto thus approved among the permanent records of this meeting. The use and distribution of the Preliminary Official Statement, and the preliminary public offering of the Certificates by the Underwriters, is hereby ratified, approved and confirmed.

(d) All officers of the City are authorized to execute such documents, certificates and receipts as they may deem appropriate in order to consummate the delivery of the Certificates in accordance with the terms of sale therefor including, without limitation, the Purchase Contract.

(e) The obligation of the Underwriters identified in subsection (a) of this Section to accept delivery of the Certificates is subject to the Underwriters being furnished with the final, approving opinion of Andrews Kurth LLP, bond counsel for the City, which opinion shall be dated and delivered the Closing Date.

Section 7.02. Control and Delivery of Certificates.

(a) The Authorized Officer of the City is hereby authorized to have control of the Initial Certificate and all necessary records and proceedings pertaining thereto pending investigation, examination, and approval of the Attorney General of the State of Texas, registration by the Comptroller of Public Accounts of the State of Texas and registration with, and initial exchange or transfer by, the Paying Agent/Registrar.

(b) After registration by the Comptroller of Public Accounts, delivery of the Certificates shall be made to the Underwriters thereof under and subject to the general supervision and direction of the Authorized Officer, against receipt by the City of all amounts due to the City under the terms of sale.

(c) In the event the Mayor or City Secretary is absent or otherwise unable to execute any document or take any action authorized herein, the Mayor Pro Tem and the Assistant City

Secretary, respectively, shall be authorized to execute such documents and take such actions, and the performance of such duties by the Mayor Pro Tem and the Assistant City Secretary shall for the purposes of this Ordinance have the same force and effect as if such duties were performed by the Mayor and City Secretary, respectively.

Section 7.03. Deposit of Proceeds.

(a) First: All amounts received on the Closing Date as accrued interest on the Certificates from the Certificate Date to the Closing Date shall be deposited to the Interest and Sinking Fund.

(b) Second: The remaining balance received on the Closing Date shall be deposited to a special account of the City, such moneys to be dedicated and used solely for the remaining purposes for which the Certificates are being issued as herein provided.

ARTICLE VIII

INVESTMENTS

Section 8.01. Investments.

(a) Money in the Interest and Sinking Fund created by this Ordinance and the special account provided for in Section 7.03(b), at the City's option, may be invested in such securities or obligations as permitted under applicable law. The City's Chief Financial Officer, and any other officer of the City authorized to make investments on behalf of the City, are hereby authorized and directed to execute and deliver, on behalf of the City, any and all investment agreements, guaranteed investment contracts or repurchase agreements in connection with the investment of moneys on deposit in the Interest and Sinking Fund and the special account provided for in Section 7.03(b), but only to the extent such investment agreements, guaranteed investment contracts or repurchase agreements are authorized investments under applicable law.

(b) Any securities or obligations in which money in the Interest and Sinking Fund is so invested shall be kept and held in trust for the benefit of the Owners and shall be sold and the proceeds of sale shall be timely applied to the making of all payments required to be made from the fund from which the investment was made.

Section 8.02. Investment Income.

(a) Interest and income derived from investment of the Interest and Sinking Fund shall be credited to such fund.

(b) Interest and income derived from investment of the funds to be deposited pursuant to Section 7.03(b) hereof shall be credited to the account where deposited until the acquisition or construction of said projects is completed or shall be transferred to the Interest and Sinking Fund as shall be determined by the City Council. Upon completion of the authorized projects, to the extent such interest and income are present, such interest and income shall be deposited to the Interest and Sinking Fund.

ARTICLE IX

PARTICULAR REPRESENTATIONS AND COVENANTS

Section 9.01. Payment of the Certificates.

On or before each Interest Payment Date for the Certificates and while any of the Certificates are outstanding and unpaid, there shall be made available to the Paying Agent/Registrar, out of the Interest and Sinking Fund, money sufficient to pay such interest on and principal of the Certificates as will accrue or mature on the applicable Interest Payment Date, maturity date or date of prior redemption.

Section 9.02. Other Representations and Covenants.

(a) The City will faithfully perform at all times any and all covenants, undertakings, stipulations, and provisions contained in this Ordinance and in each Certificate; the City will promptly pay or cause to be paid the principal of and interest on each Certificate on the dates and at the places and manner prescribed in such Certificate; and the City will, at the times and in the manner prescribed by this Ordinance, deposit or cause to be deposited the amounts of money specified by this Ordinance.

(b) The City is duly authorized under the laws of the State of Texas to issue the Certificates; all action on its part for the creation and issuance of the Certificates has been duly and effectively taken; and the Certificates in the hands of the Owners thereof are and will be valid and enforceable obligations of the City in accordance with their terms.

Section 9.03. Tax Exemption.

(a) The City intends that the interest on the Certificates shall be excludable from gross income of the owners thereof for federal income tax purposes pursuant to Sections 103 and 141 through 150 of the Code and all applicable temporary, proposed and final regulations (the "Regulations") and procedures promulgated thereunder and applicable to the Certificates. For this purpose, the City covenants that it will monitor and control the receipt, investment, expenditure and use of all gross proceeds of the Certificates (including all property, the acquisition, construction or improvement of which is to be financed directly or indirectly with the proceeds of the Certificates) and take or omit to take such other and further actions as may be required by Sections 103 and 141 through 150 of the Code and the Regulations to cause the interest on the Certificates to be and remain excludable from the gross income, as defined in Section 61 of the Code, of the owners of the Certificates for federal income tax purposes. Without limiting the generality of the foregoing, the City shall comply with each of the following covenants:

(i) The City shall not use, permit the use of or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with Gross Proceeds) in a manner which, if made or omitted, respectively, would cause the interest on any Certificate to become includable in the gross income, as defined in Section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless

and until the City shall have received 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 Certificate, the City shall comply with each of the specific covenants in this Section.

(ii) Except as permitted by Section 141 of the Code and the regulations and rulings thereunder, the City shall, at all times prior to the last stated maturity of the Certificates,

(A) exclusively own, operate, and possess all property the acquisition, construction, or improvement of which is to be financed directly or indirectly with Gross Proceeds of the Certificates and not use, or permit the use of, such Gross Proceeds or any property acquired, constructed, or improved with such Gross Proceeds, in any activity carried on by any person or entity other than a state or local government, unless such use is solely as a member of the general public, or

(B) not directly or indirectly impose or accept any charge or other payment for use of Gross Proceeds of such series of the Certificates or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with such Gross Proceeds, other than taxes of general application and interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

(iii) Except to the extent permitted by Section 141 of the Code and the regulations and rulings thereunder, the City shall not use Gross Proceeds of the Certificates to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, Gross Proceeds are considered to be "loaned" to a person or entity if (1) property acquired, constructed or improved with Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes, (2) capacity in or service from such property is committed to such person or entity under a take-or-pay, output, or similar contract or arrangement, or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or such property are otherwise transferred in a transaction which is the economic equivalent of a loan.

(iv) Except to the extent permitted by Section 148 of the Code and the regulations and rulings thereunder, the City shall not, at any time prior to the earlier of the final stated maturity or final payment of the Certificates, directly or indirectly invest Gross Proceeds of the Certificates in any Investment (or use such Gross Proceeds to replace money so invested), if as a result of such investment the Yield of all Investments allocated to such Gross Proceeds whether then held or previously disposed of, exceeds the Yield on the Certificates.

(v) Based on all of the facts and estimates now known or reasonably expected to be in existence on the date the Certificates are delivered, the City reasonably expects that the proceeds of the Certificates will not be used in a manner that would cause the

Certificates or any portion thereof to be “arbitrage bonds” within the meaning of Section 148 of the Code.

(vi) At all times while the Certificates are outstanding, the City will identify and properly account for all amounts constituting gross proceeds of the Certificates in accordance with the Regulations. The City will monitor the yield on the investments of the proceeds of the Certificates and, to the extent required by the Code and the Regulations, will restrict the yield on such investments to a yield which is not materially higher than the yield on the Certificates. To the extent necessary to prevent the Certificates from constituting “arbitrage bonds,” the City will make such payments as are necessary to cause the yield on all yield restricted non-purpose investments allocable to the Certificates to be less than the yield that is materially higher than the yield on the Certificates;

(vii) The City will not take any action or knowingly omit to take any action, if taken or omitted, would cause the Certificates to be treated as “federally guaranteed” obligations for purposes of Section 149(b) of the Code;

(viii) The City represents that not more than fifty percent (50%) of the proceeds of the Certificates was invested in non-purpose investments (as defined in Section 148(f)(b)(A) of the Code) having a substantially guaranteed yield for four years or more within the meaning of Section 149(g)(3)(A)(ii) of the Code, and the City reasonably expects that at least eighty-five percent (85%) of the spendable proceeds of the Certificates will be used to carry out the governmental purpose of the Certificates within the three-year period beginning on the date of issue of the Certificates;

(ix) The City will take all necessary steps to comply with the requirement that certain amounts earned by the City on the investment of the gross proceeds of the Certificates, if any, be rebated to the federal government. Specifically, the City will (i) maintain records regarding the receipt, investment and expenditure of the gross proceeds of the Certificates as may be required to calculate such excess arbitrage profits separately from records of amounts on deposit in the funds and accounts of the City allocable to other obligations of the City or moneys which do not represent gross proceeds of any obligations of the City and retain such records for at least six years after the day on which the last outstanding Certificate is discharged, (ii) account for all gross proceeds under a reasonable, consistently applied method of accounting, not employed as an artifice or device to avoid, in whole or in part, the requirements of Section 148 of the Code, including any specified method of accounting required by applicable Regulations to be used for all or a portion of the gross proceeds, (iii) calculate, at such times as are required by applicable Regulations, the amount of excess arbitrage profits, if any, earned from the investment of the gross proceeds of the Certificates and (iv) timely pay, as required by applicable Regulations, all amounts required to be rebated to the federal government. In addition, the City will exercise reasonable diligence to assure that no errors are made in the calculations required by the preceding sentence and, if such an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter, including payment to the federal government of any delinquent amounts owed to it, including interest thereon and penalties;

(x) The City will not indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to any person other than the federal government by entering into any investment arrangement with respect to the gross proceeds of the Certificates that might result in a reduction in the amount required to be paid to the federal government because such arrangement results in smaller profit or a larger loss than would have resulted if such arrangement had been at arm's length and had the yield on the issue not been relevant to either party;

(xi) The City will timely file or cause to be filed with the Secretary of the Treasury of the United States the information required by Section 149(e) of the Code with respect to the Certificates on such form and in such place as the Secretary may prescribe;

(xii) The City will not issue or use the Certificates as part of an "abusive arbitrage device" (as defined in Section 1.148 10(a) of the Regulations). Without limiting the foregoing, the Certificates are not and will not be a part of a transaction or series of transactions that attempts to circumvent the provisions of Section 148 of the Code and the Regulations, by (i) enabling the City to exploit the difference between tax exempt and taxable interest rates to gain a material financial advantage, or (ii) increasing the burden on the market for tax-exempt obligations;

(xiii) Proper officers of the City charged with the responsibility for issuing the Certificates are hereby directed to make, execute and deliver certifications as to facts, estimates or circumstances in existence as of the Issue Date and stating whether there are facts, estimates or circumstances that would materially change the City's expectations. On or after the Issue Date, the City will take such actions as are necessary and appropriate to assure the continuous accuracy of the representations contained in such certificates;

(xiv) The covenants and representations made or required by this Section are for the benefit of the Certificate holders and any subsequent Certificate holder, and may be relied upon by the Certificate holder and any subsequent Certificate holder and bond counsel to the City.

(b) In complying with the foregoing covenants, the City may rely upon an unqualified opinion issued to the City by nationally recognized bond counsel that any action by the City or reliance upon any interpretation of the Code or Regulations contained in such opinion will not cause interest on the Certificates to be includable in gross income for federal income tax purposes under existing law.

(c) Notwithstanding any other provision of this Ordinance, the City's representations and obligations under the covenants and provisions of this Section shall survive the defeasance and discharge of the Certificates for as long as such matters are relevant to the exclusion of interest on the Certificates from the gross income of the owners for federal income tax purposes.

ARTICLE X

DEFAULT AND REMEDIES

Section 10.01. Events of Default.

Each of the following occurrences or events for the purpose of this Ordinance is hereby declared to be an Event of Default:

- (i) the failure to make payment of the principal of or interest on any of the Certificates when the same becomes due and payable; or
- (ii) default in the performance or observance of any other covenant, agreement, or obligation of the City, which default materially and adversely affects the rights of the Owners, including but not limited to their prospect or ability to be repaid in accordance with this Ordinance, and the continuation thereof for a period of sixty (60) days after notice of such default is given by any Owner to the City.

Section 10.02. Remedies for Default.

(a) Upon the happening of any Event of Default, then any Owner or an authorized representative thereof, including but not limited to a trustee or trustees therefor, may proceed against the City for the purpose of protecting and enforcing the rights of the Owners under this Ordinance by mandamus or other suit, action or special proceeding in equity or at law in any court of competent jurisdiction for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of the Owners hereunder or any combination of such remedies.

(b) It is provided that all such proceedings shall be instituted and maintained for the equal benefit of all Owners of Certificates then outstanding.

Section 10.03. Remedies Not Exclusive.

(a) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Certificates or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this Ordinance, the right to accelerate the debt evidenced by the Certificates shall not be available as a remedy under this Ordinance.

(b) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

ARTICLE XI

DISCHARGE

Section 11.01. Discharge.

The Certificates may be defeased, discharged or refunded in any manner permitted by applicable law.

ARTICLE XII

CONTINUING DISCLOSURE UNDERTAKING

Section 12.01. Annual Reports.

(a) The City shall provide annually to the MSRB, within six (6) months after the end of each fiscal year, financial information and operating data with respect to the City of the general type included in the final Official Statement, being the information described in Exhibit A hereto. Any financial statements so to be provided shall be (i) prepared in accordance with the accounting principles described in Exhibit A hereto, and (ii) audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided and (iii) submitted through EMMA, in an electronic format with accompany identifying information, as prescribed by the MSRB. If the audit of such financial statements is not complete within such period, then the City shall provide notice that audited financial statements are not available and shall provide unaudited financial statements for the applicable fiscal year to the MSRB. The City shall provide audited financial statements for the applicable fiscal year to the MSRB, when and if audited financial statements become available.

(b) If the City changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

(c) The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific referenced to any document (including an official statement or other offering document, if it is available from the MSRB) that theretofore has been provided to the MSRB or filed with the SEC.

Section 12.02. Material Event Notices.

(a) The City shall notify the MSRB, in a timely manner (not in excess of ten (10) Business Days after the occurrence of an event), of any of the following events with respect to the Certificates:

- (i) principal and interest payment delinquencies;
- (ii) nonpayment related defaults, if material;

- (iii) unscheduled draws on debt service reserves reflecting financial difficulties;
- (iv) unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) substitution of credit or liquidity providers, or their failure to perform;
- (vi) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Certificates, or other material events affecting the tax status of the Certificates;
- (vii) modifications to rights of Owners, if material;
- (viii) redemption calls, if material, and tender offers;
- (ix) defeasances;
- (x) release, substitution, or sale of property securing repayment of the Certificates, if material;
- (xi) rating changes;
- (xii) bankruptcy, insolvency, receivership or similar event of the City;
- (xiii) the consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
- (xiv) appointment of a successor Paying Agent/Registrar or change in the name of the Paying Agent/Registrar, if material.

The City will provide notice of such events to the MSRB in an electronic format and accompanied by identifying information, as prescribed by the MSRB.

(b) As used in clause (xii) above, the phrase “bankruptcy, insolvency, receivership or similar event” means the appointment of a receiver, fiscal agent or similar officer for the City in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court of governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if jurisdiction has been assumed by leaving the City Council and official or officers of the City in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City.

(c) The City shall notify the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with Section 12.01 of this Ordinance by the time required by such Section.

Section 12.03. Limitations, Disclaimers and Amendments.

(a) The City shall be obligated to observe and perform the covenants specified in this Article for so long as, but only for so long as, the City remains an “obligated person” with respect to the Certificates within the meaning of the Rule, except that the City in any event will give notice of any Certificate calls and any defeasances that cause the City to be no longer an “obligated person.”

(b) The provisions of this Article are for the sole benefit of the Owners and beneficial owners of the Certificates, and nothing in this Article, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Article and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City’s financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Article or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Certificates at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE OWNER OR BENEFICIAL OWNER OF ANY CERTIFICATE OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS ARTICLE, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

(c) No default by the City in observing or performing its obligations under this Article shall constitute a breach of or default under the Ordinance for purposes of any other provisions of this Ordinance.

(d) Nothing in this Article is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

(e) The provisions of this Article may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (i) the provisions of this Article, as so amended, would have permitted an underwriter to purchase or sell Certificates in the primary offering of the Certificates in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (ii) either (A) the Owners of a majority in aggregate principal amount (or any greater amount required by any other provisions of this Ordinance that

authorizes such an amendment) of the outstanding Certificates consent to such amendment or (B) an entity or individual person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Owners and beneficial owners of the Certificates. If the City so amends the provisions of this Article, it shall include with any amended financial information or operating data next provided in accordance with Section 12.01 an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in type of financial information or operating data so provided.

ARTICLE XIII

AMENDMENTS; ATTORNEY GENERAL MODIFICATION

Section 13.01. Amendments.

This Ordinance shall constitute a contract with the Owners, be binding on the City, and shall not be amended or repealed by the City so long as any Certificate remains outstanding except as permitted in this Section. The City may, without consent of or notice to any Owners, from time to time and at any time, amend this Ordinance in any manner not detrimental to the interests of the Owners, including the curing of any ambiguity, inconsistency, or formal defect or omission herein. In addition, the City may, with the written consent of the Owners of the Certificates holding a majority in aggregate principal amount of the Certificates then outstanding and receipt of a Counsel's Opinion that such amendment, addition or rescission of any provisions of the Ordinance will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Certificates, amend, add to, or rescind any of the provisions of this Ordinance; provided that, without the consent of all Owners of outstanding Certificates, no such amendment, addition, or rescission shall (i) extend the time or times of payment of the principal of and interest on the Certificates, reduce the principal amount thereof, the redemption price, or the rate of interest thereon, or in any other way modify the terms of payment of the principal of or interest on the Certificates, (ii) give any preference to any Certificate over any other Certificate, or (iii) reduce the aggregate principal amount of Certificates required to be held by Owners for consent to any such amendment, addition, or rescission.

Section 13.02. Attorney General Modification.

In order to obtain the approval of the Certificates by the Attorney General of the State of Texas, any provision of this Ordinance may be modified, altered or amended after the date of its adoption if required by the Attorney General in connection with the Attorney General's examination as to the legality of the Certificates and approval thereof in accordance with the applicable law. Such changes, if any, shall be provided to the City Secretary and the City Secretary shall insert such changes into this Ordinance as if approved on the date hereof.

ARTICLE XIV

EFFECTIVE IMMEDIATELY

Section 14.01. Effective Immediately.

Notwithstanding the provisions of the City Charter, this Ordinance shall become effective immediately upon its adoption at this meeting pursuant to Section 1201.028, Texas Government Code.

PRESENTED, FINALLY PASSED AND APPROVED, AND EFFECTIVE on the 6th day of March, 2012, at a regular meeting of the City Council of the City of Lubbock, Texas.

TOM MARTIN, Mayor

ATTEST:

REBECCA GARZA, City Secretary

[SEAL]

APPROVED AS TO CONTENT:

By: _____
ANDY BURCHAM, Chief Financial Officer

APPROVED AS TO FORM:

By: _____
JERRY KYLE, Bond Counsel

Signature Page for Ordinance

EXHIBIT A

DESCRIPTION OF ANNUAL DISCLOSURE OF FINANCIAL INFORMATION

The following information is referred to in Article XII of this Ordinance.

Annual Financial Statements and Operating Data

The financial information and operating data with respect to the City to be provided annually in accordance with such Section are as specified (and included in the Appendix or other headings of the Official Statement referred to) below:

1. The portions of the financial statements of the City appended to the Official Statement as Appendix B, but for the most recently concluded fiscal year.
2. Statistical and financial data set forth in Tables 1-6 and 8A-15 of the Official Statement.

Accounting Principles

The accounting principles referred to in such Section are the accounting principles described in the notes to the financial statements referred to in Paragraph 1 above.

EXHIBIT B

SALE PARAMETERS

In accordance with Section 7.01(a) of the Ordinance, the following conditions with respect to the Certificates must be satisfied in order for the Authorized Officer to act on behalf of the City in selling and delivering the Certificates to the Underwriters:

(a) the Certificates shall not bear interest at a rate greater than the maximum rate allowed by Chapter 1204, Texas Government Code, as amended;

(b) the aggregate principal amount of the Certificates shall produce proceeds in an amount sufficient, as determined by the Authorized Officer, to fund the purposes described in Section 3.01 and such aggregate principal amount shall not exceed the maximum amount authorized in Section 3.01;

(c) the maximum maturity for the Certificates shall not exceed twenty-one (21) years;
and

(d) the Certificates to be issued, prior to delivery, must have been rated by a nationally recognized rating agency for municipal securities in one of the four highest rating categories for long term obligations.

Attachment A

City of Lubbock, TX

Finance Department

Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2012

Projects Funded by this Issue

ADMINISTRATIVE SERVICES

City Hall Improvements

Funded by 2012 CO: **\$300,000**

The project provides renovations to include basement restrooms, parking lot improvements, signage, hallways, ADA non-compliant areas, lowering of the fire sprinkler heads, replacing the electrical distribution panels, carpeting, and other necessary renovations.

AIRPORT

Airport Terminal Boiler Replacement

Funded by 2012 CO: **\$1,250,000**

Remove and replace airport terminal HVAC boilers, and associated equipment including the circulating pumps, automated control system and small area heat/cool units. The existing boilers have reached their useful life and need replacement to efficiently and effectively heat the terminal building during winter weather.

CULTURAL AND RECREATIONAL SERVICES

Park Playground Replacement

Funded by 2012 CO: **\$705,304**

Replace aging playground equipment with new colorful, metal, multi-activity choices for park users of all ages. Playground replacements are planned for Maedgen, Ribble, Elmore, and Leftwich Parks.

Garden and Arts Center Renovations

Funded by 2012 CO: **\$333,500**

Renovate the men and women's restrooms, entrance, parking lot, signage, and other non-compliant areas of the Garden and Arts Center.

Mackenzie Restroom (Broadway Entry)

Funded by 2012 CO: **\$261,547**

The project includes the installation of a pre-cast concrete restroom at Mackenzie Park, east of the Amphitheater. The existing restroom was in disrepair and has been removed.

INTERNAL SERVICES

Citywide Fuel System Upgrades

Funded by 2012 CO: **\$267,300**

Renovation of the 84th Street and Avenue P fuel site. The project includes removal of three 20,000 gallon steel tanks and installation of two new 30,000 gallon fiberglass tanks.

Attachment A

City of Lubbock, TX

Finance Department

Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2012

Projects Funded by this Issue

STORM WATER

Phase II Street Maintenance Program – 10 Year

Funded by 2012 CO: \$9,339,999

This project includes several types of street maintenance practices, including micro-surfacing, asphalt rejuvenation, asphalt milling, overlay, full or partial depth pavement repair, total reconstruction, patching, crack sealing, concrete joint sealing, and brick street repair.

Northwest Lubbock and Maxey Park Project

Funded by 2012 CO: \$33,350,000

Design, plans, specifications, and construction estimates for the construction of storm water infrastructure from Maxey Park to the Canyon Lakes, as well as upstream detention to relieve some flooding risks to homes along Quaker Avenue between 50th Street and 34th Street.

Storm Water Repair and Replacement

Funded by 2012 CO: \$500,000

This project includes design, plans, specifications, and construction estimates for the repair and or replacement of storm water pipelines. The Video Inspection of Storm Water Infrastructure project revealed locations in the downtown area where storm water lines are damaged and in need of repairs.

82nd and Quaker Drainage Improvements

Funded by 2012 CO: \$500,000

This project includes the design of inlets and storm sewer pipe to intercept nuisance water creating traffic hazards at the intersection of Quaker Avenue and 82nd Street; design of outfall structure to minimize impact to adjacent properties and provide erosion protection; and construction of improvements including pavement repair for storm sewer pipeline and inlets.

WASTEWATER

Lift Station Rehabilitation – 10 Year

Funded by 2012 CO: \$250,000

Purchase and installation of new equipment; modification and/or rehabilitation of existing equipment, facilities, and piping systems; and other major maintenance activities. This project is part of an annual replacement program that ensures continuous and reliable pumping, compliance with the City's Texas Pollution Discharge Elimination permit, and overall performance.

Sewer Line Replacement

Funded by 2012 CO: \$250,000

Replacement of deteriorated or damaged sanitary sewer lines and manholes. This project is part of an annual program that ensures continuous and reliable sewer service.

Attachment A

City of Lubbock, TX

Finance Department

Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2012

Projects Funded by this Issue

Sewer Tap Replacement – 10 Year

Funded by 2012 CO: \$250,000

This project includes replacement of failed sewer taps. Damaged taps cause odors, sewer backups, and spills that are potential for citizen complaints, threaten human safety, and may result in regulatory fines.

Land Application Office Renovation

Funded by 2012 CO: \$50,000

Design and construction of a new Land Application office building at 4062 East 19th Street to include a lobby, offices, conference/training room, kitchenette, two restrooms, and a storage area. The current office has roof damage and extensive interior water damage.

South Lubbock Sanitary Sewer System Expansion Phase I

Funded by 2012 CO: \$6,000,000

Design and construction of large diameter sewer mains in South Lubbock necessary to abandon a temporary lift station located at 98th Street and Avenue P as recommended by the Sewer Collection System Master Plan.

Sewer Extensions Ahead of the Gateway Projects

Funded by 2012 CO: \$1,000,000

This project includes installation of wastewater infrastructure ahead of the paving for Gateway Projects. The Gateway Projects have several miles of thoroughfares and this project allows for installation of necessary infrastructure prior to the surface improvements, which is intended to reduce unnecessary paving cuts in the future.

SEWRP Solids Handling Facility Improvements

Funded by 2012 CO: \$1,000,000

Design and construction for plant improvements to the Southeast Water Reclamation Plant (SEWRP). The improvements will produce stream quality effluent which will be discharged into the North Fork of the Double Mountain Fork of the Brazos River for potential reuse.

Dedicated Land Disposal Facility

Funded by 2012 CO: \$1,000,000

Feasibility study, design, and construction of a Dedicated Land Disposal Facility associated with the Southeast Water Reclamation Plant (SEWRP) treatment process. The improvements will assist in the disposal of solids produced from the recent treatment process upgrades at the SEWRP.

WATER

Lake Alan Henry Repairs/Maintenance

Funded by 2012 CO: \$3,000,000

This project includes maintenance and repairs associated with the John T. Montford Dam at Lake Alan Henry. Maintenance and repair projects will be evaluated and implemented based on importance related to the structure and safety of the dam and are necessary to maintain and operate the dam and structures associated with the operation of the facilities.

Attachment A

City of Lubbock, TX

Finance Department

Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2012

Projects Funded by this Issue

Water Treatment Plant Improvements – 10 Year

Funded by 2012 CO: **\$2,000,000**

Purchase and installation of new equipment; modification of existing equipment, facilities and treatment systems; and other major maintenance activities. The replacement and updating of aging infrastructure is necessary to reduce emergency maintenance expenditures and system failures.

Pumping System Improvements – 10 Year

Funded by 2012 CO: **\$200,000**

This project includes the purchase and installation of new equipment; modification and/or rehabilitation of existing equipment, facilities, and pumping systems; and other major maintenance activities. This project is part of an annual program that ensures continuous and reliable water service.

Water Lines Ahead of Street Paving

Funded by 2012 CO: **\$250,000**

Relocation and installation of water lines ahead of municipal, county, and state paving projects and future development. This project is part of an annual water line installation program coordinated with street paving projects.

Low Head B and Pump Station No. 9 Rehabilitation

Funded by 2012 CO: **\$9,500,000**

Study the feasibility of combining Low Head B, No. 7 and No. 9 pump stations into one facility, and rehabilitating or replacing the Low Head B and No.9 pump stations based on the feasibility results.

Pump Station Emergency Electric Generators

Funded by 2012 CO: **\$300,000**

This project includes the design and installation of permanent stationary emergency electric generators with automatic switchover capabilities at the water booster pump stations. The generators will improve the reliability of the water pumping system during power outages due to severe weather and other emergencies.

LAH Wildlife Mitigation Area Improvements

Funded by 2012 CO: **\$250,000**

Construction of improvements to the Lake Alan Henry (LAH) Wildlife Mitigation Area (WMA) including fencing and wetland establishment. The fencing is required to control livestock movements and access utilized for grazing. The wetland establishment will create valuable wildlife habitats by establishing wetlands in various areas that had no surface water previously.

TOTAL 2012 CO:

\$72,107,650



Regular City Council Meeting

5. 3.

Meeting Date: 03/06/2012

Information

Agenda Item

Ordinance 1st and Only Reading - Finance: Consider and take action on an ordinance providing for the issuance of City of Lubbock, Texas, General Obligation Bonds, Series 2012, in an amount not to exceed \$14,000,000; levying a tax in payment thereof; approving the official statement; approving execution of a purchase contract; and enacting other provisions relating thereto.

Item Summary

On January 26, 2012, the City Council approved the first step in the issuance process by authorizing publication of a Notice of Intent to Issue General Obligation Bonds. Upon approval of this ordinance, the City will be able to sell the Bonds on a negotiated basis.

The ordinance is a "parameters ordinance" delegating authority to the City Manager or Chief Financial Officer (Authorized Officers) authorizing the timing, terms (including the number of series), and interest rates, of the issuance. The ordinance designates parameters to which the Authorized Officers must conform while executing the sale of the Bonds. The designated authority allows the City to attain the most attractive rates or terms by timing the issuance under the best market conditions.

The following conditions must be satisfied in order for the Authorized Officers to act on behalf of the City in selling and delivering the Bonds to the Underwriter:

- a) the Bonds shall not bear interest at a rate greater than the maximum rate allowed by Chapter 1204, Texas Government Code, as amended;
- b) the aggregate principal amount of the Bonds shall produce proceeds in an amount sufficient, as determined by the Authorized Officer, to fund the purposes described in Section 3.01 and such aggregate principal amount shall not exceed \$14,000,000;
- c) the maximum maturity for the Bonds shall not exceed twenty-one years; and
- d) the Bonds to be issued, prior to delivery, must have been rated by a nationally recognized rating agency for municipal securities in one of the four highest rating categories for long term obligations.

On the date of execution, the City will sell the Bonds on a negotiated basis. The City and RBC Capital Markets, the City's financial advisor, will negotiate a purchase price for the Bonds with the City's underwriters (Citigroup Global Markets, senior underwriter, Morgan Keegan & Company, Inc., Barclays Capital Inc., and Hutchinson Shockey Erley & Company). The projects scheduled to be funded with the Bonds are included in Exhibit A with a total cost of \$12.5 million.

Senate Bill 1759 of the 77th Legislative Session amends Subchapter B, Chapter 1201, of the Texas Government Code under Section 1201.028(3) allowing the authorization of a public security with only one reading of the ordinance. The ordinance excludes certain information that is unknown as of the printing of the backup material. Examples include annual principal and interest amounts and maturity dates. Once negotiations have concluded, the

information is included and a final ordinance provided to the City Council.

Fiscal Impact

Included in Item Summary.

Staff/Board Recommending

Andy Burcham, Chief Financial Officer

Attachments

Ordinance - GO 2012

Attachment A - GO Capital Project

ORDINANCE

relating to

CITY OF LUBBOCK, TEXAS
GENERAL OBLIGATION BONDS
SERIES 2012

Adopted: March 6, 2012

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AN ORDINANCE PROVIDING FOR THE ISSUANCE OF CITY OF LUBBOCK, TEXAS, GENERAL OBLIGATION BONDS, SERIES 2012 IN AN AMOUNT NOT TO EXCEED \$14,000,000; LEVYING A TAX IN PAYMENT THEREOF; APPROVING THE OFFICIAL STATEMENT; APPROVING EXECUTION OF A PURCHASE CONTRACT; AND ENACTING OTHER PROVISIONS RELATING THERETO

WHEREAS, the bonds hereinafter authorized were duly and favorably voted, as required by the Constitution and laws of the State of Texas, at elections held in the City of Lubbock, Texas (the "City"), on May 15, 2004 and November 3, 2009;

WHEREAS, at said elections, the following are among the purposes and amounts of the bonds which were authorized, reflecting any amount previously issued pursuant to each voted authorization, the amount therefrom being authorized pursuant to this Ordinance, and the balance that remains unissued after the issuance of the bonds herein authorized, to wit:

<u>Purpose</u>	<u>Election Date</u>	<u>Amount Voted</u>	<u>(amounts in thousands)</u>		<u>Unissued Balance</u>
			<u>Amount Previously Issued</u>	<u>Amount Being Issued¹</u>	
Streets	05/15/04	\$9,210	\$8,764	\$-0-	\$446
Animal Shelter	05/15/04	1,045	160	-0-	885
Police/Municipal Court	05/15/04	3,350	945	-0-	2,405
Streets	11/3/09	43,085	27,360	10,000	5,725
Fire	11/3/09	<u>7,500</u>	<u>2,750</u>	<u>2,500</u>	<u>2,250</u>
Total		<u>\$64,190</u>	<u>\$39,979</u>	<u>\$12,500</u>	<u>\$11,711</u>

WHEREAS, pursuant to a resolution heretofore passed by the City Council, notice of intention to issue the bonds was published in a newspaper of general circulation in the City in accordance with the City's Home-Rule Charter;

WHEREAS, the City Council has found and determined that it is necessary and in the best interest of the City and its citizens that it authorize by this Ordinance the issuance and delivery of an amount of bonds in or more series at this time, the proceeds of which will be sufficient to (i) pay costs of issuance of such bonds and (ii) fund the amounts listed in the table above under the "Amount Being Issued" column for the related projects;

WHEREAS, the City Council desires to delegate, pursuant to Chapter 1371, Texas Government Code, as amended, and the parameters of this Ordinance, to the Authorized Officer, the authority to approve the amount, the interest rate, the number of series, the price and terms of

¹ May include bond premium as set forth in the Pricing Certificate allocated against voted authorization on a pro rata basis among the projects.

the Bonds authorized hereby and to otherwise take such actions as are necessary and appropriate to effect the sale of the Bonds;

WHEREAS, the meeting at which this Ordinance is considered is open to the public as required by law, and public notice of the time, place and purpose of said meeting was given as required by Chapter 551, Texas Government Code, as amended; therefore,

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

ARTICLE I

DEFINITIONS AND OTHER PRELIMINARY MATTERS

Section 1.01 Definitions.

Unless otherwise expressly provided or unless the context clearly requires otherwise in this Ordinance, the following terms shall have the meanings specified below:

“Authorized Officer” means each of the City Manager and the Chief Financial Officer.

“Bond” means any of the Bonds.

“Bond Date” means the date designated as the initial date of the Bonds by Section 3.02(a) of this Ordinance.

“Bond Purchase Contract” means the bond purchase contract described in Section 7.01(b) of this Ordinance.

“Bonds” means the City’s bonds authorized to be issued by Section 3.01 of this Ordinance and designated as “City of Lubbock, Texas, General Obligation Bonds, Series 2012.”

“City” means the City of Lubbock, Texas.

“Closing Date” means the date of the initial delivery of and payment for the Bonds.

“Code” means the Internal Revenue Code of 1986, as amended.

“Designated Payment/Transfer Office” means (i) with respect to the initial Paying Agent/Registrar named in this Ordinance, the Designated Payment/Transfer Office as designated in the Paying Agent/Registrar Agreement, or at such other location designated by the Paying Agent/Registrar and (ii) with respect to any successor Paying Agent/Registrar, the office of such successor designated and located as may be agreed upon by the City and such successor.

“DTC” means The Depository Trust Company of New York, New York, or any successor securities depository.

“DTC Participant” means brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

“EMMA” means the Electronic Municipal Market Access System.

“Event of Default” means any event of default as defined in Section 10.01 of this Ordinance.

“Gross Proceeds” means any proceeds of the Bonds and replacement proceeds of the Bonds, as defined in Section 1.148-1(b) of the Regulations.

“Initial Bond” means the initial bond or bonds authorized by Section 3.04 of this Ordinance.

“Interest and Sinking Fund” means the interest and sinking fund or funds established by Section 2.02 of this Ordinance.

“Interest Payment Date” means the date or dates on which interest on the Bonds is scheduled to be paid until their respective dates of maturity or prior redemption, such dates being February 15 and August 15 of each year, commencing on the date set forth in the Pricing Certificate.

“Investment” means any investment property as defined in Sections 148(b)(2) and 148(b)(3) of the Code, and any other tax-exempt obligation.

“MSRB” means the Municipal Securities Rulemaking Board.

“Owner” means the person who is the registered owner of a Bond or Bonds, as shown in the Register.

“Paying Agent/Registrar” means initially The Bank of New York Mellon Trust Company, National Association, or any successor thereto as provided in this Ordinance.

“Pricing Certificate” means a certificate or certificates to be signed by the Authorized Officer.

“Record Date” means the last business day of the month next preceding an Interest Payment Date.

“Register” means the Register specified in Section 3.06(a) of this Ordinance.

“Regulations” means all temporary, proposed and final regulations applicable to Sections 103 and 141 through 150 of the Code.

“Representation Letter” means the Blanket Letter of Representations between the City and DTC.

“Representative” means the representative for the Underwriters named in the Bond Purchase Contract.

“Rule” means SEC Rule 15c2-12, as amended from time to time.

“SEC” means the United States Securities and Exchange Commission.

“Special Payment Date” means the Special Payment Date prescribed by Section 3.03(b).

“Special Record Date” means the Special Record Date prescribed by Section 3.03(b).

“Term Bonds” has the meaning set forth in Section 4.03 hereof.

“Unclaimed Payments” means money deposited with the Paying Agent/Registrar for the payment of principal of or interest on the Bonds as the same come due and payable and remaining unclaimed by the Owners of such Bonds after the applicable payment or redemption date.

“Underwriters” means the Underwriters named in the Bond Purchase Contract.

“Yield” means the yield computed under Section 1.148-4 of the Regulations for an Bond or issue of Bonds, and yield computed under Section 1.148-5 of the Regulations for an investment.

Section 1.02 Findings.

The declarations, determinations and findings declared, made and found in the preamble to this Ordinance are hereby adopted, restated and made a part of the operative provisions hereof.

Section 1.03 Table of Contents, Titles and Headings.

The table of contents, titles and headings of the Articles and Sections of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof and shall never be considered or given any effect in construing this Ordinance or any provision hereof or in ascertaining intent, if any question of intent should arise.

Section 1.04 Interpretation.

(a) Unless the context requires otherwise, words of the masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa.

(b) This Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein.

ARTICLE II

SECURITY FOR THE BONDS; INTEREST AND SINKING FUND

Section 2.01 Tax Levy.

(a) Pursuant to the authority granted by the Texas Constitution and the laws of the State of Texas, there shall be levied and there is hereby levied for the current year and for each succeeding year hereafter while any of the Bonds or any interest thereon is outstanding and unpaid, an ad valorem tax on each one hundred dollars valuation of taxable property within the City, at a rate sufficient, within the limit prescribed by law, to pay the debt service requirements of the Bonds, being (i) the interest on the Bonds, and (ii) a sinking fund for their redemption at maturity or a sinking fund of two percent (2%) per annum (whichever amount is greater), when due and payable, full allowance being made for delinquencies and costs of collection.

(b) The ad valorem tax thus levied shall be assessed and collected each year against all property appearing on the tax rolls of the City most recently approved in accordance with law and the money thus collected shall be deposited as collected to the Interest and Sinking Fund.

(c) Said ad valorem tax, the collections therefrom, and all amounts on deposit in or required hereby to be deposited to the Interest and Sinking Fund are hereby pledged and committed irrevocably to the payment of the principal of and interest on the Bonds when and as due and payable in accordance with their terms and this Ordinance.

(d) If the lien and provisions of this Ordinance shall be released in a manner permitted by Article XI hereof, then the collection of such ad valorem tax may be suspended or appropriately reduced, as the facts may permit, and further deposits to the Interest and Sinking Fund may be suspended or appropriately reduced, as the facts may permit. In determining the aggregate principal amount of outstanding Bonds, there shall be subtracted the amount of any Bonds that have been duly called for redemption and for which money has been deposited with the Paying Agent/Registrar for such redemption.

Section 2.02 Interest and Sinking Fund.

(a) The City hereby establishes a special fund or account to be designated the "City of Lubbock, Texas, General Obligation Bonds, Series 2012, Interest and Sinking Fund," or such other designation as is set forth in the Pricing Certificate, for each series of Bonds, said fund or funds to be maintained at an official depository bank of the City separate and apart from all other funds and accounts of the City.

(b) Money on deposit in or required by this Ordinance to be deposited to the Interest and Sinking Fund shall be used solely for the purpose of paying the interest on and principal of the Bonds when and as due and payable in accordance with their terms and this Ordinance.

ARTICLE III

AUTHORIZATION; GENERAL TERMS AND PROVISIONS REGARDING THE BONDS

Section 3.01 Authorization.

The City's Bonds, to be designated "City of Lubbock, Texas, General Obligation Bonds, Series 2012," or such other designation or designations as set forth in the Pricing Certificate, are hereby authorized to be issued and delivered in accordance with the Constitution and laws of the State of Texas, including specifically Chapters 1331 and 1371, Texas Government Code, as amended, and Article VIII of the Charter of the City. The Bonds shall be issued in the number of series and aggregate principal amount designated in the Pricing Certificate, such amount not to exceed \$14,000,000, for the purpose of providing funds for paying the costs of issuing the Bonds and for permanent public improvements, to wit: (i) \$2,500,000 for firefighting facilities and equipment, including the acquisition of land and interests in land in connection therewith, and (ii) \$10,000,000 for street improvements including drainage, curbs, gutters, landscaping, sidewalks, curb ramps, utility line relocation and traffic signalization and the acquisition of land and rights-of-way therefor.

Section 3.02 Date, Denomination, Maturities and Interest.

(a) The Bonds shall be dated the date set forth in the Pricing Certificate. The Bonds shall be in fully registered form, without coupons, in the denomination of \$5,000 or any integral multiple thereof, and shall be numbered separately from one upward, except the Initial Bond, which shall be numbered T-1.

(b) The Bonds shall mature on February 15 in the years and in the principal amounts set forth in the Pricing Certificate provided that the maximum maturity for the Bonds shall not exceed twenty-one years.

(c) Interest shall accrue and be paid on each Bond respectively until its maturity or prior redemption, from the later of the date set forth in the Pricing Certificate or the most recent Interest Payment Date to which interest has been paid or provided for at the rates per annum for each respective maturity specified in the Pricing Certificate. Such interest shall be payable on each Interest Payment Date until maturity or prior redemption. Interest on the Bonds shall be calculated on the basis of a three hundred sixty (360) day year composed of twelve (12) months of thirty (30) days each.

Section 3.03 Medium, Method and Place of Payment.

(a) The principal of and interest on the Bonds shall be paid in lawful money of the United States of America.

(b) Interest on the Bonds shall be payable to each Owner as shown in the Register at the close of business on the Record Date; provided, however, in the event of nonpayment of interest on a scheduled Interest Payment Date and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") shall be established by the Paying

Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the "Special Payment Date," which shall be fifteen (15) days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by first-class United States mail, postage prepaid, to the address of each Owner of a Bond appearing on the Register at the close of business on the last business day next preceding the date of mailing of such notice.

(c) Interest shall be paid by check, dated as of the Interest Payment Date, and sent by the Paying Agent/Registrar to each Owner by United States mail, first class postage prepaid, to the address of each Owner as it appears in the Register, or by such other customary banking arrangement acceptable to the Paying Agent/Registrar and the Owner; provided, however, the Owner shall bear all risk and expense of such other banking arrangement. At the option of an Owner of at least \$1,000,000 principal amount of the Bonds, interest may be paid by wire transfer to the bank account of such Owner on file with the Paying Agent/Registrar.

(d) The principal of each Bond shall be paid to the Owner thereof on the due date (whether at the maturity date or the date of prior redemption thereof) upon presentation and surrender of such Bond at the Designated Payment/Transfer Office of the Paying Agent/Registrar.

(e) If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, legal holiday, or day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are required or authorized by law or executive order to close, then the date for such payment shall be the next succeeding day that is not a Saturday, Sunday, legal holiday, or day on which banking institutions are required or authorized to close, and payment on such date shall have the same force and effect as if made on the original date payment was due and no additional interest shall be due by reason of nonpayment on the date on which such payment is otherwise stated to be due and payable.

(f) Unclaimed Payments shall be segregated in a special escrow account and held in trust, uninvested by the Paying Agent/Registrar, for the accounts of the Owners of the Bonds to which the Unclaimed Payments pertain. Subject to Title 6 of the Texas Property Code, Unclaimed Payments remaining unclaimed by the Owners entitled thereto for three years after the applicable payment or redemption date shall be applied to the next payment or payments on the Bonds thereafter coming due and, to the extent any such money remains three years after the retirement of all outstanding Bonds, shall be paid to the City to be used for any lawful purpose. Thereafter, neither the City, the Paying Agent/Registrar nor any other person shall be liable or responsible to any holders of such Bonds for any further payment of such unclaimed monies or on account of any such Bonds, subject to Title 6 of the Texas Property Code.

Section 3.04 Execution and Registration of Bonds.

(a) The Bonds shall be executed on behalf of the City by the Mayor and the City Secretary, by their manual or facsimile signatures, and the official seal of the City shall be impressed or placed in facsimile thereon. Such facsimile signatures on the Bonds shall have the

same effect as if each of the Bonds had been signed manually and in person by each of said officers, and such facsimile seal on the Bonds shall have the same effect as if the official seal of the City had been manually impressed upon each of the Bonds.

(b) In the event that any officer of the City whose manual or facsimile signature appears on the Bonds ceases to be such officer before the authentication of such Bonds or before the delivery thereof, such manual or facsimile signature nevertheless shall be valid and sufficient for all purposes as if such officer had remained in such office.

(c) Except as provided below, no Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit of this Ordinance unless and until there appears thereon the Certificate of Paying Agent/Registrar substantially in the form provided herein, duly authenticated by manual execution by an officer or duly authorized signatory of the Paying Agent/Registrar. It shall not be required that the same officer or authorized signatory of the Paying Agent/Registrar sign the Certificate of Paying Agent/Registrar on all of the Bonds. In lieu of the executed Certificate of Paying Agent/Registrar described above, the Initial Bond delivered at the Closing Date shall have attached thereto the Comptroller's Registration Certificate substantially in the form provided herein, manually executed by the Comptroller of Public Accounts of the State of Texas, or by his duly authorized agent, which Certificate shall be evidence that the Bond has been duly approved by the Attorney General of the State of Texas, that it is a valid and binding obligation of the City and that it has been registered by the Comptroller of Public Accounts of the State of Texas.

(d) On the Closing Date, one Initial Bond of each series representing the entire principal amount of all the Bonds of such series and the terms set forth in the Pricing Certificate, payable in stated installments to the Representative, or its designee, executed by the Mayor and City Secretary of the City by their manual or facsimile signatures, approved by the Attorney General, and registered and manually signed by the Comptroller of Public Accounts, will be delivered to the Representative or its designee. Upon payment for the Initial Bond, the Paying Agent/Registrar shall cancel the Initial Bond and deliver a single registered, definitive Bond for each maturity, in the aggregate principal amount thereof, to DTC on behalf of the Underwriters.

Section 3.05 Ownership.

(a) The City, the Paying Agent/Registrar and any other person may treat the person in whose name any Bond is registered as the absolute owner of such Bond for the purpose of making and receiving payment as provided herein (except interest shall be paid to the person in whose name such Bond is registered on the Record Date or Special Record Date, as applicable), and for all other purposes, whether or not such Bond is overdue, and neither the City nor the Paying Agent/Registrar shall be bound by any notice or knowledge to the contrary.

(b) All payments made to the Owner of a Bond shall be valid and effectual and shall discharge the liability of the City and the Paying Agent/Registrar upon such Bond to the extent of the sums paid.

Section 3.06 Registration, Transfer and Exchange.

(a) So long as any Bonds remain outstanding, the City shall cause the Paying Agent/Registrar to keep at the Designated Payment/Transfer Office a register (the "Register") in which, subject to such reasonable regulations as it may prescribe, the Paying Agent/Registrar shall provide for the registration and transfer of Bonds in accordance with this Ordinance.

(b) The ownership of a Bond may be transferred only upon the presentation and surrender of the Bond at the Designated Payment/Transfer Office of the Paying Agent/Registrar with such endorsement or other evidence of transfer as is acceptable to the Paying Agent/Registrar. No transfer of any Bond shall be effective until entered in the Register.

(c) The Bonds shall be exchangeable upon the presentation and surrender thereof at the Designated Payment/Transfer Office of the Paying Agent/Registrar for a Bond or Bonds of the same maturity and interest rate and in any denomination or denominations of any integral multiple of \$5,000 and in an aggregate principal amount equal to the unpaid principal amount of the Bonds presented for exchange. The Paying Agent/Registrar is hereby authorized to authenticate and deliver Bonds exchanged for other Bonds in accordance with this Section.

(d) Each exchange Bond delivered by the Paying Agent/ Registrar in accordance with this Section shall constitute an original contractual obligation of the City and shall be entitled to the benefits and security of this Ordinance to the same extent as the Bond or Bonds in lieu of which such exchange Bond is delivered.

(e) No service charge shall be made to the Owner for the initial registration, subsequent transfer, or exchange for any different denomination of any of the Bonds. The Paying Agent/Registrar, however, may require the Owner to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection with the registration, transfer or exchange of a Bond.

(f) Neither the City nor the Paying Agent/Registrar shall be required to issue, transfer, or exchange any Bond called for redemption, in whole or in part, where such redemption is scheduled to occur within forty five (45) calendar days after the transfer or exchange date; provided, however, such limitation shall not be applicable to an exchange by the Owner of the uncalled principal balance of a Bond.

Section 3.07 Cancellation.

All Bonds paid or redeemed before scheduled maturity in accordance with this Ordinance, and all Bonds in lieu of which exchange Bonds or replacement Bonds are authenticated and delivered in accordance with this Ordinance, shall be cancelled and proper records shall be made regarding such payment, redemption, exchange or replacement. The Paying Agent/Registrar shall then return such cancelled Bonds to the City or may in accordance with law destroy such cancelled Bonds and periodically furnish the City with certificates of destruction of such Bonds.

Section 3.08 Temporary Bonds.

(a) Following the delivery and registration of the Initial Bond and pending the preparation of definitive Bonds, the proper officers of the City may execute and, upon the City's request, the Paying Agent/Registrar shall authenticate and deliver, one or more temporary Bonds that are printed, lithographed, typewritten, mimeographed or otherwise produced, in any denomination, substantially of the tenor of the definitive Bonds in lieu of which they are delivered, without coupons, and with such appropriate insertions, omissions, substitutions and other variations as the officers of the City executing such temporary Bonds may determine, as evidenced by their signing of such temporary Bonds.

(b) Until exchanged for Bonds in definitive form, such Bonds in temporary form shall be entitled to the benefit and security of this Ordinance.

(c) The City, without unreasonable delay, shall prepare, execute and deliver to the Paying Agent/Registrar the Bonds in definitive form; thereupon, upon the presentation and surrender of the Bonds in temporary form to the Paying Agent/Registrar, the Paying Agent/Registrar shall cancel the Bonds in temporary form and shall authenticate and deliver in exchange therefor Bonds of the same maturity and series, in definitive form, in the authorized denomination, and in the same aggregate principal amount, as the Bonds in temporary form surrendered. Such exchange shall be made without the making of any charge therefor to any Owner.

Section 3.09 Replacement Bonds.

(a) Upon the presentation and surrender to the Paying Agent/Registrar of a mutilated Bond, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor a replacement Bond of like tenor and principal amount, bearing a number not contemporaneously outstanding. The City or the Paying Agent/Registrar may require the Owner of such Bond to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection therewith and any other expenses connected therewith.

(b) In the event that any Bond is lost, apparently destroyed or wrongfully taken, the Paying Agent/Registrar, pursuant to the applicable laws of the State of Texas and in the absence of notice or knowledge that such Bond has been acquired by a bona fide purchaser, shall authenticate and deliver a replacement Bond of like tenor and principal amount, bearing a number not contemporaneously outstanding, provided that the Owner first:

(i) furnishes to the Paying Agent/Registrar satisfactory evidence of his or her ownership of and the circumstances of the loss, destruction or theft of such Bond;

(ii) furnishes such security or indemnity as may be required by the Paying Agent/Registrar to save it and the City harmless;

(iii) pays all expenses and charges in connection therewith, including, but not limited to, printing costs, legal fees, fees of the Paying Agent/Registrar and any tax or other governmental charge that is authorized to be imposed; and

(iv) satisfies any other reasonable requirements imposed by the City and the Paying Agent/Registrar.

(c) If, after the delivery of such replacement Bond, a bona fide purchaser of the original Bond in lieu of which such replacement Bond was issued presents for payment such original Bond, the City and the Paying Agent/Registrar shall be entitled to recover such replacement Bond from the person to whom it was delivered or any person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost or expense incurred by the City or the Paying Agent/Registrar in connection therewith.

(d) In the event that any such mutilated, lost, apparently destroyed or wrongfully taken Bond has become or is about to become due and payable, the Paying Agent/Registrar, in its discretion, instead of issuing a replacement Bond, may pay such Bond if it has become due and payable or may pay such Bond when it becomes due and payable.

(e) Each replacement Bond delivered in accordance with this Section shall constitute an original additional contractual obligation of the City and shall be entitled to the benefits and security of this Ordinance to the same extent as the Bond or Bonds in lieu of which such replacement Bond is delivered.

Section 3.10 Book-entry Only System.

Notwithstanding any other provision hereof, upon initial issuance of the Bonds, the ownership of the Bonds shall be registered in the name of Cede & Co., as nominee of DTC. The definitive Bonds shall be initially issued in the form of a single separate fully registered certificate for each of the maturities thereof.

With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any DTC Participant or to any person on behalf of whom such a DTC Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other person, other than an Owner, as shown on the Register, of any notice with respect to the Bonds, including any notice of redemption, or (iii) the payment to any DTC Participant or any other person, other than a bondholder, as shown in the Register of any amount with respect to principal of or interest on the Bonds. Notwithstanding any other provision of this Ordinance to the contrary, the City and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Register as the absolute owner of such Bond for the purpose of payment of principal of and interest on such Bonds, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfer with respect to such Bond, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of and interest on the Bonds only to or upon the order of the respective owners, as shown in the Register as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the

City's obligations with respect to payment of principal of and interest on the Bonds to the extent of the sum or sums so paid. No person other than an Owner, as shown in the Register, shall receive a certificate evidencing the obligation of the City to make payments of amounts due pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the word "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

The Representation Letter previously executed and delivered by the City, and applicable to the City's obligations delivered in book-entry-only form to DTC as securities depository is hereby ratified and approved for the Bonds.

Section 3.11 Successor Securities Depository; Transfer Outside Book-entry Only System.

In the event that the City or the Paying Agent/Registrar determines that DTC is incapable of discharging its responsibilities described herein and in the Representation Letter of the City to DTC, or in the event DTC discontinues the services described herein, the City or the Paying Agent/Registrar shall (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Bonds and transfer one or more separate Bonds to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds shall no longer be restricted to being registered in the Register in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names bondholders transferring or exchanging Bonds shall designate, in accordance with the provisions of this Ordinance.

Section 3.12 Payments to Cede & Co.

Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bonds are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of and interest on such Bonds, and all notices with respect to such Bonds, shall be made and given, respectively, in the manner provided in the Representation Letter.

ARTICLE IV

REDEMPTION OF BONDS BEFORE MATURITY

Section 4.01 Limitation on Redemption.

The Bonds shall be subject to redemption before scheduled maturity only as provided in this Article IV.

Section 4.02 Optional Redemption.

(a) The City reserves the option to redeem Bonds in the manner provided in the Form of Bond set forth in Section 6.02 of this Ordinance with such changes as are required by the Pricing Certificate.

(b) If less than all of the Bonds are to be redeemed pursuant to an optional redemption, the City shall determine the maturity or maturities and the amounts thereof to be redeemed and shall direct the Paying Agent/Registrar to call by lot the Bonds, or portions thereof, within such maturity or maturities and in such principal amounts for redemption.

(c) The City, at least forty-five (45) days before the redemption date, unless a shorter period shall be satisfactory to the Paying Agent/Registrar, shall notify the Paying Agent/Registrar of such redemption date and of the principal amount of Bonds to be redeemed.

Section 4.03 Mandatory Sinking Fund Redemption.

(a) Bonds designated as "Term Bonds," if any, in the Pricing Certificate are subject to scheduled mandatory redemption and will be redeemed by the City, in part at a price equal to the principal amount thereof, without premium, plus accrued interest to the redemption date, out of moneys available for such purpose in the Interest and Sinking Fund, on the dates and in the respective principal amounts as set forth in the Pricing Certificate.

(b) At least forty-five (45) days prior to each scheduled mandatory redemption date, the Paying Agent/Registrar shall select for redemption by lot, or by any other customary method that results in a random selection, a principal amount of Term Bonds equal to the aggregate principal amount of such Term Bonds to be redeemed, shall call such Term Bonds for redemption on such scheduled mandatory redemption date, and shall give notice of such redemption, as provided in Section 4.05.

The principal amount of the Term Bonds required to be redeemed on any redemption date pursuant to subparagraph (a) of this Section 4.03 shall be reduced, at the option of the City, by the principal amount of any Term Bonds which, at least forty-five (45) days prior to the mandatory sinking fund redemption date (i) shall have been acquired by the City at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation, or (ii) shall have been redeemed pursuant to the optional redemption provisions hereof and not previously credited to a mandatory sinking fund redemption.

Section 4.04 Partial Redemption.

(a) A portion of a single Bond of a denomination greater than \$5,000 may be redeemed, but only in a principal amount equal to \$5,000 or any integral multiple thereof. If such a Bond is to be partially redeemed, the Paying Agent/Registrar shall treat each \$5,000 portion of the Bond as though it were a single Bond for purposes of selection for redemption.

(b) Upon surrender of any Bond for redemption in part, the Paying Agent/Registrar, in accordance with Section 3.06 of this Ordinance, shall authenticate and deliver an exchange

Bond or Bonds in an aggregate principal amount equal to the unredeemed portion of the Bond so surrendered, such exchange being without charge.

(c) The Paying Agent/Registrar shall promptly notify the City in writing of the principal amount to be redeemed of any Bond as to which only a portion thereof is to be redeemed.

Section 4.05 Notice of Redemption to Owners.

(a) The Paying Agent/Registrar shall give notice of any redemption of Bonds by sending notice by United States mail, first class postage prepaid, not less than thirty (30) days before the date fixed for redemption, to the Owner of each Bond (or part thereof) to be redeemed, at the address shown on the Register at the close of business on the business day next preceding the date of mailing such notice.

(b) The notice shall state the redemption date, the redemption price, the place at which the Bonds are to be surrendered for payment, and, if less than all the Bonds outstanding are to be redeemed, an identification of the Bonds or portions thereof to be redeemed.

(c) The City reserves the right to give notice of its election or direction to redeem Bonds under Section 4.02 conditioned upon the occurrence of subsequent events. Such notice may state (i) that the redemption is conditioned upon the deposit of moneys and/or authorized securities, in an amount equal to the amount necessary to effect the redemption, with the Paying Agent/Registrar, or such other entity as may be authorized by law, no later than the redemption date or (ii) that the City retains the right to rescind such notice at any time prior to the scheduled redemption date if the City delivers a certificate of the City to the Paying Agent/Registrar instructing the Paying Agent/Registrar to rescind the redemption notice, and such notice and redemption shall be of no effect if such moneys and/or authorized securities are not so deposited or if the notice is rescinded. The Paying Agent/Registrar shall give prompt notice of any such rescission of a conditional notice of redemption to the affected Owners. Any Bonds subject to conditional redemption where redemption has been rescinded shall remain Outstanding, and the rescission shall not constitute an event of default. Further, in the case of a conditional redemption, the failure of the City to make moneys and/or authorized securities available in part or in whole on or before the redemption date shall not constitute an event of default.

(d) Any notice given as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Owner receives such notice.

Section 4.06 Payment Upon Redemption.

(a) Before or on each redemption date, the City shall deposit with the Paying Agent/Registrar money sufficient to pay all amounts due on the redemption date and the Paying Agent/Registrar shall make provision for the payment of the Bonds to be redeemed on such date by setting aside and holding in trust such amounts as are received by the Paying Agent/Registrar from the City and shall use such funds solely for the purpose of paying the principal of and accrued interest on the Bonds being redeemed.

(b) Upon presentation and surrender of any Bond called for redemption at the Designated Payment/Transfer Office on or after the date fixed for redemption, the Paying Agent/Registrar shall pay the principal of and accrued interest on such Bond to the date of redemption from the money set aside for such purpose.

Section 4.07 Effect of Redemption.

(a) Notice of redemption having been given as provided in Section 4.05 of this Ordinance and subject to any conditions or rights reserved by the City under Section 4.05(c), the Bonds or portions thereof called for redemption shall become due and payable on the date fixed for redemption and, unless the City defaults in its obligation to make provision for the payment of the principal thereof, or accrued interest thereon, such Bonds or portions thereof shall cease to bear interest from and after the date fixed for redemption, whether or not such Bonds are presented and surrendered for payment on such date.

(b) If the City shall fail to make provision for payment of all sums due on a redemption date, then any Bond or portion thereof called for redemption shall continue to bear interest at the rate stated on the Bond until due provision is made for the payment of same by the City.

Section 4.08 Lapse of Payment.

Money set aside for the redemption of Bonds and remaining unclaimed by the Owners of such Bonds shall be subject to the provisions of Section 3.03(f) hereof.

ARTICLE V

PAYING AGENT/REGISTRAR

Section 5.01 Appointment of Initial Paying Agent/Registrar.

The Bank of New York Mellon Trust Company, National Association, is hereby appointed as the initial Paying Agent/Registrar for the Bonds.

Section 5.02 Qualifications.

Each Paying Agent/Registrar shall be a commercial bank, a trust company organized under the laws of the State of Texas, or any other entity duly qualified and legally authorized to serve as and perform the duties and services of paying agent and registrar for the Bonds.

Section 5.03 Maintaining Paying Agent/Registrar.

(a) At all times while any Bonds are outstanding, the City will maintain a Paying Agent/Registrar that is qualified under Section 5.02 of this Ordinance. The Mayor is hereby authorized and directed to execute an agreement with the Paying Agent/Registrar specifying the duties and responsibilities of the City and the Paying Agent/Registrar. The signature of the Mayor shall be attested by the City Secretary of the City. The form of the Paying

Agent/Registrar Agreement presented at this meeting is hereby approved with such changes as may be approved by bond counsel to the City.

(b) If the Paying Agent/Registrar resigns or otherwise ceases to serve as such, the City will promptly appoint a replacement.

Section 5.04 Termination.

The City, upon not less than sixty (60) days notice, reserves the right to terminate the appointment of any Paying Agent/ Registrar by delivering to the entity whose appointment is to be terminated written notice of such termination.

Section 5.05 Notice of Change to Owners.

Promptly upon each change in the entity serving as Paying Agent/Registrar, the City will cause notice of the change to be sent to each Owner by United States mail, first class postage prepaid, at the address in the Register thereof, stating the effective date of the change and the name and mailing address of the replacement Paying Agent/Registrar.

Section 5.06 Agreement to Perform Duties and Functions.

By accepting the appointment as Paying Agent/Registrar and executing the Paying Agent/Registrar Agreement, the Paying Agent/Registrar is deemed to have agreed to the provisions of this Ordinance and that it will perform the duties and functions of Paying Agent/Registrar prescribed thereby.

Section 5.07 Delivery of Records to Successor.

If a Paying Agent/Registrar is replaced, such Paying Agent/Registrar, promptly upon the appointment of the successor, will deliver the Register (or a copy thereof) and all other pertinent books and records relating to the Bonds to the successor Paying Agent/Registrar.

ARTICLE VI

FORM OF THE BONDS

Section 6.01 Form Generally.

(a) The Bonds, including the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Certificate of the Paying Agent/Registrar, and the Assignment form to appear on each of the Bonds, (i) shall be generally in the form set forth in this Article, with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance and the Pricing Certificate, and (ii) may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including any reproduction of an opinion of counsel) thereon as, consistently herewith, may be determined by the City or by the officers executing such Bonds, as evidenced by their execution thereof.

(b) Any portion of the text of any Bonds may be set forth on the reverse side thereof, with an appropriate reference thereto on the face of the Bonds.

(c) The definitive Bonds shall be typewritten, photocopied, printed, lithographed, or engraved, and may be produced by any combination of these methods or produced in any other similar manner, all as determined by the officers executing such Bonds, as evidenced by their execution thereof.

(d) The Initial Bond submitted to the Attorney General of the State of Texas may be typewritten and photocopied or otherwise reproduced.

Section 6.02 Form of the Bonds.

The form of the Bond, including the form of the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the form of Certificate of the Paying Agent/ Registrar and the form of Assignment appearing on the Bonds, shall be generally as follows, provided, however, that the substantially final form of the Bonds, shall be set forth in or attached to the Pricing Certificate and shall incorporate and reflect the final terms of the Bonds set forth in the Pricing Certificate:

(a) Form of Bond.

REGISTERED
No. _____

REGISTERED
\$ _____

United States of America
State of Texas
County of Lubbock
CITY OF LUBBOCK, TEXAS
GENERAL OBLIGATION BOND
SERIES 2012

INTEREST RATE: _____% MATURITY DATE: _____, _____ BOND DATE: _____, _____² CUSIP NUMBER: _____

The City of Lubbock (the "City"), in the County of Lubbock, State of Texas, for value received, hereby promises to pay to

or registered assigns, on the Maturity Date specified above, the sum of

_____ DOLLARS

unless this Bond shall have been sooner called for redemption and the payment of the principal hereof shall have been paid or provided for, and to pay interest on such principal amount from

² Information to be inserted from Pricing Certificate.

the later of the Bond Date specified above or the most recent interest payment date to which interest has been paid or provided for until payment of such principal amount has been paid or provided for, at the per annum rate of interest specified above, computed on the basis of a three hundred sixty (360) day year of twelve (12) thirty (30) day months, such interest to be paid semiannually on February 15 and August 15 of each year, commencing _____.³ All capitalized terms used herein but not defined shall have the meaning assigned to them in the Ordinance (defined below).

The principal of this Bond shall be payable without exchange or collection charges in lawful money of the United States of America upon presentation and surrender of this Bond at the corporate trust office in Dallas, Texas (the "Designated Payment/Transfer Office") of The Bank of New York Mellon Trust Company, National Association, as Paying Agent/Registrar or, with respect to a successor Paying Agent/Registrar, at the Designated Payment/Transfer Office thereof. Interest on this Bond is payable by check dated as of the interest payment date, and will be mailed by the Paying Agent/Registrar to the registered owner at the address shown on the registration books kept by the Paying Agent/Registrar or by such other customary banking arrangement acceptable to the Paying Agent/Registrar and the registered owner; provided, however, such registered owner shall bear all risk and expense of such other banking arrangement. At the option of an Owner of at least \$1,000,000 principal amount of the Bonds, interest may be paid by wire transfer to the bank account of such Owner on file with the Paying Agent/Registrar. For the purpose of the payment of interest on this Bond, the registered owner shall be the person in whose name this Bond is registered at the close of business on the "Record Date," which shall be the last business day of the month next preceding such interest payment date; provided, however, that in the event of nonpayment of interest on a scheduled payment date and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the "Special Payment Date," which shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by first-class United States mail, postage prepaid, to the address of each owner of a Bond appearing in the registration books of the Paying Agent/Registrar at the close of business on the last business day next preceding the date of mailing of such notice.

If the date for the payment of the principal of or interest on this Bond shall be a Saturday, Sunday, legal holiday, or day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are required or authorized by law or executive order to close, the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday, or day on which banking institutions are required or authorized to close, and payment on such date shall have the same force and effect as if made on the original date payment was due and no additional interest shall be due by reason of nonpayment on the date on which such payment is otherwise stated to be due and payable.

³ Information to be inserted from Pricing Certificate.

This Bond is one of a series of fully registered bonds specified in the title hereof issued in the aggregate principal amount of \$_____ ⁴ (herein referred to as the “Bonds”), issued pursuant to a certain ordinance of the City (the “Ordinance”) for the purpose of providing funds with which to make various permanent public improvements for the City and to pay the costs of issuing the Bonds.

[The City has reserved the option to redeem the Bonds maturing on or after February 15, 20__ before their respective scheduled maturities in whole or in part in integral multiples of \$5,000 on February 15, 20__, or on any date thereafter, at a redemption price of par, plus accrued interest to the date fixed for redemption. If less than all of the Bonds are to be redeemed, the City shall determine the maturity or maturities and the amounts thereof to be redeemed and shall direct the Paying Agent/Registrar to call by lot or other customary method that results in a random selection of the Bonds, or portions thereof, within such maturity or maturities and in such principal amounts, for redemption.]⁵

[Bonds maturing on February 15 in each of the years ____ through ____, inclusive (the “Term Bonds”), are subject to mandatory sinking fund redemption prior to their scheduled maturity, and will be redeemed by the City, in part at a redemption price equal to the principal amount thereof, without premium, plus interest accrued to the redemption date, on the dates and in the principal amounts shown in the following schedule:

Redemption Date

Principal Amount

The Paying Agent/Registrar will select by lot or by any other customary method that results in a random selection the specific Term Bonds (or with respect to Term Bonds having a denomination in excess of \$5,000, each \$5,000 portion thereof) to be redeemed by mandatory redemption. The principal amount of Term Bonds required to be redeemed on any redemption date pursuant to the foregoing mandatory sinking fund redemption provisions hereof shall be reduced, at the option of the City, by the principal amount of any Bonds which, at least forty-five (45) days prior to the mandatory sinking fund redemption date (i) shall have been acquired by the City at a price not exceeding the principal amount of such Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation, or (ii) shall have been redeemed pursuant to the optional redemption provisions hereof and not previously credited to a mandatory sinking fund redemption.

Notice of such redemption or redemptions shall be given by first class mail, postage prepaid, not less than thirty (30) days before the date fixed for redemption, to the registered owner of each of the Bonds to be redeemed in whole or in part. In the Ordinance, the City reserves the right in the case of an optional redemption to give notice of its election or direction to redeem Bonds conditioned upon the occurrence of subsequent events. Such notice may state (i) that the redemption is conditioned upon the deposit of moneys and/or authorized securities, in

⁴ Information to be inserted from Pricing Certificate.

⁵ Insert optional redemption provisions, if any, and revise as necessary to conform to the Pricing Certificate.

an amount equal to the amount necessary to effect the redemption, with the Paying Agent/Registrar, or such other entity as may be authorized by law, no later than the redemption date or (ii) that the City retains the right to rescind such notice at any time prior to the scheduled redemption date if the City delivers a certificate of the City to the Paying Agent/Registrar instructing the Paying Agent/Registrar to rescind the redemption notice, and such notice and redemption shall be of no effect if such moneys and/or authorized securities are not so deposited or if the notice is rescinded. The Paying Agent/Registrar shall give prompt notice of any such rescission of a conditional notice of redemption to the affected owners. Any Bonds subject to conditional redemption where redemption has been rescinded shall remain Outstanding, and the rescission shall not constitute an event of default. Further, in the case of a conditional redemption, the failure of the City to make moneys and/or authorized securities available in part or in whole on or before the redemption date shall not constitute an event of default.]⁶

As provided in the Ordinance, and subject to certain limitations therein set forth, this Bond is transferable upon surrender of this Bond for transfer at the Designated Payment/Transfer Office of the Paying Agent/Registrar with such endorsement or other evidence of transfer as is acceptable to the Paying Agent/Registrar; thereupon, one or more new fully registered Bonds of the same stated maturity, of authorized denominations, bearing the same rate of interest, and for the same aggregate principal amount will be issued to the designated transferee or transferees.

Neither the City nor the Paying Agent/Registrar shall be required to issue, transfer or exchange any Bond called for redemption where such redemption is scheduled to occur within forty five (45) calendar days of the transfer or exchange date; provided, however, such limitation shall not be applicable to an exchange by the registered owner of the uncalled principal balance of a Bond.

The City, the Paying Agent/Registrar, and any other person may treat the person in whose name this Bond is registered as the owner hereof for the purpose of receiving payment as herein provided (except interest shall be paid to the person in whose name this Bond is registered on the Record Date or Special Record Date, as applicable) and for all other purposes, whether or not this Bond be overdue, and neither the City nor the Paying Agent/Registrar shall be affected by notice to the contrary.

IT IS HEREBY CERTIFIED AND RECITED that the issuance of this Bond and the series of which it is a part is duly authorized by law; that all acts, conditions and things required to be done precedent to and in the issuance of the Bonds have been properly done and performed and have happened in regular and due time, form and manner, as required by law; and that ad valorem taxes upon all taxable property in the City have been levied for and pledged to the payment of the debt service requirements of the Bonds, within the limit prescribed by law; and that the total indebtedness of the City, including the Bonds, does not exceed any constitutional or statutory limitation.

⁶ Insert mandatory sinking fund redemption provisions, if any, and conform as necessary to the Pricing Certificate.

IN WITNESS WHEREOF, the City has caused this Bond to be executed by the manual or facsimile signature of the Mayor of the City and countersigned by the manual or facsimile signature of the City Secretary, and the official seal of the City has been duly impressed or placed in facsimile on this Bond.

Mayor, City of Lubbock, Texas

City Secretary,
City of Lubbock, Texas
[SEAL]

(b) Form of Comptroller's Registration Certificate.

The following Comptroller's Registration Certificate may be deleted from the definitive Bonds if such certificate on the Initial Bond is fully executed.

OFFICE OF THE COMPTROLLER	§	
OF PUBLIC ACCOUNTS	§	REGISTER NO. _____
OF THE STATE OF TEXAS	§	

I hereby certify that there is on file and of record in my office a certificate of the Attorney General of the State of Texas to the effect that this Bond has been examined by him as required by law, that he finds that it has been issued in conformity with the Constitution and laws of the State of Texas, and that it is a valid and binding obligation of the City of Lubbock, Texas, and that this Bond has this day been registered by me.

Witness my hand and seal of office at Austin, Texas, _____.

[SEAL]

Comptroller of Public Accounts
of the State of Texas

(c) Form of Certificate of Paying Agent/Registrar. The following Certificate of Paying Agent/Registrar may be deleted from the Initial Bond if the Comptroller's Registration Certificate appears thereon.

CERTIFICATE OF PAYING AGENT/REGISTRAR

The records of the Paying Agent/Registrar show that the Initial Bond of this series of Bonds was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas, and that this is one of the Bonds referred to in the within mentioned Ordinance.

The Bank of New York Mellon Trust Company,
National Association, as Paying Agent/Registrar

Dated: _____

By: _____
Authorized Signatory

(d) Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns, and transfers unto (print or typewrite name, address and Zip Code of transferee): _____

(Social Security or other identifying number: _____) the within Bond and all rights hereunder and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Bond on the books kept for registration hereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed By:

Authorized Signatory

NOTICE: The signature on this Assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular and must be guaranteed in a manner acceptable to the Paying Agent/Registrar.

(e) The Initial Bond shall be in the form set forth in paragraphs (a), (b) and (d) of this Section, except for the following alterations:

(i) immediately under the name of the Bond, the headings "INTEREST RATE" and "MATURITY DATE" shall both be completed with the words "As shown below"; and

(ii) in the first paragraph of the Bond, the words "on the Maturity Date specified above" shall be deleted and the following will be inserted: "on February 15 in each of the years, in the principal installments and bearing interest at the per annum rates in accordance with the following schedule:

Years

Principal Installments

Interest Rate

(Information to be inserted from the Pricing Certificate
pursuant to Section 3.02 of this Ordinance)

Section 6.03 CUSIP Registration.

The City may secure identification numbers through the CUSIP Service Bureau Division of Standard & Poor's, A Division of the McGraw-Hill Companies, New York, New York, and may authorize the printing of such numbers on the face of the Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the Bonds shall be of no significance or effect as regards the legality thereof and neither the City nor the attorneys approving said Bonds as to legality are to be held responsible for CUSIP numbers incorrectly printed on the Bonds.

Section 6.04 Legal Opinion.

The approving legal opinion of Andrews Kurth LLP, Bond Counsel, may be attached to or printed on the reverse side of each Bond over the certification of the City Secretary of the City, which may be executed in facsimile.

Section 6.05 Statement of Insurance.

A statement relating to a municipal bond insurance policy, if any, to be issued for the Bonds may be printed on or attached to each Bond.

ARTICLE VII

SALE AND DELIVERY OF BONDS; DEPOSIT OF PROCEEDS

Section 7.01 Sale of Bonds; Official Statement.

(a) The Bonds shall be sold at negotiated sale to the Underwriters in accordance with the terms of this Ordinance, including this Section 7.01(a) and Exhibit B hereto, provided that all of the conditions set forth in Exhibit B can be satisfied. As authorized by Chapter 1371, Texas Government Code, as amended, the Authorized Officer is authorized to act on behalf of the City upon determining that the conditions set forth in Exhibit B can be satisfied, in selling and delivering the Bonds and carrying out the other procedures specified in this Ordinance, including determining whether to acquire bond insurance for the Bonds, the aggregate principal amount of the Bonds and price at which each of the Bonds will be sold, the number and designation of series of Bonds to be issued, the form in which the Bonds shall be issued, the years in which the Bonds will mature, the principal amount to mature in each of such years, the rate of interest to be borne by each such maturity, the first interest payment date, the initial date from which interest will accrue, the dates, prices and terms upon and at which the Bonds shall be subject to redemption prior to maturity at the option of the City and shall be subject to mandatory sinking fund redemption, and all other matters relating to the issuance, sale and delivery of the Bonds, all of which shall be specified in the Pricing Certificate.

The authority granted to the Authorized Officer under this Section 7.01(a) shall expire at 10:00 p.m., on the 180th day following the date of this Ordinance (the "Expiration Date"), unless otherwise extended by the City Council by separate action. Bonds sold pursuant to a Bond Purchase Contract executed on or before the Expiration Date may be delivered after such date.

Any finding or determination made by the Authorized Officer relating to the issuance and sale of the Bonds and the execution of the Bond Purchase Contract in connection therewith shall have the same force and effect as a finding or determination made by the City Council.

(b) The Authorized Officer is hereby authorized and directed to execute and deliver, and the City Secretary is hereby authorized and directed to attest, a bond purchase contract (the "Bond Purchase Contract") which shall be in the form approved by the Authorized Officer. Upon completion of the terms of the Bond Purchase Contract in accordance with the terms of the Pricing Certificate and this Ordinance, the Authorized Officer is authorized and directed to execute such Bond Purchase Contract on behalf of the City and the Authorized Officer and all other officers, agents and representatives of the City are hereby authorized to do any and all things necessary or desirable to satisfy the conditions set out therein and to provide for the issuance and delivery of the Bonds. The Bonds shall initially be registered in the name of the Representative.

(c) The form and substance of the Preliminary Official Statement and any addenda, supplement or amendment thereto, with such appropriate variations as shall be approved by the Authorized Officer, are hereby in all respects approved and adopted and is hereby deemed final as of its date within the meaning and for the purposes of paragraph (b)(1) of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended. The Authorized Officer and City Secretary are hereby authorized and directed to cause to be prepared a final Official Statement (the "Official Statement") incorporating applicable pricing information pertaining to the Bonds, and to execute the same by manual or facsimile signature and deliver appropriate numbers of executed copies thereof to the Underwriters. The Official Statement as thus approved, executed and delivered, with such appropriate variations as shall be approved by the Authorized Officer and the Underwriters, may be used by the Underwriters in the public offering and sale thereof. The City Secretary is hereby authorized and directed to include and maintain a copy of the Official Statement and any addenda, supplement or amendment thereto thus approved among the permanent records of this meeting. The use and distribution of the Preliminary Official Statement, and the preliminary public offering of the Bonds by the Underwriters, is hereby ratified, approved and confirmed.

(d) All officers of the City are authorized to execute such documents, certificates and receipts as they may deem appropriate in order to consummate the delivery of the Bonds in accordance with the terms of sale therefor including, without limitation, the Bond Purchase Contract.

(e) The obligation of the Underwriters identified in subsection (a) of this Section to accept delivery of the Bonds is subject to the Underwriters being furnished with the final, approving opinion of Andrews Kurth LLP, bond counsel for the City, which opinion shall be dated and delivered the Closing Date.

Section 7.02 Control and Delivery of Bonds.

(a) The Authorized Officer of the City is hereby authorized to have control of the Initial Bond and all necessary records and proceedings pertaining thereto pending investigation, examination, and approval of the Attorney General of the State of Texas, registration by the Comptroller of Public Accounts of the State of Texas and registration with, and initial exchange or transfer by, the Paying Agent/Registrar.

(b) After registration by the Comptroller of Public Accounts, delivery of the Bonds shall be made to the Underwriters thereof under and subject to the general supervision and direction of the Authorized Officer, against receipt by the City of all amounts due to the City under the terms of sale.

(c) In the event the Mayor or City Secretary is absent or otherwise unable to execute any document or take any action authorized herein, the Mayor Pro Tem and the Assistant City Secretary, respectively, shall be authorized to execute such documents and take such actions, and the performance of such duties by the Mayor Pro Tem and the Assistant City Secretary shall for the purposes of this Ordinance have the same force and effect as if such duties were performed by the Mayor and City Secretary, respectively.

Section 7.03 Deposit of Proceeds.

(a) First: All amounts received on the Closing Date as accrued interest on the Bonds from the Bond Date to the Closing Date shall be deposited to the Interest and Sinking Fund.

(b) Second: The remaining balance received on the Closing Date shall be deposited to special accounts of the City, as set forth in the Pricing Certificate, such moneys to be dedicated and used solely for the additional purposes for which the Bonds are being issued as herein provided.

ARTICLE VIII

INVESTMENTS

Section 8.01 Investments.

(a) Money in the Interest and Sinking Fund created by this Ordinance and accounts provided for in Section 7.03(b), at the City's option, may be invested in such securities or obligations as permitted under applicable law. The City's Chief Financial Officer, and any other officer of the City authorized to make investments on behalf of the City, are hereby authorized and directed to execute and deliver, on behalf of the City, any and all investment agreements, guaranteed investment contracts or repurchase agreements in connection with the investment of moneys on deposit in the Interest and Sinking Fund and the accounts provided for in Section 7.03(b), but only to the extent such investment agreements, guaranteed investment contracts or repurchase agreements are authorized investments under applicable law.

(b) Any securities or obligations in which money in the Interest and Sinking Fund is so invested shall be kept and held in trust for the benefit of the Owners and shall be sold and the

proceeds of sale shall be timely applied to the making of all payments required to be made from the fund from which the investment was made.

Section 8.02 Investment Income.

(a) Interest and income derived from investment of the Interest and Sinking Fund shall be credited to such fund.

(b) Interest and income derived from the investment of the funds deposited pursuant to Section 7.03(b) hereof shall be credited to the fund or account where deposited until the construction of the projects for which the Bonds are issued is completed or shall be transferred to the Interest and Sinking Fund as shall be determined by City Council. Upon completion of the projects, to the extent such interest and income are present, such interest and income shall be deposited to the Interest and Sinking Fund.

ARTICLE IX

PARTICULAR REPRESENTATIONS AND COVENANTS

Section 9.01 Payment of the Bonds.

On or before each Interest Payment Date for the Bonds and while any of the Bonds are outstanding and unpaid, there shall be made available to the Paying Agent/Registrar, out of the Interest and Sinking Fund, money sufficient to pay such interest on and principal of the Bonds as will accrue or mature on the applicable Interest Payment Date, maturity date or date of prior redemption.

Section 9.02 Other Representations and Covenants.

(a) The City will faithfully perform at all times any and all covenants, undertakings, stipulations, and provisions contained in this Ordinance and in each Bond; the City will promptly pay or cause to be paid the principal of and interest on each Bond on the dates and at the places and manner prescribed in such Bond; and the City will, at the times and in the manner prescribed by this Ordinance, deposit or cause to be deposited the amounts of money specified by this Ordinance.

(b) The City is duly authorized under the laws of the State of Texas to issue the Bonds; all action on its part for the creation and issuance of the Bonds has been duly and effectively taken; and the Bonds in the hands of the Owners thereof are and will be valid and enforceable obligations of the City in accordance with their terms.

Section 9.03 Tax Exemption.

(a) The City intends that the interest on the Bonds shall be excludable from gross income of the owners thereof for federal income tax purposes pursuant to Sections 103 and 141 through 150 of the Code and all applicable temporary, proposed and final regulations (the "Regulations") and procedures promulgated thereunder and applicable to the Bonds. For this purpose, the City covenants that it will monitor and control the receipt, investment, expenditure

and use of all gross proceeds of the Bonds (including all property, the acquisition, construction or improvement of which is to be financed directly or indirectly with the proceeds of the Bonds) and take or omit to take such other and further actions as may be required by Sections 103 and 141 through 150 of the Code and the Regulations to cause the interest on the Bonds to be and remain excludable from the gross income, as defined in Section 61 of the Code, of the owners of the Bonds for federal income tax purposes. Without limiting the generality of the foregoing, the City shall comply with each of the following covenants:

(i) The City shall not use, permit the use of or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with Gross Proceeds) in a manner which, if made or omitted, respectively, would cause the interest on any Bond to become includable in the gross income, as defined in Section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the City shall have received 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 Bond, the City shall comply with each of the specific covenants in this Section.

(ii) Except as permitted by Section 141 of the Code and the regulations and rulings thereunder, the City shall, at all times prior to the last stated maturity of the Bonds,

(A) exclusively own, operate, and possess all property the acquisition, construction, or improvement of which is to be financed directly or indirectly with Gross Proceeds of the Bonds and not use, or permit the use of, such Gross Proceeds or any property acquired, constructed, or improved with such Gross Proceeds, in any activity carried on by any person or entity other than a state or local government, unless such use is solely as a member of the general public, or

(B) not directly or indirectly impose or accept any charge or other payment for use of Gross Proceeds of such series of the Bonds or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with such Gross Proceeds, other than taxes of general application and interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

(iii) Except to the extent permitted by Section 141 of the Code and the regulations and rulings thereunder, the City shall not use Gross Proceeds of the Bonds to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, Gross Proceeds are considered to be "loaned" to a person or entity if (1) property acquired, constructed or improved with Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes, (2) capacity in or service from such property is committed to such person or entity under a take-or-pay, output, or similar contract or arrangement, or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or such

property are otherwise transferred in a transaction which is the economic equivalent of a loan.

(iv) Except to the extent permitted by Section 148 of the Code and the regulations and rulings thereunder, the City shall not, at any time prior to the earlier of the final stated maturity or final payment of the Bonds, directly or indirectly invest Gross Proceeds of the Bonds in any Investment (or use such Gross Proceeds to replace money so invested), if as a result of such investment the Yield of all Investments allocated to such Gross Proceeds whether then held or previously disposed of, exceeds the Yield on the Bonds.

(v) Based on all of the facts and estimates now known or reasonably expected to be in existence on the date the Bonds are delivered, the City reasonably expects that the proceeds of the Bonds will not be used in a manner that would cause the Bonds or any portion thereof to be “arbitrage bonds” within the meaning of Section 148 of the Code.

(vi) At all times while the Bonds are outstanding, the City will identify and properly account for all amounts constituting gross proceeds of the Bonds in accordance with the Regulations. The City will monitor the yield on the investments of the proceeds of the Bonds and, to the extent required by the Code and the Regulations, will restrict the yield on such investments to a yield which is not materially higher than the yield on the Bonds. To the extent necessary to prevent the Bonds from constituting “arbitrage bonds,” the City will make such payments as are necessary to cause the yield on all yield restricted non-purpose investments allocable to the Bonds to be less than the yield that is materially higher than the yield on the Bonds;

(vii) The City will not take any action or knowingly omit to take any action, if taken or omitted, would cause the Bonds to be treated as “federally guaranteed” obligations for purposes of Section 149(b) of the Code;

(viii) The City represents that not more than fifty percent (50%) of the proceeds of the Bonds was invested in non-purpose investments (as defined in Section 148(f)(b)(A) of the Code) having a substantially guaranteed yield for four years or more within the meaning of Section 149(g)(3)(A)(ii) of the Code, and the City reasonably expects that at least eighty-five percent (85%) of the spendable proceeds of the Bonds will be used to carry out the governmental purpose of the Bonds within the three-year period beginning on the date of issue of the Bonds.

(ix) The City will take all necessary steps to comply with the requirement that certain amounts earned by the City on the investment of the gross proceeds of the Bonds, if any, be rebated to the federal government. Specifically, the City will (i) maintain records regarding the receipt, investment and expenditure of the gross proceeds of the Bonds as may be required to calculate such excess arbitrage profits separately from records of amounts on deposit in the funds and accounts of the City allocable to other obligations of the City or moneys which do not represent gross proceeds of any obligations of the City and retain such records for at least six years after the day on which the last outstanding Bond is discharged, (ii) account for all gross proceeds under a

reasonable, consistently applied method of accounting, not employed as an artifice or device to avoid, in whole or in part, the requirements of Section 148 of the Code, including any specified method of accounting required by applicable Regulations to be used for all or a portion of the gross proceeds, (iii) calculate, at such times as are required by applicable Regulations, the amount of excess arbitrage profits, if any, earned from the investment of the gross proceeds of the Bonds and (iv) timely pay, as required by applicable Regulations, all amounts required to be rebated to the federal government. In addition, the City will exercise reasonable diligence to assure that no errors are made in the calculations required by the preceding sentence and, if such an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter, including payment to the federal government of any delinquent amounts owed to it, including interest thereon and penalties.

(x) The City will not indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to any person other than the federal government by entering into any investment arrangement with respect to the gross proceeds of the Bonds that might result in a reduction in the amount required to be paid to the federal government because such arrangement results in smaller profit or a larger loss than would have resulted if such arrangement had been at arm's length and had the yield on the issue not been relevant to either party

(xi) The City will timely file or cause to be filed with the Secretary of the Treasury of the United States the information required by Section 149(e) of the Code with respect to the Bonds on such form and in such place as the Secretary may prescribe.

(xii) The City will not issue or use the Bonds as part of an "abusive arbitrage device" (as defined in Section 1.148-10(a) of the Regulations). Without limiting the foregoing, the Bonds are not and will not be a part of a transaction or series of transactions that attempts to circumvent the provisions of Section 148 of the Code and the Regulations, by (i) enabling the City to exploit the difference between tax exempt and taxable interest rates to gain a material financial advantage, or (ii) increasing the burden on the market for tax-exempt obligations.

(xiii) Proper officers of the City charged with the responsibility for issuing the Bonds are hereby directed to make, execute and deliver certifications as to facts, estimates or circumstances in existence as of the Issue Date and stating whether there are facts, estimates or circumstances that would materially change the City's expectations. On or after the Issue Date, the City will take such actions as are necessary and appropriate to assure the continuous accuracy of the representations contained in such certificates.

(xiv) The covenants and representations made or required by this Section are for the benefit of the Bond holders and any subsequent Bond holder, and may be relied upon by the Bond holder and any subsequent Bond holder and bond counsel to the City.

(b) In complying with the foregoing covenants, the City may rely upon an unqualified opinion issued to the City by nationally recognized bond counsel that any action by the City or

reliance upon any interpretation of the Code or Regulations contained in such opinion will not cause interest on the Bonds to be includable in gross income for federal income tax purposes under existing law.

(c) Notwithstanding any other provision of this Ordinance, the City's representations and obligations under the covenants and provisions of this Section shall survive the defeasance and discharge of the Bonds for as long as such matters are relevant to the exclusion of interest on the Bonds from the gross income of the owners for federal income tax purposes.

ARTICLE X

DEFAULT AND REMEDIES

Section 10.01 Events of Default.

Each of the following occurrences or events for the purpose of this Ordinance is hereby declared to be an Event of Default:

(i) the failure to make payment of the principal of or interest on any of the Bonds when the same becomes due and payable; or

(ii) default in the performance or observance of any other covenant, agreement or obligation of the City, which default materially and adversely affects the rights of the Owners, including but not limited to, their prospect or ability to be repaid in accordance with this Ordinance, and the continuation thereof for a period of sixty (60) days after notice of such default is given by any Owner to the City.

Section 10.02 Remedies for Default.

(a) Upon the happening of any Event of Default, then any Owner or an authorized representative thereof, including but not limited to, a trustee or trustees therefor, may proceed against the City for the purpose of protecting and enforcing the rights of the Owners under this Ordinance, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of the Owners hereunder or any combination of such remedies.

(b) It is provided that all such proceedings shall be instituted and maintained for the equal benefit of all Owners of Bonds then outstanding.

Section 10.03 Remedies Not Exclusive.

(a) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Bonds or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this

Ordinance, the right to accelerate the debt evidenced by the Bonds shall not be available as a remedy under this Ordinance.

(b) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

ARTICLE XI

DISCHARGE

Section 11.01 Discharge.

The Bonds may be defeased, discharged or refunded in any manner permitted by applicable law.

ARTICLE XII

CONTINUING DISCLOSURE UNDERTAKING

Section 12.01 Annual Reports.

(a) The City shall provide annually to the MSRB, within six (6) months after the end of each fiscal year, financial information and operating data with respect to the City of the general type included in the final Official Statement, being the information described in Exhibit A hereto. Any financial statements so to be provided shall be (i) prepared in accordance with the accounting principles described in Exhibit A hereto, and (ii) audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided and (iii) submitted through EMMA, in an electronic format with accompany identifying information, as prescribed by the MSRB. If the audit of such financial statements is not complete within such period, then the City shall provide notice that audited financial statements are not available and shall provide unaudited financial statements for the applicable fiscal year to the MSRB. The City shall provide audited financial statements for the applicable fiscal year to the MSRB, when and if audited financial statements become available.

(b) If the City changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

(c) The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific referenced to any document (including an official statement or other offering document, if it is available from the MSRB) that theretofore has been provided to the MSRB or filed with the SEC.

Section 12.02 Material Event Notices.

(a) The City shall notify the MSRB, in a timely manner (not in excess of ten (10) Business Days after the occurrence of an event), of any of the following events with respect to the Bonds:

- (i) principal and interest payment delinquencies;
- (ii) nonpayment related defaults, if material;
- (iii) unscheduled draws on debt service reserves reflecting financial difficulties;
- (iv) unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) substitution of credit or liquidity providers, or their failure to perform;
- (vi) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (vii) modifications to rights of Owners, if material;
- (viii) redemption calls, if material, and tender offers;
- (ix) defeasances;
- (x) release, substitution, or sale of property securing repayment of the Bonds, if material;
- (xi) rating changes;
- (xii) bankruptcy, insolvency, receivership or similar event of the City;
- (xiii) the consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
- (xiv) appointment of a successor Paying Agent/Registrar or change in the name of the Paying Agent/Registrar, if material.

The City will provide notice of such events to the MSRB in an electronic format and accompanied by identifying information, as prescribed by the MSRB.

(b) As used in clause (xii) above, the phrase “bankruptcy, insolvency, receivership or similar event” means the appointment of a receiver, fiscal agent or similar officer for the City in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court of governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if jurisdiction has been assumed by leaving the City Council and official or officers of the City in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City.

(c) The City shall notify the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with Section 12.01 of this Ordinance by the time required by such Section.

Section 12.03 Limitations, Disclaimers and Amendments.

(a) The City shall be obligated to observe and perform the covenants specified in this Article for so long as, but only for so long as, the City remains an “obligated person” with respect to the Bonds within the meaning of the Rule, except that the City in any event will give notice of any Bond calls and any defeasances that cause the City to be no longer an “obligated person.”

(b) The provisions of this Article are for the sole benefit of the Owners and beneficial owners of the Bonds, and nothing in this Article, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Article and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City’s financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Article or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE OWNER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS ARTICLE, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

(c) No default by the City in observing or performing its obligations under this Article shall constitute a breach of or default under the Ordinance for purposes of any other provisions of this Ordinance.

(d) Nothing in this Article is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

(e) The provisions of this Article may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (i) the provisions of this Article, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (ii) either (A) the Owners of a majority in aggregate principal amount (or any greater amount required by any other provisions of this Ordinance that authorizes such an amendment) of the outstanding Bonds consent to such amendment or (B) an entity or individual person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Owners and beneficial owners of the Bonds. If the City so amends the provisions of this Article, it shall include with any amended financial information or operating data next provided in accordance with Section 12.01 an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in type of financial information or operating data so provided.

ARTICLE XIII

AMENDMENTS; ATTORNEY GENERAL MODIFICATION

Section 13.01 Amendments.

This Ordinance shall constitute a contract with the Owners, be binding on the City, and shall not be amended or repealed by the City so long as any Bond remains outstanding except as permitted in this Section. The City may, without consent of or notice to any Owners, from time to time and at any time, amend this Ordinance in any manner not detrimental to the interests of the Owners, including the curing of any ambiguity, inconsistency, or formal defect or omission herein. In addition, the City may, with the written consent of the Owners of the Bonds holding a majority in aggregate principal amount of the Bonds then outstanding and receipt of a Counsel's Opinion that such amendment, addition or rescission of any provisions of the Ordinance will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds, amend, add to, or rescind any of the provisions of this Ordinance; provided that, without the consent of all Owners of outstanding Bonds, no such amendment, addition, or rescission shall (i) extend the time or times of payment of the principal of, premium, if any, and interest on the Bonds, reduce the principal amount thereof, the redemption price, or the rate of interest thereon, or in any other way modify the terms of payment of the principal of, or interest on the Bonds, (ii) give any preference to any Bond over any other Bond, or (iii) reduce the aggregate principal amount of Bonds required to be held by Owners for consent to any such amendment, addition, or rescission.

Section 13.02 Attorney General Modification.

In order to obtain the approval of the Bonds by the Attorney General of the State of Texas, any provision of this Ordinance may be modified, altered or amended after the date of its

adoption if required by the Attorney General in connection with the Attorney General's examination as to the legality of the Bonds and approval thereof in accordance with the applicable law. Such changes, if any, shall be provided to the City Secretary and the City Secretary shall insert such changes into this Ordinance as if approved on the date hereof.

ARTICLE XIV

EFFECTIVE IMMEDIATELY

Section 14.01 Effective Immediately.

Notwithstanding the provisions of the City Charter, this Ordinance shall become effective immediately upon its adoption at this meeting pursuant to Section 1201.028, Texas Government Code.

PRESENTED, FINALLY PASSED AND APPROVED, AND EFFECTIVE on the 6th day of March, 2012, at a regular meeting of the City Council of the City of Lubbock, Texas.

TOM MARTIN, Mayor

ATTEST:

REBECCA GARZA, City Secretary

[SEAL]

APPROVED AS TO CONTENT:

By: _____
ANDY BURCHAM, Chief Financial Officer

APPROVED AS TO FORM:

By: _____
JERRY KYLE, Bond Counsel

EXHIBIT A

DESCRIPTION OF ANNUAL DISCLOSURE OF FINANCIAL INFORMATION

The following information is referred to in Article XII of this Ordinance.

Annual Financial Statements and Operating Data

The financial information and operating data with respect to the City to be provided annually in accordance with such Section are as specified (and included in the Appendix or other headings of the Official Statement referred to) below:

1. The portions of the financial statements of the City appended to the Official Statement as Appendix B, but for the most recently concluded fiscal year.
2. Statistical and financial data set forth in Tables 1-6 and 8A-15 of the Official Statement.

Accounting Principles

The accounting principles referred to in such Section are the accounting principles described in the notes to the financial statements referred to in Paragraph 1 above.

EXHIBIT B

SALE PARAMETERS

In accordance with Section 7.01(a) of the Ordinance, the following conditions with respect to the Bonds must be satisfied in order for the Authorized Officer to act on behalf of the City in selling and delivering the Bonds to the Underwriters:

(a) the Bonds shall not bear interest at a rate greater than the maximum rate allowed by Chapter 1204, Texas Government Code, as amended;

(b) the aggregate principal amount of the Bonds shall produce proceeds in an amount sufficient to fund the purposes described in Section 3.01 and such aggregate principal amount shall not exceed the maximum amount authorized in Section 3.01;

(c) the maximum maturity for the Bonds shall not exceed twenty-one (21) years; and

(e) the Bonds to be issued, prior to delivery, must have been rated by a nationally recognized rating agency for municipal securities in one of the four highest rating categories for long term obligations.

Attachment A

City of Lubbock, TX Finance Department General Obligation Bonds, Series 2012 Projects Funded by this Issue

PUBLIC SAFETY

Multi-Company Fire Station #18

Funded by 2012 GO: **\$2,250,000**

Total 2009 Authorization Remaining: **0**

This project includes the construction of a multi-company fire station to serve the area west of Spur 327 and Loop 289 between 50th Street and 82nd Street west to Upland Avenue. The new station will be located on the east side of Oakridge Avenue just south of the intersection of 66th Street and Oakridge Avenue.

New Fire Station #19

Funded by 2012 GO: **\$250,000**

Total 2009 Authorization Remaining: **2,250,000**

This project includes construction of a single-company fire station to serve the area south of 98th Street between Frankford Avenue and Alcove Avenue south to FM 1585. The fire station will be located at 5826 98th Street.

PUBLIC WORKS

34th Street Reconstruction – Indiana to Ave. Q

Funded by 2012 GO: **\$10,000,000**

Total 2009 Authorization Remaining: **5,725,000**

This project included reconstruction of 34th Street from Indiana Avenue to Avenue Q to a standard T-1 thoroughfare design. This will provide for two lanes of traffic in each direction plus a continuous left turn lane.

TOTAL 2012 GO:

\$12,500,000



Regular City Council Meeting

5. 4.

Meeting Date: 03/06/2012

Information

Agenda Item

Ordinance 1st and Only Reading - Finance: Consider and take action on an ordinance providing for the issuance of City of Lubbock, Texas, General Obligation Refunding Bonds, Series 2012, in an amount not to exceed \$45,000,000; levying a tax in payment thereof; approving the official statement; approving execution of a purchase contract and escrow agreement; and enacting other provisions relating thereto.

Item Summary

Presently, there are outstanding obligations issued by the City that carry an interest rate that is higher than current interest rates. The City desires to refund all or a portion of those outstanding obligations in order to achieve interest rate savings. The obligations that could potentially be refunded in this financing include:

Tax and Sewer System Surplus Revenue Certificates of Obligation, Series 2002

Tax and Sewer System Surplus Revenue Certificates of Obligation, Series 2002A

Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2002

General Obligation Bonds, Series 2002

Tax and Municipal Drainage Utility System Surplus Revenue Certificates of Obligation, Series 2003

Tax and Solid Waste System Surplus Revenue Certificates of Obligation, Series 2003

Tax and Sewer System Surplus Revenue Certificates of Obligation, Series 2003

Tax and Tax Increment Revenue Certificates of Obligation, Series 2003 (North Overton Tax Increment Financing Reinvestment Zone)

Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2003

General Obligation Bonds, Series 2003

Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2004

General Obligation Bonds, Series 2004

General Obligation Refunding Bonds, Series 2004

Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2005

General Obligation Bonds, Series 2005

Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2006

General Obligation Bonds, Series 2006

Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2007

The ordinance is a “parameters ordinance” delegating authority to the City Manager or Chief Financial Officer (Authorized Officers) authorizing the timing, terms (including the number of series), and interest rates, of the issuance. The ordinance designates parameters to which the Authorized Officers must conform while executing the sale of the Bonds. The designated authority allows the City to attain the most attractive rates or terms by timing the issuance under the best market conditions.

The following conditions must be satisfied in order for the Authorized Officers to act on behalf of the City in selling and delivering the Bonds to the Underwriter:

- a) the Bonds shall not bear interest at a rate greater than the maximum rate allowed by Chapter 1204, Texas Government Code, as amended;
- b) the aggregate principal amount of the Bonds shall produce proceeds in an amount sufficient to fund the purposes described in Section 3.01 and such aggregate principal amount shall not exceed \$45,000,000;
- c) the refunding of the Refunded Obligations shall result in a net present value savings of at least 5%;
- d) the maximum maturity for the Bonds shall not exceed twenty five years; and
- e) the Bonds to be issued, prior to delivery, must have been rated by a nationally recognized rating agency for municipal securities in one of the four highest rating categories for long term obligations.

On the date of execution, the City will sell the Bonds on a negotiated basis. The City and RBC Capital Markets, the City’s financial advisor, will negotiate a purchase price for the Bonds with the City’s underwriters (Citigroup Global Markets, senior underwriter, Morgan Keegan & Company, Inc., Barclays Capital Inc., and Hutchinson Shockey Erley & Company).

Senate Bill 1759 of the 77th Legislative Session amends Subchapter B, Chapter 1201, of the Texas Government Code under Section 1201.028(3) allowing the authorization of a public security with only one reading of the ordinance. The ordinance excludes certain information that is unknown as of the printing of the backup material. Examples include annual principal and interest amounts and maturity dates. Once negotiations have concluded, the information is included and a final ordinance provided to the City Council.

Fiscal Impact

Included in Item Summary.

Staff/Board Recommending

Andy Burcham, Chief Financial Officer

Attachments

Ordinance - GO Refunding Bonds

ORDINANCE

relating to

CITY OF LUBBOCK, TEXAS
GENERAL OBLIGATION REFUNDING BONDS
SERIES 2012

Adopted: March 6, 2012

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AN ORDINANCE PROVIDING FOR THE ISSUANCE OF CITY OF LUBBOCK, TEXAS, GENERAL OBLIGATION REFUNDING BONDS, SERIES 2012 IN AN AMOUNT NOT TO EXCEED \$45,000,000; LEVYING A TAX IN PAYMENT THEREOF; APPROVING THE OFFICIAL STATEMENT; APPROVING EXECUTION OF A PURCHASE CONTRACT AND ESCROW AGREEMENT; AND ENACTING OTHER PROVISIONS RELATING THERETO

WHEREAS, there are presently outstanding certain obligations of the City of Lubbock, Texas (the "City"), described on Schedule I attached hereto (collectively, the "Refunded Obligation Candidates");

WHEREAS, the City now desires to refund all or a portion of such Refunded Obligation Candidates (such refunded obligations to be hereinafter referred to as the "Refunded Obligations");

WHEREAS, Chapter 1207, Texas Government Code, as amended ("Chapter 1207") authorizes the City to issue refunding bonds and to deposit the proceeds from the sale thereof, and any other available funds or resources, directly with the paying agent for any of the Refunded Obligations or a trust company or commercial bank, and such deposit, if made before such payment dates, shall constitute the making of firm banking and financial arrangements for the discharge and final payment of the Refunded Obligations;

WHEREAS, Chapter 1207 further authorizes the City to enter into an escrow agreement with the paying agent for any of the Refunded Obligations with respect to the safekeeping, investment, reinvestment, administration and disposition of any such deposit;

WHEREAS, the City Council hereby finds and determines that the refunding contemplated in this Ordinance will benefit the City by providing a present value savings of debt service payable by the City in an amount to be certified in the Pricing Certificate, and that such benefit is sufficient consideration for the refunding of the Refunded Obligations;

WHEREAS, the City Council has found and determined that it is necessary and in the best interest of the City and its citizens that it authorize by this Ordinance the issuance and delivery of an amount of bonds in or more series at this time, the proceeds of which will be sufficient to (i) pay costs of issuance of such bonds and (ii) refund the Refunded Obligations;

WHEREAS, the City Council desires to delegate, pursuant to Chapter 1207 and the parameters of this Ordinance, to the Authorized Officer, the authority to approve the amount, the interest rate, the number of series, the price and terms of the Bonds authorized hereby and to otherwise take such actions as are necessary and appropriate to effect the sale of the Bonds and to select the specific maturities or series of Refunded Obligation Candidates to be refunded;

WHEREAS, the meeting at which this Ordinance is considered is open to the public as required by law, and public notice of the time, place and purpose of said meeting was given as required by Chapter 551, Texas Government Code, as amended; therefore,

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

ARTICLE I

DEFINITIONS AND OTHER PRELIMINARY MATTERS

Section 1.01 Definitions.

Unless otherwise expressly provided or unless the context clearly requires otherwise in this Ordinance, the following terms shall have the meanings specified below:

“Authorized Officer” means each of the City Manager and the Chief Financial Officer.

“Bond” means any of the Bonds.

“Bond Date” means the date designated as the initial date of the Bonds by Section 3.02(a) of this Ordinance.

“Bond Purchase Contract” means the bond purchase contract described in Section 7.01(b) of this Ordinance.

“Bonds” means the City’s bonds authorized to be issued by Section 3.01 of this Ordinance and designated as “City of Lubbock, Texas, General Obligation Refunding Bonds, Series 2012.”

“City” means the City of Lubbock, Texas.

“Closing Date” means the date of the initial delivery of and payment for the Bonds.

“Code” means the Internal Revenue Code of 1986, as amended.

“Designated Payment/Transfer Office” means (i) with respect to the initial Paying Agent/Registrar named in this Ordinance, the Designated Payment/Transfer Office as designated in the Paying Agent/Registrar Agreement, or at such other location designated by the Paying Agent/Registrar and (ii) with respect to any successor Paying Agent/Registrar, the office of such successor designated and located as may be agreed upon by the City and such successor.

“DTC” means The Depository Trust Company of New York, New York, or any successor securities depository.

“DTC Participant” means brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

“EMMA” means the Electronic Municipal Market Access System.

“Escrow Agent” means the place of payment for the Refunded Obligations or the trust company or commercial bank identified in the Escrow Agreement, and its successors in such capacity.

“Escrow Agreement” means that certain Escrow Agreement between the City and the Escrow Agent pertaining to the defeasance of the Refunded Obligations.

“Escrow Fund” means the fund by that name established in the Escrow Agreement.

“Event of Default” means any event of default as defined in Section 10.01 of this Ordinance.

“Gross Proceeds” means any proceeds of the Bonds and replacement proceeds of the Bonds, as defined in Section 1.148-1(b) of the Regulations.

“Initial Bond” means the initial bond or bonds authorized by Section 3.04 of this Ordinance.

“Interest and Sinking Fund” means the interest and sinking fund or funds established by Section 2.02 of this Ordinance.

“Interest Payment Date” means the date or dates on which interest on the Bonds is scheduled to be paid until their respective dates of maturity or prior redemption, such dates being February 15 and August 15 of each year, commencing on the date set forth in the Pricing Certificate.

“Investment” means any investment property as defined in Sections 148(b)(2) and 148(b)(3) of the Code, and any other tax-exempt obligation.

“MSRB” means the Municipal Securities Rulemaking Board.

“Owner” means the person who is the registered owner of a Bond or Bonds, as shown in the Register.

“Paying Agent/Registrar” means initially The Bank of New York Mellon Trust Company, National Association, or any successor thereto as provided in this Ordinance.

“Pricing Certificate” means a certificate or certificates to be signed by the Authorized Officer.

“Record Date” means the last business day of the month next preceding an Interest Payment Date.

“Refunded Obligation Candidates” means the obligations of the City described in Schedule I attached hereto which are authorized to be designated as Refunded Obligations in the Pricing Certificate.

“Refunded Obligations” means those obligations of the City to be designated in the Pricing Certificate from the Refunded Obligation Candidates described in Schedule I attached hereto.

“Register” means the Register specified in Section 3.06(a) of this Ordinance.

“Regulations” means all temporary, proposed and final regulations applicable to Sections 103 and 141 through 150 of the Code.

“Representation Letter” means the Blanket Letter of Representations between the City and DTC.

“Representative” means the representative for the Underwriters named in the Bond Purchase Contract.

“Rule” means SEC Rule 15c2-12, as amended from time to time.

“SEC” means the United States Securities and Exchange Commission.

“Special Payment Date” means the Special Payment Date prescribed by Section 3.03(b).

“Special Record Date” means the Special Record Date prescribed by Section 3.03(b).

“Term Bonds” has the meaning set forth in Section 4.03 hereof.

“Unclaimed Payments” means money deposited with the Paying Agent/Registrar for the payment of principal of or interest on the Bonds as the same come due and payable and remaining unclaimed by the Owners of such Bonds after the applicable payment or redemption date.

“Underwriters” means the Underwriters named in the Bond Purchase Contract.

“Yield” means the yield computed under Section 1.148-4 of the Regulations for an Bond or issue of Bonds, and yield computed under Section 1.148-5 of the Regulations for an investment.

Section 1.02 Findings.

The declarations, determinations and findings declared, made and found in the preamble to this Ordinance are hereby adopted, restated and made a part of the operative provisions hereof.

Section 1.03 Table of Contents, Titles and Headings.

The table of contents, titles and headings of the Articles and Sections of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof and shall never be considered or given any effect in construing this Ordinance or any provision hereof or in ascertaining intent, if any question of intent should arise.

Section 1.04 Interpretation.

(a) Unless the context requires otherwise, words of the masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa.

(b) This Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein.

ARTICLE II

SECURITY FOR THE BONDS; INTEREST AND SINKING FUND

Section 2.01 Tax Levy.

(a) Pursuant to the authority granted by the Texas Constitution and the laws of the State of Texas, there shall be levied and there is hereby levied for the current year and for each succeeding year hereafter while any of the Bonds or any interest thereon is outstanding and unpaid, an ad valorem tax on each one hundred dollars valuation of taxable property within the City, at a rate sufficient, within the limit prescribed by law, to pay the debt service requirements of the Bonds, being (i) the interest on the Bonds, and (ii) a sinking fund for their redemption at maturity or a sinking fund of two percent (2%) per annum (whichever amount is greater), when due and payable, full allowance being made for delinquencies and costs of collection.

(b) The ad valorem tax thus levied shall be assessed and collected each year against all property appearing on the tax rolls of the City most recently approved in accordance with law and the money thus collected shall be deposited as collected to the Interest and Sinking Fund.

(c) Said ad valorem tax, the collections therefrom, and all amounts on deposit in or required hereby to be deposited to the Interest and Sinking Fund are hereby pledged and committed irrevocably to the payment of the principal of and interest on the Bonds when and as due and payable in accordance with their terms and this Ordinance.

(d) If the lien and provisions of this Ordinance shall be released in a manner permitted by Article XI hereof, then the collection of such ad valorem tax may be suspended or appropriately reduced, as the facts may permit, and further deposits to the Interest and Sinking Fund may be suspended or appropriately reduced, as the facts may permit. In determining the aggregate principal amount of outstanding Bonds, there shall be subtracted the amount of any Bonds that have been duly called for redemption and for which money has been deposited with the Paying Agent/Registrar for such redemption.

Section 2.02 Interest and Sinking Fund.

(a) The City hereby establishes a special fund or account to be designated the "City of Lubbock, Texas, General Obligation Refunding Bonds, Series 2012, Interest and Sinking Fund," or such other designation as is set forth in the Pricing Certificate, for each series of Bonds, said fund or funds to be maintained at an official depository bank of the City separate and apart from all other funds and accounts of the City.

(b) Money on deposit in or required by this Ordinance to be deposited to the Interest and Sinking Fund shall be used solely for the purpose of paying the interest on and principal of the Bonds when and as due and payable in accordance with their terms and this Ordinance.

ARTICLE III

AUTHORIZATION; GENERAL TERMS AND PROVISIONS REGARDING THE BONDS

Section 3.01 Authorization.

The City's Bonds, to be designated "City of Lubbock, Texas, General Obligation Refunding Bonds, Series 2012," or such other designation or designations as set forth in the Pricing Certificate, are hereby authorized to be issued and delivered in accordance with the Constitution and laws of the State of Texas, including specifically Chapter 1207, Texas Government Code, as amended, and Article VIII of the Charter of the City. The Bonds shall be issued in the number of series and aggregate principal amount designated in the Pricing Certificate, such amount not to exceed \$45,000,000, for the purpose of providing funds for refunding the Refunded Obligations and paying the costs of issuing the Bonds.

Section 3.02 Date, Denomination, Maturities and Interest.

(a) The Bonds shall be dated the date set forth in the Pricing Certificate. The Bonds shall be in fully registered form, without coupons, in the denomination of \$5,000 or any integral multiple thereof, and shall be numbered separately from one upward, except the Initial Bond, which shall be numbered T-1.

(b) The Bonds shall mature on February 15 in the years and in the principal amounts set forth in the Pricing Certificate provided that the maximum maturity for the Bonds shall not exceed the number of years set forth in Exhibit B.

(c) Interest shall accrue and be paid on each Bond respectively until its maturity or prior redemption, from the later of the date set forth in the Pricing Certificate or the most recent Interest Payment Date to which interest has been paid or provided for at the rates per annum for each respective maturity specified in the Pricing Certificate. Such interest shall be payable on each Interest Payment Date until maturity or prior redemption. Interest on the Bonds shall be calculated on the basis of a three hundred sixty (360) day year composed of twelve (12) months of thirty (30) days each.

Section 3.03 Medium, Method and Place of Payment.

(a) The principal of and interest on the Bonds shall be paid in lawful money of the United States of America.

(b) Interest on the Bonds shall be payable to each Owner as shown in the Register at the close of business on the Record Date; provided, however, in the event of nonpayment of interest on a scheduled Interest Payment Date and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") shall be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the "Special Payment Date," which shall be fifteen (15) days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by first-class

United States mail, postage prepaid, to the address of each Owner of a Bond appearing on the Register at the close of business on the last business day next preceding the date of mailing of such notice.

(c) Interest shall be paid by check, dated as of the Interest Payment Date, and sent by the Paying Agent/Registrar to each Owner by United States mail, first class postage prepaid, to the address of each Owner as it appears in the Register, or by such other customary banking arrangement acceptable to the Paying Agent/Registrar and the Owner; provided, however, the Owner shall bear all risk and expense of such other banking arrangement. At the option of an Owner of at least \$1,000,000 principal amount of the Bonds, interest may be paid by wire transfer to the bank account of such Owner on file with the Paying Agent/Registrar.

(d) The principal of each Bond shall be paid to the Owner thereof on the due date (whether at the maturity date or the date of prior redemption thereof) upon presentation and surrender of such Bond at the Designated Payment/Transfer Office of the Paying Agent/Registrar.

(e) If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, legal holiday, or day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are required or authorized by law or executive order to close, then the date for such payment shall be the next succeeding day that is not a Saturday, Sunday, legal holiday, or day on which banking institutions are required or authorized to close, and payment on such date shall have the same force and effect as if made on the original date payment was due and no additional interest shall be due by reason of nonpayment on the date on which such payment is otherwise stated to be due and payable.

(f) Unclaimed Payments shall be segregated in a special escrow account and held in trust, uninvested by the Paying Agent/Registrar, for the accounts of the Owners of the Bonds to which the Unclaimed Payments pertain. Subject to Title 6 of the Texas Property Code, Unclaimed Payments remaining unclaimed by the Owners entitled thereto for three years after the applicable payment or redemption date shall be applied to the next payment or payments on the Bonds thereafter coming due and, to the extent any such money remains three years after the retirement of all outstanding Bonds, shall be paid to the City to be used for any lawful purpose. Thereafter, neither the City, the Paying Agent/Registrar nor any other person shall be liable or responsible to any holders of such Bonds for any further payment of such unclaimed monies or on account of any such Bonds, subject to Title 6 of the Texas Property Code.

Section 3.04 Execution and Registration of Bonds.

(a) The Bonds shall be executed on behalf of the City by the Mayor and the City Secretary, by their manual or facsimile signatures, and the official seal of the City shall be impressed or placed in facsimile thereon. Such facsimile signatures on the Bonds shall have the same effect as if each of the Bonds had been signed manually and in person by each of said officers, and such facsimile seal on the Bonds shall have the same effect as if the official seal of the City had been manually impressed upon each of the Bonds.

(b) In the event that any officer of the City whose manual or facsimile signature appears on the Bonds ceases to be such officer before the authentication of such Bonds or before the delivery thereof, such manual or facsimile signature nevertheless shall be valid and sufficient for all purposes as if such officer had remained in such office.

(c) Except as provided below, no Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit of this Ordinance unless and until there appears thereon the Certificate of Paying Agent/Registrar substantially in the form provided herein, duly authenticated by manual execution by an officer or duly authorized signatory of the Paying Agent/Registrar. It shall not be required that the same officer or authorized signatory of the Paying Agent/Registrar sign the Certificate of Paying Agent/Registrar on all of the Bonds. In lieu of the executed Certificate of Paying Agent/Registrar described above, the Initial Bond delivered at the Closing Date shall have attached thereto the Comptroller's Registration Certificate substantially in the form provided herein, manually executed by the Comptroller of Public Accounts of the State of Texas, or by his duly authorized agent, which Certificate shall be evidence that the Bond has been duly approved by the Attorney General of the State of Texas, that it is a valid and binding obligation of the City and that it has been registered by the Comptroller of Public Accounts of the State of Texas.

(d) On the Closing Date, one Initial Bond of each series representing the entire principal amount of all the Bonds of such series and the terms set forth in the Pricing Certificate, payable in stated installments to the Representative, or its designee, executed by the Mayor and City Secretary of the City by their manual or facsimile signatures, approved by the Attorney General, and registered and manually signed by the Comptroller of Public Accounts, will be delivered to the Representative or its designee. Upon payment for the Initial Bond, the Paying Agent/Registrar shall cancel the Initial Bond and deliver a single registered, definitive Bond for each maturity, in the aggregate principal amount thereof, to DTC on behalf of the Underwriters.

Section 3.05 Ownership.

(a) The City, the Paying Agent/Registrar and any other person may treat the person in whose name any Bond is registered as the absolute owner of such Bond for the purpose of making and receiving payment as provided herein (except interest shall be paid to the person in whose name such Bond is registered on the Record Date or Special Record Date, as applicable), and for all other purposes, whether or not such Bond is overdue, and neither the City nor the Paying Agent/Registrar shall be bound by any notice or knowledge to the contrary.

(b) All payments made to the Owner of a Bond shall be valid and effectual and shall discharge the liability of the City and the Paying Agent/Registrar upon such Bond to the extent of the sums paid.

Section 3.06 Registration, Transfer and Exchange.

(a) So long as any Bonds remain outstanding, the City shall cause the Paying Agent/Registrar to keep at the Designated Payment/Transfer Office a register (the "Register") in which, subject to such reasonable regulations as it may prescribe, the Paying Agent/Registrar shall provide for the registration and transfer of Bonds in accordance with this Ordinance.

(b) The ownership of a Bond may be transferred only upon the presentation and surrender of the Bond at the Designated Payment/Transfer Office of the Paying Agent/Registrar with such endorsement or other evidence of transfer as is acceptable to the Paying Agent/Registrar. No transfer of any Bond shall be effective until entered in the Register.

(c) The Bonds shall be exchangeable upon the presentation and surrender thereof at the Designated Payment/Transfer Office of the Paying Agent/Registrar for a Bond or Bonds of the same maturity and interest rate and in any denomination or denominations of any integral multiple of \$5,000 and in an aggregate principal amount equal to the unpaid principal amount of the Bonds presented for exchange. The Paying Agent/Registrar is hereby authorized to authenticate and deliver Bonds exchanged for other Bonds in accordance with this Section.

(d) Each exchange Bond delivered by the Paying Agent/ Registrar in accordance with this Section shall constitute an original contractual obligation of the City and shall be entitled to the benefits and security of this Ordinance to the same extent as the Bond or Bonds in lieu of which such exchange Bond is delivered.

(e) No service charge shall be made to the Owner for the initial registration, subsequent transfer, or exchange for any different denomination of any of the Bonds. The Paying Agent/Registrar, however, may require the Owner to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection with the registration, transfer or exchange of a Bond.

(f) Neither the City nor the Paying Agent/Registrar shall be required to issue, transfer, or exchange any Bond called for redemption, in whole or in part, where such redemption is scheduled to occur within forty five (45) calendar days after the transfer or exchange date; provided, however, such limitation shall not be applicable to an exchange by the Owner of the uncalled principal balance of a Bond.

Section 3.07 Cancellation.

All Bonds paid or redeemed before scheduled maturity in accordance with this Ordinance, and all Bonds in lieu of which exchange Bonds or replacement Bonds are authenticated and delivered in accordance with this Ordinance, shall be cancelled and proper records shall be made regarding such payment, redemption, exchange or replacement. The Paying Agent/Registrar shall then return such cancelled Bonds to the City or may in accordance with law destroy such cancelled Bonds and periodically furnish the City with certificates of destruction of such Bonds.

Section 3.08 Temporary Bonds.

(a) Following the delivery and registration of the Initial Bond and pending the preparation of definitive Bonds, the proper officers of the City may execute and, upon the City's request, the Paying Agent/Registrar shall authenticate and deliver, one or more temporary Bonds that are printed, lithographed, typewritten, mimeographed or otherwise produced, in any denomination, substantially of the tenor of the definitive Bonds in lieu of which they are delivered, without coupons, and with such appropriate insertions, omissions, substitutions and

other variations as the officers of the City executing such temporary Bonds may determine, as evidenced by their signing of such temporary Bonds.

(b) Until exchanged for Bonds in definitive form, such Bonds in temporary form shall be entitled to the benefit and security of this Ordinance.

(c) The City, without unreasonable delay, shall prepare, execute and deliver to the Paying Agent/Registrar the Bonds in definitive form; thereupon, upon the presentation and surrender of the Bonds in temporary form to the Paying Agent/Registrar, the Paying Agent/Registrar shall cancel the Bonds in temporary form and shall authenticate and deliver in exchange therefor Bonds of the same maturity and series, in definitive form, in the authorized denomination, and in the same aggregate principal amount, as the Bonds in temporary form surrendered. Such exchange shall be made without the making of any charge therefor to any Owner.

Section 3.09 Replacement Bonds.

(a) Upon the presentation and surrender to the Paying Agent/Registrar of a mutilated Bond, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor a replacement Bond of like tenor and principal amount, bearing a number not contemporaneously outstanding. The City or the Paying Agent/Registrar may require the Owner of such Bond to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection therewith and any other expenses connected therewith.

(b) In the event that any Bond is lost, apparently destroyed or wrongfully taken, the Paying Agent/Registrar, pursuant to the applicable laws of the State of Texas and in the absence of notice or knowledge that such Bond has been acquired by a bona fide purchaser, shall authenticate and deliver a replacement Bond of like tenor and principal amount, bearing a number not contemporaneously outstanding, provided that the Owner first:

(i) furnishes to the Paying Agent/Registrar satisfactory evidence of his or her ownership of and the circumstances of the loss, destruction or theft of such Bond;

(ii) furnishes such security or indemnity as may be required by the Paying Agent/Registrar to save it and the City harmless;

(iii) pays all expenses and charges in connection therewith, including, but not limited to, printing costs, legal fees, fees of the Paying Agent/Registrar and any tax or other governmental charge that is authorized to be imposed; and

(iv) satisfies any other reasonable requirements imposed by the City and the Paying Agent/Registrar.

(c) If, after the delivery of such replacement Bond, a bona fide purchaser of the original Bond in lieu of which such replacement Bond was issued presents for payment such original Bond, the City and the Paying Agent/Registrar shall be entitled to recover such replacement Bond from the person to whom it was delivered or any person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity

provided therefor to the extent of any loss, damage, cost or expense incurred by the City or the Paying Agent/Registrar in connection therewith.

(d) In the event that any such mutilated, lost, apparently destroyed or wrongfully taken Bond has become or is about to become due and payable, the Paying Agent/Registrar, in its discretion, instead of issuing a replacement Bond, may pay such Bond if it has become due and payable or may pay such Bond when it becomes due and payable.

(e) Each replacement Bond delivered in accordance with this Section shall constitute an original additional contractual obligation of the City and shall be entitled to the benefits and security of this Ordinance to the same extent as the Bond or Bonds in lieu of which such replacement Bond is delivered.

Section 3.10 Book-Entry Only System.

Notwithstanding any other provision hereof, upon initial issuance of the Bonds, the ownership of the Bonds shall be registered in the name of Cede & Co., as nominee of DTC. The definitive Bonds shall be initially issued in the form of a single separate fully registered certificate for each of the maturities thereof.

With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any DTC Participant or to any person on behalf of whom such a DTC Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other person, other than an Owner, as shown on the Register, of any notice with respect to the Bonds, including any notice of redemption, or (iii) the payment to any DTC Participant or any other person, other than a bondholder, as shown in the Register of any amount with respect to principal of or interest on the Bonds. Notwithstanding any other provision of this Ordinance to the contrary, the City and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Register as the absolute owner of such Bond for the purpose of payment of principal of and interest on such Bonds, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfer with respect to such Bond, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of and interest on the Bonds only to or upon the order of the respective owners, as shown in the Register as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of principal of and interest on the Bonds to the extent of the sum or sums so paid. No person other than an Owner, as shown in the Register, shall receive a certificate evidencing the obligation of the City to make payments of amounts due pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the word "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

The Representation Letter previously executed and delivered by the City, and applicable to the City's obligations delivered in book-entry-only form to DTC as securities depository is hereby ratified and approved for the Bonds.

Section 3.11 Successor Securities Depository; Transfer Outside Book-entry Only System.

In the event that the City or the Paying Agent/Registrar determines that DTC is incapable of discharging its responsibilities described herein and in the Representation Letter of the City to DTC, or in the event DTC discontinues the services described herein, the City or the Paying Agent/Registrar shall (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Bonds and transfer one or more separate Bonds to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds shall no longer be restricted to being registered in the Register in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names bondholders transferring or exchanging Bonds shall designate, in accordance with the provisions of this Ordinance.

Section 3.12 Payments to Cede & Co.

Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bonds are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of and interest on such Bonds, and all notices with respect to such Bonds, shall be made and given, respectively, in the manner provided in the Representation Letter.

ARTICLE IV

REDEMPTION OF BONDS BEFORE MATURITY

Section 4.01 Limitation on Redemption.

The Bonds shall be subject to redemption before scheduled maturity only as provided in this Article IV.

Section 4.02 Optional Redemption.

(a) The City reserves the option to redeem Bonds in the manner provided in the Form of Bond set forth in Section 6.02 of this Ordinance with such changes as are required by the Pricing Certificate.

(b) If less than all of the Bonds are to be redeemed pursuant to an optional redemption, the City shall determine the maturity or maturities and the amounts thereof to be redeemed and shall direct the Paying Agent/Registrar to call by lot the Bonds, or portions thereof, within such maturity or maturities and in such principal amounts for redemption.

(c) The City, at least forty-five (45) days before the redemption date, unless a shorter period shall be satisfactory to the Paying Agent/Registrar, shall notify the Paying Agent/Registrar of such redemption date and of the principal amount of Bonds to be redeemed.

Section 4.03 Mandatory Sinking Fund Redemption.

(a) Bonds designated as "Term Bonds," if any, in the Pricing Certificate are subject to scheduled mandatory redemption and will be redeemed by the City, in part at a price equal to the principal amount thereof, without premium, plus accrued interest to the redemption date, out of moneys available for such purpose in the Interest and Sinking Fund, on the dates and in the respective principal amounts as set forth in the Pricing Certificate.

(b) At least forty-five (45) days prior to each scheduled mandatory redemption date, the Paying Agent/Registrar shall select for redemption by lot, or by any other customary method that results in a random selection, a principal amount of Term Bonds equal to the aggregate principal amount of such Term Bonds to be redeemed, shall call such Term Bonds for redemption on such scheduled mandatory redemption date, and shall give notice of such redemption, as provided in Section 4.05.

The principal amount of the Term Bonds required to be redeemed on any redemption date pursuant to subparagraph (a) of this Section 4.03 shall be reduced, at the option of the City, by the principal amount of any Term Bonds which, at least forty-five (45) days prior to the mandatory sinking fund redemption date (i) shall have been acquired by the City at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation, or (ii) shall have been redeemed pursuant to the optional redemption provisions hereof and not previously credited to a mandatory sinking fund redemption.

Section 4.04 Partial Redemption.

(a) A portion of a single Bond of a denomination greater than \$5,000 may be redeemed, but only in a principal amount equal to \$5,000 or any integral multiple thereof. If such a Bond is to be partially redeemed, the Paying Agent/Registrar shall treat each \$5,000 portion of the Bond as though it were a single Bond for purposes of selection for redemption.

(b) Upon surrender of any Bond for redemption in part, the Paying Agent/Registrar, in accordance with Section 3.06 of this Ordinance, shall authenticate and deliver an exchange Bond or Bonds in an aggregate principal amount equal to the unredeemed portion of the Bond so surrendered, such exchange being without charge.

(c) The Paying Agent/Registrar shall promptly notify the City in writing of the principal amount to be redeemed of any Bond as to which only a portion thereof is to be redeemed.

Section 4.05 Notice of Redemption to Owners.

(a) The Paying Agent/Registrar shall give notice of any redemption of Bonds by sending notice by United States mail, first class postage prepaid, not less than thirty (30) days

before the date fixed for redemption, to the Owner of each Bond (or part thereof) to be redeemed, at the address shown on the Register at the close of business on the business day next preceding the date of mailing such notice.

(b) The notice shall state the redemption date, the redemption price, the place at which the Bonds are to be surrendered for payment, and, if less than all the Bonds outstanding are to be redeemed, an identification of the Bonds or portions thereof to be redeemed.

(c) The City reserves the right to give notice of its election or direction to redeem Bonds under Section 4.02 conditioned upon the occurrence of subsequent events. Such notice may state (i) that the redemption is conditioned upon the deposit of moneys and/or authorized securities, in an amount equal to the amount necessary to effect the redemption, with the Paying Agent/Registrar, or such other entity as may be authorized by law, no later than the redemption date or (ii) that the City retains the right to rescind such notice at any time prior to the scheduled redemption date if the City delivers a certificate of the City to the Paying Agent/Registrar instructing the Paying Agent/Registrar to rescind the redemption notice, and such notice and redemption shall be of no effect if such moneys and/or authorized securities are not so deposited or if the notice is rescinded. The Paying Agent/Registrar shall give prompt notice of any such rescission of a conditional notice of redemption to the affected Owners. Any Bonds subject to conditional redemption where redemption has been rescinded shall remain Outstanding, and the rescission shall not constitute an event of default. Further, in the case of a conditional redemption, the failure of the City to make moneys and/or authorized securities available in part or in whole on or before the redemption date shall not constitute an event of default.

(d) Any notice given as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Owner receives such notice.

Section 4.06 Payment Upon Redemption.

(a) Before or on each redemption date, the City shall deposit with the Paying Agent/Registrar money sufficient to pay all amounts due on the redemption date and the Paying Agent/Registrar shall make provision for the payment of the Bonds to be redeemed on such date by setting aside and holding in trust such amounts as are received by the Paying Agent/Registrar from the City and shall use such funds solely for the purpose of paying the principal of and accrued interest on the Bonds being redeemed.

(b) Upon presentation and surrender of any Bond called for redemption at the Designated Payment/Transfer Office on or after the date fixed for redemption, the Paying Agent/Registrar shall pay the principal of and accrued interest on such Bond to the date of redemption from the money set aside for such purpose.

Section 4.07 Effect of Redemption.

(a) Notice of redemption having been given as provided in Section 4.05 of this Ordinance and subject to any conditions or rights reserved by the City under Section 4.05(c), the Bonds or portions thereof called for redemption shall become due and payable on the date fixed for redemption and, unless the City defaults in its obligation to make provision for the payment of the principal thereof, or accrued interest thereon, such Bonds or portions thereof shall cease to

bear interest from and after the date fixed for redemption, whether or not such Bonds are presented and surrendered for payment on such date.

(b) If the City shall fail to make provision for payment of all sums due on a redemption date, then any Bond or portion thereof called for redemption shall continue to bear interest at the rate stated on the Bond until due provision is made for the payment of same by the City.

Section 4.08 Lapse of Payment.

Money set aside for the redemption of Bonds and remaining unclaimed by the Owners of such Bonds shall be subject to the provisions of Section 3.03(f) hereof.

ARTICLE V

PAYING AGENT/REGISTRAR

Section 5.01 Appointment of Initial Paying Agent/Registrar.

The Bank of New York Mellon Trust Company, National Association, is hereby appointed as the initial Paying Agent/Registrar for the Bonds.

Section 5.02 Qualifications.

Each Paying Agent/Registrar shall be a commercial bank, a trust company organized under the laws of the State of Texas, or any other entity duly qualified and legally authorized to serve as and perform the duties and services of paying agent and registrar for the Bonds.

Section 5.03 Maintaining Paying Agent/Registrar.

(a) At all times while any Bonds are outstanding, the City will maintain a Paying Agent/Registrar that is qualified under Section 5.02 of this Ordinance. The Mayor is hereby authorized and directed to execute an agreement with the Paying Agent/Registrar specifying the duties and responsibilities of the City and the Paying Agent/Registrar. The signature of the Mayor shall be attested by the City Secretary of the City. The form of the Paying Agent/Registrar Agreement presented at this meeting is hereby approved with such changes as may be approved by bond counsel to the City.

(b) If the Paying Agent/Registrar resigns or otherwise ceases to serve as such, the City will promptly appoint a replacement.

Section 5.04 Termination.

The City, upon not less than sixty (60) days notice, reserves the right to terminate the appointment of any Paying Agent/ Registrar by delivering to the entity whose appointment is to be terminated written notice of such termination.

Section 5.05 Notice of Change to Owners.

Promptly upon each change in the entity serving as Paying Agent/Registrar, the City will cause notice of the change to be sent to each Owner by United States mail, first class postage prepaid, at the address in the Register thereof, stating the effective date of the change and the name and mailing address of the replacement Paying Agent/Registrar.

Section 5.06 Agreement to Perform Duties and Functions.

By accepting the appointment as Paying Agent/Registrar and executing the Paying Agent/Registrar Agreement, the Paying Agent/Registrar is deemed to have agreed to the provisions of this Ordinance and that it will perform the duties and functions of Paying Agent/Registrar prescribed thereby.

Section 5.07 Delivery of Records to Successor.

If a Paying Agent/Registrar is replaced, such Paying Agent/Registrar, promptly upon the appointment of the successor, will deliver the Register (or a copy thereof) and all other pertinent books and records relating to the Bonds to the successor Paying Agent/Registrar.

ARTICLE VI

FORM OF THE BONDS

Section 6.01 Form Generally.

(a) The Bonds, including the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Certificate of the Paying Agent/Registrar, and the Assignment form to appear on each of the Bonds, (i) shall be generally in the form set forth in this Article, with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance and the Pricing Certificate, and (ii) may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including any reproduction of an opinion of counsel) thereon as, consistently herewith, may be determined by the City or by the officers executing such Bonds, as evidenced by their execution thereof.

(b) Any portion of the text of any Bonds may be set forth on the reverse side thereof, with an appropriate reference thereto on the face of the Bonds.

(c) The definitive Bonds shall be typewritten, photocopied, printed, lithographed, or engraved, and may be produced by any combination of these methods or produced in any other similar manner, all as determined by the officers executing such Bonds, as evidenced by their execution thereof.

(d) The Initial Bond submitted to the Attorney General of the State of Texas may be typewritten and photocopied or otherwise reproduced.

Section 6.02 Form of the Bonds.

The form of the Bond, including the form of the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the form of Certificate of the Paying Agent/ Registrar and the form of Assignment appearing on the Bonds, shall be generally as follows, provided, however, that the substantially final form of the Bonds shall be set forth in or attached to the Pricing Certificate and shall incorporate and reflect the final terms of the Bonds set forth in the Pricing Certificate:

(a) Form of Bond.

REGISTERED
No. _____

REGISTERED
\$ _____

United States of America
State of Texas
County of Lubbock
CITY OF LUBBOCK, TEXAS
GENERAL OBLIGATION REFUNDING BOND
SERIES 2012

INTEREST RATE: _____% MATURITY DATE: _____, _____ BOND DATE: _____, _____¹ CUSIP NUMBER: _____

The City of Lubbock (the "City"), in the County of Lubbock, State of Texas, for value received, hereby promises to pay to

or registered assigns, on the Maturity Date specified above, the sum of

_____ DOLLARS

unless this Bond shall have been sooner called for redemption and the payment of the principal hereof shall have been paid or provided for, and to pay interest on such principal amount from the later of the Bond Date specified above or the most recent interest payment date to which interest has been paid or provided for until payment of such principal amount has been paid or provided for, at the per annum rate of interest specified above, computed on the basis of a three hundred sixty (360) day year of twelve (12) thirty (30) day months, such interest to be paid semiannually on February 15 and August 15 of each year, commencing _____². All capitalized terms used herein but not defined shall have the meaning assigned to them in the Ordinance (defined below).

¹ Information to be inserted from Pricing Certificate.

² Information to be inserted from Pricing Certificate.

The principal of this Bond shall be payable without exchange or collection charges in lawful money of the United States of America upon presentation and surrender of this Bond at the corporate trust office in Dallas, Texas (the "Designated Payment/Transfer Office") of The Bank of New York Mellon Trust Company, National Association, as Paying Agent/Registrar or, with respect to a successor Paying Agent/Registrar, at the Designated Payment/Transfer Office thereof. Interest on this Bond is payable by check dated as of the interest payment date, and will be mailed by the Paying Agent/Registrar to the registered owner at the address shown on the registration books kept by the Paying Agent/Registrar or by such other customary banking arrangement acceptable to the Paying Agent/Registrar and the registered owner; provided, however, such registered owner shall bear all risk and expense of such other banking arrangement. At the option of an Owner of at least \$1,000,000 principal amount of the Bonds, interest may be paid by wire transfer to the bank account of such Owner on file with the Paying Agent/Registrar. For the purpose of the payment of interest on this Bond, the registered owner shall be the person in whose name this Bond is registered at the close of business on the "Record Date," which shall be the last business day of the month next preceding such interest payment date; provided, however, that in the event of nonpayment of interest on a scheduled payment date and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the "Special Payment Date," which shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by first-class United States mail, postage prepaid, to the address of each owner of a Bond appearing in the registration books of the Paying Agent/Registrar at the close of business on the last business day next preceding the date of mailing of such notice.

If the date for the payment of the principal of or interest on this Bond shall be a Saturday, Sunday, legal holiday, or day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are required or authorized by law or executive order to close, the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday, or day on which banking institutions are required or authorized to close, and payment on such date shall have the same force and effect as if made on the original date payment was due and no additional interest shall be due by reason of nonpayment on the date on which such payment is otherwise stated to be due and payable.

This Bond is one of a series of fully registered bonds specified in the title hereof issued in the aggregate principal amount of \$_____ ³ (herein referred to as the "Bonds"), issued pursuant to a certain ordinance of the City (the "Ordinance") for the purpose of providing funds with which to refund certain outstanding obligations of the City, and to pay the costs of issuing the Bonds.

[The City has reserved the option to redeem the Bonds maturing on or after February 15, 20__ before their respective scheduled maturities in whole or in part in integral multiples of \$5,000 on _____, _____, or on any date thereafter, at a redemption price of par, plus accrued interest to the date fixed for redemption. If less than all of the Bonds are to be redeemed, the City shall determine the maturity or maturities and the amounts thereof to be

³ Information to be inserted from Pricing Certificate.

redeemed and shall direct the Paying Agent/Registrar to call by lot or other customary method that results in a random selection of the Bonds, or portions thereof, within such maturity or maturities and in such principal amounts, for redemption.]⁴

[Bonds maturing on February 15 in each of the years ____ through ____, inclusive (the “Term Bonds”), are subject to mandatory sinking fund redemption prior to their scheduled maturity, and will be redeemed by the City, in part at a redemption price equal to the principal amount thereof, without premium, plus interest accrued to the redemption date, on the dates and in the principal amounts shown in the following schedule:

Redemption Date

Principal Amount

The Paying Agent/Registrar will select by lot or by any other customary method that results in a random selection the specific Term Bonds (or with respect to Term Bonds having a denomination in excess of \$5,000, each \$5,000 portion thereof) to be redeemed by mandatory redemption. The principal amount of Term Bonds required to be redeemed on any redemption date pursuant to the foregoing mandatory sinking fund redemption provisions hereof shall be reduced, at the option of the City, by the principal amount of any Bonds which, at least 45 days prior to the mandatory sinking fund redemption date (i) shall have been acquired by the City at a price not exceeding the principal amount of such Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation, or (ii) shall have been redeemed pursuant to the optional redemption provisions hereof and not previously credited to a mandatory sinking fund redemption.

Notice of such redemption or redemptions shall be given by first class mail, postage prepaid, not less than thirty (30) days before the date fixed for redemption, to the registered owner of each of the Bonds to be redeemed in whole or in part. In the Ordinance, the City reserves the right in the case of an optional redemption to give notice of its election or direction to redeem Bonds conditioned upon the occurrence of subsequent events. Such notice may state (i) that the redemption is conditioned upon the deposit of moneys and/or authorized securities, in an amount equal to the amount necessary to effect the redemption, with the Paying Agent/Registrar, or such other entity as may be authorized by law, no later than the redemption date or (ii) that the City retains the right to rescind such notice at any time prior to the scheduled redemption date if the City delivers a certificate of the City to the Paying Agent/Registrar instructing the Paying Agent/Registrar to rescind the redemption notice, and such notice and redemption shall be of no effect if such moneys and/or authorized securities are not so deposited or if the notice is rescinded. The Paying Agent/Registrar shall give prompt notice of any such rescission of a conditional notice of redemption to the affected owners. Any Bonds subject to conditional redemption where redemption has been rescinded shall remain Outstanding, and the rescission shall not constitute an event of default. Further, in the case of a conditional

⁴ Insert optional redemption provisions, if any, and revise as necessary to conform to the Pricing Certificate.

redemption, the failure of the City to make moneys and/or authorized securities available in part or in whole on or before the redemption date shall not constitute an event of default.]]⁵

As provided in the Ordinance, and subject to certain limitations therein set forth, this Bond is transferable upon surrender of this Bond for transfer at the Designated Payment/Transfer Office of the Paying Agent/Registrar with such endorsement or other evidence of transfer as is acceptable to the Paying Agent/Registrar; thereupon, one or more new fully registered Bonds of the same stated maturity, of authorized denominations, bearing the same rate of interest, and for the same aggregate principal amount will be issued to the designated transferee or transferees.

Neither the City nor the Paying Agent/Registrar shall be required to issue, transfer or exchange any Bond called for redemption where such redemption is scheduled to occur within forty five (45) calendar days of the transfer or exchange date; provided, however, such limitation shall not be applicable to an exchange by the registered owner of the uncalled principal balance of a Bond.

The City, the Paying Agent/Registrar, and any other person may treat the person in whose name this Bond is registered as the owner hereof for the purpose of receiving payment as herein provided (except interest shall be paid to the person in whose name this Bond is registered on the Record Date or Special Record Date, as applicable) and for all other purposes, whether or not this Bond be overdue, and neither the City nor the Paying Agent/Registrar shall be affected by notice to the contrary.

IT IS HEREBY CERTIFIED AND RECITED that the issuance of this Bond and the series of which it is a part is duly authorized by law; that all acts, conditions and things required to be done precedent to and in the issuance of the Bonds have been properly done and performed and have happened in regular and due time, form and manner, as required by law; and that ad valorem taxes upon all taxable property in the City have been levied for and pledged to the payment of the debt service requirements of the Bonds, within the limit prescribed by law; and that the total indebtedness of the City, including the Bonds, does not exceed any constitutional or statutory limitation.

⁵ Insert mandatory sinking fund redemption provisions, if any, and conform as necessary to the Pricing Certificate.

IN WITNESS WHEREOF, the City has caused this Bond to be executed by the manual or facsimile signature of the Mayor of the City and countersigned by the manual or facsimile signature of the City Secretary, and the official seal of the City has been duly impressed or placed in facsimile on this Bond.

Mayor, City of Lubbock, Texas

City Secretary,
City of Lubbock, Texas

[SEAL]

(b) Form of Comptroller's Registration Certificate.

The following Comptroller's Registration Certificate may be deleted from the definitive Bonds if such certificate on the Initial Bond is fully executed.

OFFICE OF THE COMPTROLLER	§	
OF PUBLIC ACCOUNTS	§	REGISTER NO. _____
OF THE STATE OF TEXAS	§	

I hereby certify that there is on file and of record in my office a certificate of the Attorney General of the State of Texas to the effect that this Bond has been examined by him as required by law, that he finds that it has been issued in conformity with the Constitution and laws of the State of Texas, and that it is a valid and binding obligation of the City of Lubbock, Texas, and that this Bond has this day been registered by me.

Witness my hand and seal of office at Austin, Texas, _____.

[SEAL]

Comptroller of Public Accounts
of the State of Texas

(c) Form of Certificate of Paying Agent/Registrar. The following Certificate of Paying Agent/Registrar may be deleted from the Initial Bond if the Comptroller's Registration Certificate appears thereon.

CERTIFICATE OF PAYING AGENT/REGISTRAR

The records of the Paying Agent/Registrar show that the Initial Bond of this series of Bonds was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas, and that this is one of the Bonds referred to in the within mentioned Ordinance.

The Bank of New York Mellon Trust Company,
National Association, as Paying Agent/Registrar

Dated: _____

By: _____
Authorized Signatory

(d) Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns, and transfers unto (print or typewrite name, address and Zip Code of transferee): _____

(Social Security or other identifying number: _____) the within Bond and all rights hereunder and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Bond on the books kept for registration hereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed By:

Authorized Signatory

NOTICE: The signature on this Assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular and must be guaranteed in a manner acceptable to the Paying Agent/Registrar.

(e) The Initial Bond shall be in the form set forth in paragraphs (a), (b) and (d) of this Section, except for the following alterations:

(i) immediately under the name of the Bond, the headings "INTEREST RATE" and "MATURITY DATE" shall both be completed with the words "As shown below"; and

(ii) in the first paragraph of the Bond, the words “on the Maturity Date specified above” shall be deleted and the following will be inserted: “on February 15 in each of the years, in the principal installments and bearing interest at the per annum rates in accordance with the following schedule:

<u>Years</u>	<u>Principal Installments</u>	<u>Interest Rate</u>

(Information to be inserted from the Pricing Certificate
pursuant to Section 3.02 of this Ordinance)

Section 6.03 CUSIP Registration.

The City may secure identification numbers through the CUSIP Service Bureau Division of Standard & Poor's, A Division of the McGraw-Hill Companies, New York, New York, and may authorize the printing of such numbers on the face of the Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the Bonds shall be of no significance or effect as regards the legality thereof and neither the City nor the attorneys approving said Bonds as to legality are to be held responsible for CUSIP numbers incorrectly printed on the Bonds.

Section 6.04 Legal Opinion.

The approving legal opinion of Andrews Kurth LLP, Bond Counsel, may be attached to or printed on the reverse side of each Bond over the certification of the City Secretary of the City, which may be executed in facsimile.

Section 6.05 Statement of Insurance.

A statement relating to a municipal bond insurance policy, if any, to be issued for the Bonds may be printed on or attached to each Bond.

ARTICLE VII

SALE AND DELIVERY OF BONDS; DEPOSIT OF PROCEEDS

Section 7.01 Sale of Bonds; Official Statement.

(a) The Bonds shall be sold at negotiated sale to the Underwriters in accordance with the terms of this Ordinance, including this Section 7.01(a) and Exhibit B hereto, provided that all of the conditions set forth in Exhibit B can be satisfied. As authorized by Chapter 1207, the Authorized Officer is authorized to act on behalf of the City upon determining that the conditions set forth in Exhibit B can be satisfied, in selling and delivering the Bonds and carrying out the other procedures specified in this Ordinance, including determining whether to acquire bond insurance for the Bonds, the aggregate principal amount of the Bonds and price at which each of the Bonds will be sold, the aggregate principal amount of the Refunded Obligations and their redemption dates, the number and designation of series of Bonds to be issued, the form in which the Bonds shall be issued, the years in which the Bonds will mature, the principal amount to mature in each of such years, the rate of interest to be borne by each such maturity, the first

interest payment date, the initial date from which interest will accrue, the dates, prices and terms upon and at which the Bonds shall be subject to redemption prior to maturity at the option of the City and shall be subject to mandatory sinking fund redemption, and all other matters relating to the issuance, sale and delivery of the Bonds and the refunding of the Refunded Obligations, all of which shall be specified in the Pricing Certificate.

The authority granted to the Authorized Officer under this Section 7.01(a) shall expire at 10:00 p.m., on the 180th day following the date of this Ordinance (the "Expiration Date"), unless otherwise extended by the City Council by separate action. Bonds sold pursuant to a Bond Purchase Contract executed on or before the Expiration Date may be delivered after such date.

Any finding or determination made by the Authorized Officer relating to the issuance and sale of the Bonds and the execution of the Bond Purchase Contract in connection therewith shall have the same force and effect as a finding or determination made by the City Council.

(b) The Authorized Officer is hereby authorized and directed to execute and deliver, and the City Secretary is hereby authorized and directed to attest, a bond purchase contract (the "Bond Purchase Contract") which shall be in the form approved by the Authorized Officer. Upon completion of the terms of the Bond Purchase Contract in accordance with the terms of the Pricing Certificate and this Ordinance, the Authorized Officer is authorized and directed to execute such Bond Purchase Contract on behalf of the City and the Authorized Officer and all other officers, agents and representatives of the City are hereby authorized to do any and all things necessary or desirable to satisfy the conditions set out therein and to provide for the issuance and delivery of the Bonds. The Bonds shall initially be registered in the name of the Representative.

(c) The form and substance of the Preliminary Official Statement and any addenda, supplement or amendment thereto, with such appropriate variations as shall be approved by the Authorized Officer, are hereby in all respects approved and adopted and is hereby deemed final as of its date within the meaning and for the purposes of paragraph (b)(1) of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended. The Authorized Officer and City Secretary are hereby authorized and directed to cause to be prepared a final Official Statement (the "Official Statement") incorporating applicable pricing information pertaining to the Bonds, and to execute the same by manual or facsimile signature and deliver appropriate numbers of executed copies thereof to the Underwriters. The Official Statement as thus approved, executed and delivered, with such appropriate variations as shall be approved by the Authorized Officer and the Underwriters, may be used by the Underwriters in the public offering and sale thereof. The City Secretary is hereby authorized and directed to include and maintain a copy of the Official Statement and any addenda, supplement or amendment thereto thus approved among the permanent records of this meeting. The use and distribution of the Preliminary Official Statement, and the preliminary public offering of the Bonds by the Underwriters, is hereby approved and confirmed.

(d) All officers of the City are authorized to execute such documents, certificates and receipts as they may deem appropriate in order to consummate the delivery of the Bonds in accordance with the terms of sale therefor including, without limitation, the Bond Purchase Contract.

(e) The obligation of the Underwriters identified in subsection (a) of this Section to accept delivery of the Bonds is subject to the Underwriters being furnished with the final, approving opinion of Andrews Kurth LLP, bond counsel for the City, which opinion shall be dated and delivered the Closing Date.

Section 7.02 Control and Delivery of Bonds.

(a) The Authorized Officer of the City is hereby authorized to have control of the Initial Bond and all necessary records and proceedings pertaining thereto pending investigation, examination, and approval of the Attorney General of the State of Texas, registration by the Comptroller of Public Accounts of the State of Texas and registration with, and initial exchange or transfer by, the Paying Agent/Registrar.

(b) After registration by the Comptroller of Public Accounts, delivery of the Bonds shall be made to the Underwriters thereof under and subject to the general supervision and direction of the Authorized Officer, against receipt by the City of all amounts due to the City under the terms of sale.

(c) In the event the Mayor or City Secretary is absent or otherwise unable to execute any document or take any action authorized herein, the Mayor Pro Tem and the Assistant City Secretary, respectively, shall be authorized to execute such documents and take such actions, and the performance of such duties by the Mayor Pro Tem and the Assistant City Secretary shall for the purposes of this Ordinance have the same force and effect as if such duties were performed by the Mayor and City Secretary, respectively.

Section 7.03 Deposit of Proceeds.

(a) First: All amounts, if any, received on the Closing Date as accrued interest on the Bonds from the Bond Date to the Closing Date shall be deposited to the Interest and Sinking Fund.

(b) Second, a portion of the proceeds from the sale of the Bonds, funds transferred from the interest and sinking funds for the Refunded Obligations, and other funds of the City, if any, as set forth in the Pricing Certificate shall be applied to establish an Escrow Fund to refund the Refunded Obligations and, to the extent not otherwise provided for, to pay all expenses arising in connection with the establishment of such Escrow Fund and the refunding of the Refunded Obligations.

(c) Third: The remaining balance received on the Closing Date shall be deposited to a special account of the City and used to pay the costs of issuance of the Bonds.

ARTICLE VIII

INVESTMENTS

Section 8.01 Investments.

(a) Money in the Interest and Sinking Fund created by this Ordinance and the account provided for in Section 7.03(c), at the City's option, may be invested in such securities or obligations as permitted under applicable law. The City's Chief Financial Officer, and any other officer of the City authorized to make investments on behalf of the City, are hereby authorized and directed to execute and deliver, on behalf of the City, any and all investment agreements, guaranteed investment contracts or repurchase agreements in connection with the investment of moneys on deposit in the Interest and Sinking Fund and the account provided for in Section 7.03(c), but only to the extent such investment agreements, guaranteed investment contracts or repurchase agreements are authorized investments under applicable law.

(b) Any securities or obligations in which money in the Interest and Sinking Fund is so invested shall be kept and held in trust for the benefit of the Owners and shall be sold and the proceeds of sale shall be timely applied to the making of all payments required to be made from the fund from which the investment was made.

Section 8.02 Investment Income.

(a) Interest and income derived from investment of the Interest and Sinking Fund shall be credited to such fund.

(b) Upon payment of the cost of issuance associated with the Bonds, any amount that remains in the fund or account set forth in Section 7.03(c) shall be transferred to the credit of the Interest and Sinking Fund and segregated in a special escrow account. The money in such special escrow account shall be used for the payment of principal, premium, if any, and interest on the Bonds, on the respective due dates thereof or dates as of which Bonds have been called for redemption.

(c) The investment and application of money in the Escrow Fund shall be in accordance with the provisions of the Escrow Agreement.

ARTICLE IX

PARTICULAR REPRESENTATIONS AND COVENANTS

Section 9.01 Payment of the Bonds.

On or before each Interest Payment Date for the Bonds and while any of the Bonds are outstanding and unpaid, there shall be made available to the Paying Agent/Registrar, out of the Interest and Sinking Fund, money sufficient to pay such interest on and principal of the Bonds as will accrue or mature on the applicable Interest Payment Date, maturity date or date of prior redemption.

Section 9.02 Other Representations and Covenants.

(a) The City will faithfully perform at all times any and all covenants, undertakings, stipulations, and provisions contained in this Ordinance and in each Bond; the City will promptly pay or cause to be paid the principal of and interest on each Bond on the dates and at the places and manner prescribed in such Bond; and the City will, at the times and in the manner prescribed by this Ordinance, deposit or cause to be deposited the amounts of money specified by this Ordinance.

(b) The City is duly authorized under the laws of the State of Texas to issue the Bonds; all action on its part for the creation and issuance of the Bonds has been duly and effectively taken; and the Bonds in the hands of the Owners thereof are and will be valid and enforceable obligations of the City in accordance with their terms.

Section 9.03 Federal Income Tax Exclusion.

(a) The City intends that the interest on the Bonds shall be excludable from gross income of the owners thereof for federal income tax purposes pursuant to Sections 103 and 141 through 150 of the Code, the Regulations and procedures promulgated thereunder and applicable to the Bonds. For this purpose, the City covenants that it will monitor and control the receipt, investment, expenditure and use of all gross proceeds of the Bonds (including all property the acquisition, construction or improvement of which is to be financed directly or indirectly with the proceeds of the Bonds) and take or omit to take such other and further actions as may be required by Sections 103 and 141 through 150 of the Code and the Regulations to cause interest on the Bonds to be and remain excludable from the gross income, as defined in Section 61 of the Code, of the owners of the Bonds for federal income tax purposes. Without limiting the generality of the foregoing, the City shall comply with each of the following covenants:

(i) The City will use all of the proceeds of the Bonds to (i) provide funds for the purposes described in Section 2 hereof, which will be owned and operated by the City and (ii) to pay the costs of issuing the Bonds. The City will not use any portion of the proceeds of the Bonds to pay the principal of or interest or redemption premium on, any other obligation of the City or a related person.

(ii) The City will not directly or indirectly take any action, or omit to take any action, which action or omission would cause the Bonds to constitute "private activity bonds" within the meaning of Section 141(a) of the Code.

(iii) Principal of and interest on the Bonds will be paid solely from ad valorem taxes collected by the City, investment earnings on such collections, and as available, proceeds of the Bonds.

(iv) Based upon all facts and estimates now known or reasonably expected to be in existence on the date the Bonds are delivered, the City reasonably expects that the proceeds of the Bonds will not be used in a manner that would cause the Bonds or any portion thereof to be an "arbitrage bond" within the meaning of Section 148 of the Code.

(v) At all times while the Bonds are outstanding, the City will identify and properly account for all amounts constituting gross proceeds of the Bonds in accordance with the Regulations. The City will monitor the yield on the investments of the proceeds of the Bonds and, to the extent required by the Code and the Regulations, will restrict the yield on such investments to a yield which is not materially higher than the yield on the Bonds. To the extent necessary to prevent the Bonds from constituting “arbitrage bonds,” the City will make such payments as are necessary to cause the yield on all yield restricted nonpurpose investments allocable to the Bonds to be less than the yield that is materially higher than the yield on the Bonds.

(vi) The City will not take any action or knowingly omit to take any action that, if taken or omitted, would cause the Bonds to be treated as “federally guaranteed” obligations for purposes of Section 149(b) of the Code.

(vii) The City represents that not more than fifty percent (50%) of the proceeds of the Bonds will be invested in nonpurpose investments (as defined in Section 148(f)(6)(A) of the Code) having a substantially guaranteed yield for four years or more within the meaning of Section 149(g)(3)(A)(ii) of the Code, and the City reasonably expects that at least eighty-five percent (85%) of the spendable proceeds of the Bonds will be used to carry out the governmental purpose of the Bonds within the three-year period beginning on the date of issue of the Bonds.

(viii) The City will take all necessary steps to comply with the requirement that certain amounts earned by the City on the investment of the gross proceeds of the Bonds, if any, be rebated to the federal government. Specifically, the City will (i) maintain records regarding the receipt, investment, and expenditure of the gross proceeds of the Bonds as may be required to calculate such excess arbitrage profits separately from records of amounts on deposit in the funds and accounts of the City allocable to other obligations of the City or moneys which do not represent gross proceeds of any obligations of the City and retain such records for at least six years after the day on which the last outstanding Bond is discharged, (ii) account for all gross proceeds under a reasonable, consistently applied method of accounting, not employed as an artifice or device to avoid in whole or in part, the requirements of Section 148 of the Code, including any specified method of accounting required by applicable Regulations to be used for all or a portion of any gross proceeds, (iii) calculate, at such times as are required by applicable Regulations, the amount of excess arbitrage profits, if any, earned from the investment of the gross proceeds of the Bonds and (iv) timely pay, as required by applicable Regulations, all amounts required to be rebated to the federal government. In addition, the City will exercise reasonable diligence to assure that no errors are made in the calculations required by the preceding sentence and, if such an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter, including payment to the federal government of any delinquent amounts owed to it, interest thereon and any penalty.

(ix) The City will not directly or indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to any person other than the federal government by entering into any investment arrangement with respect to

the gross proceeds of the Bonds that might result in a reduction in the amount required to be paid to the federal government because such arrangement results in a smaller profit or a larger loss than would have resulted if such arrangement had been at arm's length and had the yield on the Bonds not been relevant to either party.

(x) The City will timely file or cause to be filed with the City Clerk of the Treasury of the United States the information required by Section 149(e) of the Code with respect to the Bonds on such form and in such place as the City Clerk may prescribe.

(xi) The City will not issue or use the Bonds as part of an "abusive arbitrage device" (as defined in Section 1.148-10(a) of the Regulations). Without limiting the foregoing, the Bonds are not and will not be a part of a transaction or series of transactions that attempts to circumvent the provisions of Section 148 of the Code and the Regulations, by (i) enabling the City to exploit the difference between tax-exempt and taxable interest rates to gain a material financial advantage, or (ii) increasing the burden on the market for tax-exempt obligations.

(xii) Proper officers of the City charged with the responsibility for issuing the Bonds are hereby directed to make, execute and deliver certifications as to facts, estimates or circumstances in existence as of the date of issuance of the Bonds and stating whether there are facts, estimates or circumstances that would materially change the City's expectations. On or after the date of issuance of the Bonds, the City will take such actions as are necessary and appropriate to assure the continuous accuracy of the representations contained in such certificates.

(xiii) The covenants and representations made or required by this Section are for the benefit of the Bond holders and any subsequent Bond holder, and may be relied upon by the Bond holders and any subsequent Bond holder and bond counsel to the City.

(b) In complying with the foregoing covenants, the City may rely upon an unqualified opinion issued to the City by nationally recognized bond counsel that any action by the City or reliance upon any interpretation of the Code or Regulations contained in such opinion will not cause interest on the Bonds to be includable in gross income for federal income tax purposes under existing law.

(c) Notwithstanding any other provision of this Ordinance, the City's representations and obligations under the covenants and provisions of this Section 22 shall survive the defeasance and discharge of the Bonds for as long as such matters are relevant to the exclusion of interest on the Bonds from the gross income of the owners for federal income tax purposes.

ARTICLE X

DEFAULT AND REMEDIES

Section 10.01 Events of Default.

Each of the following occurrences or events for the purpose of this Ordinance is hereby declared to be an Event of Default:

(i) the failure to make payment of the principal of or interest on any of the Bonds when the same becomes due and payable; or

(ii) default in the performance or observance of any other covenant, agreement or obligation of the City, which default materially and adversely affects the rights of the Owners, including but not limited to, their prospect or ability to be repaid in accordance with this Ordinance, and the continuation thereof for a period of sixty (60) days after notice of such default is given by any Owner to the City.

Section 10.02 Remedies for Default.

(a) Upon the happening of any Event of Default, then any Owner or an authorized representative thereof, including but not limited to, a trustee or trustees therefor, may proceed against the City for the purpose of protecting and enforcing the rights of the Owners under this Ordinance, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of the Owners hereunder or any combination of such remedies.

(b) It is provided that all such proceedings shall be instituted and maintained for the equal benefit of all Owners of Bonds then outstanding.

Section 10.03 Remedies Not Exclusive.

(a) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Bonds or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this Ordinance, the right to accelerate the debt evidenced by the Bonds shall not be available as a remedy under this Ordinance.

(b) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

ARTICLE XI

DISCHARGE

Section 11.01 Discharge.

The Bonds may be defeased, discharged or refunded in any manner permitted by applicable law.

ARTICLE XII

CONTINUING DISCLOSURE UNDERTAKING

Section 12.01 Annual Reports.

(a) The City shall provide annually to the MSRB, within six (6) months after the end of each fiscal year, financial information and operating data with respect to the City of the general type included in the final Official Statement, being the information described in Exhibit A hereto. Any financial statements so to be provided shall be (i) prepared in accordance with the accounting principles described in Exhibit A hereto, and (ii) audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided and (iii) submitted through EMMA, in an electronic format with accompany identifying information, as prescribed by the MSRB. If the audit of such financial statements is not complete within such period, then the City shall provide notice that audited financial statements are not available and shall provide unaudited financial statements for the applicable fiscal year to the MSRB. The City shall provide audited financial statements for the applicable fiscal year to the MSRB, when and if audited financial statements become available.

(b) If the City changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

(c) The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific referenced to any document (including an official statement or other offering document, if it is available from the MSRB) that theretofore has been provided to the MSRB or filed with the SEC.

Section 12.02 Material Event Notices.

(a) The City shall notify the MSRB, in a timely manner (not in excess of ten (10) Business Days after the occurrence of an event), of any of the following events with respect to the Bonds:

- (i) principal and interest payment delinquencies;
- (ii) nonpayment related defaults, if material;
- (iii) unscheduled draws on debt service reserves reflecting financial difficulties;
- (iv) unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) substitution of credit or liquidity providers, or their failure to perform;

(vi) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;

(vii) modifications to rights of Owners, if material;

(viii) redemption calls, if material, and tender offers;

(ix) defeasances;

(x) release, substitution, or sale of property securing repayment of the Bonds, if material;

(xi) rating changes;

(xii) bankruptcy, insolvency, receivership or similar event of the City;

(xiii) the consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and

(xiv) appointment of a successor Paying Agent/Registrar or change in the name of the Paying Agent/Registrar, if material.

The City will provide notice of such events to the MSRB in an electronic format and accompanied by identifying information, as prescribed by the MSRB.

(b) As used in clause (xii) above, the phrase “bankruptcy, insolvency, receivership or similar event” means the appointment of a receiver, fiscal agent or similar officer for the City in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court of governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if jurisdiction has been assumed by leaving the City Council and official or officers of the City in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City.

(c) The City shall notify the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with Section 12.01 of this Ordinance by the time required by such Section.

Section 12.03 Limitations, Disclaimers and Amendments.

(a) The City shall be obligated to observe and perform the covenants specified in this Article for so long as, but only for so long as, the City remains an “obligated person” with

respect to the Bonds within the meaning of the Rule, except that the City in any event will give notice of any Bond calls and any defeasances that cause the City to be no longer an “obligated person.”

(b) The provisions of this Article are for the sole benefit of the Owners and beneficial owners of the Bonds, and nothing in this Article, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Article and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City’s financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Article or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE OWNER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS ARTICLE, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

(c) No default by the City in observing or performing its obligations under this Article shall constitute a breach of or default under the Ordinance for purposes of any other provisions of this Ordinance.

(d) Nothing in this Article is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

(e) The provisions of this Article may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (i) the provisions of this Article, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (ii) either (A) the Owners of a majority in aggregate principal amount (or any greater amount required by any other provisions of this Ordinance that authorizes such an amendment) of the outstanding Bonds consent to such amendment or (B) an entity or individual person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Owners and beneficial owners of the Bonds. If the City so amends the provisions of this Article, it shall include with any amended financial information or operating data next provided in accordance with Section 12.01 an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in type of financial information or operating data so provided.

ARTICLE XIII

AMENDMENTS; ATTORNEY GENERAL MODIFICATION

Section 13.01 Amendments.

This Ordinance shall constitute a contract with the Owners, be binding on the City, and shall not be amended or repealed by the City so long as any Bond remains outstanding except as permitted in this Section. The City may, without consent of or notice to any Owners, from time to time and at any time, amend this Ordinance in any manner not detrimental to the interests of the Owners, including the curing of any ambiguity, inconsistency, or formal defect or omission herein. In addition, the City may, with the written consent of the Owners of the Bonds holding a majority in aggregate principal amount of the Bonds then outstanding and receipt of a Counsel's Opinion that such amendment, addition or rescission of any provisions of the Ordinance will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds, amend, add to, or rescind any of the provisions of this Ordinance; provided that, without the consent of all Owners of outstanding Bonds, no such amendment, addition, or rescission shall (i) extend the time or times of payment of the principal of, premium, if any, and interest on the Bonds, reduce the principal amount thereof, the redemption price, or the rate of interest thereon, or in any other way modify the terms of payment of the principal of, or interest on the Bonds, (ii) give any preference to any Bond over any other Bond, or (iii) reduce the aggregate principal amount of Bonds required to be held by Owners for consent to any such amendment, addition, or rescission.

Section 13.02 Attorney General Modification.

In order to obtain the approval of the Bonds by the Attorney General of the State of Texas, any provision of this Ordinance may be modified, altered or amended after the date of its adoption if required by the Attorney General in connection with the Attorney General's examination as to the legality of the Bonds and approval thereof in accordance with the applicable law. Such changes, if any, shall be provided to the City Secretary and the City Secretary shall insert such changes into this Ordinance as if approved on the date hereof.

ARTICLE XIV

REDEMPTION OF REFUNDED OBLIGATIONS; APPROVAL OF ESCROW AGREEMENT; PURCHASE OF ESCROWED SECURITIES

Section 14.01 Redemption of Refunded Obligations.

(a) The City hereby calls the Refunded Obligations for redemption prior to maturity on the dates and at the prices set forth in the Pricing Certificate.

(b) The Chief Financial Officer is hereby authorized and directed to cause a copy of this Ordinance to be delivered to each paying agent/registrar for the Refunded Obligations, the delivery of which shall constitute notice of redemption and notice of defeasance to such paying agent/registrar.

Section 14.02 Escrow Securities.

The Mayor and the Authorized Officer, either or both, are hereby authorized to make necessary arrangements for the purchase of the Escrow Securities referenced in the Escrow Agreement, as may be necessary for the Escrow Fund and the application for the acquisition of the Escrow Securities is hereby approved and ratified. Following the deposits to the Escrow Fund as specified herein and in the Pricing Certificate, the Refunded Obligations shall be payable solely from and secured by such deposits.

Section 14.03 Arrangements for Defeasance of Refunded Obligations.

The Authorized Officer may execute and deliver an escrow agreement, a deposit agreement or a similar agreement (each an "Escrow Agreement") or a letter of instructions or any other instrument relating to the safekeeping, investment, administration and disposition of moneys deposited to effect the defeasance of the Refunded Obligations in such form and subject to such terms and conditions as the Authorized Officer determines may be necessary or convenient to carry out the intent and purpose of this Ordinance.

Section 14.04 Notice of Redemption.

Each paying agent/registrar for the Refunded Obligations is hereby authorized and directed to give notice of redemption and deposit with respect to the Refunded Obligations as required under the ordinance pursuant to which the Refunded Obligations were issued.

ARTICLE XV

EFFECTIVE IMMEDIATELY

Section 15.01 Effective Immediately.

Notwithstanding the provisions of the City Charter, this Ordinance shall become effective immediately upon its adoption at this meeting pursuant to Section 1201.028, Texas Government Code.

PRESENTED, FINALLY PASSED AND APPROVED, AND EFFECTIVE on the 6th day of March, 2012, at a regular meeting of the City Council of the City of Lubbock, Texas.

TOM MARTIN, Mayor

ATTEST:

REBECCA GARZA, City Secretary

[SEAL]

APPROVED AS TO CONTENT:

By: _____
ANDY BURCHAM, Chief Financial Officer

APPROVED AS TO FORM:

By: _____
JERRY KYLE, Bond Counsel

SCHEDULE I

REFUNDED OBLIGATION CANDIDATES

All outstanding callable maturities of the following obligations of the City:

Tax and Sewer System Surplus Revenue Certificates of Obligation, Series 2002

Tax and Sewer System Surplus Revenue Certificates of Obligation, Series 2002A

Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2002

General Obligation Bonds, Series 2002

Tax and Municipal Drainage Utility System Surplus Revenue Certificates of Obligation, Series 2003

Tax and Solid Waste System Surplus Revenue Certificates of Obligation, Series 2003

Tax and Sewer System Surplus Revenue Certificates of Obligation, Series 2003

Tax and Tax Increment Revenue Certificates of Obligation, Series 2003 (North Overton Tax Increment Financing Reinvestment Zone)

Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2003

General Obligation Bonds, Series 2003

Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2004

General Obligation Bonds, Series 2004

General Obligation Refunding Bonds, Series 2004

Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2005

General Obligation Bonds, Series 2005

Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2006

General Obligation Bonds, Series 2006

Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2007

EXHIBIT A

DESCRIPTION OF ANNUAL DISCLOSURE OF FINANCIAL INFORMATION

The following information is referred to in Article XII of this Ordinance.

Annual Financial Statements and Operating Data

The financial information and operating data with respect to the City to be provided annually in accordance with such Section are as specified (and included in the Appendix or other headings of the Official Statement referred to) below:

1. The portions of the financial statements of the City appended to the Official Statement as Appendix B, but for the most recently concluded fiscal year.
2. Statistical and financial data set forth in Tables 1-6 and 8A-15 of the Official Statement.

Accounting Principles

The accounting principles referred to in such Section are the accounting principles described in the notes to the financial statements referred to in Paragraph 1 above.

EXHIBIT B

SALE PARAMETERS

In accordance with Section 7.01(a) of the Ordinance, the following conditions with respect to the Bonds must be satisfied in order for the Authorized Officer to act on behalf of the City in selling and delivering the Bonds to the Underwriters:

(a) the Bonds shall not bear interest at a rate greater than the maximum rate allowed by Chapter 1204, Texas Government Code, as amended;

(b) the aggregate principal amount of the Bonds shall produce proceeds in an amount sufficient to fund the purposes described in Section 3.01 and such aggregate principal amount shall not exceed the maximum amount authorized in Section 3.01;

(c) the refunding of the Refunded Obligations shall result in a net present value savings of at least 5%; and

(d) the maximum maturity for the Bonds shall not exceed twenty-five (25) years; and

(e) the Bonds to be issued, prior to delivery, must have been rated by a nationally recognized rating agency for municipal securities in one of the four highest rating categories for long term obligations.



Regular City Council Meeting

5. 5.

Meeting Date: 03/06/2012

Information

Agenda Item

Statement of Intent Resolution - Finance: Consider a resolution suspending the effective date for 90 days in connection with the rate increase filing of Atmos Energy Corporation on February 7, 2012; requiring the reimbursement of municipal rate case expenses; authorizing participation in related rate proceedings; authorizing the retention of special counsel; and declaring an effective date.

Item Summary

On February 7, 2012, Atmos Energy Corporation ("Atmos") filed a Statement of Intent to increase its revenue and establish a uniform rate for Amarillo, Lubbock, and all other incorporated cities in what Atmos refers to as its "West Texas Division." The filing was made pursuant to the provision of Texas Utilities Code Section 104.102 and is intended to invoke the original jurisdiction of the City as provided in Texas Utilities Code 103.003. The proposed effective date of the requested rate changes is March 13, 2012.

Atmos proposes to adopt rates for its West Texas Division based on the division-wide cost of providing service to all customers within the West Texas Division, which includes Amarillo, Lubbock, and West Texas Cities rate jurisdictions. In prior applications to increase rates, Atmos treated Lubbock as a separate division (the "Lubbock Rate Division") and based rates in Lubbock on costs relevant to Lubbock. However, in Atmos' Statement of Intent, Atmos combines the Lubbock Rate Division with the West Texas Cities Rate Division and the Amarillo Rate Division, and bases its request to increase rates on a combined basis.

Atmos' proposed rate increase would raise Atmos' overall revenue by approximately \$11.6 million for the entire "West Texas Division." The proposed changes would increase Atmos' revenues from customers in the Lubbock Rate Division by 20.3 percent (as compared to the increase to the West Texas Cities Rate Division of only 2 percent).

Under Atmos' proposal, the average base rate charges for a residential customer's bill would increase 24.3 percent and a commercial customer's bill would increase by 10.9 percent.

It is recommended that the City suspend Atmos' proposed effective date for 90 days, from March 13th until June 11th. It is also recommended that the City retain the law firm of Herrera & Boyle, PLLC to represent the City's interest in matters related to Atmos' rate case and to advise the City with regard to Atmos' application, and that the City intervene in the proceeding before the Railroad Commission of Texas, should such proceedings develop. A portion of the Statement of Intent is provided. The complete Statement of Intent is filed with the City Secretary's office.

Fiscal Impact

-

Staff/Board Recommending

Andy Burcham, Chief Financial Officer

Attachments

Resolution - Atmos Gas Rate Suspension

Statement of Intent - Atmos Gas Rates

RESOLUTION NO. _____

RESOLUTION BY THE CITY OF LUBBOCK, TEXAS (“CITY”) SUSPENDING THE EFFECTIVE DATE FOR NINETY DAYS IN CONNECTION WITH THE RATE INCREASE FILING OF ATMOS ENERGY CORPORATION ON OR ABOUT FEBRUARY 7, 2012; REQUIRING THE REIMBURSEMENT OF MUNICIPAL RATE CASE EXPENSES; AUTHORIZING PARTICIPATION IN RELATED RATE PROCEEDINGS; AUTHORIZING THE RETENTION OF SPECIAL COUNSEL; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE

WHEREAS, Atmos Energy Corporation (“Atmos” or “Company”) filed a Statement of Intent with the City on or about February 7, 2012 to change its rate schedules within the corporate limits of the City; and

WHEREAS, Atmos’ proposed increase on revenue would establish a uniform rate among all cities within its newly proposed rate division that Atmos refers to as the “West Texas Division;” and

WHEREAS, previously Atmos regarded the City of Lubbock as a separate Division (the “Lubbock Rate Division”) and calculated rates based on such basis; and

WHEREAS, Atmos notes that its proposed rates would increase its annual revenue in the Amarillo Rate Division, the Lubbock Rate Division, and in the West Texas Cities Rate Division on a combined basis, by approximately \$11.6 million, which represents a base-rate increase exclusive of the cost of gas of approximately 14.8%; and

WHEREAS, for ratepayers in the City of Lubbock, Atmos’ proposed rate increase would increase the average monthly bill for Residential customers by 12.35% including the cost of gas, or 30.79% excluding the cost of gas; and Commercial customers by 4.79% including the cost of gas, or 16.62% excluding the cost of gas, while providing a decrease in average monthly bills for Industrial, Public Authority, and State Institution customers; and

WHEREAS, the City has grave concerns with Atmos’ proposal to depart from the determination of rates on the basis of the costs to provide service in the Lubbock Rate Division; and

WHEREAS, under Atmos’ proposal to consolidate the Lubbock Rate Division with the West Texas Cities Rate Division and the Amarillo Rate Division, the base-rate revenue increase in the Lubbock Rate Division would be an increase of 20.34%, while the increase in base-rate revenue for customers in the West Texas Cities Rate Division would be only about 2.05%; and

WHEREAS, Atmos’ proposed public notice reflects an increase on a combined basis, that is, for the Lubbock Rate Division, the Amarillo Rate Division, and the West Texas Cities Rate Division, showing an increase of 14.8%, the City has serious concerns with the sufficiency of Atmos’ proposed public notice; and

WHEREAS, neither Atmos’ Statement of Intent nor its Public Notice state what its proposed increase would be under Atmos’ prior practice of developing rates based on the costs of service for each of the three distinct rate divisions, that is, the Amarillo Rate Division, the Lubbock Rate Division, and the West Texas Cities Rate Division, thereby bringing into question the City’s ability to exercise its duty as a regulatory authority to make a reasonable determination of Atmos’ rate base, expenses, investment, and rate of return in the City; and

WHEREAS, the City is a regulatory authority under the Gas Utility Regulatory Act (“GURA”) and under Chapter 104, §103.001 et seq. of GURA has exclusive original jurisdiction over Atmos’ rates, operations, and services within the municipality; and

WHEREAS, Atmos’ rate request consists of a voluminous amount of information including Atmos’ rate-filing package, exhibits, schedules, and workpapers; and

WHEREAS, Atmos proposed March 13, 2012 as the effective date for its requested increase in rates; and

WHEREAS, it is not possible for the City to complete its review of Atmos' filing by March 13, 2012; and

WHEREAS, the City will need an adequate amount of time to investigate and determine whether Atmos has properly invoked the City's rate-setting jurisdiction, and if so, ultimately to review and evaluate Atmos' rate application to enable the City to adopt a final decision as a local regulatory authority with regard to Atmos' requested rate increase; and

WHEREAS, the City will require the assistance of specialized legal counsel and rate experts to review the merits of Atmos' application to increase rates; and

WHEREAS, to the extent Atmos seeks review at the Railroad Commission of Texas of the City's final decision regarding Atmos' statement of intent to change rates, or should Atmos submit a statement of intent to the Railroad Commission to increase rates in the environs of the City, the decision of the Railroad Commission of Texas could have an impact on the rates paid by the City and its citizens who are customers of Atmos and in order for the City's participation to be meaningful it is important that the City promptly intervene in such proceeding at the Railroad Commission of Texas.

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

Section 1. The findings set out in the preamble are in all things approved and incorporated herein as if fully set forth.

Section 2. Atmos' proposed effective date for its proposed increase in rates is hereby **SUSPENDED** for ninety days beyond March 13, 2012.

Section 3. The statutory suspension period may be further extended or its Statement of Intent dismissed if Atmos does not provide adequate data from which the City may

make a reasonable determination of Atmos' rate base, expenses, investment, and rate of return in the City, or if Atmos does not provide timely, meaningful, and proper public notice of its request to increase rates and revenue, or if its rate-filing package is otherwise materially deficient.

Section 4. The City authorizes intervention in proceedings related to Atmos' Statement of Intent before the Railroad Commission of Texas and related proceedings in courts of law.

Section 5. The City hereby orders Atmos to reimburse the City's rate case expenses as provided in the Gas Utility Regulatory Act and that Atmos shall do so on a monthly basis and within 30 days after submission of the City's invoices for the City's reasonable costs associated with the City's activities related to this rate review or to related proceedings involving Atmos before the City, the Railroad Commission of Texas, or any court of law.

Section 6. Subject to the right to terminate employment at any time, the City retains and authorizes the law firm of Herrera & Boyle, PLLC to act as Special Counsel with regard to rate proceedings involving Atmos before the City, the Railroad Commission of Texas, or any court of law and to retain such experts as may be reasonably necessary for review of Atmos' rate application subject to approval by either city in the joint representation.

Section 7. The City shall review the invoices of the lawyers and rate experts for reasonableness before submitting the invoices to Atmos for reimbursement.

Section 8. A copy of this resolution shall be sent to Atmos Energy, care of Mr. Jeffrey Foley, Vice President Rates and Regulatory Affairs, Atmos Energy Corporation, 5110 80th Street, Lubbock, Texas 79424; and to Mr. Alfred R. Herrera, Herrera & Boyle, PLLC, 816 Congress Ave., Suite 1250, Austin, Texas 78701.

Section 9. The meeting at which this resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 10. This resolution shall become effective from and after its passage.

PASSED AND APPROVED this _____ day of _____, 2012.

Mayor

ATTEST:

City Secretary



Jeffrey Foley
Vice President
Rates & Regulatory Affairs

February 7, 2012

TO THE HONORABLE MAYOR AND CITY COUNCIL:

Re: Atmos Energy Corporation's Statement of Intent to Increase Gas Utility Rates within All Incorporated Areas Served by the West Texas Division, with the Exception of the City of Dallas

Dear Mayor and City Council Members:

Enclosed for filing in the official City records is Atmos Energy Corporation's Statement of Intent to Increase Gas Utility Rates within All Incorporated Areas Served by the West Texas Division. This filing is being made pursuant to the provision of Texas Utilities Code § 104.102 and is intended to invoke the original jurisdiction of the City as provided in Texas Utilities Code § 103.003. The proposed effective date of these rate changes is March 13, 2012.

Atmos Energy Corporation, West Texas Division ("Atmos" or "the Company") is filing to change the residential, commercial, industrial, public authority, and state institution rates applicable to service within the municipal boundaries of your City. Atmos further proposes to revise its service charges to establish uniform service charges throughout all incorporated areas of the West Texas Division. On a West Texas system wide basis, Atmos Energy proposes to increase its annual revenues by approximately \$11.6 million or 5.76%, including gas costs, or 14.8% excluding gas costs. This is a major rate change as defined by the provisions of the Texas Utilities Code.

The Company further proposes to consolidate its various WNA and GCA tariffs into single WNA and GCA tariffs that will apply to all incorporated areas within the Company's West Texas Division. The Company's proposed WNA tariff expands its applicability to include the State Institution customer class, removes monthly reporting requirements where applicable, and reflects updates to heat load and base load factors. The proposed GCA tariff removes language regarding the recovery of transaction related costs to mitigate price volatility. The Company seeks to implement a new Transportation Gas Services tariff, a new Rate Review Mechanism ("RRM") tariff, and a new conservation and energy efficiency tariff ("Rider CEE"). Atmos also proposes to adopt new Rider FF and Rider TAX tariffs, which authorize the collection of franchise fees and state gross receipts taxes through a separate line item on customer bills.

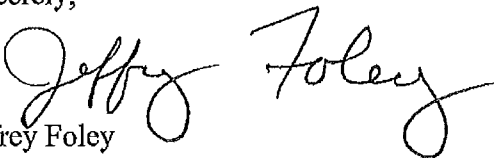
While the Company's proposed rates have been developed based on its updated class cost of service study and existing rate design methodology, the Company's rate filing also includes two optional proposals (1) a new Rate Parity tariff that would mitigate the impact that the transition to a division-wide cost of service model may have on the residential customer class and (2) a regional rate design for the residential customer class that accounts for the differences in volumetric usage within the North, Central, and South regions of the West Texas Division. For the West Texas Cities rate jurisdiction, the Company has also requested approval of a Depreciation Surcharge tariff that will allow recovery of the regulatory asset created to track

differences between the West Texas Division's actual depreciation expense resulting from depreciation rate changes approved by the Railroad Commission of Texas in GUD No. 10041 and depreciation expense recovered under existing rates.

Atmos requests that the City pass a suspension resolution to extend the effective date of the proposed rates 90 days (from March 13th to June 11th). This suspension period will allow the City, the city coalition attorneys and consultants time to review the filing and work with the Company to achieve an agreed resolution.

If you have questions, please feel free to contact me.

Sincerely,


Jeffrey Foley

Attachment:

**ATMOS ENERGY CORPORATION'S STATEMENT OF INTENT TO INCREASE GAS
UTILITY RATES WITHIN ALL INCORPORATED AREAS OF THE WEST TEXAS
DIVISION**

To All Cities Affected By Atmos Energy Corporation, West Texas Division's Rate Filing:

Atmos Energy Corporation ("Atmos" or the "Company"), a "gas utility" under TEX. UTIL. CODE § 101.003(7), respectfully files this Statement of Intent to increase gas utility rates within all incorporated areas served by the Company's West Texas Division. This Statement of Intent is filed pursuant to the provisions of Subchapter C of Section 104 of the Texas Utilities Code. The municipalities affected by this Statement of Intent are identified on **Exhibit A** of the Rate Filing Package, which is attached hereto and incorporated herein by reference.¹ The Company requests that the revised rate schedules, **Exhibit B** of the Rate Filing Package, become effective for bills rendered on and after March 13, 2012, which is 35 days from the date of this filing. No action on the part of the Cities is required to permit these proposed rates to become effective.

I. JURISDICTION

Atmos is a gas utility under § 101.003(7) of the Texas Utilities Code, and municipalities have exclusive original jurisdiction to set the rates requested for the residential, commercial, industrial, public authority and state institution customers within the incorporated areas served by the Company's West Texas Division under § 103.001 of the Texas Utilities Code. Consistent with such jurisdiction, the proposed rates are applicable to the Company's natural gas sales within the incorporated areas of the Cities identified on **Exhibit A** of the Rate Filing Package.

¹ Hereafter, the municipalities identified on **Exhibit A** of the Rate Filing Package are collectively referred to in this Statement of Intent as "the Cities."

II. SUMMARY OF PROPOSED CHANGES AND EXPECTED REVENUE CHANGE

Atmos has calculated the revenue requirement for this filing using the division-wide cost of providing service to all customers within the Company's West Texas Division, which includes the Amarillo, Lubbock, and West Texas Cities rate jurisdictions. For the twelve (12) month period ending September 30, 2011, Atmos' adjusted revenues from the West Texas Division incorporated areas totaled approximately \$202.1 million. If approved, the proposed rates will produce a \$11.1 million increase in the Company's annual revenues for gas service and a \$ 0.5 million increase in annual revenues from service charges, and will result in an overall annual revenue increase in the incorporated areas of the West Texas Division of approximately \$11.6 million or 5.76%, including gas costs, or 14.80% excluding gas cost. The effect that the proposed increase in rates will have on Atmos' aggregate revenues on a city by city basis is shown on **Exhibit C** of the Rate Filing Package. Because the proposed changes will increase the total aggregate revenues of the Company within the incorporated areas by more than two and one half percent, the proposed rate increase constitutes a major change as that term is defined by § 104.101 of the Texas Utility Code.

The rate schedules, attached hereto as **Exhibit B** of the Rate Filing Package and made a part hereof, evidence the rate changes proposed by the Company. In addition to the change in rates, the Company proposes to consolidate its various GCA and WNA tariffs into a single GCA tariff and a single WNA tariff that will apply to all incorporated areas within the Company's West Texas Division. It should be noted that the GCA tariff proposed in the Company's filing removes language regarding the recovery of transaction related costs to mitigate price volatility. The Company's proposed WNA tariff expands its applicability to include the State Institution customer class and removes monthly reporting requirements where applicable. As reflected in

Exhibit B, the Company is also proposing Rate Schedules to implement a new Transportation Gas Services tariff, a Rate Review Mechanism (“RRM”) tariff and a new conservation and energy efficiency tariff (“Rider CEE”). Additional tariffs proposed by the Company include a Rider FF and Rider TAX, which authorize the collection of franchise fees and state gross receipts taxes through a separate line item on customer bills. The Company has also requested approval of a Depreciation Surcharge tariff that will be applicable to customers within the West Texas Cities rate jurisdiction. New service charges are also proposed as part of the Company’s filing in order to achieve uniformity in the service charges applicable within the Amarillo, Lubbock and West Texas Cities rate jurisdictions.

This filing also demonstrates the reasonableness and necessity of the investment that has been made in the West Texas Division since December 31, 2010. As provided by law, the Company seeks reimbursement of all Company and City rate case expenses. The exact amount will not be known until the case is complete. Finally, while the Company’s proposed rates have been developed based on its updated class cost of service study and existing rate design methodology, the Company’s rate filing also includes two optional proposals for review: (1) a new Rate Parity tariff that would mitigate the impact that the transition to a division-wide cost of service model may have on the residential customer class and (2) a regional rate design for the residential customer class that accounts for the differences in volumetric usage within the North, Central, and South regions of the West Texas Division.

III. DETAILS OF PROPOSED CHANGES

A. Test Year

The Company’s proposed cost of service has been calculated on a division-wide basis as set forth in this Statement of Intent and Rate Filing Package and is based on the twelve-month

period ending September 30, 2011, updated for known changes and conditions that are measurable with reasonable accuracy.

B. Class and Number of Customers Affected

The West Texas Division provides gas utility service to customers inside the limits of approximately 72 incorporated cities, as listed on **Exhibit A** of the Rate Filing Package that is attached hereto. The following table shows the number of customers by class within the incorporated areas served by the West Texas Division that will be affected by the proposed changes:

<u>Municipal Customer Classes</u>	<u>Number of Customers</u>
Residential	250,696
Commercial	21,653
Industrial Sales	148
Public Authority	1,688
State Institution	120

Exhibit D, attached, shows the amount of the proposed increase to be collected from each class of customers.

C. Proposed Rate Change

The Company's West Texas Division includes the Amarillo, Lubbock and West Texas Cities rate jurisdictions. In developing the proposed rates, the Company has used the division-wide cost of providing service to the entire West Texas Division and has updated its Class Cost of Service Study with current test period information. The use of a division-wide cost of service to develop rates differs from the Company's past practice of developing rates based on the costs of service for each of the three distinct rate jurisdictions within the West Texas Division. The Company's filing also offers two discretionary options for review: (1) a new Rate Parity tariff that mitigates the impact that the transition to a division-wide cost of service model may have on the residential customer class and (2) a regional rate design for the residential customer class that

accounts for the differences in volumetric usage within the North, Central, and South regions of the West Texas Division. The impact of the regional rate design on residential customer rates is shown in **Exhibit G** of the Rate Filing Package.

Exhibit E, attached, shows the effect of the proposed change to an average bill for each class of customers within each of the West Texas Division rate jurisdictions. Excluding gas cost, residential customers will see a 18.17% increase in the average monthly bill, commercial customers will see a 6.65% increase in the average monthly bill, industrial customers will see a 15.37% decrease in the average monthly bill, Public Authority customers in the Amarillo rate jurisdiction will see a 0.69% increase in the average monthly bill, Public Authority customers in the Lubbock and West Texas Cities rate jurisdictions will see a 4.54% decrease in the average monthly bill, and State Institution customers will see a 8.57% decrease in the average monthly bill.

D. Other Proposed Tariff Changes

In addition to the proposed change in rates, the Company proposes to revise its service charges to establish uniform service charges throughout all incorporated areas of the West Texas Division. Other proposed tariff changes are identified below:

1) Rider WNA

The Company proposes to consolidate its various WNA tariffs into a single WNA tariff that will apply to all incorporated areas within the Company's West Texas Division. The Company's proposed WNA tariff also expands its applicability to include the State Institution customer class and removes monthly reporting requirements where applicable. The Company further proposes to update the heat load and base load factors utilized in its Rider WNA. The Company requests these changes in order to synchronize these factors with proposed rates and the updated billing determinant calculations used to develop the proposed rates.

(2) Rider GCA

The Company proposes to consolidate its various GCA tariffs into a single GCA tariff that will apply to all incorporated areas within the Company's West Texas Division. In terms of language differences between the current and proposed GCA tariff, the proposed GCA tariff removes language regarding the recovery of transaction related costs to mitigate price volatility.

(3) Rider RRM

Atmos includes for the Cities' consideration a new Rider RRM, which provides for an annual review by the Cities of the Company's expenses, revenues and rate base investment, and a corresponding adjustment to the Company's rates to reflect annual changes (increases or decreases) in these categories. The purpose of the RRM mechanism is to ensure transparency of the Company's annual financial performance and to better ensure that rates paid by customers reflect annual changes that occur in the Company's cost of service and rate base.

(4) Rider CEE

Atmos is proposing a new Rider CEE. Unlike the existing tariff, which is limited to low income customers, the proposed Rider CEE will offer assistance to residential and commercial customers to encourage reductions in energy consumption and lower energy utility bills. Cost recovery under the new Rider CEE will occur through the Residential and Commercial customer charge using the cost recovery factor set forth in the proposed Rider CEE.

(5) Rider FF and Rider TAX

The Company proposes to adopt a new Rider FF and Rider TAX, which authorize the collection of franchise fees and state gross receipts taxes through a separate line item on customer bills. The Rider FF and Rider TAX proposed in the Company's filing contains the same language that the Commission has previously reviewed and approved for use by the Company's Mid-Tex Division. Consistent with the Company's request to adopt new Rider FF

and Rider TAX, the Company's requested revenue requirement does not include expense amounts attributable to franchise fees and state gross receipts taxes. In the event that the Company's proposal to adopt new Rider FF and Rider TAX is not approved, the adjustment made to remove the expense amounts attributable to franchise fees and state gross receipts taxes must be reversed and included in the authorized revenue requirement.

(6) Transportation Gas Service Tariff

The Company proposes a new Transportation Gas Service tariff to offer large volume customers an additional service that will allow these customers to purchase and transport their own natural gas supplies. The rates proposed for the new transportation gas service customer class are shown below:

TRANSPORTATION GAS SERVICE	
Charge	Proposed
Meter Charge	\$275.00
Consumption Charge per Ccf	\$.04824

(7) Rate Schedule - Rate Parity – ICL

The Rate Parity tariff is being filed as an optional item for consideration. The Rate Parity tariff is designed to mitigate the impact that the transition to a division-wide cost of service model may have on residential customers within the Amarillo, Lubbock and West Texas Cities rate jurisdictions of the West Texas Division. More specifically, the Rate Parity tariff will allow existing rate structures across the West Texas Division to achieve parity on a more gradual basis through an adjustment made to the residential customer charge.

(8) Rate Schedule - Depreciation Surcharge

The Company has also requested approval of a Depreciation Surcharge tariff that will be applicable to customers within the incorporated areas of the West Texas Cities rate jurisdiction. These cities are identified in **Exhibit A** of the Rate Filing Package. The purpose of this new tariff is to provide for the recovery of the regulatory asset created to track differences between the West Texas Division's actual depreciation expense resulting from depreciation rate changes approved by the Railroad Commission of Texas in GUD No. 10041 and depreciation expense currently recovered under existing rates. The regulatory asset was established pursuant to municipal ordinances passed by cities within the West Texas Cities rate jurisdiction.

E. Rate Case Expenses

The Company requests authority, pursuant to § 104.051 of the Texas Utilities Code, to recover any applicable rate case expenses through a surcharge on its rates.

IV. PUBLIC NOTICE

Atmos will promptly undertake to notify the public of the proposed changes in its gas rates by publication in newspapers of general circulation in the West Texas Division service area once each week for four consecutive weeks. The public notice that Atmos will provide is attached as **Exhibit F** to the Rate Filing Package. Additional copies of the Company's proposal are available from the undersigned Company representatives. Atmos will submit proof of publication promptly upon completion thereof, along with a copy of the published notice.

V. COMPANY REPRESENTATIVES FOR NOTIFICATION

Mr. Jeffrey Foley
Vice-President, Rates and Regulatory Affairs
5110 80th Street
P.O. Box 1121
Lubbock, Texas 79408-1121
806-798-4457 (phone) 806-798-4494 (fax))

Ann M. Coffin
Parsley Coffin Renner LLP
98 San Jacinto Blvd., Suite 1450
Austin, Texas 78701
512.879-0900 (phone)
512.879-0912 (fax)

VI. CONCLUSION

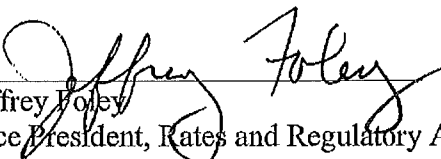
Atmos requests that the proposed new rates it seeks to implement for the incorporated areas of the Cities identified in **Exhibit A** become effective for bills rendered on and after March 13, 2012 by operation of law or by ordinance granting it the authority to charge such rates.

Atmos appreciates your consideration of these requested rate changes. Please contact me at 806.798.4457 if you have questions concerning this filing.

Respectfully submitted,

ATMOS ENERGY CORPORATION

By:


Jeffrey Foley
Vice President, Rates and Regulatory Affairs

**WEST TEXAS DIVISION
ATMOS ENERGY CORPORATION**

RATE SCHEDULE:	RESIDENTIAL GAS SERVICE	
APPLICABLE TO:	ALL INCORPORATED AREAS IN THE LUBBOCK RATE JURISDICTION	
EFFECTIVE DATE:	Bills Rendered on and after 03/13/2012	

Availability

This schedule is applicable to general use by Residential customers for heating, cooking, refrigeration, water heating and other similar type uses. This schedule is not available for service to premises with an alternative supply of natural gas.

Monthly Rate

Charge	Amount
Customer Charge	\$ 18.00
Consumption Charge	\$ 0.05666 per Ccf

The West Texas Division Gas Cost Adjustment Rider applies to this schedule.

The West Texas Division Weather Normalization Adjustment Rider applies to this schedule.

The West Texas Division Rate Review Mechanism (RRM) Adjustment Rider applies to this schedule.

The West Texas Division Conservation and Energy Efficiency Rider applies to this schedule.

The West Texas Division Rider TAX applies to this schedule.

The West Texas Division Rider FF applies to this schedule.

CUSTOMER NOTICE INCORPORATED AREAS OF THE WEST TEXAS DIVISION

On February 7, 2012, Atmos Energy Corporation, West Texas Division ("Atmos Energy" or "the Company"), filed a Statement of Intent with each City served by the West Texas Division (hereafter "Affected Cities"). The Company's Statement of Intent proposes to increase its gas rates and implement a new schedule of rates and riders applicable to all customers within the Affected Cities. The proposed effective date of the requested rate changes is March 13, 2012. If approved, the proposed changes will affect approximately 250,696 residential, 21,653 commercial, 148 industrial, 1,688 public authority, and 120 state institution customers within the incorporated areas of the West Texas Division.

Atmos Energy is proposing to adopt rates for its West Texas Division that have been developed based on the division-wide cost of providing service to all customers within the Company's West Texas Division, which includes the Amarillo, Lubbock and West Texas Cities rate jurisdictions. Atmos Energy further proposes to revise its service charges to establish uniform service charges throughout all incorporated areas of the West Texas Division. If approved, the proposed rates will produce a \$11.1 million increase in the Company's annual revenues for gas service and a \$ 0.5 million increase in annual revenues from service charges, and will result in an overall annual revenue increase in the incorporated areas of the West Texas Division of approximately \$11.6 million or 5.76%, including gas costs, or 14.80% excluding gas cost. The proposed change in rates constitutes a "major change" as that term is defined by Section 104.101 of the Texas Utilities Code.

The Company further proposes to consolidate its various WNA and GCA tariffs into single WNA and GCA tariffs that will apply to all incorporated areas within the Company's West Texas Division. The Company's proposed WNA tariff expands its applicability to include the State Institution customer class, removes monthly reporting requirements

where applicable, and reflects updates to heat load and base load factors. The proposed GCA tariff removes language regarding the recovery of transaction related costs to mitigate price volatility. The Company seeks to implement a new Transportation Gas Services tariff, a new Rate Review Mechanism ("RRM") tariff, and a new conservation and energy efficiency tariff ("Rider CEE"). Atmos Energy also proposes to adopt new Rider FF and Rider TAX tariffs, which authorize the collection of franchise fees and state gross receipts taxes through a separate line item on customer bills.

While the Company's proposed rates have been developed based on its updated class cost of service study and existing rate design methodology, the Company's rate filing also includes two optional proposals (1) a new Rate Parity tariff that would mitigate the impact that the transition to a division-wide cost of service model may have on the residential customer class and (2) a regional rate design for the residential customer class that accounts for the differences in volumetric usage within the North, Central, and South regions of the West Texas Division. For the West Texas Cities rate jurisdiction, the Company has also requested approval of a Depreciation Surcharge tariff that will allow recovery of the regulatory asset created to track differences between the West Texas Division's actual depreciation expense resulting from depreciation rate changes approved by the Railroad Commission of Texas in GUD No. 10041 and depreciation expense recovered under existing rates. Finally, the Company seeks to recover all of its rate case expenses and all city rate case expenses as allowed by law. The exact amount will not be known until the case is completed.

Based on the proposed rate design, the average monthly bill for each customer class within the West Texas Division will increase by the amount and percent shown in the tables below.

AMARILLO RATE JURISDICTION

Customer Class	Current Bill**	Proposed Bill**	Difference	Percentage Change with Gas Cost	Percentage Change without Gas Cost
Residential*	\$ 47.22	\$ 53.69	\$ 6.47	13.70%	40.10%
Commercial*	\$ 202.24	\$ 208.82	\$ 6.58	3.25%	12.44%
Industrial*	\$6,226.45	\$5,774.87	(\$ 451.58)	-7.25%	-36.35%
Public Authority*	\$ 779.35	\$ 780.58	\$ 1.23	0.16%	0.69%

LUBBOCK RATE JURISDICTION

Customer Class	Current Bill***	Proposed Bill***	Difference	Percentage Change with Gas Cost	Percentage Change without Gas Cost
Residential*	\$ 41.72	\$ 46.87	\$ 5.15	12.35%	30.79%
Commercial*	\$ 166.22	\$ 174.18	\$ 7.96	4.79%	16.62%
Industrial*	\$2,785.91	\$2,737.90	(\$ 48.01)	-1.72%	-8.56%
Public Authority*	\$ 669.43	\$ 644.43	(\$ 25.00)	-3.73%	-13.43%
State Institution*	\$ 639.78	\$ 628.04	(\$ 11.74)	-1.84%	-6.89%

WEST TEXAS CITIES RATE JURISDICTION

Customer Class	Current Bill****	Proposed Bill****	Difference	Percentage Change with Gas Cost	Percentage Change without Gas Cost
Residential*	\$ 45.71	\$ 46.58	\$ 0.87	1.90%	4.14%
Commercial*	\$ 156.25	\$ 157.88	\$ 1.63	1.05%	3.11%
Industrial*	\$2,391.82	\$2,366.89	(\$ 24.93)	-1.04%	-4.95%
Public Authority*	\$ 487.77	\$ 482.90	(\$ 4.88)	-1.00%	-3.42%
State Institution*	\$ 445.42	\$ 431.60	(\$ 13.82)	-3.10%	-9.60%

*Includes Rider GCA cost of \$0.48 per Ccf.

**The calculation of bill impacts assumes average monthly consumption of 61.62 Ccf for residential, 296.12 Ccf for commercial, 9,881.88 Ccf for industrial, and 1,188.88 Ccf for Public Authority customers within the Amarillo Rate District.

*** The calculation of bill impacts assumes average monthly consumption of 49.54 Ccf for residential, 234.61 Ccf for commercial, 4,411.03 Ccf for industrial, 958.20 Ccf for Public Authority, and 930.43 Ccf for State Institution customers within the Lubbock Rate Jurisdiction.

****For the West Texas Cities Division, the calculation of bill impacts assumes average monthly consumption of 49.01 Ccf for residential, 205.67 Ccf for commercial, 3,742.67 Ccf for industrial, 684.51 Ccf for Public Authority customers, and 597.60 Ccf for State Institution customers within the West Texas Cities Rate Jurisdiction.

The rates proposed for the new transportation gas service customer class are shown below.

TRANSPORTATION GAS SERVICE

Charge	Proposed
Meter Charge	\$ 275.00
Consumption Charge per Ccf	\$0.04824

Persons with specific questions or desiring additional information about this filing may contact Atmos Energy Corporation at 1-888-286-6700. In addition, customers can contact their City for additional information regarding this

rate request. Complete copies of the filed Statement of Intent, including all proposed rates and schedule changes are available for inspection at Atmos Energy's offices located at 5110 80th Street, Lubbock, Texas 79424. To view the proposed tariffs, visit our website at www.atmosenergy.com/WTX-Filings.

Este es un aviso a los clientes de Atmos Energy Corporation de West Texas Division, (la "Compañía"), que la Compañía está solicitando un aumento en la tarifa del gas. Este aumento afecta a todos los clientes en las ciudades afectadas servidas por West Texas Division. Si usted tiene preguntas con respecto a este aumento, por favor llame a Atmos Energy Corporation al 1-888-286-6700.



Regular City Council Meeting

5. 6.

Meeting Date: 03/06/2012

Information

Agenda Item

Contract Resolution - Finance: Consider a resolution authorizing the Mayor to execute a tax abatement agreement with Red River Commodities, Inc., dba SunGold Foods, Inc. (Red River).

Item Summary

On January 10, 2012, the City received an application for industrial tax abatement from Red River for a manufacturing facility for sunflower processing and production. The facility will process food grade products prepared for retail. Red River will renovate an existing building at 901 East 66th Street in Enterprise Zone 25-1. The enterprise zone was designated on November 20, 2007, in Ordinance No. 2007-O0116.

Red River's existing plant, located at 212 Northeast Loop 289, will continue operations as a bird seed manufacturing facility. The proposed project is a new value-added agriculture manufacturing facility producing food grade products.

The project meets the Industrial Tax Abatement Policy and Guidelines \$500,000 minimum investment in real property improvement for an existing company. The total planned investment in the project is \$1.4 million in real property improvements and \$6 million in new machinery and equipment.

On February 23, 2012, the City Council approved the Notice of Intent to the other taxing jurisdictions.

Staff recommends a five-year declining scale tax abatement.

Exhibits B and C are available in the City's Secretary's office.

Fiscal Impact

The estimated total amount of the City tax abatement is \$105,228 over the five-year term of the abatement.

Staff/Board Recommending

Andy Burcham, Chief Financial Officer

Attachments

Resolution & Contract - Red River Tax Abatement

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 Red River Commodities, Inc., d.b.a. SunGold Foods, 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 _____, 2012.

TOM MARTIN, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Andy Burcham,
Chief Financial Officer

APPROVED AS TO FORM:



Linda L. Chamales,
Economic Development Attorney

LC: cityatt / Linda / Res-Tax Abatement- SunGold
February 14, 2012

AGREEMENT

STATE OF TEXAS §

COUNTY OF LUBBOCK §

This Agreement made this _____ day of _____, 2012, by and between the City of Lubbock, Texas, a home rule municipality of the State of Texas (hereinafter called "City"), and with Red River Commodities, Inc. d.b.a. SunGold Foods, Inc. (hereinafter called "Company");

WITNESSETH:

WHEREAS, on the 10th day of January, 2012 City received Company's application for tax abatement for improvements to real property and tangible personal property located at 901 East 66th Street, Lubbock, Texas which is further described in Exhibit "A," attached hereto and made a part of this Agreement for all purposes; and

WHEREAS, upon review of the above application it was determined that the facility and real property is located in Enterprise Zone 25-1 designated by the City for commercial and industrial tax abatement in Ordinance No. 2007-00116 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. 2011-R0471 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 property located at 901 E. 66th Street, and further described in Exhibit "A" is located in Enterprise Zone 25-1 and V.T.C.A., Tax Code, Section 312.2011 provides that designation as an enterprise zone constitutes designation as a reinvestment zone without further action; and

WHEREAS, the application received by City from Company is an application for the renovation and expansion of an existing facility, more specifically, building

improvements to an existing facility and the addition of tangible personal property (machinery and equipment); and

WHEREAS, V.T.A.C., Tax Code, Section 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 renovation and 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. 2011-R0471 have been, or will be, met by Company; and

NOW THEREFORE, for and in consideration of the premises and of the mutual terms, covenants and conditions herein contained the City and Company do hereby agree as follows:

SECTION 1. Term. This Agreement shall commence January 1 of the tax year after the required improvements are substantially completed and shall expire and be of no further force and effect five (5) years after such date.

SECTION 2. Base Year. The base year applicable to real and personal property, which is the subject of this Agreement, shall be 2012, and the assessed value of the real and personal property shall be the assessed value applicable to such property for said year.

SECTION 3. 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 4. 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 5. 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 6. 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 901 E. 66th Street, which is further described as Crawford Industrial Block 11 West Part of Lot One and Crawford Industrial Block 11 East 321.5' of Lot One, City of Lubbock, Lubbock County, Texas.
- (b) All eligible tangible personal property, owned by Company, placed in or upon the real property set forth in Exhibit "A." after January 10, 2012. Any equipment or personal property owned by Company prior to January 10, 2012, or already located in an 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 7. Economic Qualifications. Company agrees to expend funds necessary to qualify for tax abatement by renovating and expanding an existing facility, 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 attached in Company's application, Exhibit "C" and incorporated herein as if fully set forth.

SECTION 8. 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, Company will expend approximately seven million four hundred thousand (\$7,400,000) for the renovation and expansion of an existing facility and new machinery and equipment to be located within the enterprise zone created by Ordinance No. 2007-00116.

Company agrees that if the initial tax appraisal on this property does not reflect an increased value equal to or exceeding seven million four hundred thousand (\$7,400,000) for the real property improvements and tangible personal property, Company will provide invoices and proof of payment for the investment in the renovation and expansion of the facility and the machinery and equipment located in the facility.

SECTION 9. Job Creation. Company agrees to create 42 new jobs by December 31, 2013 and retain those jobs for the term of the tax abatement.

SECTION 10. City Access to Property. Company covenants and agrees that City shall have access to the property, which is the subject matter of this Agreement, upon reasonable notice and during normal business hours, and that municipal employees shall be able to inspect the property and documents necessary to insure compliance with the terms and conditions of Company's application for tax abatement, attached as Exhibit "C", and this Agreement.

SECTION 11. Portion of Tax Abated. City agrees, during the term of this Agreement, to abate taxes on eligible property according to the following schedule.

Year 1:	100%
Year 2:	80%
Year 3:	60%
Year 4:	40%
Year 5:	20%

SECTION 12. Type of Improvements. Company proposes to renovate and expand the existing facility as described in Exhibit "C". Company further states that the proposed improvements to the property above mentioned shall commenced on January 11, 2012, and shall be completed November 1, 2012. Company may request an extension of the above date from City in the event circumstances beyond the control of Company necessitate additional time for completion of such improvements and such consent shall not unreasonably be withheld. Company shall provide proof of completion within ten days of completion of improvements.

SECTION 13. Limitation on Use. Company agrees 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 14. Recapture. Company agrees to be bound by and comply with all the terms and provisions for recapture of abated taxes in the event of default by Company pursuant to law and as set forth in Guidelines and Criteria for Tax Abatement in Exhibit "B."

SECTION 15. Certification. Company agrees to certify annually in writing to the governing body of each taxing unit that the owner is in compliance with the terms of the Agreement.

SECTION 16. Compliance. The City may cancel or modify this Agreement if Company fails to comply with the Agreement.

SECTION 17. Notices. Notices required to be given by this Agreement shall be mailed, certified mail return receipt requested, to the following addresses:

CITY OF LUBBOCK
Assistant City Manager
Development Services
P.O. Box 2000
Lubbock, Texas 79457

RED RIVER COMMODITIES, INC.
901 E. 66th Street
Lubbock, TX 79404
Phone: (806) 763-9747
Fax: (806) 763-0330
Email: mikew@redriv.com

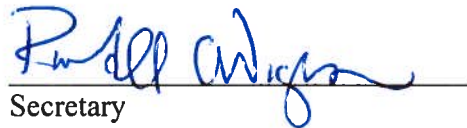
SECTION 18. Effective Date. Notwithstanding anything contained herein to the contrary, this Agreement shall not be effective until such time as it has been finally passed and approved by the City Council.

EXECUTED this _____ day of _____, 2012.

RED RIVER COMMODITIES, INC.


Bob Majkrzak, President/CEO

ATTEST:


Secretary

CITY OF LUBBOCK
A Municipal Corporation

TOM MARTIN, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Andy Burcham, Chief Financial Officer

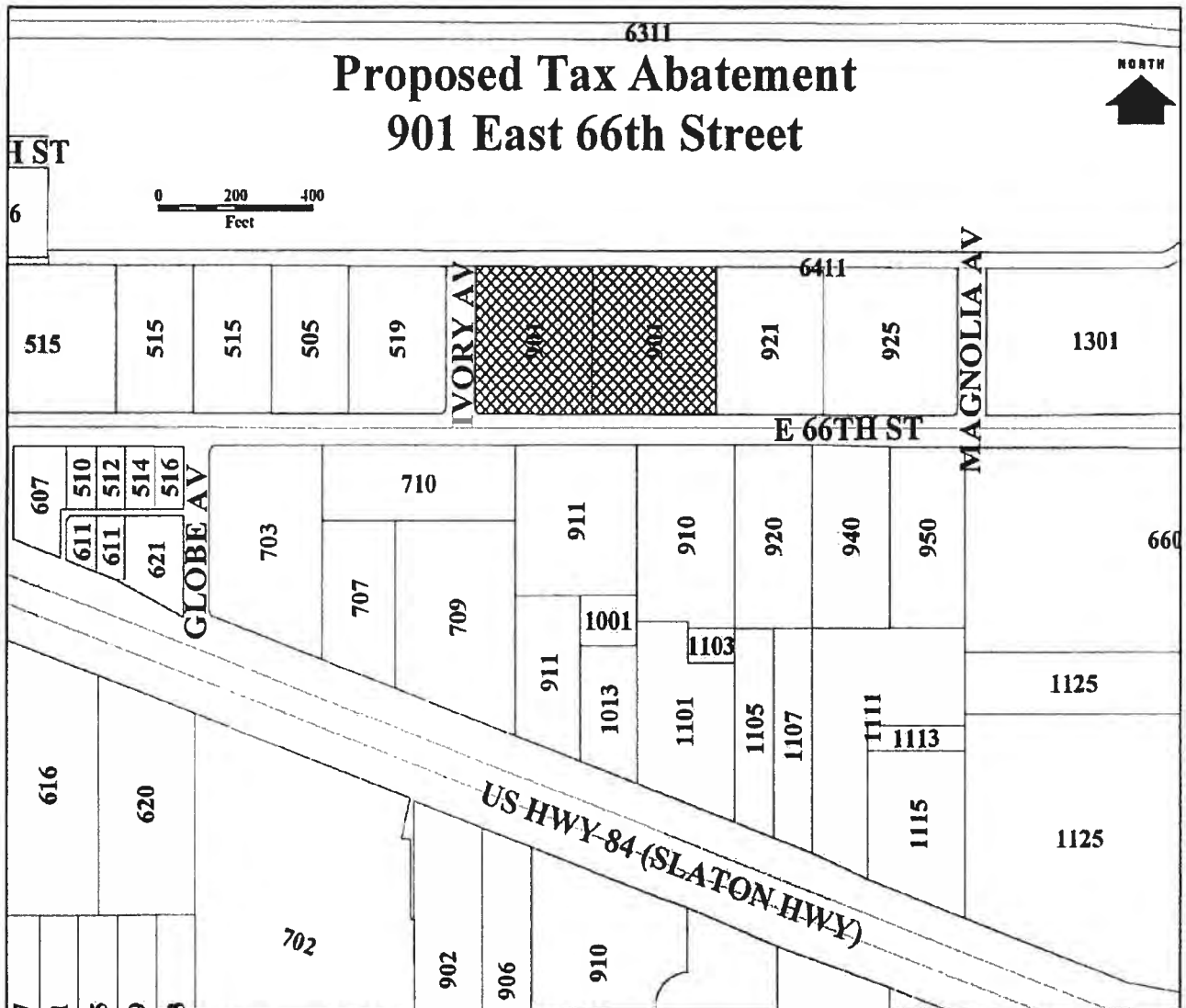
APPROVED AS TO FORM:



Linda L. Chamales, Economic
Development Attorney

Exhibit "A"

Crawford Industrial Block 11 West Part of Lot One and Crawford Industrial Block 11 East
321.5' of Lot One, City of Lubbock, Lubbock County, Texas.





Regular City Council Meeting

5. 7.

Meeting Date: 03/06/2012

Information

Agenda Item

Ordinance 1st Reading – Right-of-Way: Consider an ordinance abandoning and closing two LP&L underground utility easements, a portion of an underground utility easement, and an LP&L electrical transmission line manhole easement located in Fiesta Autoland Addition, 4801 South Loop 289.

Item Summary

The ordinance abandons and closes two LP&L underground utility easements, a portion of an underground utility easement, and an LP&L electrical transmission line manhole easement located in Fiesta Autoland Addition. The easements are no longer needed due to new development on the tracts.

Lubbock Power & Light and all utility companies are in agreement with the closures.

Fiscal Impact

None

Staff/Board Recommending

Marsha Reed, P.E., Chief Operating Officer

Attachments

Ordinance - LP&L Easement Close

ORDINANCE NO. _____

AN ORDINANCE ABANDONING AND CLOSING TWO LP&L UNDERGROUND UTILITY EASEMENTS, A PORTION OF AN UNDERGROUND UTILITY EASEMENT, AND ONE LP&L ELECTRICAL TRANSMISSION LINE MANHOLE EASEMENT LOCATED IN FIESTA AUTOLAND ADDITION TO THE CITY OF LUBBOCK, LUBBOCK COUNTY, TEXAS AND MORE PARTICULARLY DESCRIBED IN THE BODY OF THIS ORDINANCE: DIRECTING THE CITY ENGINEER TO MARK THE OFFICIAL MAPS OF THE CITY TO REFLECT SAID ABANDONMENT AND CLOSING; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR PUBLICATION.

WHEREAS, the City Council finds that the easements as hereinafter described in the body of this Ordinance are no longer needed for easement purposes and for public use; and it would be in the public interest to close, vacate and abandon the same for easement purposes and for public use, and it would be in the public interest to close, vacate and abandon the same; NOW THEREFORE:

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

SECTION 1. THAT the easements as hereinafter described shall BE and the same are hereby closed, vacated and abandoned for easement purposes and for public use, such easements being more particularly described in attached Exhibit "A", "B", "C", "D".

SECTION 2. THAT the City Engineer is hereby authorized and directed to mark the official maps of the City of Lubbock to reflect said abandonment and closing, showing the number of this Ordinance and the date of its final passage.

SECTION 3. THAT should any section, paragraph, 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 4. THAT the City Secretary of the City of Lubbock is hereby authorized and directed 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 this _____, 2012.

Passed by the City Council on second reading this _____, 2012.

TOM MARTIN, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



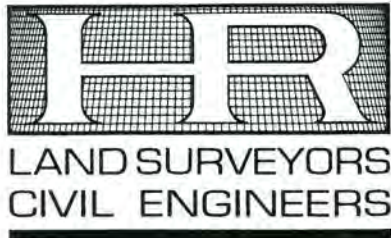
Dave Booher, Right-of-Way Agent

APPROVED AS TO FORM:



Chad Weaver, Assistant City Attorney

A&C-Easements-Fiesta Autoland Addn.ord 2.10.12



HUGO REED AND ASSOCIATES, INC.

1601 AVENUE N / LUBBOCK, TEXAS 79401 / 806-763-5642 / FAX 806-763-3891

TEXAS REGISTERED ENGINEERING FIRM F-760

TEXAS LICENSED SURVEYING FIRM 100676-00



Legal Description of Easement to be Closed

METES AND BOUNDS DESCRIPTION of a portion of an underground utility easement as granted by plat recorded in Volume 1486, Page 288, Deed Records of Lubbock County, Texas, being further described as follows:

BEGINNING at a point in the South right-of-way line of Loop 289, same being the original Northwest corner of Lot 4, Fiesta Autoland Center, an addition to the City of Lubbock, Lubbock County, Texas according to the map, plat and/or dedication deed thereof recorded in Volume 1363, Page 129 of the Deed Records of Lubbock County, Texas;

THENCE South, along the West line of said Lot 4, a distance of 562.36 feet to a point, whence a set 60d nail with washer bears S. 89°56'00" E., a distance of 5.00 feet;

THENCE N. 89°56'00" W., a distance of 20.00 feet to a point;

THENCE North, a distance of 537.81 feet to a point;

THENCE N. 36°00'00" W., a distance of 16.18 feet to a point;

THENCE N. 72°00'00" W., a distance of 196.00 feet to a point of intersection in the East right-of-line of 69th Street;

THENCE Northeasterly, along the East right-of-way line of said 69th Street, along a curve to the left, said curve having a radius of 314.00 feet, a central angle of 00°54'45", tangent lengths of 2.50 feet and a chord distance of 5.00 feet to a 3/8" iron rod with cap found at a point of reverse curvature;

THENCE Northeasterly, continuing along said East right-of-way line, along a curve to the right, said curve having a radius of 15.00 feet, a central angle of 90°00'00", tangent lengths of 15.00 feet and a chord distance of 21.21 feet to a 1/2" iron rod with cap found in the South right-of-way line of Loop 289 at a point of tangency;

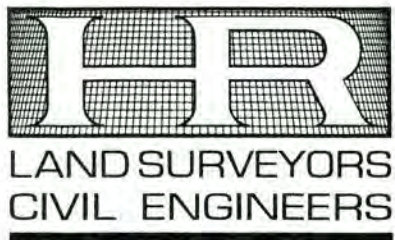
THENCE S. 72°00'00" E., along said South right-of-way line, a distance of 205.50 feet to the Point of Beginning.

Bearings relative to the South right-of-way line of Loop 289 being previously recognized as S. 72°00'00" E.

Contains: 0.353 Acres

Brent Carroll
Registered Professional
Land Surveyor No. 5140
State of Texas
October 27, 2011





HUGO REED AND ASSOCIATES, INC.

1601 AVENUE N / LUBBOCK, TEXAS 79401 / 806-763-5642 / FAX 806-763-3891

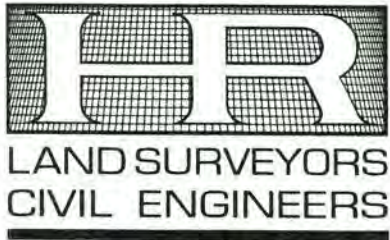
TEXAS REGISTERED ENGINEERING FIRM F-760

TEXAS LICENSED SURVEYING FIRM 100676-00



Legal Description of Easement to be Closed

All of that Underground Utility Easement as granted to Southwestern Public Service Company as described in Volume 1448, Page 144, Deed Records of Lubbock County, Texas.



HUGO REED AND ASSOCIATES, INC.

1601 AVENUE N / LUBBOCK, TEXAS 79401 / 806-763-5642 / FAX 806-763-3891

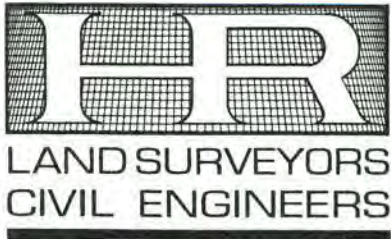
TEXAS REGISTERED ENGINEERING FIRM F-760

TEXAS LICENSED SURVEYING FIRM 100676-00



Legal Description of Easement to be Closed

All of that Electrical Transmission Line Manhole Easement as granted to the City of Lubbock as described in Volume 1572, Page 826, Deed Records of Lubbock County, Texas.



HUGO REED AND ASSOCIATES, INC.

1601 AVENUE N / LUBBOCK, TEXAS 79401 / 806-763-5642 / FAX 806-763-3891

TEXAS REGISTERED ENGINEERING FIRM F-760

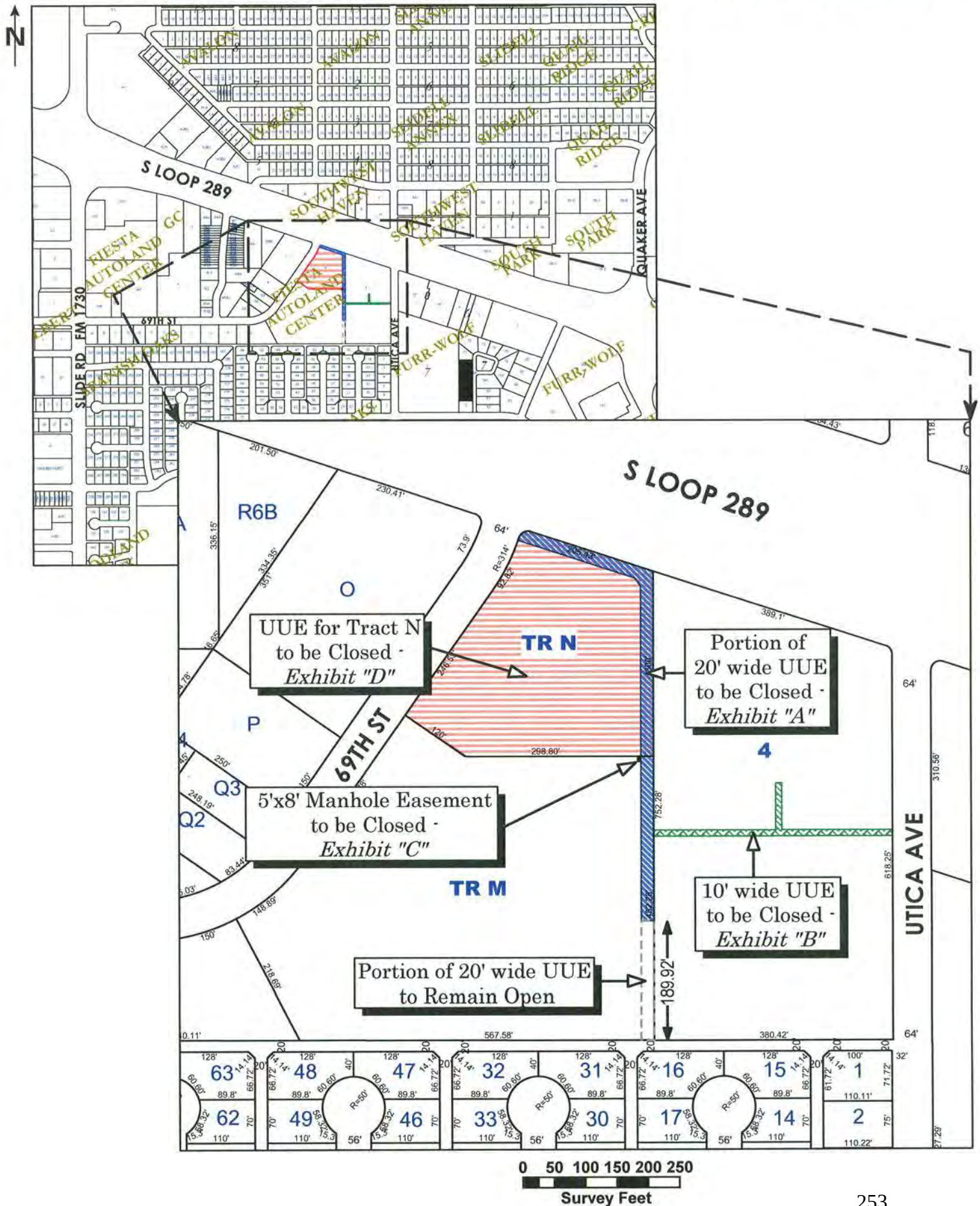
TEXAS LICENSED SURVEYING FIRM 100676-00



Legal Description of Easement to be Closed

All of that Underground Utility Easement as granted to Southwestern Public Service Company as described in Volume 1617, Page 323, Deed Records of Lubbock County, Texas.

**Proposed Closing of 2 Underground Utility Easements, 1 Manhole Easement,
and a Portion of an Underground Utility Easement
Located in Tract M, Tract N and Lot 4, Fiesta Autoland Center Addition**





Regular City Council Meeting

5. 8.

Meeting Date: 03/06/2012

Information

Agenda Item

Contract Resolution - Right-of-Way: Consider a resolution authorizing the Mayor to execute Contract 10687 with South Plains Archery Club for the lease of 156 pasture acres of City-owned property for a nonprofit 3-D Archery Club, 5905 FM 835 County Road 3000.

Item Summary

The agreement allows South Plains Archery Club to lease approximately 156 acres of pasture land in Block S, Section 18, Lubbock County, Texas, which is located on East 50th Street and part of the Lubbock Land Application Site outside of the effluent pivot system area. The South Plains Archery Club works closely with area 4H Clubs to donate targets, set up, and work during the 4H annual archery tournament hosted by selected schools.

The agreement is for \$1,000 per year for the five-year lease term, and the City retains the right to terminate with a 30-day written notice.

On March 1, 2012, the Lubbock Water Advisory Commission approved the contract.

Fiscal Impact

Revenue of \$1,000 to Wastewater Fund.

Staff/Board Recommending

Marsha Reed, P.E., Chief Operating Officer

Lubbock Water Advisory Commission

Attachments

Resolution - South Plains Archery Club 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, a Lease Agreement by and between the City of Lubbock and South Plains Archery Club, 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 _____.

TOM MARTIN, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Marsha Reed, P.E., Chief Operations Officer



Dave Booher, Right-of-Way Agent

APPROVED AS TO FORM:



Chad Weaver, Assistant City Attorney

vw:ccdcs/RES.Agrmt-South Plains Archery Club
February 15, 2012

LEASE

This Lease is entered into on this ____ day of _____, 2012, between THE CITY OF LUBBOCK, a Texas home rule municipal corporation ("Landlord"), and SOUTH PLAINS ARCHERY CLUB, a Texas non-profit corporation, ("Tenant").

ARTICLE I. DEMISE OF LEASED PREMISES

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

ARTICLE 2. LEASE TERM

Section 2.01 Term. The term of this lease is five (5) years (the "Primary Term") beginning on the date of execution of this Lease by the Landlord unless terminated sooner as provided in this Lease. Landlord retains the right, at its election, to terminate this lease by giving tenant thirty (30) days written notice that lease is terminated.

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

ARTICLE 3. RENT

Section 3.01 Rent. Tenant will pay Landlord One Thousand and No/100 Dollars (\$1,000.00) per year during the term of this Lease, as same may be extended.

Section 3.02 Time of Payment. Tenant shall pay all rent due under this article on an annual basis, beginning on the date of execution of this Lease by the Landlord, and thereafter on each annual anniversary date thereof during the term of the lease. In the event this Lease is extended by the agreement of Landlord and Tenant, tenant shall pay all rent due for the Option Period on an annual basis. Payments must be in lawful money of the United States.

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

ARTICLE 4. UTILITIES

Section 4.01 Utilities. Tenant acknowledges that no utilities of any kind, including but not limited to water, gas, electricity, or sewer are available to or on the leased premises and no such utilities shall be provided.

ARTICLE 5. USE OF PREMISES

Section 5.01 Use of Premises.

a. Tenant may use the premises for the purpose of operating the hosting of archery tournaments and for no other purpose without the written consent of Landlord. Tenant may not place, install, build or construct any improvements on the leased premises. Landlord will not unreasonably withhold consent to a change of use.

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

Section 5.02 Illegal Use. Tenant may not use all or any part of the premises or any building situated on them for any use or purpose that violates any valid and applicable law, regulation, or ordinance of the United States, the State of Texas, the County of Lubbock, the City of Lubbock, or other lawful authority with jurisdiction over the premises.

ARTICLE 6. ENCUMBRANCE OF LEASEHOLD ESTATE

Section 6.01 No Encumbrance. Tenant shall not encumber the leasehold interest by deed of trust, mortgage, or other security instrument.

ARTICLE 7. MECHANIC'S LIENS

Section 7.01 Mechanic's Liens. Tenant shall not cause or permit any mechanics' liens or other liens to be filed against the fee of the premises or against Tenant's leasehold interest in the land or any buildings or improvements on the premises by reason of any work, labor, services, or materials supplied or claimed to have been supplied to Tenant or anyone holding the premises or any part of them through or under Tenant. If such a mechanic's lien or materialman's lien is recorded against the premises or any buildings or improvements on them, Tenant must either cause it to be removed or, if Tenant in good faith wishes to contest the lien, take timely action to do so, at Tenant's sole expense. If Tenant contests the lien, Tenant will indemnify Landlord and hold it harmless from all liability for damages occasioned by the lien or the lien contest and will, in the event of a judgment of foreclosure on the lien, cause the lien to be discharged and removed before the judgment is executed.

ARTICLE 8. INSURANCE AND INDEMNIFICATION

Section 8.01 Indemnity and Release. THE TENANT 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, TO THE ACTIVITIES CONTEMPLATED HEREUNDER AND ARE CAUSED BY THE ACT, OMISSION AND/OR NEGLIGENCE OF THE TENANT, THE TENANT'S RESPECTIVE OFFICERS EMPLOYEES, OFFICIALS AND AGENTS.

THE INDEMNITY PROVIDED HEREIN SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

Section 8.02 Insurance. Tenant shall procure and carry, at its sole cost and expense through the life of this Agreement, insurance protection as hereinafter specified, in form and substance satisfactory to the Landlord, carried with an insurance company authorized to transact business in the State of Texas covering all foreseeable aspects and operations in connection with this Lease, including but not limited to, all aspects, operations and/or occurrences to which Tenant has indemnified the Landlord, as provided in Section 8.01 hereof. A Certificate of Insurance specifying each and all coverages and a copy of such policy shall be submitted to the Landlord prior to the execution of this Agreement. Landlord shall 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. Landlord shall provide to the City proof of the below-described insurance on or before fourteen (14) days prior to the expiration date of each expiring policy.

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

ARTICLE 9. ASSIGNMENT AND SUBLEASE

Section 9.01 No Assignment. Tenant shall not sell or assign its leasehold estate in its entirety or any portion of it, nor may it sublet the premises or any portion of them or any portion of any building or other improvement erected on the premises, without the prior written consent of Landlord.

ARTICLE 10. DEFAULT AND REMEDIES

Section 10.01 Termination on Default. If Tenant defaults in performing any covenant or term of this lease, and does not correct the default within fifteen (15) days after receipt of written notice from Landlord to Tenant, Landlord may declare this Lease and all rights and interests created by it terminated. If Landlord elects to terminate, this Lease will cease as if the day of Landlord's election were the day originally fixed in the Lease for its expiration.

Section 10.02 Remedies Cumulative. Any termination of this lease as provided in this article shall not relieve Tenant from paying any sum or sums due and payable to Landlord under the Lease at the time of termination, or any claim for damages then or previously accruing against Tenant under this Lease. Further, in the event of termination, Tenant shall have no rights to any rents paid in advance, and all of said rents shall be and remain the property of Landlord. Any such termination shall not prevent Landlord from enforcing the payment of any such sum or sums or claim for damages by any remedy provided for by law, or from recovering damages from Tenant for any default under the Lease. All Landlord's rights, options, and remedies under this Lease will be construed to be cumulative, and no one of them is exclusive of the other. Landlord may pursue any or all such remedies or any other remedy or relief provided by law, whether or not stated in this Lease. No waiver by Landlord of a breach of any of the covenants or conditions of this Lease may be construed a waiver of any succeeding or preceding breach of the same or any other covenant or condition of this Lease.

ARTICLE 11. GENERAL PROTECTIVE PROVISIONS

Section 11.01 Right of Entry. Tenant must permit Landlord or its agents, representatives, or employees to enter the premises for the purposes of inspection, determining whether Tenant is complying with this Lease, maintaining, repairing, or altering the premises, or showing the premises to prospective tenants, purchasers, mortgages, or beneficiaries under trust deeds.

Section 11.02 No Partnership. The relationship between Landlord and Tenant is at all times solely that of Landlord and Tenant and may not be deemed a partnership or a joint venture.

Section 11.03 Bankruptcy. Bankruptcy insolvency, assignment for the benefit of creditors, or the appointment of a receiver will not affect this Lease as long as Tenant and Landlord or their respective successors or legal representatives continue to perform all covenants of this Lease.

Section 11.04 No Waiver. No waiver by either party of any default or breach of any covenant or term of this Lease may be treated as a waiver of any subsequent default or breach of the same or any other covenant or term of this Lease.

Section 11.05 Release of Landlord. If Landlord sells or transfers all or part of the premises and as a part of the transaction assigns its interest as Landlord in this Lease, then as of the effective date of the sale, assignment, or transfer, Landlord will have no liability under this Lease to Tenant, whenever occurring or accruing.

Section 11.06 Security. Tenant shall take any and all actions necessary to protect the leased premises and all persons who enter upon same. Tenant shall inspect on as frequent a basis as necessary, the leased premises to identify and remedy all premise defects upon or affecting the leased premises.

ARTICLE 12. MISCELLANDEOUS

Section 12.01 Delivery of Rents and Notices. All rents or other sums, notices, demands, or requests from one party to another may be personally delivered or sent by mail, certified or registered, postage prepaid, to the addresses stated in this section and are considered to have been given at the time of personal delivery or of mailing.

Landlord

City of Lubbock
Attn: Dave Booher
P O Box 2000
Lubbock, Texas 79457
Telephone: 806-775-2352
Facsimile: 806-775-3074

Tenant

South Plains Archery Club
P O Box 98731
Lubbock, Texas 79499
Telephone 806-392-1975

Section 12.02 Multiple Parties. If this Lease names more than one Landlord or Tenant, service of any notice on any one Tenant or Landlord is considered service on all Tenants or Landlords, respectively.

Section 12.03 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.

Section 12.04 Applicable Law. This agreement is to be construed under Texas law and all obligations of the parties created by this Lease are performable in Lubbock County, Texas.

Section 12.05 Construction. If any one or more of the provisions contained in this Lease are for any reason held to be invalid, illegal, or enforceable in any respect, the invalidity, illegality or unenforceability will not affect any other provision of the Lease which will be construed as if it had not included the invalid, illegal, or unenforceable provision.

Section 12.06 Prior Agreements. This Lease constitutes the parties' sole agreement and supersedes any prior understandings or written or oral agreements between the parties with respect to the subject matter.

Section 12.07 Amendment. No amendment, modification, or alteration of this Lease is binding unless in writing, dated subsequent to the date of this Lease and duly executed by the parties.

Section 12.08 Rights and Remedies Cumulative. The rights and remedies provided by this Lease agreement are cumulative, and either party's using any right or remedy will not preclude or waive its right to use any other remedy. The rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance, or otherwise.

Section 12.09 Attorney's Fees. If, as a result of either party's breaching this agreement, the other party employs an attorney to enforce its rights under this Lease, then the breaching or defaulting party will pay the other party the reasonable attorney's fees and costs incurred to enforce the Lease.

Section 12.10 Time of Essence. Time is of the essence of this agreement.

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

CITY OF LUBBOCK

Tom Martin, Mayor

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Marsha Reed
Marsha Reed, P.E., Chief Operating Officer

Dave Booher
Dave Booher, Right-of-Way Agent

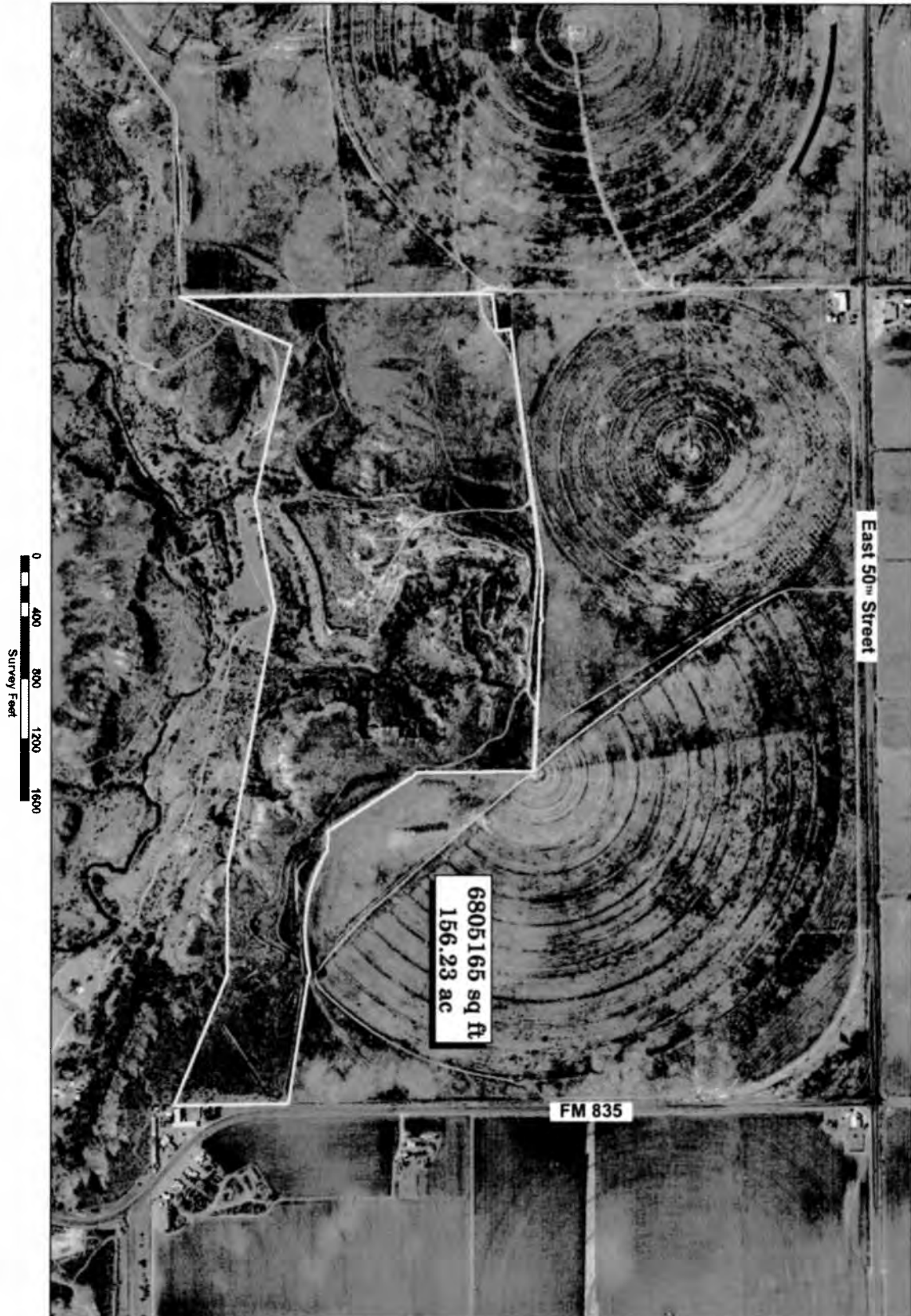
APPROVED AS TO FORM:

Chad Weaver
Chad Weaver, Assistant City Attorney

SOUTH PLAINS ARCHERY CLUB

Josh Flur
Print: Josh Flur
Title: President of the South Plains Archery Club

Archery Lease for South Plains Archery Club





Regular City Council Meeting

5. 9.

Meeting Date: 03/06/2012

Information

Agenda Item

Contract Resolution - Public Works Water Utility: Consider a resolution authorizing the Mayor to execute Contract 10503 with South Plains Communications for a data radio system for the Lake Alan Henry Treated Water Pipeline, RFP 12-10503-RH.

Item Summary

The Lake Alan Henry treated water pipeline will connect the South Water Treatment Plant to existing water pumping stations 8, 10, and 14. The flow of water into each of the pump stations is dependent upon a complex remote control system that operates and monitors a series of valves, tank levels, and pipeline pressure sensing devices. The Water Treatment Department's computerized supervisory control and data acquisition system will need to communicate signals and perform control functions that operate pumps and valves according to the demand placed on the water supply. The City is responsible for the installation of the data radio communications system that will provide the communications link for this control process.

The Request for Proposals (RFP) was advertised to allow interested vendors to submit proposals to establish the communication link between the four sites. South Plains Communications (SPC) was the only vendor to submit a proposal, which utilizes a GE Intrepid 4.9 MHz licensed radio system manufactured by Microwave Data Systems. The proposal provides a redundant system with active back up radio units to maintain constant communication should the primary units fail. The proposed radio system is the same system that was installed by SPC between the Bailey County Well Field and the City of Lubbock Water Control Room, and has proven to be very reliable. The proposed system will provide a robust communications link between all four sites and will provide sufficient bandwidth for future expansion.

Proposals were considered in accordance with Chapter 252, Texas Local Government Code, to comply with statutory procedures for competitive sealed proposals when purchasing professional services. Responses to the Request for Proposals (RFP) were evaluated by the evaluation committee. Evaluation criteria published in the RFP included: cost and estimated time of contract completion, 60%; understanding of the project, 20%; and references and safety record, 20%.

A request for a best and final offer was extended to SPC for installation of the GE Intrepid radio system and all related components. SPC submitted a best and final offer totaling \$152,748.

SPC is a local company that has completed successful radio system projects with the City. Staff recommends contract award to South Plains Communications, of Lubbock, Texas for \$152,748.

Fiscal Impact

\$52 million is appropriated in Capital Improvement Project No. 92187, Lake Alan Henry Treated Water Pipeline, with \$152,748 available for this purpose.

Staff/Board Recommending

Marsha Reed, P.E., Chief Operating Officer

Attachments

Reso and Contract

Budget Detail - 92187

CIP Detail - 92187

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. 10503 for data radio system and installation, by and between the City of Lubbock and South Plains Communication, 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.

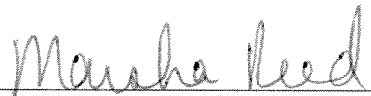
Passed by the City Council on _____.

TOM MARTIN, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Marsha Reed, P.E., Chief Operations Officer

APPROVED AS TO FORM:



Chad Weaver, Assistant City Attorney

vw:ccdcs/RES.Contract-SPC
February 13, 2012

**City of Lubbock, Texas
Data Radio System and Installation
RFP 12-10503-RH**

This Service Agreement (this “Agreement”) is entered into as of the 6th day of March, 2012, (“Effective Date”) by and between South Plains Communications (the Contractor) of Lubbock, TX, and the City of Lubbock (the “City”).

RECITALS

WHEREAS, the City has issued a Request for Proposals 12-10503-RH for a Data Radio System and Installation Services.

WHEREAS, the proposal submitted by the Contractor has been selected as the proposal which best meets the needs of the City for this service; and

WHEREAS, Contractor desires to perform as an independent contractor to provide a Data Radio System and Installation Services upon terms and conditions maintained in this Agreement; and

NOW THEREFORE, for and in consideration of the mutual promises contained herein, the City and Contractor agree as follows:

City and Contractor acknowledge the Agreement consists of the following exhibits which are attached hereto and incorporated herein by reference, listed in their order of priority in the event of inconsistent or contradictory provisions:

1. This Agreement
2. Exhibit A – Statement of Work
3. Exhibit B – Price Sheet
4. Exhibit C – Insurance

Article 1 Services

- 1.1 Contractor agrees to perform those services for the City that are specified on Exhibit A the “Statement of Work” and attached hereto.
- 1.2 Contractor shall use its commercially reasonable efforts to render Services under this Agreement in a professional and business-like manner and in accordance with the standards and practices recognized in the industry.

Nonappropriation clause. All funds for payment by the City under this Agreement are subject to the availability of an annual appropriation for this purpose by the City. In the event of nonappropriation of funds by the City Council of the City of Lubbock for the goods or services provided under the Agreement, the City will terminate the Agreement, 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 Agreement is spent, whichever event occurs first. If at any time funds are not appropriated for the continuance of this Agreement,

cancellation shall be accepted by the contractor on thirty (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 Agreement beyond the date of termination.

Article 2 Miscellaneous.

- 2.1 This Agreement is made in the State of Texas and shall for all purposes be construed in accordance with the laws of said State, without reference to choice of law provisions.
- 2.2 This Agreement is performable in, and venue of any action related or pertaining to this Agreement shall lie in, Lubbock, Texas.
- 2.3 This Agreement and its Exhibits contains the entire agreement between the City and Contractor and supersedes any and all previous agreements, written or oral, between the parties relating to the subject matter hereof. No amendment or modification of the terms of this Agreement shall be binding upon the parties unless reduced to writing and signed by both parties.
- 2.4 This Agreement may be executed in counterparts, each of which shall be deemed an original.
- 2.5 In the event any provision of this Agreement is held illegal or invalid, the remaining provisions of this Agreement shall not be affected thereby.
- 2.6 The waiver of a breach of any provision of this Agreement by any parties or the failure of any parties otherwise to insist upon strict performance of any provision hereof shall not constitute a waiver of any subsequent breach or of any subsequent failure to perform.
- 2.7 This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, representatives and successors and may be assigned by Contractor or the City to any successor only on the written approval of the other party.
- 2.8 All claims, disputes, and other matters in question between the Parties arising out of or relating to this Agreement or the breach thereof, shall be formally discussed and negotiated between the Parties for resolution. In the event that the Parties are unable to resolve the claims, disputes, or other matters in question within thirty (30) days of written notification from the aggrieved Party to the other Party, the aggrieved Party shall be free to pursue all remedies available at law or in equity.
- 2.9 The City reserves the right to exercise any right or remedy 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.

IN WITNESS WHEREOF, this Agreement is executed as of the Effective Date.

CITY OF LUBBOCK, TX:

CONTRACTOR:

Tom Martin, Mayor



Name



ATTEST:

Title

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Marsha Reed, P.E., Chief Operations Officer

APPROVED AS TO FORM:



Chad Weaver, Assistant City Attorney

EXHIBIT A

Data Radio System and Installation Services City of Lubbock, TX RFP 12-10503-RH

STATEMENT OF WORK

INTRODUCTION

The City of Lubbock is issuing this Request for Proposal (RFP) under the guidelines of a High-Technology RFP, and the award of the contract shall be made to the responsible vendor whose proposal is determined to be the best evaluated offer resulting from negotiation, taking into consideration the relative importance of price, qualifications, experience, references, local support and service, and other evaluation factors set forth in the request for proposal. Receipt of any proposal shall under no circumstance obligate the City of Lubbock to accept the best price offering.

1.0 INTENT

- 1.1** The City of Lubbock is seeking proposals from qualified data radio installation and repair professionals to design, procure required components, and install a data radio system for data communication between the newly constructed South Water Treatment Plant and three local water pumping stations in Lubbock, Texas.
- 1.2** Offerors are invited to submit demonstrated competence and qualifications of their firm for providing these services.
- 1.3** The information contained within this document is intended to provide interested firms with the requirements and criteria that will be used to make the selection.
- 1.4** The City of Lubbock desires to have the radio system installed and performing as intended by April 20, 2012.

2.0 BACKGROUND

- 2.1** As part of the new water source supplied by Lake Alan Henry, a new Water Treatment Plant is presently under construction to treat water for final distribution for the citizens of Lubbock, Texas. The treated water will be distributed to three existing local pumping stations, with their respective addresses listed below.
 - 2.1.1** South Water Treatment Plant: 5114 FM 1585
 - 2.1.2** Pump Station #8: 3601 S.E. Loop 289
 - 2.1.3** Pump Station # 10: 3802 – 82nd St.
 - 2.1.4** Pump Station # 14: 7310 Milwaukee
- 2.2** With the exception of the South Water Treatment Plant, each station listed is currently monitored and controlled at the Water Treatment Plant. The stations are monitored and

controlled by means of a programmable logic controller (PLC) that interface with Microwave Data Systems (MDS) spread spectrum data radio devices at each station.

- 2.3** In order to maintain product compatibility and standardization, it is the intent of the City of Lubbock to utilize only those data radio products manufactured by MDS. These are the only products used within the water system for data collection and it is the intent of the City to continue the exclusive use of these products for this project.

3.0 GENERAL

- 3.1** The equipment proposed in response to this specification may not be a prototype. The Vendor shall provide with their proposal a detailed description of the proposed system's architecture and operational features, as well five (5) references of installed and running systems similar to the one proposed, including contact names, phone numbers, and email addresses.
- 3.2** All equipment shall be furnished with all necessary hardware, software and accessories to allow the system and its components to operate after installation as specified. No additional purchases shall be required to make the system operational as described.
- 3.3** There is no intent on behalf of the City of Lubbock to inhibit innovation. Alternative proposals will be considered if the Vendor can successfully demonstrate that the alternative proposal will result in an overall improvement in performance or will provide a major economic or other benefit without sacrificing performance.
- 3.4** All equipment, software and products shall be new and shall be current production models or versions. Discontinued models or versions and models or versions about to be discontinued are not acceptable. All equipment components shall be factory assembled and tested.
- 3.5** The vendor shall submit detailed and illustrated descriptions for each item quoted.
- 3.6** Any exception to any specification or part of a specification shall be cited and explained fully in the proposal. Otherwise, it is understood all requirements will be met exactly as specified. Proposals with items that do not meet the minimum specifications for each type of equipment or software will not be considered unless those exceptions are thoroughly explained in the proposal.

4.0 SCOPE OF WORK

- 4.1** Offeror shall fully evaluate the existing system and gather necessary data to determine the most reliable means of passing data back and forth between the sites listed in Section 2.1. This may be accomplished by any combination of field surveys, interviews with City of Lubbock maintenance and operations staff, and component evaluations.

- 4.2 Offeror shall evaluate existing towers, antennas, cabling, connectors, and interface equipment to determine compatibility with the proposed system. Recommendations for component purchase and/or any replacements shall be included in the proposal.
- 4.3 Offeror shall perform any radio path surveys deemed necessary to ensure optimal performance of the data link after completion of the project. Due to the critical nature of the system's communication, radio redundancy will be required to ensure a consistent radio link between the four sites.
- 4.4 After completion of the system analysis, the Offeror shall submit up to three options of radio systems with their proposal and may present these options to a selection committee comprised of select City of Lubbock staff members. The Offeror shall be prepared to provide information that clearly defines their opinion of the best option(s) they believe will provide the best value to the City of Lubbock. These options may include systems that utilize licensed or unlicensed systems. If a licensed system is selected for use, the offeror must be prepared to secure a FCC license in the name of the City of Lubbock.
- 4.5 The Offeror awarded the project shall provide all new radio equipment, antennas, cabling, connectors, interface equipment and other associated hardware to establish a communication link between all sites. All existing programmable logic controller (PLC) and human machine interface (HMI) equipment shall remain in place and will not be included for replacement during this project. The radios shall communicate with the PLC utilizing an Ethernet link, not serial ports. All products must be new and current production models. Equipment about to be discontinued will not be accepted.
- 4.6 The Offeror shall provide all labor, tools, and equipment to perform the installation of all equipment. Offeror shall thoroughly test all components after installation is complete to insure the system operates as it was proposed. All control, analog, and status points that are currently monitored on the SCADA system through the existing communication system must be proven to be fully functional and accurate.

4.0 EVALUATION CRITERIA

- 4.1 An evaluation committee comprised of City staff members shall evaluate all proposals and shall compare each proposal to the selection criteria listed below. The following criteria will be used to evaluate and rank submittals.
- 4.2 Cost and estimated time of contract completion including commitment for successful completion of the project. (60%)
- 4.3 Understanding of the project including completeness and reasonableness of the offeror's plan to provide the required services. This shall include general comments concerning the particular way in which the firm would approach the assignment. Substantiated representation regarding the proposer's' technical capabilities and professional competence to accomplish the required work. (20%)
- 4.4 References and Safety Record. (20%)

EXHIBIT B

Price Sheet City of Lubbock South Water Treatment Plant Data Radio System

MDS Intrepid 4.9 MHz Option #2

In Option 2, South Plains Communications proposes the installation of a complete redundant 4.9 GHz radio system using GE Micro Wave Data System Intrepid 4.9 GHz radios. This system will be using the Dual radios to give redundancy for the network.

Benefits of this system:

1. Cost effective way to have wireless radio, communications across the city
2. Ethernet
3. Hot Standby equipment
4. 48 Mbps max throughput
5. Protected licensed frequencies
6. Small and low power consumption

This will provide the city will the same product they are currently using and have been trained to service and program.

This system has dual radios on top of each tower path and uses external antennas. This setup provides the most radio frequency power to each path and as a licensed frequency for public safety and municipality use; will have protected channels. A major plus for this system is the licensed frequencies in that it will be protected from unlicensed interference.

Lubbock South Water Treatment Plant 5114 FM 1585 equipment list:

Equipment installed at building top

- 2 - Intrepid 4.9 radios
- 1 - 4.9 27dbi dish antenna
- 1 - Mounting bracket
- 2 - Radio to antenna coax jumper
- 2 - Power over Ethernet supplies
- 2 - UTP cables to radio
- 1 - 6 port Ethernet switch
- 1 - NEMA housing
- 1 - Lightning protection and grounding

Pump Station #8 3601 S.E. Loop 289 equipment list:

Equipment installed at Sheriffs' Office Tower site

- 4 - Intrepid 4.9 radios
- 2 - 4.9 27dbi dish antennas
- 2 - Mounting brackets
- 4 - Radio to antenna coax jumpers
- 4 - Power over Ethernet supplies
- 4 - UTP cables to radio
- 1 - 6 port Ethernet switch
- 1 - NEMA housing
- 1 - Lightning protection and grounding

Pump Station #10 3802 82nd Street equipment list:

- 1- 80 monopole tower 6,000.00 Additional

Equipment installed at tower site

- 4 - Intrepid 4.9 radios

- 2 - 4.9 27dbi dish antennas
- 2 - Mounting bracket
- 4 - Radio to antenna coax jumpers
- 4 - Power over Ethernet supplies
- 4 - UTP cable to radio
- 1 - 6 port Ethernet switch
- 1 - NEMA housing
- 1 - Lightning protection and grounding

Pump Station #14 7310 Milwaukee equipment list:

1- 80 monopole tower 6,000.00 Additional

Equipment installed at tower site

- 2 - Intrepid 4.9 radios
- 1 - 4.9 27dbi dish antennas
- 1 - Mounting brackets
- 2 - Radio to antenna coax jumpers
- 2 - Power over Ethernet supplies
- 2 - UTP cable to radio
- 1 - 6 port Ethernet switch
- 1 - NEMA housing
- 1 - Lightning protection and grounding

Price for MDS Intrepid 4.9 MHz System:

Treatment Plant	13,458.00
Pump Station 8	26,916.00
Pump Station 10	26,916.00
Tower	36,000.00
Pump Station 14	13,458.00
Tower	36,000.00

Total project	152,748.00

EXHIBIT C

**Data Radio System and Installation Services
City of Lubbock, TX
RFP 12-10503-RH**

INSURANCE

SECTION A. Prior to the approval of this contract by the City, the Contractor shall furnish a completed Insurance Certificate to the City, which shall be completed by an agent authorized to bind the named underwriter(s) to the coverages, limits, and termination provisions shown thereon, and which shall furnish and contain all required information referenced or indicated thereon. THE CITY SHALL HAVE NO DUTY TO PAY OR PERFORM UNDER THIS CONTRACT UNTIL SUCH CERTIFICATE SHALL HAVE BEEN DELIVERED TO THE CITY.

INSURANCE COVERAGE REQUIRED

SECTION B. The City reserves the right to review the insurance requirements of this section during the effective period of the contract and to require adjustment of insurance coverages and their limits when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, or the claims history of the industry as well as the Contractor.

SECTION C. Subject to the Contractor's right to maintain reasonable deductibles in such amounts as are approved by the City, the Contractor shall obtain and maintain in full force and effect for the duration of this contract, and any extension hereof, at Contractor's sole expense, insurance coverage written by companies approved by the State of Texas and acceptable to the City, in the following type(s) and amount(s):

<u>TYPE</u>	<u>AMOUNT</u>
1. Worker's Compensation	Statutory
and	
Employers Liability	
and/or	\$500,000
Occupational Medical and Disability	
2. Commercial General Liability insurance including coverage for the following:	
Combined single limit for bodily injury and property damage of \$1,000,000 per occurrence or its equivalent.	
3. Automotive Liability Insurance-/any Auto	\$500,000

The City of Lubbock shall be named a primary additional insured with a waiver of subrogation in favor of the City of Lubbock on all coverage's, and include products of completed operations. All copies of the Certificates of Insurance shall reference the RFP or proposal number for which the insurance is being supplied.

ADDITIONAL POLICY ENDORSEMENTS

The City shall be entitled, upon request, and without expense, to receive copies of the policies and all endorsements thereto and may make any reasonable request for deletion, revision, or modification of particular policy terms, conditions, limitations, or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any of such policies). Upon such request by the City, the Contractor shall exercise reasonable efforts to accomplish such changes in policy coverages, and shall pay the cost thereof.

REQUIRED PROVISIONS

The Contractor agrees that with respect to the above required insurance, all insurance contracts and certificate(s) of insurance will contain and state, in writing, on the certificate or its attachment, the following required provisions:

- a. Name the City of Lubbock and its officers, employees, and elected representatives as additional insureds, (as the interest of each insured may appear) as to all applicable coverage;
- b. Provide for 30 days notice to the City for cancellation, nonrenewal, or material change;
- c. Provide for notice to the City at the address shown below by registered mail;
- d. The Contractor agrees to waive subrogation against the City of Lubbock, its officers, employees, and elected representatives for injuries, including death, property damage, or any other loss to the extent same may be covered by the proceeds of insurance;
- e. Provide that all provisions of this contract concerning liability, duty, and standard of care together with the indemnification provision, shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.
- f. All copies of the Certificates of Insurance shall reference the project name or proposal number for which the insurance is being supplied.

NOTICES

The Contractor shall notify the City in the event of any change in coverage and shall give such notices not less than 30 days prior the change, which notice must be accompanied by a replacement CERTIFICATE OF INSURANCE.

All notices shall be given to the City at the following address:

Marta Alvarez, Director of Purchasing and Contract Management
City of Lubbock
1625 13th Street, Room 204
Lubbock, Texas 79401

SECTION D. Approval, disapproval, or failure to act by the City regarding any insurance supplied by the Contractor shall not relieve the Contractor of full responsibility or liability for damages and accidents as set forth in the contract documents. Neither shall the bankruptcy, insolvency, or denial of liability by the insurance company exonerate the Contractor from liability.

**City of Lubbock, TX
Capital Project
Project Cost Detail
March 6, 2012**

Capital Project Number:	92187
Capital Project Name:	Lake Alan Henry Treated Water Line

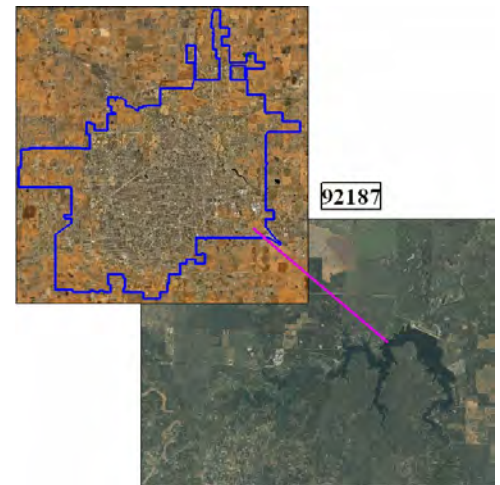
	Budget
<i>Encumbered/Expended</i>	
Western Summit - Contract G-1 Construction	\$ 12,030,180
Western Summit - Contract G-1 Change Oder No. 1	2,917,644
Western Summit - Contract G-2 Construction	29,999,051
Western Summit - Contract G-2 Change Order No. 1	148,601
Parkhill Smith and Cooper	1,077,800
Lubbock Land Company	125,424
Sewer System Improvements	2,182
Water System Improvements	10,909
City of Lubbock Staff Time	75,627
Bid Cost	475
 <i>Agenda Items March 6, 2012</i>	
South Plains Communications	152,748
<i>Encumbered/Expended to Date</i>	46,540,641
 <i>Estimated Costs for Remaining Appropriation</i>	
Construction	5,459,359
<i>Remaining Appropriation</i>	5,459,359
Total Appropriation To Date	\$ 52,000,000

Managing Department **Water Reservoir**

Project Manager **Wood Franklin**

Project Classification **Water Supply Planning**

Project Status **Approved**

*Project Scope*

Construction of a treated water pipeline from the South Lubbock Water Treatment Plant to the water distribution system with connections at Pump Stations 8, 10, and 14. The project is phase four of a four-phase project to bring Lake Alan Henry online.

Project Justification

The City Council approved funding for the preliminary design of an intake and pump station, a 65-mile transmission line, transmission pump stations, and a 15-million gallon per day water treatment plant to bring raw water from the Lake Alan Henry reservoir to Lubbock. A project to secure the right-of-way continues. A final design project occurred in 2009.

Project History

\$15.0 million was appropriated in FY 2009-10 Budget Amendment No. 14, Ord. No. 2010-O00031, May 13, 2010.

\$39.7 million was appropriated in the FY 2010-11 Budget, Ord. No. 2010-O0070, September 16, 2010.

Reduced funding by \$2.7 million, FY 2010-11, management reduction, December 21, 2010.

<i>Appropriation Detail</i>	Appropriation to Date	Unappropriated Planning Years						Total Project Amount
		FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	
Construction	52,000,000	0	0	0	0	0	0	52,000,000
Total Project Appropriation	52,000,000	0	0	0	0	0	0	52,000,000

<i>Funding Detail</i>	Funding to Date	Unappropriated Planning Years						Total Funding
		FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	
2003 Tax and Waterworks Revenue CO's	54,771	0	0	0	0	0	0	54,771
FY 2008 Water Revenue CO's	1,359,604	0	0	0	0	0	0	1,359,604
FY 2009 Water Revenue CO's	2,242,409	0	0	0	0	0	0	2,242,409
FY 2010 Water Revenue CO's	22,267,300	0	0	0	0	0	0	22,267,300
FY 2011 Water Revenue CO's	26,075,916	0	0	0	0	0	0	26,075,916
Total Funding Sources	52,000,000	0	0	0	0	0	0	52,000,000

<i>Operating Budget Impact</i>	Unappropriated Planning Years						Total Impact
	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	
No Impact Anticipated	0	0	0	0	0	0	0
Total Operating Budget Impact	0	0	0	0	0	0	0



Regular City Council Meeting

5. 10.

Meeting Date: 03/06/2012

Information

Agenda Item

Contract Resolution - Public Works Engineering: Consider a resolution authorizing the Mayor to execute unit price Contract 10284 with Utility Contractors of America, Inc., for the Northwest Lubbock Drainage Improvements Project Phase 1, RFP 12-10284-MA.

Item Summary

The Northwest Lubbock Drainage Project provides various levels of flood protection for areas between Maxey Park at Quaker Avenue and 28th Street and Fiesta Plaza at the Canyon Lakes. The project benefits the Maxey Park area, the Arnett-Benson neighborhood, and the areas around Playa Lakes 71 (north Wal-Mart), 47 (North Loop 289 & Slide Road), 46 (4th Street & Quaker Avenue), and 45 (Higginbotham Park). All of these lakes will eventually be tied into the storm sewer and will ultimately remove over 1,250 structures from the mapped floodplain designation.

The construction of Phase 1 consists of approximately 2.3 miles of storm sewer ranging in size from 78-inch diameter pipe to 10-foot by 10-foot storm sewer box, one storm water sampling station, channel grading and earthwork for interception and storage of playa lake overflow, one inlet structure, and street re-grading and paving. The limits of Phase I extend between Fiesta Plaza and the intersection of Quaker Avenue and Erskine Street.

The Request for Proposals (RFP) included a base bid and two additive alternate bids. Alternate 1 proposed a full width asphalt removal of streets to be ditched by the storm sewer installation to meet City Code for full width pavement repair. Alternate 2 proposed milling of base and full width surface course replacement associated with the full width pavement repair.

Proposals and two additive alternates were received from the following contractors:

Don Kelly Construction of Bozeman, MT	\$30,799,514
Utility Contractors of America of Wolfforth, TX	30,899,371
S.J. Louis Construction of Mansfield, TX	30,934,024
J.D. Abrams of Austin, TX	33,964,207
Quest Civil Constructors Texas of Austin, TX	39,234,553
Reynolds of Denver, CO	39,617,769
W.A. Rasic Construction of Bell Gardens, CA	45,750,000
BRH-Garver Construction of Houston, TX	49,806,677

City Engineering staff and a representative from the design engineering firm of Parkhill, Smith and Cooper evaluated proposals based on the following criteria published in the RFP: price, 60%; contractor qualifications, 25%; safety record questionnaire, 10%; and construction time, 5%. Proposals were ranked as follows:

Utility Contractors of America	97.4 points
Don Kelly Construction	93.4 points
S.J. Louis Construction of Texas	91.2 points

J.D. Abrams	89.5 points
Quest Civil Constructors Texas	83.6 points
Reynolds	83.0 points
W.A. Rasic Construction	65.9 points
BRH-Garver Construction	62.3 points

Staff used the competitive sealed proposal procedure promulgated by Texas Local Government Code 2267, which is intended to help local governments attract contractors who otherwise may not have an interest in participating on the basis of lowest bid. The procedure allows the City the ability to bring the project in within budget and to select the offeror who offers the best value based on the published selection criteria and on its ranking evaluation. The City and its engineer or architect may discuss with the selected offeror options for a scope or time modification and any price change associated with the modification. This is compared to the competitive sealed bid procedure that limits the City to basing contract award on the lowest bid, which may be over budget requiring the City to either search for additional funds or re-bid the project after modifying the plans and specifications.

The bid award for this agenda item is awarded by the unit price. The total amount of the award is estimated and actual expenditures may be more or less depending on actual needs. The price per unit will not change and expenditures will not exceed appropriated funds.

The evaluation committee recommends contract award to the highest ranked proposal, Utility Contractors of America of Wolfforth, Texas, for a unit price contract amount of \$30,899,371.

Fiscal Impact

\$36,450,000 is appropriated in Capital Improvement Project No. 92174, Northwest Lubbock and Maxey Park Project, with \$30,899,371 available for this purpose.

Staff/Board Recommending

Marsha Reed, P.E., Chief Operating Officer

Attachments

Resolution & Contract - NW Drainage Improv

Budget Detail - CIP 92174

Detail - CIP 92174

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 Contract for Northwest Lubbock Drainage Improvements Phase I, by and between the City of Lubbock and Utility Contractors of America, Inc., 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.

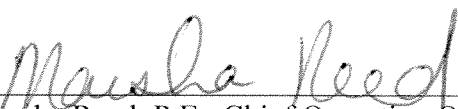
Passed by the City Council this _____, 2012.

TOM MARTIN, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Marsha Reed, P.E., Chief Operating Officer

APPROVED AS TO FORM:



Chad Weaver, Assistant City Attorney

sj/ccdocs/Chad/Resolutions/RES.Contract-Utility Contractors of America, Inc.
February 9, 2012

PROPOSAL SUBMITTAL
UNIT PRICE PROPOSAL CONTRACT

DATE: 2/1/12

RFP 12-10284-MA - **NORTHWEST LUBBOCK DRAINAGE IMPROVEMENTS PHASE 1**

Proposal of Utility Contractors of America
(hereinafter called Offeror)
To the Honorable Mayor and City Council City of Lubbock, Texas (hereinafter called Owner)
Ladies and Gentlemen:

The Offeror, in compliance with your Invitation to Proposal for the construction of **NORTHWEST LUBBOCK DRAINAGE IMPROVEMENTS**, having carefully examined the plans, specifications, instructions to Offerors, notice to Offerors and all other related contract documents and the site of the intended work, and being familiar with all of the conditions surrounding the construction of the intended project including the availability of materials and labor, hereby intends to furnish all labor, materials, and supplies; and to construct the project in accordance with the plans, specifications and contract documents, within the time set forth therein and at the price stated below.

The Offeror binds himself on acceptance of his Proposal to execute a contract and any required bonds, according to the accompanying forms, for performing and completing the said work within the time stated and for the prices stated below.

BASE PROPOSAL:

ITEM NO.	DESCRIPTION	UNIT	ESTIMATED QUANTITY	UNIT PRICE	EXTENDED AMOUNT
1	Project Mobilization	LS	1	1,537,810 ⁰⁰	1,537,810 ⁰⁰
2	SWPPP, including NOI and NOT	LF	12,253	2 ⁰⁰	24,506 ⁰⁰
3	Traffic Control	LF	12,253	6 ⁰⁰	73,518 ⁰⁰
4	15'x7' RC Box, Contractor's Option of Method	LF	177	1,500 ⁰⁰	265,500 ⁰⁰
5	15'x7' to 10'x10' RC Box Transition	LF	6	5,500 ⁰⁰	33,000 ⁰⁰
6	10'x10' RC Box, Open Cut Installation	LF	9,856	1,760 ⁰⁰	17,346,560 ⁰⁰
7	10'x10' RC Box, Two Pass Method with Tunnel Support or Tunnel Liner	LF	1,216	6,400 ⁰⁰	7,782,400 ⁰⁰
8	96" Pipe, Open Cut Installation	LF	16	2,400 ⁰⁰	38,400 ⁰⁰
9	78" Pipe, Open Cut Installation	LF	950	700 ⁰⁰	665,000 ⁰⁰
10	30" Pipe, Open Cut Installation	LF	32	450 ⁰⁰	14,400 ⁰⁰
11	Trench and Tunnel Groundwater Dewatering	LF	11,303	.50	5,651 ⁵⁰
12	Soil Vapor Extraction Wells, Install & Remove	EA	6	8,500 ⁰⁰	51,000 ⁰⁰
13	Vacuum Blower, Install & Remove	EA	1	18,000 ⁰⁰	18,000 ⁰⁰
14	Soil Vapor Extraction Piping & Exhaust Stack, Install & Remove	LS	1	15,000 ⁰⁰	15,000 ⁰⁰

15	Soil Vapor Extraction Continuous Operation and Effective Vapor Control	Days	60	350 ⁰⁰	21,000 ⁰⁰
16	Surface piping, well(s) to treatment units	LS	1	20,000 ⁰⁰	20,000 ⁰⁰
17	Petroleum-water separator, Install & Remove	EA	1	7,000 ⁰⁰	7,000 ⁰⁰
18	Air Stripper Treatment, Blower Inclusive, Install & Remove	EA	1	8,600 ⁰⁰	8,600 ⁰⁰
19	Carbon Treatment, Install & Remove	EA	1	15,000 ⁰⁰	15,000 ⁰⁰
20	Petroleum Contaminated GW treatment, Continuous & Effective Control	Days/Day	60	820 ⁰⁰	49,200 ⁰⁰
21	Petroleum Contaminated GW treatment, Influent & Effluent Sampling & Testing (BTEX, TPH, Lead)	EA	120	250 ⁰⁰	30,000 ⁰⁰
22	Trench and Tunnel Access Shaft Safety System	LF	12,253	73 ⁰⁰	894,469 ⁰⁰
23	Storm Sewer Manholes	EA	14	13,500 ⁰⁰	189,000 ⁰⁰
24	Remove Existing Asphalt Pavement	SY	29,724	4 ⁶⁰	136,730 ⁴⁰
25	Roadway Excavation	CY	8,420	2 ⁹⁰	24,418 ⁰⁰
26	Subgrade Preparation	SY	32,103	4 ⁰⁰	128,412 ⁰⁰
27	Flex Base	SY	31,486	9 ⁰⁰	283,374 ⁰⁰
28	Prime Coat	SY	30,752	2 ³⁰	70,729 ⁶⁰
29	2" Type C HMA	SY	33,041	13 ⁰⁰	429,533 ⁰⁰
30	Reflective Pavement Marking: 4" White Stripe	LF	6,870	.28	1,923 ⁶⁰
31	Reflective Pavement Marking: 8" White Stripe	LF	200	.47	94 ⁰⁰
32	Reflective Pavement Marking: 4" Yellow Stripe	LF	9,190	.29	2,665 ¹⁰
33	Reflective Pavement Marking: 24" Yellow Stripe	LF	275	3 ³⁰	907 ⁰⁰
34	Reflective Pavement Marking: Left Turn Arrow	EA	3	190 ⁰⁰	570 ⁰⁰
35	Reflective Pavement Marking: RPM TY II-A-A	EA	272	3 ⁵⁰	952 ⁰⁰
36	Reflective Pavement Marking: RPM TY II-C-R	EA	20	4 ⁰⁰	80 ⁰⁰
37	Junction Box	EA	1	56,000 ⁰⁰	56,000 ⁰⁰
38	Stormwater Sampling Station	EA	1	85,000 ⁰⁰	85,000 ⁰⁰
39	Sheet Pile Cofferdam	EA	1	165,000 ⁰⁰	165,000 ⁰⁰
40	Headwall and Wingwalls	EA	1	85,000 ⁰⁰	85,000 ⁰⁰
41	Inlet Structure and Basin	EA	1	69,000 ⁰⁰	69,000 ⁰⁰
42	Channel Excavation/Earthwork	CY	800	4 ⁵⁰	3,600 ⁰⁰

43	Articulated Concrete Block Mattress and Geotextile Fabric	SF	5,200	20 ⁰⁰	104,000 ⁰⁰
44	Crossing Sewer Line, Remove & Replace, 6" dia.	LF	25	250 ⁰⁰	6,250 ⁰⁰
45	Crossing Sewer Line, Remove & Replace, 8" dia.	LF	25	241 ⁰⁰	6,025 ⁰⁰
46	Crossing Sewer Line, Remove & Replace, 12" dia.	LF	25	241 ⁰⁰	6,025 ⁰⁰
47	Canyon Sanitary Sewer Line Adjustment, 24" dia.	LF	60	390 ⁰⁰	23,400 ⁰⁰
48	Canyon Sanitary Sewer Manhole	EA	1	9,800 ⁰⁰	9,800 ⁰⁰
49	Crossing Water Line, Remove & Replace, 4" dia.	LF	75	215 ⁰⁰	16,125 ⁰⁰
50	Crossing Water Line, Remove & Replace, 8" dia.	LF	25	218 ⁰⁰	5,450 ⁰⁰
51	Crossing Water Line, Remove & Replace, 12" dia.	LF	25	228 ⁰⁰	5,700 ⁰⁰
52	Knoxville Water Line Adjustment, 8" dia.	LF	150	50 ⁰⁰	7,500 ⁰⁰
53	Remove Concrete Flatwork	SY	70	35 ⁰⁰	2,450 ⁰⁰
54	Concrete Flatwork	SY	70	62 ⁰⁰	4,340 ⁰⁰
55	Remove Concrete Curb and Gutter	LF	125	3 ⁰⁰	375 ⁰⁰
56	Concrete Curb and Gutter	LF	125	18 ⁰⁰	2,250 ⁰⁰
57	Remove Concrete Driveways	SY	600	30 ⁰⁰	18,000 ⁰⁰
58	Concrete Driveways	SY	600	62 ⁰⁰	37,200 ⁰⁰
59	Remove Gravel Driveways	SY	104	15 ⁰⁰	1,560 ⁰⁰
60	Gravel Driveways	SY	104	23 ⁰⁰	2,392 ⁰⁰
61	Vegetation Restoration by Seeding	SY	31,000	4 ⁰⁰	124,000 ⁰⁰
62	Vegetation Restoration by Sodding	SY	7,260	11 ⁰⁰	79,860 ⁰⁰
63	Remove Ortega Fence (East Property Line)	LF	800	4 ⁰⁰	3,200 ⁰⁰
64	6-foot Chain Link Fence and Gate	LF	800	18 ⁰⁰	14,400 ⁰⁰
65	Remove 8' Chain Link Fence	LF	550	4 ⁰⁰	2,200 ⁰⁰
66	Reinstall Salvaged 8' Chain Link Fence	LF	375	10 ⁰⁰	3,750 ⁰⁰
67	New 8-foot Chain Link Fence and Gate	LF	175	35 ⁰⁰	6,125 ⁰⁰
68	Remove & Replace Wire Fence at Tech Rangeland	LF	530	18 ⁰⁰	9,540 ⁰⁰
69	Headwall Grates	EA	1	9,500 ⁰⁰	9,500 ⁰⁰
70	Petroleum-contaminated geologic materials	CY	450	41 ⁰⁰	18,450 ⁰⁰

TOTAL BASE PROPOSAL, ITEMS #1 - #70:

MATERIALS: \$ 8,265,505⁰⁰
SERVICES: \$ 22,913,365⁷⁰
TOTAL PROPOSAL
ITEMS #1 -#70: \$ 31,178,870⁷⁰

These lines are provided to assist the Bidder in incorporating late changes to the bid, such as reductions or increases to pipe prices. For payment purposes the deduction or addition will be applied as required in Section 01020. Unit prices shall be unaffected by the change.

Deduct to be applied only to Base Bid \$ 356,000⁰⁰

Addition to be applied only to Base Bid \$ _____

TOTAL BASE BID (with add/deduct) \$ 30,822,870⁷⁰

ADDITIVE ALTERNATE:

ITEM NO.	DESCRIPTION	UNIT	ESTIMATED QUANTITY	UNIT PRICE	EXTENDED AMOUNT
A-1	Remove existing asphalt pavement from widths specified in Base Bid to lip of gutter, from Sta. 17+81 to Sta. 77+64	SY	4,500	4 ⁵⁰	20,250 ⁰⁰
A-2	Mill existing base material to depth of 2-inches, compact to 98% standard proctor, 2" Type C HMA from widths specified in Base Bid to lip of gutter, from Sta. 17+81 to Sta. 77+64	SY	4,500	12 ⁵⁰	56,250 ⁰⁰

TOTAL ADDITIVE ALTERNATE, ITEMS #A-1 -A-2:

MATERIALS: \$ 38,250⁰⁰

SERVICES: \$ 38,250⁰⁰

TOTAL ALTERNATE ITEMS #A-1 - 1-2: \$ 76,500⁰⁰

Offeror's Proposed Time of Construction for final completion within the constraints identified in the General Instructions to Offerors:

750 Calendar days after Notice to Proceed

Offeror hereby agrees to commence the work on the above project on a date to be specified in a written "Notice to Proceed" of the Owner and to **substantially complete** the project within **(710) Seven hundred ten CALENDAR DAYS** and a total of **(755) Seven hundred fifty five CALENDAR DAYS** for final

completion thereafter as stipulated in the specifications and other contract documents. Offeror hereby further agrees to pay to Owner as liquidated damages for each calendar day in excess of the time set forth in the general conditions of the contract documents, the following sum of allowed construction time with liquidated damages \$1,650

Offeror understands and agrees that this Proposal submittal shall be completed and submitted in accordance with instruction number 28 of the General Instructions to Offerors.

Offeror understands that the Owner reserves the right to reject any or all Proposals and to waive any formality in the bidding.

The Offeror agrees that this Proposal shall be good and may not be withdrawn for a period of **SIXTY (60)** calendar days after the scheduled closing time for receiving Proposals.

The undersigned Offeror hereby declares that he has visited the site of the work and has carefully examined the plans, specifications and contract documents pertaining to the work covered by this Proposal, and he further agrees to commence work on or before the date specified in the written notice to proceed, and to substantially complete the work on which he has Proposal; as provided in the contract documents.

Offerors are required, whether or not a payment or performance bond is required, to submit a cashier's check or certified check issued by a bank satisfactory to the City of Lubbock, or a Proposal bond from a reliable surety company, payable without recourse to the order of the City of Lubbock in an amount not less than five percent (5%) of the total amount of the Proposal submitted as a guarantee that Offeror will enter into a contract, obtain all required insurance policies, and execute all necessary bonds (if required) within ten (10) business days after notice of award of the contract to him.

Enclosed with this Proposal is a Cashier's Check or Certified Check for
Five Percent **Dollars (\$** 5% **) or a Proposal Bond in the sum of**
Dollars (\$ 5% **), which it is agreed shall be collected**
and retained by the Owner as liquidated damages in the event the Proposal is accepted by the
Owner and the undersigned fails to execute the necessary contract documents, insurance
certificates, and the required bond (if any) with the Owner within ten (10) business days after the
date of receipt of written notification of acceptance of said Proposal; otherwise, said check or bond
shall be returned to the undersigned upon demand.

Offeror understands and agrees that the contract to be executed by Offeror shall be bound and include all contract documents made available to him for his inspection in accordance with the Notice to Offerors.

Pursuant to Texas Local Government Code 252.043(a), a competitive sealed Proposal that has been opened may not be changed for the purpose of correcting an error in the Proposal price. THEREFORE, ANY CORRECTIONS TO THE PROPOSAL PRICE MUST BE MADE ON THE PROPOSAL SUBMITTAL FORM PRIOR TO PROPOSAL OPENING.

(Seal if Offeror is a Corporation)

ATTEST:

[Signature]
Secretary

Offeror acknowledges receipt of the following addenda:

Addenda No.	<u>1</u>	Date	<u>1/4/12</u>
Addenda No.	<u>2</u>	Date	<u>1/11/12</u>
Addenda No.	<u>3</u>	Date	<u>1/19/12</u>
Addenda No.	<u>4</u>	Date	<u>1/24/12</u>
Addenda No.	<u>5</u>	Date	<u>1/24/12</u>
Addenda No.	<u>6</u>	Date	<u>1/27/12</u>
Addenda No.		Date	

Date: 2-6-12

[Signature]
Authorized Signature

Ty Lane
(Printed or Typed Name)

Utility Contractors of America, Inc
Company

927 Hwy 62
Address

Wolfforth, Lubbock
City, County

TX, 79382
State Zip Code

Telephone: 806-866-9380

Fax: 806-866-9530

FEDERAL TAX ID or SOCIAL SECURITY No.

75-2214193

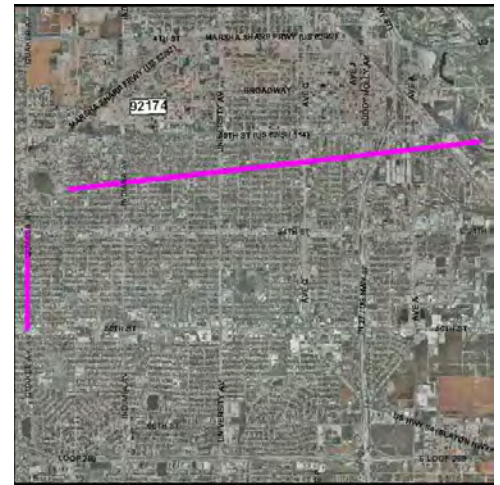
M/WBE Firm:

☐	Woman	☐	Black American	☐	Native American
☐	Hispanic American	☐	Asian Pacific American	☐	Other (Specify)

**City of Lubbock, TX
Capital Project
Project Cost Detail
March 6, 2012**

Capital Project Number:	92174
Capital Project Name:	Northwest Lubbock and Maxey Park Project

	Budget
<i>Encumbered/Expended</i>	
Parkhill Smith and Cooper Contract	\$ 2,999,975
Burlington Northern Santa Fe License Agreement	4,000
City of Lubbock Staff Time	6,446
Bid Cost	817
 <i>Agenda Items March 6, 2012</i>	
Utility Contractors of America, Inc.	30,899,371
<i>Encumbered/Expended to Date</i>	33,910,609
 <i>Estimated Costs for Remaining Appropriation</i>	
Storm Water Drainage Improvements	2,539,391
<i>Remaining Appropriation</i>	2,539,391
Total Appropriation To Date	\$ 36,450,000

Managing Department **Storm Water Utility***Project Manager* **Mike Keenum***Project Classification* **New Facility***Project Status* **Approved***Project Scope*

Design, plans, specifications, and construction estimates for the construction of storm water infrastructure from Maxey Park to the Canyon Lakes, as well as upstream detention to relieve some flooding risks to homes along Quaker Avenue between 50th Street and 34th Street.

Project Justification

The Northwest Lubbock and Maxey Park Study determined that the projects are feasible and can provide various levels of flood protection in the areas around Maxey Park and along Quaker Avenue.

Project History

The areas have been historically flood prone, affecting residential and commercial structures. Numerous studies conducted since the early 1990s evaluated possibilities for reducing the flood risks in the areas. Results of the Maxey Park Feasibility Study were presented to the City Council in January 2005 and prompted the Northwest Lubbock and Maxey Park Study, which was completed in 2008.

\$1.0 million was appropriated in FY 2008-09 Budget, Ord. No. 2008-O0077, September 11, 2008.

\$1.5 million was appropriated in the FY 2009-10 Budget, Ord. No. 2009-O0073, August 27, 2009.

\$600,000 was appropriated in FY 2009-10 Budget Amendment No. 4, Ord. No. 2009-O105, November 19, 2009.

\$33.35 million was appropriated in the FY 2011-12 Budget, Ord. No. 2011-O0080, September 8, 2011.

<i>Appropriation Detail</i>	Appropriation to Date	Unappropriated Planning Years						Total Project Amount
		FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	
Construction	0	33,350,000	22,000,000	0	10,130,000	0	0	65,480,000
Design and Engineering	3,100,000	0	0	0	0	0	0	3,100,000
Total Project Appropriation	3,100,000	33,350,000	22,000,000	0	10,130,000	0	0	68,580,000

Funding Detail	Funding to Date	Unappropriated Planning Years						Total Funding
		FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	
FY 2007 Storm Water Revenue CO's	296,735	0	0	0	0	0	0	296,735
FY 2008 Storm Water Revenue CO's	600,000	0	0	0	0	0	0	600,000
FY 2009 Storm Water Revenue CO's	703,265	0	0	0	0	0	0	703,265
FY 2010 Storm Water Revenue CO's	1,500,000	0	0	0	0	0	0	1,500,000
FY 2012 Storm Water Revenue CO's	0	33,350,000	0	0	0	0	0	33,350,000
FY 2013 Storm Water Revenue CO's	0	0	22,000,000	0	0	0	0	22,000,000
FY 2015 Storm Water Revenue CO's	0	0	0	0	10,130,000	0	0	10,130,000
Total Funding Sources	3,100,000	33,350,000	22,000,000	0	10,130,000	0	0	68,580,000

Operating Budget Impact	Unappropriated Planning Years						Total Impact
	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	
No Impact Anticipated	0	0	0	0	0	0	0
Total Operating Budget Impact	0	0	0	0	0	0	0



Regular City Council Meeting

5. 11.

Meeting Date: 03/06/2012

Information

Agenda Item

Contract Resolution - Public Works Engineering: Consider a resolution authorizing the Mayor to execute Contract 10684 with Four Sevens Exploration Company, LTD, for the lease of City owned mineral rights in Lubbock County, Texas.

Item Summary

The paid up front oil and gas lease agreement allows Four Sevens Exploration Company to lease the City's mineral interest on the Lubbock Land Application Site property. The site contains 2,938.933 gross acres out of several sections in Lubbock County, Texas.

The royalty share for oil and gas under the lease is 25%. Four Sevens Exploration Company will pay to the City a bonus of \$350 per acre for a primary term of three years for a total of \$1,028,627.

Fiscal Impact

\$1,028,627 revenue to the Wastewater Fund.

Staff/Board Recommending

Marsha Reed, P.E., Chief Operating Officer

Lubbock Water Advisory Commission

Attachments

Resolution & Contract - Oil and Gas Lease Public Works

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 Oil and Gas Lease Agreement for mineral interest on the land application property, by and between the City of Lubbock and Four Sevens Exploration Co., LTD., and 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 City Council.

Passed by the City Council on _____.

TOM MARTIN, MAYOR

ATTEST:

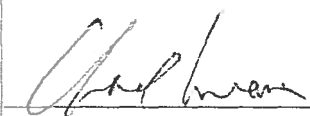
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Marsha Reed, P.E., Chief Operating Officer

APPROVED AS TO FORM:



Chad Weaver, Assistant City Attorney

vw:ccdcs/RES.Agrmt-Four Sevens Exploration-land application
February 14, 2012

PAID UP OIL AND GAS LEASE

THIS LEASE AGREEMENT is made as of the ____ day of _____, 20____, between The City of Lubbock, Texas, a Municipal Corporation, as Lessor (whether one or more) whose address is P.O. Box 13100 Lubbock, Texas, 79320 and Four Sevens Exploration Co., Ltd., as Lessee, whose address is 777 Taylor St. Fort Worth, TX, 76102, Suite 1090. All printed portions of this lease were prepared by the party hereinabove named as Lessee, but all other provisions (including the completion of blank spaces) were prepared jointly by Lessor and Lessee.

1. In consideration of a cash bonus in hand paid and the covenants herein contained, Lessor hereby grants, leases and lets exclusively to Lessee the following described land, hereinafter called leased premises:

Tract 1: 3.009 acres, more or less, being a tract of land out of the Northwest One-Quarter of Section No. 73, Block A, E.L. & R.R. RR Co. Survey, Abstract No. 340, Lubbock County, Texas. Being further described by metes and bounds in that certain General Warranty Deed dated November 3, 2005 to the City of Lubbock and recorded as Volume 10192, page 145, Deed Records, Lubbock County, Texas.

Tract 2: 37.489 acres, more or less, being all of that certain 38.5 acre tract out of the Southeast Quarter of Section 1, Block B, Abstract # 93, T.T.R.R.CO. Survey, being further described by metes and bounds in that certain Warranty Deed dated December 12, 1986 from Elizabeth Ann Simmons, et al to the City of Lubbock and recorded as Volume 2392, Page 91, Deed Records, Lubbock County, Texas.

Tract 3: 1.011 acres, more or less, out of Section 1, Block B, Abstract # 93, T.T.R.R.CO. Survey; being further described by metes and bounds as land dedicated for Right of Way in Volume 769, Page 519, Deed Records, Lubbock County, Texas.

Tract 4: 363.292 acres, more or less out of Section 1, Block B, Abstract # 93, T.T.R.R.CO. Survey; being all of Section 1, Block B, Save and Except a 38.5 acre tract of land being described by metes and bounds in Volume 448, Page 488, Deed Records, Lubbock County, Texas. Further Save and Except a 48.187 acre tract being the same land dedicated for Right of Way to the State of Texas Highway Commission; described in Volume 384 Page 49, and Volume 779 Page 277, Deed Records, Lubbock County, Texas. Also Save and Except 189.92 acres of land being further described in that certain contract for deed recorded as Volume 5158 Page 331.

Tract 5: 48.187 acres, more or less out of Section 1, Block B, Abstract # 93, T.T.R.R.CO., Survey. Being the same land dedicated for Right of Way to the State of Texas Highway Commission; described as Survey 1 in Volume 384 Page 49, and Volume 779 Page 277.

Tract 6: 60.78 acres, more or less, out of Section 5, Block S, and being further described as tract 3 by metes and bounds in that certain Deed from J. Frank Gray, joined herein pro forma by my wife, Imogene Gray, and Jack P. Driskell, as Independent Executor of the Estate of Lily W. Gray, deceased, to the City of Lubbock and recorded as Volume 2318, Page 73, Deed Records, Lubbock County, Texas.

Tract 7: 31.021 acres, more or less, out of Section 5, Block S, and being further described as tract 9 by metes and bounds in that certain Deed from J. Frank Gray, joined herein pro forma by my wife, Imogene Gray, and Jack P. Driskell, as Independent Executor of the Estate of Lily W. Gray, deceased, to the City of Lubbock and recorded as Volume 2318, Page 73, Deed Records, Lubbock County, Texas.

Tract 8: 479.729 acres, more or less, being out of Section 18, Block S Abstract Number 499, Lubbock County, Texas, being further described in that certain Warranty Deed dated September 30, 1986, from Stauder & Gray Inc. to City of Lubbock and recorded in Volume 2318, Page 89, Deed Records, Lubbock County, Texas.

Tract 9: 200 acres, more or less, out of the Northwest portion of Section 9, Block S, Abstract #202, Cert. 3-504, GC & SF Ry. Co. Survey; More particularly described by metes and bounds and being portions of Tract 1 which contains 114.34 acres and Tract 2 which contains 85.66 acres in Document Number 33175, filed September 30, 1986 in Volume 2318, Page 73, Deed Records, Lubbock County, Texas.

Tract 10: 407.5 acres, more or less, out of the Easterly and Southwest corner of Section 9, Block S, Abstract #202, Cert. 3-504, GC & SF Ry. Co. Survey; More particularly described by metes and bounds and being portions of Tract 14 and Tract 15 and all of Tract 16 in Document Number 33176, filed September 30, 1986 in Volume 2318, Page 89, Deed Records, Lubbock County, Texas.

Tract 11: 93.23 acres more or less, being all of the Southwest Quarter of Section 2, Block B, Lubbock County, Texas. Save and Except a 13.97 acre tract being further described in two separate deeds conveyed to the Fort Worth and Denver South Plains Railway Co., recorded as Volume 125, Page 390, and Volume 140, Page 281, Deed Records, Lubbock County, Texas. Further Save and except that certain 52.8 acre tract being part of the Southwest Quarter of Section 2, Block B, and lying North of the Fort Worth & Denver South Plains Railway Company Right of Way.

Tract 12: 52.8 acres more or less, being a tract of land out of the Southwest Quarter of Section 2, Block B, and lying North of the Fort Worth & Denver South Plains Railway Company Right of Way. Being further described in that certain Warranty Deed dated December 12, 1986 from Elizabeth Ann Simmons, et al to the City of Lubbock and recorded as Volume 2392, Page 91, Deed Records, Lubbock County, Texas.

Tract 13: 583.928 acres out of Section 11, Block B, Abstract # 60, I.R.R.CO. Survey; described as Tract No. 5 and Tract No. 11 by metes and bounds in a Deed from J. Frank Gray, joined herein pro forma by my wife, Imogene Gray, and Jack P. Driskell, as Independent Executor of the Estate of Lily W. Gray, deceased, to the City of Lubbock and recorded as Volume 2318, Page 73, Deed Records, Lubbock County, Texas.

Tract 14: 38.525 acres out of the Northwest corner of Section 11, Block B, Abstract # 60, I.R.R.CO. Survey; being further described by metes and bounds in that certain Warranty Deed from J. Frank Gray et al to The City of Lubbock recorded as Volume 453, Page 228, Deed Records, Lubbock County, Texas.

Tract 15: 9.0100 acres out of Section 11, Block B, Abstract # 60, I.R.R.CO. Survey; being further described by metes and bounds in that certain Warranty Deed from Kent R. Clark et al to the City of Lubbock, recorded as Volume 2414, page 103, Deed Records, Lubbock County, Texas.

Tract 16: 24.54 acres, more or less, out of Section 5 1/2, Block S, Abstract #1127, G. Boles Survey; being further described by metes and bounds in a Deed from J. Frank Gray, joined herein pro forma by my wife, Imogene Gray, and Jack P. Driskell, as Independent Executor of the Estate of Lily W. Gray, deceased, to the City of Lubbock and recorded as Volume 2318, Page 73, Deed Records, Lubbock County, Texas.

Tract 17: 85.66 acres, more or less, out of the Northeast Quarter of Section 10, Block S, Abstract #445, G.C. & S.F. Survey; Being a portion of Tract 1 as described by metes and bounds in Document Number 33175, filed September 30, 1986 in Volume 2318, Page 73, Deed Records, Lubbock County, Texas.

Tract 18: 67.94 acres, more or less, out of the Southeast portion of Section 10, Block S, Abstract #445, G.C. & S.F. Survey; Being a portion of Tract 2 as described by metes and bounds in Document Number 33175, filed September 30, 1986 in Volume 2318, Page 73, Deed Records, Lubbock County, Texas.

Tract 19: 149.1 acres, more or less, out of the Northern Portion of Section 10, Block S, Abstract #445, G.C. & S.F. Survey; Being a portion of Tract 10 as described by metes and bounds in Document Number 33175, filed September 30, 1986 in Volume 2318, Page 73, Deed Records, Lubbock County, Texas.

Tract 20: 150 acres, more or less, out of the Southern Portion of Section 10, Block S, Abstract #445, G.C. & S.F. Survey; Being a portion of Tract 6 as described by metes and bounds in Document Number 33175, filed September 30, 1986 in Volume 2318, Page 73, Deed Records, Lubbock County, Texas.

Tract 21: 52 acres, more or less, being a portion of a 192 acre tract lying in South portion of Section 10, Block S, Abstract #445, G.C. & S.F. Survey; Being a portion of Tract 6 as described by metes and bounds in Document Number 33175, filed September 30, 1986 in Volume 2318, Page 73, Deed Records, Lubbock County, Texas.

in the county of Lubbock, State of Texas, containing 2,938.933 gross acres, more or less (including any interests therein which Lessor may hereafter acquire by reversion, prescription or otherwise), for the purpose of exploring for, developing, producing and marketing oil and gas, along with all hydrocarbon and nonhydrocarbon substances produced in association therewith. The term "gas" as used herein includes helium, carbon dioxide and other commercial gases, as well as hydrocarbon gases. In addition to the above-described leased premises, this lease also covers accretions and any small strips or parcels of land now or hereafter owned by Lessor which are contiguous or adjacent to the above-described leased premises, and, in consideration of the aforementioned cash bonus, Lessor agrees to execute at Lessee's request any

additional or supplemental instruments for a more complete or accurate description of the land so covered. For the purpose of determining the amount of any shut-in royalties hereunder, the number of gross acres above specified shall be deemed correct, whether actually more or less.

2. This lease, which is a "paid-up" lease requiring no rentals, shall be in force for a primary term of Three (3) years from the date hereof, and for as long thereafter as oil or gas or other substances covered hereby are produced in paying quantities from the leased premises or from lands pooled therewith or this lease is otherwise maintained in effect pursuant to the provisions hereof.

3. Royalties on oil, gas and other substances produced and saved hereunder shall be paid by Lessee to Lessor as follows: (a) For oil and other liquid hydrocarbons separated at Lessee's separator facilities, the royalty shall be twenty-five percent (25%) of such production, to be delivered at Lessee's option to Lessor at the wellhead or to Lessor's credit at the oil purchaser's transportation facilities, provided that Lessee shall have the continuing right to purchase such production at the wellhead market price then prevailing in the same field (or if there is no such price then prevailing in the same field, then in the nearest field in which there is such a prevailing price) for production of similar grade and gravity; (b) for gas (including casinghead gas) and all other substances covered hereby, the royalty shall be twenty-five percent (25%) of the proceeds realized by Lessee from the sale thereof, less a proportionate part of ad valorem taxes and production severance, or other excise taxes and the costs incurred by Lessee in delivering, processing or otherwise marketing such gas or other substances, provided that Lessee shall have the continuing right to purchase such production at the prevailing wellhead market price paid for production of similar quality in the same field (or if there is no such price then prevailing in the same field, then in the nearest field in which there is such a prevailing price) pursuant to comparable purchase contracts entered into on the same or nearest preceding date as the date on which Lessee commences its purchases hereunder; and (c) If at the end of the primary term or any time thereafter one or more wells on the leased premises or lands pooled therewith are capable of producing oil or gas or other substances covered hereby in paying quantities, but such well or wells are either shut in or production therefrom is not being sold by Lessee, such well or wells shall nevertheless be deemed to be producing in paying quantities for the purpose of maintaining this lease. If for a period of 90 consecutive days such well or wells are shut in or production therefrom is not being sold by Lessee, then Lessee shall pay shut-in royalty of one dollar per acre then covered by this lease, such payment to be made to Lessor or to Lessor's credit in the depository designated below, on or before the end of said 90-day period and thereafter on or before each anniversary of the end of said 90-day period while the well or wells are shut in or production therefrom is not being sold by Lessee; provided that if this lease is otherwise being maintained by operations, or if production is being sold by Lessee from another well or wells on the leased premises or lands pooled therewith, no shut-in royalty shall be due until the end of the 90-day period next following cessation of such operations or production. Lessee's failure to properly pay shut-in royalty shall render Lessee liable for the amount due, but shall not operate to terminate this lease.

4. All shut-in royalty payments under this lease shall be paid or tendered direct to Lessor at above address. All payments may be made by check and such payments to Lessor deposited in the U.S. Mails in a stamped envelope addressed to the Lessor at the last address known to Lessee shall constitute proper payment.

5. If Lessee drills a well which is incapable of producing in paying quantities (hereinafter called "dry hole") on the leased premises or lands pooled therewith, or if all production (whether or not in paying quantities) permanently ceases from any cause, including a revision of unit boundaries pursuant to the provisions of Paragraph 6 or the action of any governmental authority, then in the event this lease is not otherwise being maintained in force it shall nevertheless remain in force if Lessee commences operations for reworking an existing well or for drilling an additional well or for otherwise obtaining or restoring production on the leased premises or lands pooled therewith within 90 days after completion of operations on such dry hole or within 90 days after such cessation of all production. If at the end of the primary term, or at any time thereafter, this lease is not otherwise being maintained in force but Lessee is then engaged in drilling, reworking or any other operations reasonably calculated to obtain or restore production therefrom, this lease shall remain in force so long as any one or more of such operations are prosecuted with no cessation of more than 90 consecutive days, and if any such operations result in the production of oil or gas or other substances covered hereby, as long thereafter as there is production in paying quantities from the leased premises or lands pooled therewith. After completion of a well capable of producing in paying quantities hereunder, Lessee shall drill such additional wells on the leased premises or lands pooled therewith as a reasonably prudent operator would drill under the same or similar circumstances to (a) develop the leased premises as to formations then capable of producing in paying quantities on the leased premises or lands pooled therewith, or (b) to protect the leased premises from uncompensated drainage by any well or wells located on other lands not pooled therewith. There shall be no covenant to drill exploratory wells or any additional wells except as expressly provided herein.

6. Lessee shall have the right but not the obligation to pool all or any part of the leased premises or interest therein with any other lands or interests, as to any or all depths or zones, and as to any or all substances covered by this lease, either before or after the commencement of production, whenever Lessee deems it necessary or proper to do so in order to prudently develop or operate the leased premises, whether or not similar pooling authority exists with respect to such other lands or interests. The unit formed by such pooling for an oil well which is not a horizontal completion shall not exceed 80 acres plus a maximum acreage tolerance of 10%, and for a gas well or a horizontal oil completion shall not exceed 640 acres plus a maximum acreage tolerance of 10%; provided that a larger unit may be formed for an oil well or gas well or horizontal completion to conform to any well spacing or density pattern that may be prescribed or permitted by any governmental authority having jurisdiction to do so. For the purpose of the foregoing, the terms "oil well" and "gas well" shall have the meanings prescribed by applicable law or the appropriate government authority, or, if no definition is so prescribed, "oil well" means a well with an initial gas-oil ratio of less than 100,000 cubic feet per barrel, and "gas well" means a well with an initial gas-oil ratio of 100,000 cubic feet or more per barrel, based on a 24-hour production test conducted under normal producing conditions using standard lease separator facilities or equivalent testing equipment; and the term "horizontal completion" means a well in which there is a horizontal component in the gross completion reservoir or interval after the vertical component. In exercising its pooling rights hereunder, Lessee shall file of record a written declaration describing the unit and stating the effective date of pooling. Production, drilling or reworking operations anywhere on a unit which includes all or any part of the leased premises shall be treated as if it were production, drilling or reworking operations on the leased premises, except that the production of which Lessor's royalty is calculated shall be that proportion of the total unit production which the net acreage covered by this lease and included in the unit bears to the total gross acreage in the unit, but only to the extent such proportion of unit production is sold by Lessee. Pooling in one or more instances shall not exhaust Lessee's pooling rights hereunder, and Lessee shall have the recurring right but not the obligation to revise any unit formed hereunder by expansion or contraction or both, either before or after commencement of production, in order to conform to the well spacing or density pattern prescribed or permitted by the governmental authority having jurisdiction, or to conform to any productive acreage determination made by such governmental authority. In making such a revision, Lessee shall file of record a written declaration describing the revised unit and stating the effective date of revision. To the extent that any portion of the leased premises is included in or excluded from the unit by virtue of such revision, the proportion of unit production on which royalties are payable hereunder shall thereafter be adjusted accordingly. In the absence of production in paying quantities from a unit, or upon permanent cessation thereof, Lessee may terminate the unit by filing of record a written declaration describing the unit and stating the date of termination. Pooling hereunder shall not constitute a cross-conveyance of interests.

7. If Lessor owns less than the full mineral estate in all or any part of the leased premises, the royalties and shut-in royalties payable hereunder for any well on any part of the leased premises or lands pooled therewith shall be reduced to the proportion that Lessor's interest in such part of the leased premises bears to the full mineral estate in such part of the leased premises.

8. The interest of either Lessor or Lessee hereunder may be assigned, devised or otherwise transferred in whole or in part, by area and/or by depth or zone, and the rights and obligations of the parties hereunder shall extend to their respective heirs, devisees, executors, administrators, successors and assigns. No change in Lessor's ownership shall have the effect of reducing the rights or enlarging the obligations of Lessee hereunder, and no change in ownership shall be binding on Lessee until 60 days after Lessee has been furnished the original or certified or duly authenticated copies of the documents establishing such change of ownership to the satisfaction of Lessee or until Lessor has satisfied the notification requirements contained in Lessee's usual form of division order. In the event of the death of any person entitled to shut-in royalties hereunder, Lessee may pay or tender such shut-in royalties to the credit of decedent or decedent's estate in the depository designated above. If at any time two or more persons are entitled to shut-in royalties hereunder, Lessee may pay or tender such shut-in royalties to such persons or to their credit in the depository, either jointly or separately in proportion to the interest which each owns. If Lessee transfers its interest hereunder in whole or in part Lessee shall be relieved of all obligations thereafter arising with respect to the transferred interest, and failure of the transferee to satisfy such obligations with respect to the transferred interest shall not affect the rights of Lessee with respect to any interest not so transferred. If Lessee transfers a full or undivided interest in all or any portion of the area covered by this lease, the obligation to pay or tender shut-in royalties hereunder shall be divided between Lessee and the transferee in proportion to the net acreage interest in this lease then held by each.

9. Lessee may, at any time and from time to time, deliver to Lessor or file of record a written release of this lease as to a full or undivided interest in all or any portion of the area covered by this lease or any depths or zones thereunder, and shall thereupon be relieved of all obligations thereafter arising with respect to the interest so released. If Lessee releases all or an undivided interest in less than all of the area covered hereby, Lessee's obligation to pay or tender shut-in royalties shall be proportionately reduced in accordance with the net acreage interest retained hereunder.

10. In exploring for, developing, producing and marketing oil, gas and other substances covered hereby on the leased premises or lands pooled or unitized therewith, in primary and/or enhanced recovery, Lessee shall have the right of ingress and egress along with the right to conduct such operations on the leased premises as may be reasonably necessary for such purposes, including but not limited to geophysical operations, the drilling of wells, and the construction and use of roads, canals, pipelines, tanks, water wells, disposal wells, injection wells, pits, electric and telephone lines, power stations, and other facilities deemed necessary by Lessee to discover, produce, store, treat and/or transport production. Lessee may use in such operations, free of cost, any oil, gas, water and/or other substances produced on the leased premises, except water from Lessor's wells or ponds without Lessor's consent, which cannot be unreasonably withheld. In exploring, developing, producing or marketing from the leased premises or lands pooled therewith, the ancillary rights granted herein shall apply (a) to the entire leased premises described in Paragraph 1 above, notwithstanding any partial release or other partial termination of this lease; and (b) to any other lands in which Lessor now or hereafter has authority to grant such rights in the vicinity of the leased premises or lands pooled therewith. When requested by Lessor in writing, Lessee shall bury its pipelines below ordinary plow depth on cultivated lands. No well shall be located less than 200 feet from any house or barn now on the leased premises or other lands used by Lessee hereunder, without Lessor's consent, and Lessee shall pay for damage caused by its operations to buildings and other improvements now on the leased premises or such other lands, and to commercial timber and growing crops thereon. Lessee shall have the right at any time to remove its fixtures, equipment and materials, including well casing, from the leased premises or such other lands during the term of this lease or within a reasonable time thereafter.

11. Lessee's obligations under this lease, whether express or implied, shall be subject to all applicable laws, rules, regulations and orders of any governmental authority having jurisdiction including restrictions on the drilling and production of wells, ~~and the price of oil, gas and other substances covered hereby.~~ When drilling, reworking, production or other operations are prevented or delayed by such laws, rules, regulations or orders, ~~Lessee's obligation to obtain necessary permits, equipment, services, materials,~~ BL

sales, fire, flood, adverse weather conditions, war, sabotage, rebellion, insurrection, riot, strike or labor disputes, ~~or by inability to obtain a satisfactory market for production or failure of purchasers or carriers to take or transport such production, or by any other cause not reasonably within Lessee's control~~; this lease shall not terminate because of such prevention or delay, and at Lessee's option, the period of such prevention or delay shall be added to the term hereof. Lessee shall not be liable for breach of any express or implied covenants of this lease when drilling, production or other operations are so prevented, delayed or interrupted. BL

12. No litigation shall be initiated by Lessor with respect to any breach or default by Lessee hereunder, for a period of at least 90 days after Lessor has given Lessee written notice fully describing the breach or default, and then only if Lessee fails to remedy the breach or default, within such period. In the event the matter is litigated and there is a final judicial determination that a breach or default has occurred, this lease shall not be forfeited or cancelled in whole or in part unless Lessee is given a reasonable time after said judicial determination to remedy the breach or default and Lessee fails to do so.

13. Lessor hereby warrants and agrees to defend title conveyed to Lessee hereunder, and agrees that Lessee at Lessee's option may pay and discharge any taxes, mortgages or liens existing, levied or assessed on or against the leased premises. If Lessee exercises such option, Lessee shall be subrogated to the rights of the party to whom payment is made and, in addition to its other rights, may reimburse itself out of any royalties or shut-in royalties otherwise payable to Lessor hereunder. In the event Lessee is made aware of any claim inconsistent with Lessor's title, Lessee may suspend the payment of royalties and shut-in royalties hereunder, without interest, until Lessee has been furnished satisfactory evidence that such claim has been resolved.

SEE ADDENDUM ATTACHED HERETO AND MADE A PART HEREOF FOR ADDITIONAL TERMS AND PROVISIONS

IN WITNESS WHEREOF, this lease is executed to be effective as of the date first written above, but upon execution shall be binding on the signatory and the signatory's heirs, devisees, executors, administrators, successors and assigns, whether or not this lease has been executed by all parties hereinabove named as Lessor.

Lessor: The City of Lubbock, Texas, a Municipal Corporation

By: _____

Title: _____

CORPORATE ACKNOWLEDGMENT

STATE OF TEXAS)
)SS
COUNTY OF LUBBOCK)

The foregoing instrument was acknowledged before me this ____ day of _____, 2012, by _____ (Office) of The City of Lubbock, Texas, a Municipal Corporation, on behalf of the corporation.

Seal

Notary Public, State of Texas

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVERS LICENSE NUMBER.

MEMORANDUM OF OIL AND GAS LEASE

THE STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF LUBBOCK §

That the undersigned, The City of Lubbock, Texas, a Municipal Corporation, whose address is PO Box 15100, Lubbock, TX 79350, (herein collectively called "Lessor", whether one or more) has executed and delivered to Four Sevens Exploration Co., Ltd., herein called "Lessee", whose address is 777 Taylor St., Suite 1090, Fort Worth, Texas, 76102, an Oil and Gas Lease dated _____, and covering minerals in 2,938.933 gross acres of land, whether more or less (+-) as situated in Lubbock County, Texas, and being more described in the following:

Tract 1: 3.000 acres, more or less, being a tract of land out of the Northwest One-Quarter of Section No. 73, Block A, E.L. & R.R. RR Co. Survey, Abstract No. 340, Lubbock County, Texas. Being further described by metes and bounds in that certain General Warranty Deed dated November 3, 2005 to the City of Lubbock and recorded as Volume 10192, page 145, Deed Records, Lubbock County, Texas.

Tract 2: 37.489 acres, more or less, being all of that certain 38.5 acre tract out of the Southeast Quarter of Section 1, Block B, Abstract # 93, T.T.R.R.CO. Survey; being further described in Volume 448, Page 488, Deed Records, Lubbock County, Texas. Save and Except a 1.011 acre tract further described by metes and bounds as land dedicated for Right of Way in Volume 769, Page 519, Deed Records, Lubbock County, Texas.

Tract 3: 1.011 acres, more or less, out of Section 1, Block B, Abstract # 93, T.T.R.R.CO. Survey; being further described by metes and bounds as land dedicated for Right of Way in Volume 769, Page 519, Deed Records, Lubbock County, Texas.

Tract 4: 363.393 acres, more or less out of Section 1, Block B, Abstract # 93, T.T.R.R.CO. Survey; being all of Section 1, Block B, Save and Except a 38.5 acre tract of land being described by metes and bounds in Volume 448, Page 488, Deed Records, Lubbock County, Texas. Further Save and Except a 48.187 acre tract being the same land dedicated for Right of Way to the State of Texas Highway Commission; described in Volume 384 Page 49, and Volume 779 Page 277, Deed Records, Lubbock County, Texas. Also Save and Except 189.92 acres of land being further described in that certain contract for deed recorded as Volume 5158 Page 331.

Tract 5: 48.187 acres, more or less out of Section 1, Block B, Abstract # 93, T.T.R.R.CO., Survey. Being the same land dedicated for Right of Way to the State of Texas Highway Commission; described as Survey 1 in Volume 384 Page 49, and Volume 779 Page 277.

Tract 6: 60.78 acres, more or less, out of Section 5, Block S, and being further described as tract 3 by metes and bounds in that certain Deed from J. Frank Gray, joined herein pro forma by my wife, Imogene Gray, and Jack P. Driskell, as Independent Executor of the Estate of Lily W. Gray, deceased, to the City of Lubbock and recorded as Volume 2318, Page 73, Deed Records, Lubbock County, Texas.

Tract 7: 31.091 acres, more or less, out of Section 5, Block S, and being further described as tract 9 by metes and bounds in that certain Deed from J. Frank Gray, joined herein pro forma by my wife, Imogene Gray, and Jack P. Driskell, as Independent Executor of the Estate of Lily W. Gray, deceased, to the City of Lubbock and recorded as Volume 2318, Page 73, Deed Records, Lubbock County, Texas.

Tract 8: 479.729 acres, more or less, being out of Section 18, Block S Abstract Number 499, Lubbock County, Texas, being further described in that certain Warranty Deed dated September 30, 1986, from Standefer & Gray Inc. to City of Lubbock and recorded in Volume 2318, Page 89, Deed Records, Lubbock County, Texas.

Tract 9: 200 acres, more or less, out of the Northwest portion of Section 9, Block S, Abstract #202, Cert. 3/504, GC & SF Ry. Co. Survey; More particularly described by metes and bounds and being portions of Tract 1 which contains 114.34 acres and Tract 2 which contains 85.66 acres in Document Number 33175, filed September 30, 1986 in Volume 2318, Page 73, Deed Records, Lubbock County, Texas.

Tract 10: 407.5 acres, more or less, out of the Easterly and Southwest corner of Section 9, Block S, Abstract #202, Cert. 3/504, GC & SF Ry. Co. Survey; More particularly described by metes and bounds

and being portions of Tract 14 and Tract 15 and all of Tract 16 in Document Number 33176, filed September 30, 1986 in Volume 2318, Page 89, Deed Records, Lubbock County, Texas.

Tract 11: 93.23 acres more or less, being all of the Southwest Quarter of Section 2, Block B, Lubbock County, Texas. Save and Except a 13.97 acre tract being further described in two separate deeds conveyed to the Fort Worth and Denver South Plains Railway Co., recorded as Volume 125, Page 390, and Volume 140, Page 281, Deed Records, Lubbock County, Texas. Further Save and except that certain 52.8 acre tract being part of the Southwest Quarter of Section 2, Block B, and lying North of the Fort Worth & Denver South Plains Railway Company Right of Way.

Tract 12: 52.8 acres more or less, being a tract of land out of the Southwest Quarter of Section 2, Block B, and lying North of the Fort Worth & Denver South Plains Railway Company Right of Way. Being further described in that certain Warranty Deed dated December 12, 1986 from Elizabeth Ann Simmons, etal to the City of Lubbock and recorded as Volume 2392, Page 91, Deed Records, Lubbock County, Texas.

Tract 13: 583.928 acres out of Section 11, Block B, Abstract # 60, I.R.R.CO. Survey; described as Tract No. 5 and Tract No. 11 by metes and bounds in a Deed from J. Frank Gray, joined herein pro forma by my wife, Imogene Gray, and Jack P. Driskell, as Independent Executor of the Estate of Lily W. Gray, deceased, to the City of Lubbock and recorded as Volume 2318, Page 73, Deed Records, Lubbock County, Texas.

Tract 14: 38.525 acres out of the Northwest corner of Section 11, Block B, Abstract # 60, I.R.R.CO. Survey; being further described by metes and bounds in that certain Warranty Deed from J. Frank Gray etal to The City of Lubbock recorded as Volume 453, Page 228, Deed Records, Lubbock County, Texas.

Tract 15: 9.0300 acres out of Section 11, Block B, Abstract # 60, I.R.R.CO. Survey; being further described by metes and bounds in that certain Warranty Deed from Kent R. Clark etal to the City of Lubbock, recorded as Volume 2414, page 103, Deed Records, Lubbock County, Texas.

Tract 16: 24.54 acres, more or less, out of Section 5 1/2, Block S, Abstract #1127, G. Boles Survey; being further described by metes and bounds in a Deed from J. Frank Gray, joined herein pro forma by my wife, Imogene Gray, and Jack P. Driskell, as Independent Executor of the Estate of Lily W. Gray, deceased, to the City of Lubbock and recorded as Volume 2318, Page 73, Deed Records, Lubbock County, Texas.

Tract 17: 85.66 acres, more or less, out of the Northeast Quarter of Section 10, Block S, Abstract #445, G.C. & S.F. Survey; Being a portion of Tract 1 as described by metes and bounds in Document Number 33175, filed September 30, 1986 in Volume 2318, Page 73, Deed Records, Lubbock County, Texas.

Tract 18: 67.94 acres, more or less, out of the Southeast portion of Section 10, Block S, Abstract #445, G.C. & S.F. Survey; Being a portion of Tract 2 as described by metes and bounds in Document Number 33175, filed September 30, 1986 in Volume 2318, Page 73, Deed Records, Lubbock County, Texas.

Tract 19: 149.1 acres, more or less, out of the Northern Portion of Section 10, Block S, Abstract #445, G.C. & S.F. Survey; Being a portion of Tract 10 as described by metes and bounds in Document Number 33175, filed September 30, 1986 in Volume 2318, Page 73, Deed Records, Lubbock County, Texas.

Tract 20: 150 acres, more or less, out of the Southern Portion of Section 10, Block S, Abstract #445, G.C. & S.F. Survey; Being a portion of Tract 6 as described by metes and bounds in Document Number 33175, filed September 30, 1986 in Volume 2318, Page 73, Deed Records, Lubbock County, Texas.

Tract 21: 52 acres, more or less, being a portion of a 192 acre tract lying in South portion of Section 10, Block S, Abstract #445, G.C. & S.F. Survey; Being a portion of Tract 6 as described by metes and bounds in Document Number 33175, filed September 30, 1986 in Volume 2318, Page 73, Deed Records, Lubbock County, Texas.

Whereas said Oil and Gas Lease provided for a "Primary Term" of 3 years effective on the date first written above. Duplicate copies of said lease are in the possession of Lessor's and Lessee where the same may be examined by any person having a lawful right or legitimate interest therein.

Now therefore, for the consideration set forth in said lease, Lessor does hereby grant, lease and let unto Lessee all of the rights as specified therein, to the above described properties.

This "Memorandum of Lease" shall be binding on all parties, their heirs, successors and Assigns.

LESSOR: The City of Lubbock, Texas, a Municipal Corporation

By _____

Title: _____

CORPORATE ACKNOWLEDGMENT

STATE OF TEXAS)
)SS
COUNTY OF LUBBOCK)

The foregoing instrument was acknowledged before me this ____ day of _____, 2011, by
_____, _____ (Office) of **The City of Lubbock, Texas, a**
Municipal Corporation, on behalf of the corporation.

Seal

Notary Public, State of Texas

Exhibit A
ADDENDUM

ATTACHED TO AND MADE A PART OF THAT CERTAIN OIL AND GAS LEASE
DATED _____

1. Minerals Covered. Oil and Gas Only: This lease covers only "oil and gas" which term, as used herein means "only oil, gas and other related hydrocarbons, including sulfur produced as a by-product of oil and or gas" and does not cover or include any other minerals, including but not limited to coal, lignite or uranium. All other said minerals are excluded and are reserved to Lessor.

1. Royalty. The royalty share for all oil and gas under this Lease shall be 25%.

Lessor's royalty shall never bear or be chargeable with, either directly or indirectly, any part of the costs or expenses of production, gathering, dehydration, compression, transportation, manufacturing, processing, treating, marketing, or depreciation of any plant or other facility or facilities or equipment for processing or treating of the oil or gas produced from the Leased Premises or any other costs of a similar nature. Gas shall be priced at the point of sale to a third party and not at the well unless an arms length sale to a third party occurs at that point.

Upon written request and reasonable notice by Lessor, Lessee shall make available to Lessor or Lessor's authorized representative for inspection and examination the books and accounts, receipts, well records, and all contracts and other records pertaining to the production, transportation, sale and marketing of the oil and gas produced on the Leased Premises which relate to or have bearing on, in any manner, the royalty to be received by Lessor hereunder. Any inspection or examination shall be done at Lessee's principal place of business during normal working hours.

Any use of oil or gas produced from operations on or under the Leased Premises shall be included in calculating revenue and payment of royalties from the well production.

Notwithstanding any other provision in this section, Lessee may reduce Lessor's royalty to not less than 22.5% upon providing Lessor satisfactory evidence that, in order to secure an off premise well site from which to produce oil or gas from the Leased Premises, Lessee was obligated to grant an overriding royalty interest in oil or gas produced from the Leased Premises to the surface owner at said off premise well site. In that event, and only in that event, Lessor's royalty may be reduced by the amount of said overriding royalty interest, **but in no event shall such reduction exceed a 2.5% royalty interest.** Lessor and Lessee acknowledge that "pad sites" using current technology often host more than one well head. Therefore, Lessee agrees to make best efforts to secure an off premise well site without the grant of an overriding royalty interest. In the event such efforts are not successful, and only in that event, Lessee may reduce the Lessor's royalty from the well in question to not less than 22.5% utilizing the calculation set out in this paragraph.

2. Primary Term Extension. Notwithstanding any provision herein to the contrary, in order the Primary Term to be extended by Lessee, Lessee shall pay Lessor the amount of \$350 per acre per year for such an extension. Lessee may opt to extend the Primary Term for two (2) one-year periods.

3. Shut-in Royalty. While there is a gas well on this Lease or on lands pooled with the Land capable of producing in paying quantities, but gas is not being sold, at the end of the Primary Term or any time thereafter, Lessee shall pay or tender in advance an annual shut-in royalty of \$20,000 for each well from which gas is not being sold. Payment with respect to a well will be due within 60 days after the well is shut-in and shall be proportionately reduced to Lessor's percentage of acreage in the pooled unit. While shut-in royalty payments are timely and properly paid, this Lease will be held as a producing lease.

4. Continuous Development.

(a) If, at the expiration of the Primary Term, oil or gas is not being produced from the Leased Premises, but Lessee has commenced the drilling of a well on the Leased Premises, the Lease will not terminate but will remain in effect for so long thereafter as operation are carried out with due diligence with no cessation of more than 60 days, and if the operations result in the production of oil or gas, the Lease shall remain in force as otherwise provided herein. For the purposes of this Lease, the term "operations" means operations for any of the following: drilling, testing, completing, reworking, recompleting, deepening, plugging back, or repairing of a well in search for production of oil or gas.

(b) If this Lease is maintained beyond the expiration of the Primary Term by production or otherwise, it will remain in force as to all acreage and depths as long as there is no lapse of more than 150 days between the completion of one well and the commencement of the actual drilling of another well. The commencement of actual drilling means the penetration of the surface with a drilling rig capable of drilling to the anticipated total depth of the well. After a well is commenced, drilling operations must continue in a good and workmanlike manner in a good faith effort to reach the anticipated total depth with no cessation of operations for more than 60 consecutive days. A well will be deemed to have been completed on the date of the release of the drilling rig from the drill site and any completion operations cease. The permitted time between wells shall be cumulative so that if a well is commenced prior to the date it is required to be commenced, the number of days prior to the date on which the well should have been commenced shall be added to the time permitted for the next well.

(c) If at any time the maximum time for the commencement of the actual drilling of a well expires without the commencement of the well, or upon the expiration of the Primary Term if the Lease is not maintained by continuous drilling or any other provision contained herein, this Lease will terminate except as to the Retained Tract (defined below) surrounding any well that is then producing in paying quantities or deemed to be producing in paying quantities by virtue of payment of shut-in royalties, and as to each Retained Tract, the Lease will then terminate as to all depths 100 feet below the stratigraphic equivalent of the base of the deepest producing formation on the Retained Tract. The Lease will be treated as a separate lease with respect to

each Retained Tract and will continue so long as production in paying quantities continued from the Retained Tract or the Lease is otherwise maintained. If production from a Retained Tract ceases from any cause, this Lease will terminate as to that tract unless Lessee commences operations for drilling or reworking on the tract within 60 days after the cessation of production or this Lease is maintained by other provisions, in which case the Lease as to that Retained Tract will continue in force as long as the operations are prosecuted with no cessation of more than 60 consecutive days, and if they result in production, so long thereafter as there is production from the Retained Tract.

(d) As used in the Lease, the term "horizontal well" means a well that meets the definition of a "horizontal drain hole well" under Statewide Rule 86 of the Railroad Commission of Texas, and a "vertical well" is a well that is not a horizontal well. The land assigned to a well for the purposes of this section is referred to as a "Retained Tract." Once Lessee concludes its continuous drilling operations hereunder, each Retained Tract must include sufficient wells drilled to hold the Retained Tract and the parties agree that the acreage earned by drilling a well may not exceed the minimum size required to obtain a drilling permit under the well density rules adopted by the Railroad Commission of Texas for the field, or if there are no field rules that apply, the Retained Tract shall be limited to the smallest size required to obtain a drilling permit under the statewide well density rules of the Railroad Commission of Texas. A Retained Tract for a vertical well may not exceed 40 acres. If field rules are established later that permit obtaining a drilling permit with less acreage, a Retained Tract for a vertical well may not exceed the minimum size permitted. A Retained Tract for a horizontal well may include the minimum acreage specified above for a vertical well plus the additional acreage listed in the tables in Rule 86 and must comply with the requirements of Rule 86 for a minimum permitted well density. Each Retained Tract shall be designated in a shape that maximizes the number of possible Retained Tracts on the Leased Premises.

(e) Within 60 days after the last to occur of the expiration of the Primary Term or the continuous drilling program, Lessee must file in the county records and furnish to Lessor a document designating each Retained Tract by metes and bounds description prepared by a professional surveyor, specifying the retained depths thereunder, and releasing all other depths and acreage. A gas well that becomes an oil well will hold only the acreage permitted for an oil well, and Lessee must file a redesignation of the Retained Tract (containing metes and bounds description prepared by a professional surveyor and specifying the retained depths thereunder) in the Real Property Records of the county where the Land is located. If Lessee fails to file timely a document required by this paragraph after Lessor has provided thirty (30) days prior written notices, then Lessor may do so, and the filing will bind Lessee.

(f) Lessee shall drill as many horizontal wells from each drill site as is reasonably practicable in accordance with good oilfield practices and taking into account all geological and geophysical information known to Lessee. Each drill site should each be located in such a manner as to facilitate the drilling of as many wells as possible from such drill site in order to minimize the number of drill sites on lands pooled herewith.

5. Vertical Pugh Clause. Sixty (60) days after completion of a well, this lease shall expire to all depths below the stratigraphic equivalent of 100 feet below the base of the

deepest producing formation, provided however, if Lessee is then engaged in drilling operations on the Leased Premises or on acreage pooled therewith, this lease shall remain in full force and effect as to all depths so long as no more than one hundred fifty (150) days elapse between the completion or abandonment of one well and the commencement of operations for the drilling of another well.

6. Horizontal Pugh Clause. Notwithstanding any provision herein to the contrary, upon the expiration of the primary term of this lease or upon the expiration of sixty (60) days following the completion of the last well drilled on the leased premises or acreage pooled therewith (whether completed as a well capable of production in paying quantities or as a dry hole), whichever is the later date, this lease shall terminate as to any land not included in a pooled unit, proration unit or other unit from which any well, located thereon at pooled therewith, is producing or may be capable of producing in paying quantities, or upon which drilling, reworking or other operations calculated to restore production are being pursued as herein provided. After the expiration of the primary term of this lease, if production on any pooled, proration or other unit permanently ceases from any cause either voluntary or involuntary (and if this lease is not otherwise being maintained), this lease shall terminate as to such unit unless Lessee within (60) days thereafter commences reworking operations or the actual drilling of a new well thereon. In such event, this lease will continue in effect as to such unit so long as such drilling or reworking is prosecuted with no cessation of such operations for more than (60) consecutive days until production is restored.

7. Surface Operations Limited. Notwithstanding any provision to the contrary in the Lease or this Addendum, surface applications for drilling activities on the surface of the Leased Premises shall be limited to pad sites and appurtenances located in relation to existing center-pivot irrigation systems as depicted in the attached Exhibit C. Damages for surface operating shall be paid at the rate of \$5000 per pad site, provided such site is five (5) acres or less. Additional acreage shall carry additional surface damage compensation in the amount of \$2,500 per acre. Lessee shall pay damages to growing crops based upon actual market value. Notwithstanding the foregoing, this limitation of surface use shall not be construed as a waiver of the rights of Lessee to utilize the subsurface of Leased Premises under this Lease, and Lessee shall have the right to exploit, explore for, develop and produce oil, gas and other covered minerals under this Lease from wells from surface locations off of the Leased Premises, including but not limited to, directional, horizontal drilling activity which comes under the surface of the Leased Premises. This surface limitation of use does not apply to any surface rights associated with instruments other than this Lease.

- a. The surface damages provided for above shall be paid prior to the commencement of each respective operation. In the event such damages are not paid in advance or within sixty (60) days of notice received from Lessor, Lessee agrees to pay as liquidated damages a sum equal to twice the amount stipulated above as damages, unless the payment amount is in dispute. It is agreed that salt water or oil leakage is not included in the damages set out above, but shall be considered separately.

- b. Lessee agrees to locate all flowlines, pipelines, electric distribution lines, injection/disposal lines, and other lines necessary to Lessee's operations on the Land in such places and in such a manner as may be reasonably agreed upon by Lessor.
 - c. Lessee agrees to locate all tanks, separators, treaters or other production and disposal facilities necessary to Lessee's operation on the Land on the pads provided for under this agreement or as may be reasonably agreed upon by the parties.
 - d. Lessee agrees to install and operate all equipment necessary to Lessee's operations on the Land in such a manner as will not unreasonably interfere with or affect Lessor's agricultural practices.
 - e. Lessee agrees to maintain all roads utilized by Lessee in good repair and condition at all times.
 - f. Upon completion of any operation or abandonment of any drillsites, pit areas, well location, tank battery locations, roadways or other surface disturbance, Lessee shall restore the premises by (i) remove all rock, gravel, caliche, or other materials foreign to the natural condition of the land; (ii) level and fill with top soil all pits, ruts, or other surface disturbances in such a manner as to restore same to the natural contour of the land; (iii) clean the area to the end that all objects, materials and structures not reasonably necessary to the production of oil and/or gas are removed and eliminated; (iv) otherwise restore the surface of the premises to its original condition as nearly as reasonably practicable.
 - g. Upon completion of any drilling operation, and a reasonable time allowed for evaporation, not to exceed on hundred eighty (180) days, any reserve pits shall be pumped dry and the liquid and other contents shall be removed from the Land. The reserve pits must be back filled with top soil on the surface and the site reasonably packed and leveled to twelve inches (12") above the level of the adjacent ground.
 - h. Any saltwater production from wells drilled upon the Land shall be disposed of off the Land, or shall be stored and/or re-injected into a subsurface strata at a depth sufficient to protect all sources and supplies of fresh and potable water or water suitable for agricultural purposes.
8. Notwithstanding any provision to the contrary in this Lease, or Addendum, this Lease is entered into with the knowledge of the Parties that the current surface use of the Leased Premises is for a TCEQ-permitted wastewater land application site. The Parties agree that Lessee shall make no operations on the Leased Premises without the consent of the TCEQ. Lessee accepts this risk, and enters into this Lease with the express knowledge that its activities on the Leased Premises may be curtailed by the TCEQ.

9. This Lease Agreement is entered subject to those certain agricultural lease agreements between the City of Lubbock and the counterparties listed below, and any and all extensions thereto. Such lease agreements are attached hereto as Exhibits "B-1" through "B-6".

<u>Exhibit</u>	<u>Lessee</u>	<u>Date</u>
B-1	Casey Donald	1/12/12
B-2	Challenge Park of Texas, Inc.	8/12/08
B-3	Terry Crofoot	12/17/08
B-4	Levi's Terrace, Ltd.	1/12/06
B-5	Kim Sherrod	11/15/10
B-6	Richard Adams	6/10/10

10. **No Warranty of Title.** This Lease is made and entered into without any express or implied warranty of title by, or recourse upon, Lessor(s) whatsoever, not even for the return of the consideration paid heretofore or hereunder.

11. **Addendum Prevails.** It is understood and agreed by all parties hereto that the provisions of this Addendum supersede any provisions to the contrary in the printed lease hereof.

12. **Offset Wells.** For purposes of this Lease, an "offsetting well" is a well that is producing oil or gas from adjacent or nearby land and is in reasonable probability draining the Leased Premises. If an offsetting well is completed, Lessee must, within 120 days after the date of first sales from the offsetting well, commence operations for the drilling of an offset well on the Lease Premises and must diligently pursue those operations to the horizon in which the offsetting well is producing, or at the option of Lessee: (i) execute and deliver to Lessor a release in recordable form of the acreage nearest to the offsetting well; or (ii) pay Lessor a monthly royalty equal to the royalty that would be payable under this Lease if the production from the offsetting well had come from the Leased Premises. In the event acreage is released pursuant to (i) above, the release will cover a tract of a size and shape that will permit the drilling of a well to the producing formation and the creation of a proration unit surrounding the well in compliance with the field rules for the field in which the offsetting well is located, but if there are no fields rules, in compliance with the statewide rules of the Railroad Commission of Texas. A well producing with perforations within 330 feet of the Leased Premises will be conclusively presumed to be draining the Land.

13. **No Warranties.** Lessor makes no warranty of any kind with respect to, and has no obligation to defend, title to the Land. If Lessor owns an interest in the Land less than the entire fee simple estate, then the royalties payable hereunder will be reduced proportionately.

14. **Attorney's Fees.** In the event that Lessor is required to employ legal counsel for the enforcement of any provision of this Lease and prevails, Lessor will be entitled to recover from Lessee reasonable attorney's fees and expenses, including but not limited to expert witness fees, incurred by Lessor.

15. **Insurance.** At all times while this Lease is in force, Lessee shall acquire and maintain insurance covering all of its activities and operations hereunder, including any work

performed on its behalf by contractors, subcontractors, and others, naming Lessor as an additional insured. The policies shall include coverage for comprehensive general liability, for bodily injury and property damage, blowout and loss of well coverage, and coverage for any damage to the environment, including coverage for the cost of clean up and surface remediation. The coverage shall be in the minimum amount of \$3,000,000. Lessee shall furnish a certificate from the issuing insurance company or companies evidencing the coverage.

16. Indemnity. LESSEE, ITS SUCCESSORS AND ASSIGNS WILL PROTECT, DEFEND, INDEMNIFY, REIMBURSE, AND HOLD HARMLESS, THE LESSEE, ITS EMPLOYEES, SURFACE TENANTS, AGENTS, SUCCESSORS, ASSIGNS, HEIRS, DEVISEES, AND PERSONAL REPRESENTATIVES (COLLECTIVELY "LESSEE INDEMNITEES") FROM AND AGAINST ALL ATTORNEYS' FEES, CAUSES OF ACTION, CLAIMS, COSTS, COURT COSTS, DAMAGES, DEMANDS, EXPENSES, EXPERT FEES, JUDGMENTS, PENALTIES, AND SUITS OF EVERY KIND OR CHARACTER (COLLECTIVELY "CLAIMS"), AND WHETHER IN CONTRACT, IN TORT OR EXISTING AT COMMON LAW, OR BY VIRTUE OF ANY STATUTE, REGULATION OR ORDINANCE, ARISING OUT OF ANY ACT WHICH MAY HEREINAFTER TRANSPIRE FROM ANY ACTIVITY EXPRESSLY OR IMPLIEDLY AUTHORIZED OR REQUIRED BY THIS AGREEMENT WHETHER PERFORMED BY THE LESSEE OR THOSE HAVING A CONTRACTUAL RELATIONSHIP WITH LESSEE EXCEPT TO THE EXTENT THAT SUCH CLAIMS RESULT FROM LESSEE INDEMNITEES' NEGLIGENCE, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. FOR PURPOSES OF THE INDEMNITY PROVISIONS HEREOF, ANY ACTS OR OMISSIONS OF LESSEE, OR BY EMPLOYEES, AGENTS, ASSIGNEES, SUCCESSORS, GUESTS, INVITEES, CONTRACTORS, OR SUBCONTRACTORS OF LESSEE OR ACTIONS OF ANY OTHER PERSONS FOR OR ON BEHALF OF LESSEE (WHETHER OR NOT THEY ARE NEGLIGENT, INTENTIONAL, WILLFUL, OR UNLAWFUL), SHALL BE STRICTLY ATTRIBUTABLE TO LESSEE AND AS SUCH SHALL FALL WITHIN THE SCOPE OF LESSEES OBLIGATION IN THIS SUBPARAGRAPH TO INDEMNIFY LESSOR THE INDEMNITY OBLIGATIONS OF THIS PARAGRAPH SHALL APPLY TO ANY ATTORNEYS' FEES, COURT COSTS OR OTHER EXPENSES LESSEE INCURS IN THE SUCCESSFUL DEFENSE OF ANY ACTION OR CLAIM BROUGHT AGAINST LESSEE WHICH ARISES FROM OR RELATES TO THE ACTIVITY OF LESSEE EXPRESSLY OR IMPLIEDLY AUTHORIZED OR REQUIRED BY THIS AGREEMENT.

17. Compliance with Environmental Laws and Regulations. Lessee, its successors and assigns, by its acceptance of this Lease, hereby agrees to comply with all applicable laws, rules and regulations and hereby assumes full responsibility for, and agrees to indemnify, defend and hold harmless, Lessor from and against any loss, liability, claim, fine, expense cost (including attorneys fees and expenses) and cause of action caused by or arising out of the violation (or defense of the alleged violation) of any federal, state or local laws, rules or regulations applicable to any waste material, drilling matter fluid or any hazardous substances released or caused to be released by Lessee or Lessee's agents, or independent contractors, or any other operations on the Leased Premises hereunder into the atmosphere or into or upon the

land or any water course or body of water, including ground water, or subsurface water. Further, Lessee covenants and agrees to accept total and sole responsibility for the preservation of all animal and plant life existing under the protection of the Endangered Species Act; and to comply with all governmental laws and edicts relating to any other and all environmental cares and concerns. Lessee further acknowledges and agrees that, as between Lessor and Lessee, it is also solely liable for violations of environmental laws, rulings and edicts by contractors, crews, service companies, transportation companies, and any other company or individual who travels or works on, over or across the Leased Premises while engaged in pursuits that are, in any way, connected with the Lessee's exploration for oil and gas. Additionally, upon receiving any notice regarding any environmental, pollution or contamination problem or violation of any law, rule or regulation, Lessee will forward a copy to Lessor by certified mail within thirty (30) days. This provision and its indemnities shall survive the termination of this Lease, and shall enure to the successors, heirs and assigns of Lessor and Lessee.

Lessee agrees to pay the cost of water quality testing, as follows: (1) an initial baseline water quality test to be conducted no more than 60 days before Lessee commences actual drilling and (2) re-testing 1 year following completion of the first well, and (3) repeat testing every three years thereafter, as long as this lease remains in effect. Said testing shall be conducted at each mutually agreeable water wells on, the Leased Premises. The testing shall be done by a qualified professional water testing firm selected jointly by the Lessee and Lessor. Testing will include, but not be limited to, testing for gas, minerals, metals, volatile organic compounds (VOC's), and semi-volatile organic compounds (SVOC's).

18. Miscellaneous Provisions.

(a) In the event this Lease terminates for any reason as to all or any part of the Land, Lessee shall, within 60 days thereafter, deliver to Lessor a recordable release covering all of the Land or that portion of the Land as to which this Lease terminated.

(b) Nothing in this Lease negates any implied covenants imposed upon Lessee under applicable law.

(c) Lessee will conduct all operations hereunder in compliance with the rules of the Railroad Commission of Texas and federal and state environmental laws and regulations and municipal ordinances. Upon written request of Lessor, Lessee shall furnish to Lessor copies of applications to drill, daily drilling reports, well tests, completion reports, plugging records, and production reports. Lessee will divulge to Lessor's Representative correct information as requested in writing by Lessor as to each well, the production therefrom, and such non-proprietary technical information as Lessee may acquire; however, Lessor and Lessor's Representative must keep all such information confidential and may not divulge same to any third party. Lessor's Representative has the right to be present when wells or tanks are gauged and production metered and upon written request has the right to examine all run tickets and to have full information as to production and runs and to received copies of all run tickets.

(d) The term "production" means production in paying quantities. Lessee's obligations to pay money under this Lease are to be performed in Lubbock County, Texas. Paragraph headings

are used in this Lease for convenience only and are not to be considered in the interpretation or construction of this Lease. The execution or ratification by Lessor of any division order, gas contract, or any other documents will not alter any provision of this Lease unless the intent to do so is expressly stated in the document. Under no circumstances may Lessee, its agents, employees, or contractors bring firearms or dogs or other animals on the Leased Premises or hunt or fish on the Leased Premises. Upon Lessor's written request, Lessee agrees to furnish to Lessor a copy of each title opinion or report obtained by Lessee that covers all or any part of the Leased Premises together with a copy of each title curative document obtained by Lessee.

(e) Any compressors used in connection with this Lease or the Leased Premises herewith shall be equipped with the latest technology in noise suppression and muffling devices. Every five years if requested by Lessor, Lessee shall be required to install quieter compressors if such are available for sale and distribution.

(f) Upon Lessor's written request and reasonable notice, Lessor shall have the right to inspect, during normal business hours, all records of Lessee relating to this Lease, operations conducted on the Leased Premises, the sale and marketing of production from the Leased Premises, and the payment of royalties, including the right to audit Lessee's books insofar as they relate to the foregoing. All such information is confidential and shall not be further disclosed by Lessor or Lessor's Representative without Lessee's prior written consent.

(g) Lessor may not own all of the minerals underlying the Land. Lessee agrees that it will not drill, conduct operations or participate in drilling or operations on the Land or Leased Premises which are not in compliance with the terms and requirements of this Lease by claiming authority under the lease or leases covering the outstanding interest.

(h) Choice of Law. This agreement will be construed under the laws of the State of Texas, without regard to choice-of-law rules of any jurisdiction. Venue is in Lubbock County, Texas.

(i) Lessee, for itself and its successors and assigns, hereby waives any right of eminent domain possessed by Lessee or any Affiliate of Lessee to acquire any right of way or easement for the transportation of gas, oil or any other substance.

(j) Groundwater Protection. Any oil or gas wells drilled by Lessee shall be drilled in compliance with the surface casing requirements imposed by the State of Texas for groundwater protection and Lessee shall install such surface casing in the required manner in order to insure the protection of all water bearing formations in and under the Land. Further, Lessee agrees to conduct water quality testing on any water wells available on lands pooled with the Land, as follows: (1) an initial baseline water quality test to be conducted no more than 60 days before Lessee commences actual drilling for the first well from Lessee's drillsite located on lands to be pooled with the Land, and (2) re-testing 1 year following completion of the first well, and (3) repeat testing every three years thereafter, as long as this Lease remains in effect. The testing shall be done by a qualified professional water testing firm and will include, but not be limited to, testing for gas, minerals, metals, volatile organic compounds (VOC's), and semi- volatile organic compounds (SVOC's).

(k) Visual Appearance. Lessee shall maintain any drillsites within 1,000 feet of the Land in a neat and orderly fashion. For safety and appearance, Lessee shall construct and install fencing around each drillsite and related facilities in a visually appealing manner, in an effort to maintain the continuity of the surrounding area, and shall maintain the fences in a good state of repair. Upon conclusion of Lessee's drilling and completion operations, Lessee shall restore that portion of the drillsite not being utilized by Lessee for producing operations as nearly as is reasonably practicable to its original state. In addition, Lessee shall maintain the drillsite in a manner whereby it shall be free of noxious vegetation and debris resulting from Lessee's operations. Upon lease expiration, Lessee shall remove all of Lessee's equipment and restore the surface of the ground on the drillsite as nearly as is reasonably practicable to its original state.

(l) Mud Pits. Lessee may, as part of its surface operations contemplated hereunder, utilize pits for drilling mud, process water, and other process fluids to the extent same are consistent with the rules of the Texas Railroad Commission. All such pits must utilize best available liner technology, and be constructed according to plans certified by a registered Texas Professional Engineer. All such pits shall be cleaned up and the surface restored to its original condition or better within ninety (90) days of the completion of the well. Pits shall be restored by the Lessee excavating the pit and any surrounding affecting area down to the native soil, replacing the excavated space with clean fill material similar to that present on the surrounding Lease Premises, and reestablishing a grass cover on the area. Lessee shall continue reseeding activities until a sustainable stand of grass covers no less than 85% of the restored surface area. No hazardous materials may be stored in the Mud Pits or similar structure at any time. Upon completion of clean up activities, Lessee shall provide a certification executed by a registered Texas Professional Engineer, that no mud or other fluid penetrated the Liner, or, alternatively, in the event of such penetration, the leakage has been fully remediated.

(m) Remedial Action. Any remedial action or activities required of Lessee under this Lease shall be addressed and the remedial work commenced within the earlier of twenty (20) days or a reasonable amount of time under the circumstances, dependent on the nature of the remedial work, and must be diligently pursued until fully performed.

(n) Water Wells. Lessee shall only drill water wells on the Leased Premises as depicted in the attached Exhibit A.

(o) Environmental Safeguards. Lessee shall employ such measures as will reduce the impact of its operations upon improvements, vegetation and habitat on the Leased Premises. Lessee shall use reasonable care and safeguards in conducting its operations to prevent contamination or pollution from any waste, pollutant, or contaminant to any environmental medium, including soil, surface waters, groundwater, sediments, surface or subsurface strata, ambient air, or any other environmental medium in, on, or under the Leased Premises. Lessee shall promptly remediate any condition which is hazardous to humans or wildlife resulting from Lessee's operations.

(p) Visual Appearance. Lessee shall not permit the disposal of trash, storage of used equipment or other such materials on the well site and shall maintain the well site in a neat and

orderly fashion. Lessee shall construct or improve necessary lease roads as all weather roads and shall maintain such roads in a good state of condition and repair in order to prevent excess dust and erosion and maintain the continuity of the surrounding environment. For safety and appearance, Lessee shall install appropriate fences around each well and related facilities in a visually appealing manner in an effort to maintain the continuity of the surrounding area, and shall maintain the fences in a good state of repair. Upon conclusion of Lessee's drilling and completion operations, Lessee shall restore that portion of the well site not being utilized by Lessee for producing operations as nearly as is reasonably practicable to its original state. In addition, Lessee shall maintain the well site in a manner whereby it shall be free of noxious vegetation and debris resulting from Lessee's operations. Upon lease expiration, Lessee shall remove all of Lessee's equipment and restore the surface of the ground as nearly as is reasonably practicable to its original state.

(q) Noise Abatement and Safety. Lessee shall utilize modern equipment with appropriate safeguards in its drilling, completion and producing operations. Whenever possible, Lessee shall install sound barriers and utilize hospital grade mufflers on compressors to reduce noise levels and emissions while conducting its operations.

(r) Seismic Operations. Lessee shall pay for all damages incurred to the Land which result from its seismic operations. Other than seismic operations as provided herein, by execution and delivery of this Lease, Lessee does not otherwise obtain the right to conduct exploration, excavation or drilling operations from or upon the surface of any portion of the Land.

(s) Local Ordinances. In conducting its operations hereunder, Lessee shall comply with all present and future ordinances, rule or regulations imposed by the City of Lubbock or other governmental agency. For purposes of this Lease, the Leased Premises shall be deemed to be wholly inside the corporate boundaries of the City of Lubbock, and Lessee agrees to comply with City of Lubbock Ordinances Article 8.07 for the entirety of the Leased Premises.

(t) This Lease does not carry with it the right for Lessee to use ground water, fresh, brackish or otherwise, or surface water, from the Leased Premises. The parties are in discussions regarding the sale by Lessor to Lessee of certain municipal water treatment plant discharge water for use Lessee's operations. Regardless of the outcome of those negotiations, this Lease carries with it no express or implied right to utilize surface water or ground water from the Leased Premises and any indication to the contrary is hereby expressly revoked.

(u) Counterpart Language. This Lease may be executed in counterparts.

Executed on the date first written above.

Lessor:

**THE CITY OF LUBBOCK, TEXAS,
A MUNICIPAL CORPORATION**

Tom Martin, Mayor

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Marsha Reed

Chief Operating Officer

APPROVED AS TO FORM:

ZS Brady

Zachary S. Brady,
Counsel for City of Lubbock

Lessee:

FOUR SEVENS EXPLORATION CO., LTD.

Brady Cunningham

By: Brady Cunningham
Title: Partner

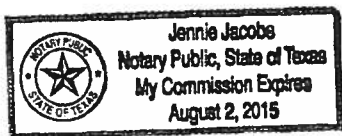
STATE OF TEXAS §
 §
COUNTY OF _____§

This instrument was acknowledged before me on the _____ day of _____, 2012, by Tom Martin, Mayor, The City of Lubbock, Texas, a Municipal Corporation.

Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF Tarrant §

This instrument was acknowledged before me on the 14 day of February, 2012, by Brad Cunningham, Partner, Four Sevens Exploration Co., Ltd.



Jennie Jacobs
Notary Public, State of Texas



EXHIBIT

"C"



Regular City Council Meeting

5. 12.

Meeting Date: 03/06/2012

Information

Agenda Item

Contract Resolution - Airport: Consider a resolution authorizing the Mayor to execute Contract 10686 with Four Sevens Exploration Company, LTD, for the lease of City owned mineral rights in Lubbock County, Texas.

Item Summary

The paid up front oil and gas lease agreement allows Four Sevens Exploration Company to lease the City's mineral interest on the Lubbock International Airport property. The site contains 2,085.47 gross acres out of several sections in Lubbock County.

The royalty share for oil and gas under the lease is 25%. Four Sevens Exploration Company will pay to the City a bonus of \$350 per acre for a primary term of three years for a total of \$729,915.

Fiscal Impact

\$729,915 revenue to the Airport Fund.

Staff/Board Recommending

James Loomis, Executive Director of Airport

Attachments

Resolution & Contract - Oil and Gas Lease Airport

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 Oil and Gas Lease Agreement for mineral interest on the airport property, by and between the City of Lubbock and Four Sevens Exploration Co., LTD., and 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 City Council.

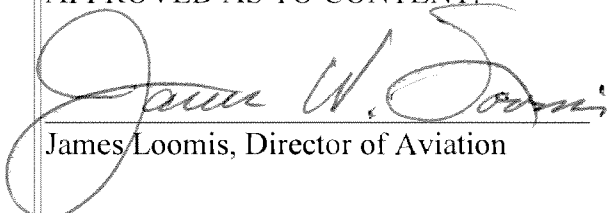
Passed by the City Council on _____.

TOM MARTIN, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



James Loomis, Director of Aviation

APPROVED AS TO FORM:



Chad Weaver, Assistant City Attorney

vw:ccdcs/RES.Agrmt-Four Sevens Exploration-airport
February 14, 2012

PAID UP OIL AND GAS LEASE

THIS LEASE AGREEMENT is made as of the ____ day of _____, 20____, between The City of Lubbock, Texas, a Municipal Corporation, as Lessor (whether one or more) whose address is P.O. Box 15100 Lubbock, Texas, 79350 and Four Sevens Exploration Co., Ltd., as Lessee, whose address is 777 Taylor St. Fort Worth, TX. 76102, Suite 1090. All printed portions of this lease were prepared by the party hereinabove named as Lessee, but all other provisions (including the completion of blank spaces) were prepared jointly by Lessor and Lessee.

1. In consideration of a cash bonus in hand paid and the covenants herein contained, Lessor hereby grants, leases and lets exclusively to Lessee the following described land, hereinafter called leased premises:

640 acres, more or less, being all of Section No.2 , Block D-3 , Abstract No. 654, G.C.& S.F. Ry. Co. Survey and Certificate No. 3/368, Lubbock County, Texas, and being described in that certain Warranty Deed dated May 22, 1942 from Allie Ebba Cockrell, individually and as Executrix of the Will and Estate of Florence Jones, Deceased, joined by my husband Fred Cockrell to The City of Lubbock Texas, a municipal corporation, recorded in Volume 267, Page 206, of the records of Lubbock County, Texas.

640 acres, more or less, in Section 28, Block A, Abstract No. 685, Lubbock County, Texas.

433.25 acres, more or less, being part of Section 32, Block A, Abstract No. 684, Lubbock County, Texas, described by metes and bounds in Warranty Deed dated May 27, 1942 from Allie E. Cockrell, et al, to The City of Lubbock recorded in Volume 267, Page 206, and Deed dated January 4, 1949 from U.S.A. to The City of Lubbock recorded in Volume 383, Page 144, and Petition for Condemnation dated October 31, 1957 from the Lubbock District Court to The City of Lubbock recorded in Volume 673, Page 495, and Warranty Deed dated May 31, 1973, from Grace Jones, et al, to The City of Lubbock recorded in Volume 1350, Page 747, in the Deed Records, Lubbock County, Texas.

19.72 acres, more or less, being part of the N/2 of Section 36, Block A, in the G.C. & S.F. Railway Co. Survey, Abstract No.683, Certificate No. 2/253 and being described by metes and bounds description in that Deed dated February 14, 1962, from the Board of Directors of The Texas A&M University Systems to City of Lubbock and recorded in Volume 1366, Page 485, in the records of Lubbock County, Texas.

151.276 acres, more or less, being part of the SW/4 of Section 36, Block A, in the G.C. & S.F. Railway Co. Survey, Abstract No.683, Certificate No. 2/253 and being described by metes and bounds description in two (2) Warranty Deeds (1) dated March 26 1973, from Cleo Thiel and her husband Robert W. Thiel to City of Lubbock, a Home Rule Municipal Corp. and recorded in Volume 1338, Page 223, (2) Warranty Deed dated March 26 1973, from Cleobob, Incorporated, to City of Lubbock, a Home Rule Municipal Corp. and recorded in Volume 1338, Page 225, of the records of Lubbock County, Texas.

160.00 acres more or less, being the SW/4 of Section 6, Block D-3, A-1299 and A-1300, D & W RR Co. Survey, Lubbock County, Texas.

41.224 acres more or less, being part of Section 43, Block A, A-56, HE & WT RR Co. Survey, Lubbock County, Texas, and being further described in Judgment dated November 29, 1971, between City of Lubbock vs. Arthur L. Cone, et al, and being recorded in Volume 1288, Page 397, Deed Records, Lubbock County, Texas.

in the county of Lubbock, State of Texas, containing 2,085.47 gross acres, more or less (including any interests therein which Lessor may hereafter acquire by reversion, prescription or otherwise), for the purpose of exploring for, developing, producing and marketing oil and gas, along with all hydrocarbon and nonhydrocarbon substances produced in association therewith. The term "gas" as used herein includes helium, carbon dioxide and other commercial gases, as well as hydrocarbon gases. In addition to the above-described leased premises, this lease also covers accretions and any small strips or parcels of land now or hereafter owned by Lessor which are contiguous or adjacent to the above-described leased premises, and, in consideration of the aforementioned cash bonus, Lessor agrees to execute at Lessee's request any additional or supplemental instruments for a more complete or accurate description of the land so covered. For the purpose of determining the amount of any shut-in royalties hereunder, the number of gross acres above specified shall be deemed correct, whether actually more or less.

2. This lease, which is a "paid-up" lease requiring no rentals, shall be in force for a primary term of Three (3) years from the date hereof, and for as long thereafter as oil or gas or other substances covered hereby are produced in paying quantities from the leased premises or from lands pooled therewith or this lease is otherwise maintained in effect pursuant to the provisions hereof.

3. Royalties on oil, gas and other substances produced and saved hereunder shall be paid by Lessee to Lessor as follows: (a) For oil and other liquid hydrocarbons separated at Lessee's separator facilities, the royalty shall be twenty-two and one-half percent (22.5%) of such production, to be delivered at Lessee's option to Lessor at the wellhead or to Lessor's credit at the oil purchaser's transportation facilities, provided that Lessee shall have the continuing right to purchase such production at the wellhead market price then prevailing in the same field (or if there is no such price then prevailing in the same field, then in the nearest field in which there is such a prevailing price) for production of similar grade and gravity; (b) for gas (including casinghead gas) and all other substances covered hereby, the royalty shall be twenty-two and one-half percent (22.5%) of the proceeds realized by Lessee from the sale thereof, less a proportionate part of ad valorem taxes and production severance, or other excise taxes and the costs incurred by Lessee in delivering, processing or otherwise marketing such gas or other substances, provided that Lessee shall have the continuing right to purchase such production at the prevailing wellhead market price paid for production of similar quality in the same field (or if there is no such price then prevailing in the same field, then in the nearest field in which there is such a prevailing price) pursuant to comparable purchase contracts entered into on the same or nearest preceding date as the date on which Lessee commences its purchases hereunder; and (c) if at the end of the primary term or any time thereafter one or more wells on the leased premises or lands pooled therewith are capable of producing oil or gas or other substances covered hereby in paying quantities, but such well or wells are either shut in or production therefrom is not being sold by Lessee, such well or wells shall nevertheless be deemed to be producing in paying quantities for the purpose of maintaining this lease. If for a period of 90 consecutive days such well or wells are shut in or production therefrom is not being sold by Lessee, then Lessee shall pay shut-in royalty of one dollar per acre then covered by this lease, such payment to be made to Lessor or to Lessor's credit in the depository designated below, on or before the end of said 90-day period and thereafter on or before each anniversary of the end of said 90-day period while the well or wells are shut in or production therefrom is not being sold by Lessee; provided that if this lease is otherwise being maintained by operations, or if production is being sold by Lessee from another well or wells on the leased premises or lands pooled therewith, no shut-in royalty shall be due until the end of the 90-day period next following cessation of such operations or production. Lessee's failure to properly pay shut-in royalty shall render Lessee liable for the amount due, but shall not operate to terminate this lease.

4. All shut-in royalty payments under this lease shall be paid or tendered direct to Lessor at above address. All payments may be made by check and such payments to Lessor deposited in the U.S. Mails in a stamped envelope addressed to the Lessor at the last address known to Lessee shall constitute proper payment.

5. If Lessee drills a well which is incapable of producing in paying quantities (hereinafter called "dry hole") on the leased premises or lands pooled therewith, or if all production (whether or not in paying quantities) permanently ceases from any cause, including a revision of unit boundaries pursuant to the provisions of Paragraph 6 or the action of any governmental authority, then in the event this lease is not otherwise being maintained in force it shall nevertheless remain in force if Lessee commences operations for reworking an existing well or for drilling an additional well or for otherwise obtaining or restoring production on the leased premises or lands pooled therewith within 90 days after completion of operations on such dry hole or within 90 days after such cessation of all production. If at the end of the primary term, or at any time thereafter, this lease is not otherwise being maintained in force but Lessee is then engaged in drilling, reworking or any other operations reasonably calculated to obtain or restore production therefrom, this lease shall remain in force so long as any one or more of such operations are prosecuted with no cessation of more than 90 consecutive days, and if any such operations result in the production of oil or gas or other substances covered hereby, as long thereafter as there is production in paying quantities from the leased premises or lands pooled therewith. After completion of a well capable of producing in paying quantities hereunder, Lessee shall drill such additional wells on the leased premises or lands pooled therewith as a reasonably prudent operator would drill under the same or similar circumstances to (a) develop the leased premises as to formations then capable of producing in paying quantities on the leased premises or lands pooled therewith, or (b) to protect the leased premises from uncompensated drainage by any well or wells located on other lands not pooled therewith. There shall be no covenant to drill exploratory wells or any additional wells except as expressly provided herein.

6. Lessee shall have the right but not the obligation to pool all or any part of the leased premises or interest therein with any other lands or interests, as to any or all depths or zones, and as to any or all substances covered by this lease, either before or after the commencement of production, whenever Lessee deems it necessary or proper to do so in order to prudently develop or operate the leased premises, whether or not similar pooling authority exists with respect to such other lands or interests. The unit formed by such pooling for an oil well which is not a horizontal completion shall not exceed 80 acres plus a maximum acreage tolerance of 10%, and for a gas well or a horizontal oil completion shall not exceed 640 acres plus a maximum acreage tolerance of 10%; provided that a larger unit may be formed for an oil well or gas well or horizontal completion to conform to any well spacing or density pattern that may be prescribed or permitted by any governmental authority having jurisdiction to do so. For the purpose of the foregoing, the terms "oil well" and "gas well" shall have the meanings prescribed by applicable law or the appropriate government authority, or, if no definition is so prescribed, "oil well" means a well with an initial gas-oil ratio of less than 100,000 cubic feet per barrel, and "gas well" means a well with an initial gas-oil ratio of 100,000 cubic feet or more per barrel, based on a 24-hour production test conducted under normal producing conditions using standard lease separator facilities or equivalent testing equipment; and the term "horizontal completion" means a well in which there is a horizontal component in the gross completion reservoir or interval after the vertical component. In exercising its pooling rights hereunder, Lessee shall file of record a written declaration describing the unit and stating the effective date of pooling. Production, drilling or reworking operations anywhere on a unit which includes all or any part of the leased premises shall be treated as if it were production, drilling or reworking operations on the leased premises, except that the production of which Lessor's royalty is calculated shall be that proportion of the total unit production which the net acreage covered by this lease and included in the unit bears to the total gross acreage in the unit, but only to the extent such proportion of unit production is sold by Lessee. Pooling in one or more instances shall not exhaust Lessee's pooling rights hereunder, and Lessee shall have the recurring right but not the obligation to revise any unit formed hereunder by expansion or contraction or both, either before or after commencement of production, in order to conform to the well spacing or density pattern prescribed or permitted by the governmental authority having jurisdiction, or to conform to any productive acreage determination made by such governmental authority. In making such a revision, Lessee shall file of record a written declaration describing the revised unit and stating the effective date of revision. To the extent that any portion of the leased premises is included in or excluded from the unit by virtue of such revision, the proportion of unit production on which royalties are payable hereunder shall thereafter be adjusted accordingly. In the absence of production in paying quantities from a unit, or upon permanent cessation thereof, Lessee may terminate the unit by filing of record a written declaration describing the unit and stating the date of termination. Pooling hereunder shall not constitute a cross-conveyance of interests.

7. If Lessor owns less than the full mineral estate in all or any part of the leased premises, the royalties and shut-in royalties payable hereunder for any well on any part of the leased premises or lands pooled therewith shall be reduced to the proportion that Lessor's interest in such part of the leased premises bears to the full mineral estate in such part of the leased premises.

8. The interest of either Lessor or Lessee hereunder may be assigned, devised or otherwise transferred in whole or in part, by area and/or by depth or zone, and the rights and obligations of the parties hereunder shall extend to their respective heirs, devisees, executors, administrators, successors and assigns. No change in Lessor's ownership shall have the effect of reducing the rights or enlarging the obligations of Lessee hereunder, and no change in ownership shall be binding on Lessee until 60 days after Lessee has been furnished the original or certified or duly authenticated copies of the documents establishing such change of ownership to the satisfaction of Lessee or until Lessor has satisfied the notification requirements contained in Lessee's usual form of division order. In the event of the death of any person entitled to shut-in royalties hereunder, Lessee may pay or tender such shut-in royalties to the credit of decedent or decedent's estate in the depository designated above. If at any time two or more persons are entitled to shut-in royalties hereunder, Lessee may pay or tender such shut-in royalties to such persons or to their credit in the depository, either jointly or separately in proportion to the interest which each owns. If Lessee transfers its interest hereunder in whole or in part Lessee shall be relieved of all obligations thereafter arising with respect to the transferred interest, and failure of the transferee to satisfy such obligations with respect to the transferred interest shall not affect the rights of Lessee with respect to any interest not so transferred. If Lessee transfers a full or undivided interest in all or any portion of the area covered by this lease, the obligation to pay or tender shut-in royalties hereunder shall be divided between Lessee and the transferee in proportion to the net acreage interest in this lease then held by each.

9. Lessee may, at any time and from time to time, deliver to Lessor or file of record a written release of this lease as to a full or undivided interest in all or any portion of the area covered by this lease or any depths or zones thereunder, and shall thereupon be relieved of all obligations thereafter arising with respect to the interest so released. If Lessee releases all or an undivided interest in less than all of the area covered hereby, Lessee's obligation to pay or tender shut-in royalties shall be proportionately reduced in accordance with the net acreage interest retained hereunder.

10. In exploring for, developing, producing and marketing oil, gas and other substances covered hereby on the leased premises or lands pooled or unitized therewith, in primary and/or enhanced recovery, Lessee shall have the right of ingress and egress along with the right to conduct such operations on the leased premises as may be reasonably necessary for such purposes, including but not limited to geophysical operations, the drilling of wells, and the construction and use of roads, canals, pipelines, tanks, water wells, disposal wells, injection wells, pits, electric and telephone lines, power stations, and other facilities deemed necessary by Lessee to discover, produce, store, treat and/or transport production. Lessee may use in such operations, free of cost, any oil, gas, water and/or other substances produced on the leased premises, except water from Lessor's wells or ponds without Lessor's consent, which cannot be unreasonably withheld. In exploring, developing, producing or marketing from the leased premises or lands pooled therewith, the ancillary rights granted herein shall apply (a) to the entire leased premises described in Paragraph 1 above, notwithstanding any partial release or other partial termination of this lease; and (b) to any other lands in which Lessor now or hereafter has authority to grant such rights in the vicinity of the leased premises or lands pooled therewith. When requested by Lessor in writing, Lessee shall bury its pipelines below ordinary plow depth on cultivated lands. No well shall be located less than 200 feet from any house or barn now on the leased premises or other lands used by Lessee hereunder, without Lessor's consent, and Lessee shall pay for damage caused by its operations to buildings and other improvements now on the leased premises or such other lands, and to commercial timber and growing crops thereon. Lessee shall have the right at any time to remove its fixtures, equipment and materials, including well casing, from the leased premises or such other lands during the term of this lease or within a reasonable time thereafter.

11. Lessee's obligations under this lease, whether express or implied, shall be subject to all applicable laws, rules, regulations and orders of any governmental authority having jurisdiction including restrictions on the drilling and production of wells, ~~and the price of oil, gas and other substances covered hereby.~~ When drilling, reworking, production or other operations are prevented or delayed by such laws, rules, regulations or orders, ~~as by inability to obtain necessary permits, equipment, material, water, electricity, fuel, access, easements, or by fire, flood, adverse weather conditions, war, sabotage, rebellion, insurrection, riot, strike or labor disputes, as by inability to obtain a permit for production or failure of production or other operations or transport such production, or by any other cause not reasonably within Lessee's control,~~ this lease shall not terminate because of such prevention or delay, and at Lessee's option, the period of such prevention or delay shall be added to the term hereof. Lessee shall not be liable for breach of any express or implied covenants of this lease when drilling, production or other operations are so prevented, delayed or interrupted.

12. No litigation shall be initiated by Lessor with respect to any breach or default by Lessee hereunder, for a period of at least 90 days after Lessor has given Lessee written notice fully describing the breach or default, and then only if Lessee fails to remedy the breach or default, within such period. In the event the matter is litigated and there is a final judicial determination that a breach or default has occurred, this lease shall not be forfeited or cancelled in whole or in part unless Lessee is given a reasonable time after said judicial determination to remedy the breach or default and Lessee fails to do so.

13. Lessor hereby warrants and agrees to defend title conveyed to Lessee hereunder, and agrees that Lessee at Lessee's option may pay and discharge any taxes, mortgages or liens existing, levied or assessed on or against the leased premises. If Lessee exercises such option, Lessee shall be subrogated to the rights of the party to whom payment is made and, in addition to its other rights, may reimburse itself out of any royalties or shut-in royalties otherwise payable to Lessor hereunder. In the event Lessee is made aware of any claim inconsistent with Lessor's title, Lessee may suspend the payment of royalties and shut-in royalties hereunder, without interest, until Lessee has been furnished satisfactory evidence that such claim has been resolved.

SEE ADDENDUM ATTACHED HERETO AND MADE A PART HEREOF FOR ADDITIONAL TERMS AND PROVISIONS

IN WITNESS WHEREOF, this lease is executed to be effective as of the date first written above, but upon execution shall be binding on the signatory and the signatory's heirs, devisees, executors, administrators, successors and assigns, whether or not this lease has been executed by all parties hereinabove named as Lessor.

Lessor: The City of Lubbock, Texas, a Municipal Corporation

By: _____

Title: _____

CORPORATE ACKNOWLEDGMENT

STATE OF TEXAS)
)SS
COUNTY OF LUBBOCK)

The foregoing instrument was acknowledged before me this ____ day of _____, 2012, by _____ (Office) of **The City of Lubbock, Texas, a Municipal Corporation**, on behalf of the corporation.

Seal

Notary Public, State of Texas

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVERS LICENSE NUMBER.

MEMORANDUM OF OIL AND GAS LEASE

THE STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF LUBBOCK §

That the undersigned, The City of Lubbock, Texas, a Municipal Corporation, whose address is PO Box 15100, Lubbock, TX 79350, (herein collectively called "Lessor", whether one or more) has executed and delivered to Four Sevens Exploration Co., Ltd., herein called "Lessee", whose address is 777 Taylor St., Suite 1090, Fort Worth, Texas, 76102, an Oil and Gas Lease dated _____, and covering minerals in 2,085.47 gross acres of land, whether more or less (+-) as situated in Lubbock County, Texas, and being more described in the following:

640 acres, more or less, being all of Section No.2 , Block D-3 , Abstract No. 654, G.C.& S.F. Ry. Co. Survey and Certificate No. 3/368, Lubbock County, Texas, and being described in that certain Warranty Deed dated May 22, 1942 from Allie Ebba Cockrell, individually and as Executrix of the Will and Estate of Florence Jones, Deceased, joined by my husband Fred Cockrell to The City of Lubbock Texas, a municipal corporation, recorded in Volume 267, Page 206, of the records of Lubbock County, Texas.

640 acres, more or less, in Section 28, Block A, Abstract No. 685, Lubbock County, Texas.

433.25 acres, more or less, being part of Section 32, Block A, Abstract No. 684, Lubbock County, Texas, described by metes and bounds in Warranty Deed dated May 27, 1942 from Allie E. Cockrell, et al, to The City of Lubbock recorded in Volume 267, Page 206, and Deed dated January 4, 1949 from U.S.A. to The City of Lubbock recorded in Volume 383, Page 144, and Petition for Condemnation dated October 31, 1957 from the Lubbock District Court to The City of Lubbock recorded in Volume 673, Page 495, and Warranty Deed dated May 31, 1973, from Grace Jones, et al, to The City of Lubbock recorded in Volume 1350, Page 747, in the Deed Records, Lubbock County, Texas.

19.72 acres, more or less, being part of the N/2 of Section 36, Block A, in the G.C. & S.F. Railway Co. Survey, Abstract No.683, Certificate No. 2/253 and being described by metes and bounds description in that Deed dated February 14, 1962, from the Board of Directors of The Texas A&M University Systems to City of Lubbock and recorded in Volume 1366, Page 485, in the records of Lubbock County, Texas.

151.276 acres, more or less, being part of the SW/4 of Section 36, Block A, in the G.C. & S.F. Railway Co. Survey, Abstract No.683, Certificate No. 2/253 and being described by metes and bounds description in two (2) Warranty Deeds (1) dated March 26 1973, from Cleo Thiel and her husband Robert W. Thiel to City of Lubbock, a Home Rule Municipal Corp. and recorded in Volume 1338, Page 223, (2) Warranty Deed dated March 26 1973, from Cleobob, Incorporated, to City of Lubbock, a Home Rule Municipal Corp. and recorded in Volume 1338, Page 225, of the records of Lubbock County, Texas.

160.00 acres more or less, being the SW/4 of Section 6, Block D-3, A-1299 and A-1300, D & W RR Co. Survey, Lubbock County, Texas.

41.224 acres more or less, being part of Section 43, Block A, A-56, HE & WT RR Co. Survey, Lubbock County, Texas, and being further described in Judgment dated November 29, 1971, between City of Lubbock vs. Arthur L. Cone, et al, and being recorded in Volume 1288, Page 397, Deed Records, Lubbock County, Texas.

Whereas said Oil and Gas Lease provided for a "Primary Term" of 3 years effective on the date first written above. Duplicate copies of said lease are in the possession of Lessor's and Lessee where the same may be examined by any person having a lawful right or legitimate interest therein.

Now therefore, for the consideration set forth in said lease, Lessor does hereby grant, lease and let unto Lessee all of the rights as specified therein, to the above described properties.

This "Memorandum of Lease" shall be binding on all parties, their heirs, successors and Assigns.

LESSOR: The City of Lubbock, Texas, a Municipal Corporation

By: _____

Title: _____

CORPORATE ACKNOWLEDGMENT

STATE OF TEXAS)
)SS
COUNTY OF LUBBOCK)

The foregoing instrument was acknowledged before me this _____ day of _____, 2011, by
_____, (Office) of **The City of Lubbock, Texas, a**
Municipal Corporation, on behalf of the corporation.

Seal:

Notary Public, State of Texas

Exhibit A
ADDENDUM

ATTACHED TO AND MADE A PART OF THAT CERTAIN OIL AND GAS LEASE
DATED _____

1. Minerals Covered. Oil and Gas Only: This lease covers only "oil and gas" which term, as used herein means "only oil, gas and other related hydrocarbons, including sulfur produced as a by-product of oil and or gas" and does not cover or include any other minerals, including but not limited to coal, lignite or uranium. All other said minerals are excluded and are reserved to Lessor.

2. Royalty. The royalty share for all oil and gas under this Lease shall be 25%.

Lessor's royalty shall never bear or be chargeable with, either directly or indirectly, any part of the costs or expenses of production, gathering, dehydration, compression, transportation, manufacturing, processing, treating, marketing, or depreciation of any plant or other facility or facilities or equipment for processing or treating of the oil or gas produced from the Leased Premises or any other costs of a similar nature. Gas shall be priced at the point of sale to a third party and not at the well unless an arms length sale to a third party occurs at that point.

Upon written request and reasonable notice by Lessor, Lessee shall make available to Lessor or Lessor's authorized representative for inspection and examination the books and accounts, receipts, well records, and all contracts and other records pertaining to the production, transportation, sale and marketing of the oil and gas produced on the Leased Premises which relate to or have bearing on, in any manner, the royalty to be received by Lessor hereunder. Any inspection or examination shall be done at Lessee's principal place of business during normal working hours.

Any use of oil or gas produced from operations on or under the Leased Premises shall be included in calculating revenue and payment of royalties from the well production.

Notwithstanding any other provision in this section, Lessee may reduce Lessor's royalty to not less than 22.5% upon providing Lessor satisfactory evidence that, in order to secure an off premise well site from which to produce oil or gas from the Leased Premises, Lessee was obligated to grant an overriding royalty interest in oil or gas produced from the Leased Premises to the surface owner at said off premise well site. In that event, and only in that event, Lessor's royalty may be reduced by the amount of said overriding royalty interest, **but in no event shall such reduction exceed a 2.5% royalty interest.** Lessor and Lessee acknowledge that "pad sites" using current technology often host more than one well head. Therefore, Lessee agrees to make best efforts to secure an off premise well site without the grant of an overriding royalty interest. In the event such efforts are not successful, and only in that event, Lessee may reduce the Lessor's royalty from the well in question to not less than 22.5% utilizing the calculation set out in this paragraph.

3. Primary Term Extension. Notwithstanding any provision herein to the contrary, in order the Primary Term to be extended by Lessee, Lessee shall pay Lessor the amount of \$350 per acre per year for such an extension. Lessee may opt to extend the Primary Term for two (2) one-year periods.

4. Shut-in Royalty. While there is a gas well on this Lease or on lands pooled with the Land capable of producing in paying quantities, but gas is not being sold, at the end of the Primary Term or any time thereafter, Lessee shall pay or tender in advance an annual shut-in royalty of \$20,000 for each well from which gas is not being sold. Payment with respect to a well will be due within 60 days after the well is shut-in and shall be proportionately reduced to Lessor's percentage of acreage in the pooled unit. While shut-in royalty payments are timely and properly paid, this Lease will be held as a producing lease.

5. Continuous Development.

(a) If, at the expiration of the Primary Term, oil or gas is not being produced from the Leased Premises, but Lessee has commenced the drilling of a well on the Leased Premises, the Lease will not terminate but will remain in effect for so long thereafter as operation are carried out with due diligence with no cessation of more than 60 days, and if the operations result in the production of oil or gas, the Lease shall remain in force as otherwise provided herein. For the purposes of this Lease, the term "operations" means operations for any of the following: drilling, testing, completing, reworking, recompleting, deepening, plugging back, or repairing of a well in search for production of oil or gas.

(b) If this Lease is maintained beyond the expiration of the Primary Term by production or otherwise, it will remain in force as to all acreage and depths as long as there is no lapse of more than 150 days between the completion of one well and the commencement of the actual drilling of another well. The commencement of actual drilling means the penetration of the surface with a drilling rig capable of drilling to the anticipated total depth of the well. After a well is commenced, drilling operations must continue in a good and workmanlike manner in a good faith effort to reach the anticipated total depth with no cessation of operations for more than 60 consecutive days. A well will be deemed to have been completed on the date of the release of the drilling rig from the drill site and any completion operations cease. The permitted time between wells shall be cumulative so that if a well is commenced prior to the date it is required to be commenced, the number of days prior to the date on which the well should have been commenced shall be added to the time permitted for the next well.

(c) If at any time the maximum time for the commencement of the actual drilling of a well expires without the commencement of the well, or upon the expiration of the Primary Term if the Lease is not maintained by continuous drilling or any other provision contained herein, this Lease will terminate except as to the Retained Tract (defined below) surrounding any well that is then producing in paying quantities or deemed to be producing in paying quantities by virtue of payment of shut-in royalties, and as to each Retained Tract, the Lease will then terminate as to all depths 100 feet below the stratigraphic equivalent of the base of the deepest producing formation on the Retained Tract. The Lease will be treated as a separate lease with respect to each Retained Tract and will continue so long as production in paying quantities continued from

the Retained Tract or the Lease is otherwise maintained. If production from a Retained Tract ceases from any cause, this Lease will terminate as to that tract unless Lessee commences operations for drilling or reworking on the tract within 60 days after the cessation of production or this Lease is maintained by other provisions, in which case the Lease as to that Retained Tract will continue in force as long as the operations are prosecuted with no cessation of more than 60 consecutive days, and if they result in production, so long thereafter as there is production from the Retained Tract.

(d) As used in the Lease, the term "horizontal well" means a well that meets the definition of a "horizontal drain hole well" under Statewide Rule 86 of the Railroad Commission of Texas, and a "vertical well" is a well that is not a horizontal well. The land assigned to a well for the purposes of this section is referred to as a "Retained Tract." Once Lessee concludes its continuous drilling operations hereunder, each Retained Tract must include sufficient wells drilled to hold the Retained Tract and the parties agree that the acreage earned by drilling a well may not exceed the minimum size required to obtain a drilling permit under the well density rules adopted by the Railroad Commission of Texas for the field, or if there are no field rules that apply, the Retained Tract shall be limited to the smallest size required to obtain a drilling permit under the statewide well density rules of the Railroad Commission of Texas. A Retained Tract for a vertical well may not exceed 40 acres. If field rules are established later that permit obtaining a drilling permit with less acreage, a Retained Tract for a vertical well may not exceed the minimum size permitted. A Retained Tract for a horizontal well may include the minimum acreage specified above for a vertical well plus the additional acreage listed in the tables in Rule 86 and must comply with the requirements of Rule 86 for a minimum permitted well density. Each Retained Tract shall be designated in a shape that maximizes the number of possible Retained Tracts on the Leased Premises.

(e) Within 60 days after the last to occur of the expiration of the Primary Term or the continuous drilling program, Lessee must file in the county records and furnish to Lessor a document designating each Retained Tract by metes and bounds description prepared by a professional surveyor, specifying the retained depths thereunder, and releasing all other depths and acreage. A gas well that becomes an oil well will hold only the acreage permitted for an oil well, and Lessee must file a redesignation of the Retained Tract (containing metes and bounds description prepared by a professional surveyor and specifying the retained depths thereunder) in the Real Property Records of the county where the Land is located. If Lessee fails to file timely a document required by this paragraph after Lessor has provided thirty (30) days prior written notices, then Lessor may do so, and the filing will bind Lessee.

(f) Lessee shall drill as many horizontal wells from each drill site as is reasonably practicable in accordance with good oilfield practices and taking into account all geological and geophysical information known to Lessee. Each drill site should each be located in such a manner as to facilitate the drilling of as many wells as possible from such drill site in order to minimize the number of drill sites on lands pooled herewith.

6. Vertical Pugh Clause. Sixty (60) days after completion of a well, this lease shall expire to all depths below the stratigraphic equivalent of 100 feet below the base of the deepest producing formation, provided however, if Lessee is then engaged in drilling

operations on the Leased Premises or on acreage pooled therewith, this lease shall remain in full force and effect as to all depths so long as no more than one hundred fifty (150) days elapse between the completion or abandonment of one well and the commencement of operations for the drilling of another well.

7. **Horizontal Pugh Clause.** Notwithstanding any provision herein to the contrary, upon the expiration of the primary term of this lease or upon the expiration of sixty (60) days following the completion of the last well drilled on the leased premises or acreage pooled therewith (whether completed as a well capable of production in paying quantities or as a dry hole), whichever is the later date, this lease shall terminate as to any land not included in a pooled unit, proration unit or other unit from which any well, located thereon at pooled therewith, is producing or may be capable of producing in paying quantities, or upon which drilling, reworking or other operations calculated to restore production are being pursued as herein provided. After the expiration of the primary term of this lease, if production on any pooled, proration or other unit permanently ceases from any cause either voluntary or involuntary (and if this lease is not otherwise being maintained), this lease shall terminate as to such unit unless Lessee within (60) days thereafter commences reworking operations or the actual drilling of a new well thereon. In such event, this lease will continue in effect as to such unit so long as such drilling or reworking is prosecuted with no cessation of such operations for more than (60) consecutive days until production is restored.

8. Any lights used by the Lessee on airport property will be subject to the review and approval of airport management prior to activation. All operations on airport property or directly adjacent to airport property will first be coordinated with airport operations to assure compliance with Federal Aviation Administration rules and regulations. Compliance with FAA rules and regulations will be the sole responsibility of Lessee.

9. This Lease Agreement is entered into subject to that certain agricultural lease agreement between the City of Lubbock and K. F. Thiel & Sons dated 9 June 2004 and any and all extensions thereto. The Thiel Lease Agreement is attached hereto as Exhibit "B".

10. **No Surface Drilling Use Clause.** It is hereby agreed and understood that there shall be no drilling activities on the surface of the Leased Premises without the prior written permission from the surface owner of the applicable portion of the Leased Premises. Notwithstanding the foregoing, this waiver of surface shall not be construed as a waiver of the rights of Lessee to utilize the subsurface of the Leased Premises under this Lease, and Lessee shall have the right to exploit, explore for, develop and produce oil, gas and other covered minerals under this Lease from wells from surface locations off the Leased Premises, including but not limited to, directional or horizontal drilling activity which comes under the surface of the Leased Premises. This drilling surface waiver does not apply to any surface rights associated with instruments other than this Lease.

11. **No Warranty of Title.** This Lease is made and entered into without any express or implied warranty of title by, or recourse upon, Lessor(s) whatsoever, not even for the return of the consideration paid heretofore or hereunder.

12. Addendum Prevails. It is understood and agreed by all parties hereto that the provisions of this Addendum supersede any provisions to the contrary in the printed lease hereof.

13. Offset Wells. For purposes of this Lease, an "offsetting well" is a well that is producing oil or gas from adjacent or nearby land and is in reasonable probability draining the Leased Premises. If an offsetting well is completed, Lessee must, within 120 days after the date of first sales from the offsetting well, commence operations for the drilling of an offset well on the Lease Premises and must diligently pursue those operations to the horizon in which the offsetting well is producing, or at the option of Lessee: (i) execute and deliver to Lessor a release in recordable form of the acreage nearest to the offsetting well; or (ii) pay Lessor a monthly royalty equal to the royalty that would be payable under this Lease if the production from the offsetting well had come from the Leased Premises. In the event acreage is released pursuant to (i) above, the release will cover a tract of a size and shape that will permit the drilling of a well to the producing formation and the creation of a proration unit surrounding the well in compliance with the field rules for the field in which the offsetting well is located, but if there are no fields rules, in compliance with the statewide rules of the Railroad Commission of Texas. A well producing with perforations within 330 feet of the Leased Premises will be conclusively presumed to be draining the Land.

14. No Warranties. Lessor makes no warranty of any kind with respect to, and has no obligation to defend, title to the Land. If Lessor owns an interest in the Land less than the entire fee simple estate, then the royalties payable hereunder will be reduced proportionately.

15. Attorney's Fees. In the event that Lessor is required to employ legal counsel for the enforcement of any provision of this Lease and prevails, Lessor will be entitled to recover from Lessee reasonable attorney's fees and expenses, including but not limited to expert witness fees, incurred by Lessor.

16. Insurance. At all times while this Lease is in force, Lessee shall acquire and maintain insurance covering all of its activities and operations hereunder, including any work performed on its behalf by contractors, subcontractors, and others, naming Lessor as an additional insured. The policies shall include coverage for comprehensive general liability, for bodily injury and property damage, blowout and loss of well coverage, and coverage for any damage to the environment, including coverage for the cost of clean up and surface remediation. The coverage shall be in the minimum amount of \$3,000,000. Lessee shall furnish a certificate from the issuing insurance company or companies evidencing the coverage.

17. Indemnity. LESSEE, ITS SUCCESSORS AND ASSIGNS WILL PROTECT, DEFEND, INDEMNIFY, REIMBURSE, AND HOLD HARMLESS, THE LESSEE, ITS EMPLOYEES, SURFACE TENANTS, AGENTS, SUCCESSORS, ASSIGNS, HEIRS, DEVISEES, AND PERSONAL REPRESENTATIVES (COLLECTIVELY "LESSEE INDEMNITEES") FROM AND AGAINST ALL ATTORNEYS' FEES, CAUSES OF ACTION, CLAIMS, COSTS, COURT COSTS, DAMAGES, DEMANDS, EXPENSES, EXPERT FEES, JUDGMENTS, PENALTIES, AND SUITS OF EVERY KIND OR CHARACTER (COLLECTIVELY "CLAIMS"), AND WHETHER IN CONTRACT, IN TORT OR EXISTING AT COMMON LAW, OR BY

VIRTUE OF ANY STATUTE, REGULATION OR ORDINANCE, ARISING OUT OF ANY ACT WHICH MAY HEREINAFTER TRANSPIRE FROM ANY ACTIVITY EXPRESSLY OR IMPLIEDLY AUTHORIZED OR REQUIRED BY THIS AGREEMENT WHETHER PERFORMED BY THE LESSEE OR THOSE HAVING A CONTRACTUAL RELATIONSHIP WITH LESSEE EXCEPT TO THE EXTENT THAT SUCH CLAIMS RESULT FROM LESSEE INDEMNITEES' NEGLIGENCE, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. FOR PURPOSES OF THE INDEMNITY PROVISIONS HEREOF, ANY ACTS OR OMISSIONS OF LESSEE, OR BY EMPLOYEES, AGENTS, ASSIGNEES, SUCCESSORS, GUESTS, INVITEES, CONTRACTORS, OR SUBCONTRACTORS OF LESSEE OR ACTIONS OF ANY OTHER PERSONS FOR OR ON BEHALF OF LESSEE (WHETHER OR NOT THEY ARE NEGLIGENT, INTENTIONAL, WILLFUL, OR UNLAWFUL), SHALL BE STRICTLY ATTRIBUTABLE TO LESSEE AND AS SUCH SHALL FALL WITHIN THE SCOPE OF LESSEES OBLIGATION IN THIS SUBPARAGRAPH TO INDEMNIFY LESSOR THE INDEMNITY OBLIGATIONS OF THIS PARAGRAPH SHALL APPLY TO ANY ATTORNEYS' FEES, COURT COSTS OR OTHER EXPENSES LESSEE INCURS IN THE SUCESSFUL DEFENSE OF ANY ACTION OR CLAIM BROUGHT AGAINST LESSEE WHICH ARISES FROM OR RELATES TO THE ACTIVITY OF LESSEE EXPRESSLY OR IMPLIEDLY AUTHORIZED OR REQUIRED BY THIS AGREEMENT.

18. Compliance with Environmental Laws and Regulations. Lessee, its successors and assigns, by its acceptance of this Lease, hereby agrees to comply with all applicable laws, rules and regulations and hereby assumes full responsibility for, and agrees to indemnify, defend and hold harmless, Lessor from and against any loss, liability, claim, fine, expense cost (including attorneys fees and expenses) and cause of action caused by or arising out of the violation (or defense of the alleged violation) of any federal, state or local laws, rules or regulations applicable to any waste material, drilling matter fluid or any hazardous substances released or caused to be released by Lessee or Lessee's agents, or independent contractors, or any other operations on the Leased Premises hereunder into the atmosphere or into or upon the land or any water course or body of water, including ground water, or subsurface water. Further, Lessee covenants and agrees to accept total and sole responsibility for the preservation of all animal and plant life existing under the protection of the Endangered Species Act; and to comply with all governmental laws and edicts relating to any other and all environmental cares and concerns. Lessee further acknowledges and agrees that, as between Lessor and Lessee, it is also solely liable for violations of environmental laws, rulings and edicts by contractors, crews, service companies, transportation companies, and any other company or individual who travels or works on, over or across the Leased Premises while engaged in pursuits that are, in any way, connected with the Lessee's exploration for oil and gas. Additionally, upon receiving any notice regarding any environmental, pollution or contamination problem or violation of any law, rule or regulation, Lessee will forward a copy to Lessor by certified mail within thirty (30) days. This provision and its indemnities shall survive the termination of this Lease, and shall enure to the successors, heirs and assigns of Lessor and Lessee.

Lessee agrees to pay the cost of water quality testing, as follows: (1) an initial baseline water quality test to be conducted no more than 60 days before Lessee commences actual drilling and

(2) re-testing 1 year following completion of the first well, and (3) repeat testing every three years thereafter, as long as this lease remains in effect. Said testing shall be conducted at each mutually agreeable water wells on, the Leased Premises. The testing shall be done by a qualified professional water testing firm selected jointly by the Lessee and Lessor. Testing will include, but not be limited to, testing for gas, minerals, metals, volatile organic compounds (VOC's), and semi-volatile organic compounds (SVOC's).

19. Miscellaneous Provisions.

(a) In the event this Lease terminates for any reason as to all or any part of the Land, Lessee shall, within 60 days thereafter, deliver to Lessor a recordable release covering all of the Land or that portion of the Land as to which this Lease terminated.

(b) Nothing in this Lease negates any implied covenants imposed upon Lessee under applicable law.

(c) Lessee will conduct all operations hereunder in compliance with the rules of the Railroad Commission of Texas and federal and state environmental laws and regulations and municipal ordinances. Upon written request of Lessor, Lessee shall furnish to Lessor copies of applications to drill, daily drilling reports, well tests, completion reports, plugging records, and production reports. Lessee will divulge to Lessor's Representative correct information as requested in writing by Lessor as to each well, the production therefrom, and such non-proprietary technical information as Lessee may acquire; however, Lessor and Lessor's Representative must keep all such information confidential and may not divulge same to any third party. Lessor's Representative has the right to be present when wells or tanks are gauged and production metered and upon written request has the right to examine all run tickets and to have full information as to production and runs and to received copies of all run tickets.

(d) The term "production" means production in paying quantities. Lessee's obligations to pay money under this Lease are to be performed in Lubbock County, Texas. Paragraph headings are used in this Lease for convenience only and are not to be considered in the interpretation or construction of this Lease. The execution or ratification by Lessor of any division order, gas contract, or any other documents will not alter any provision of this Lease unless the intent to do so is expressly stated in the document. Under no circumstances may Lessee, its agents, employees, or contractors bring firearms or dogs or other animals on the Leased Premises or hunt or fish on the Leased Premises. Upon Lessor's written request, Lessee agrees to furnish to Lessor a copy of each title opinion or report obtained by Lessee that covers all or any part of the Leased Premises together with a copy of each title curative document obtained by Lessee.

(e) Any compressors used in connection with this Lease or the Leased Premises herewith shall be equipped with the latest technology in noise suppression and muffling devices. Every five years if requested by Lessor, Lessee shall be required to install quieter compressors if such are available for sale and distribution.

(f) Upon Lessor's written request and reasonable notice, Lessor shall have the right to inspect, during normal business hours, all records of Lessee relating to this Lease, operations

conducted on the Leased Premises, the sale and marketing of production from the Leased Premises, and the payment of royalties, including the right to audit Lessee's books insofar as they relate to the foregoing. All such information is confidential and shall not be further disclosed by Lessor or Lessor's Representative without Lessee's prior written consent.

(g) Lessor may not own all of the minerals underlying the Land. Lessee agrees that it will not drill, conduct operations or participate in drilling or operations on the Land or Leased Premises which are not in compliance with the terms and requirements of this Lease by claiming authority under the lease or leases covering the outstanding interest.

(h) Choice of Law. This agreement will be construed under the laws of the State of Texas, without regard to choice-of-law rules of any jurisdiction. Venue is in Lubbock County, Texas.

(i) Lessee, for itself and its successors and assigns, hereby waives any right of eminent domain possessed by Lessee or any Affiliate of Lessee to acquire any right of way or easement for the transportation of gas, oil or any other substance.

(j) Groundwater Protection. Any oil or gas wells drilled by Lessee shall be drilled in compliance with the surface casing requirements imposed by the State of Texas for groundwater protection and Lessee shall install such surface casing in the required manner in order to insure the protection of all water bearing formations in and under the Land. Further, Lessee agrees to conduct water quality testing on any water wells available on lands pooled with the Land, as follows: (1) an initial baseline water quality test to be conducted no more than 60 days before Lessee commences actual drilling for the first well from Lessee's drillsite located on lands to be pooled with the Land, and (2) re-testing 1 year following completion of the first well, and (3) repeat testing every three years thereafter, as long as this Lease remains in effect. The testing shall be done by a qualified professional water testing firm and will include, but not be limited to, testing for gas, minerals, metals, volatile organic compounds (VOC's), and semi- volatile organic compounds (SVOCs).

(k) Visual Appearance. Lessee shall maintain any drillsites within 1,000 feet of the Land in a neat and orderly fashion. For safety and appearance, Lessee shall construct and install fencing around each drillsite and related facilities in a visually appealing manner, in an effort to maintain the continuity of the surrounding area, and shall maintain the fences in a good state of repair. Upon conclusion of Lessee's drilling and completion operations, Lessee shall restore that portion of the drillsite not being utilized by Lessee for producing operations as nearly as is reasonably practicable to its original state. In addition, Lessee shall maintain the drillsite in a manner whereby it shall be free of noxious vegetation and debris resulting from Lessee's operations. Upon lease expiration, Lessee shall remove all of Lessee's equipment and restore the surface of the ground on the drillsite as nearly as is reasonably practicable to its original state.

(l) Mud Pits. Lessee shall locate no mud pits on the Land.

(m) Remedial Action. Any remedial action or activities required of Lessee under this Lease shall be addressed and the remedial work commenced within the earlier of twenty (20)

days or a reasonable amount of time under the circumstances, dependent on the nature of the remedial work, and must be diligently pursued until fully performed.

(n) Environmental Safeguards. Lessee shall employ such measures as will reduce the impact of its operations upon improvements, vegetation and habitat on the Leased Premises. Lessee shall use reasonable care and safeguards in conducting its operations to prevent contamination or pollution from any waste, pollutant, or contaminant to any environmental medium, including soil, surface waters, groundwater, sediments, surface or subsurface strata, ambient air, or any other environmental medium in, on, or under the Leased Premises. Lessee shall promptly remediate any condition which is hazardous to humans or wildlife resulting from Lessee's operations.

(o) Visual Appearance. Lessee shall not permit the disposal of trash, storage of used equipment or other such materials on the well site and shall maintain the well site in a neat and orderly fashion. Lessee shall construct or improve necessary lease roads as all weather roads and shall maintain such roads in a good state of condition and repair in order to prevent excess dust and erosion and maintain the continuity of the surrounding environment. For safety and appearance, Lessee shall install appropriate fences around each well and related facilities in a visually appealing manner in an effort to maintain the continuity of the surrounding area, and shall maintain the fences in a good state of repair. Upon conclusion of Lessee's drilling and completion operations, Lessee shall restore that portion of the well site not being utilized by Lessee for producing operations as nearly as is reasonably practicable to its original state. In addition, Lessee shall maintain the well site in a manner whereby it shall be free of noxious vegetation and debris resulting from Lessee's operations. Upon lease expiration, Lessee shall remove all of Lessee's equipment and restore the surface of the ground as nearly as is reasonably practicable to its original state.

(p) Noise Abatement and Safety. Lessee shall utilize modern equipment with appropriate safeguards in its drilling, completion and producing operations. Whenever possible, Lessee shall install sound barriers and utilize hospital grade mufflers on compressors to reduce noise levels and emissions while conducting its operations.

(q) Seismic Operations. Lessee shall pay for all damages incurred to the Land which result from its seismic operations. Other than seismic operations as provided herein, by execution and delivery of this Lease, Lessee does not otherwise obtain the right to conduct exploration, excavation or drilling operations from or upon the surface of any portion of the Land.

(r) Local Ordinances. In conducting its operations hereunder, Lessee shall comply with all present and future ordinances, rule or regulations imposed by the City of Lubbock or other governmental agency. For purposes of this Lease, the Leased Premises shall be deemed to be wholly inside the corporate boundaries of the City of Lubbock, and Lessee agrees to comply with City of Lubbock Ordinances Article 8.07 for the entirety of the Leased Premises.

(s) This Lease does not carry with it the right for Lessee to use ground water, fresh, brackish or otherwise, or surface water, from the Leased Premises. The parties are in discussions regarding the sale by Lessor to Lessee of certain municipal water treatment plant discharge water

for use Lessee's operations. Regardless of the outcome of those negotiations, this Lease carries with it no express or implied right to utilize surface water or ground water from the Leased Premises and any indication to the contrary is hereby expressly revoked.

(t) Counterpart Language. This Lease may be executed in counterparts.

Executed on the date first written above.

Lessor:

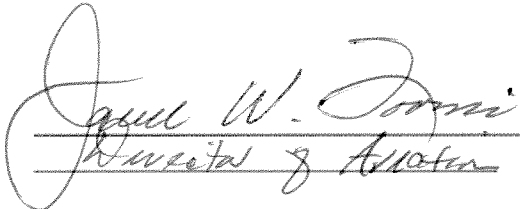
**THE CITY OF LUBBOCK, TEXAS,
A MUNICIPAL CORPORATION**

Tom Martin, Mayor

ATTEST:

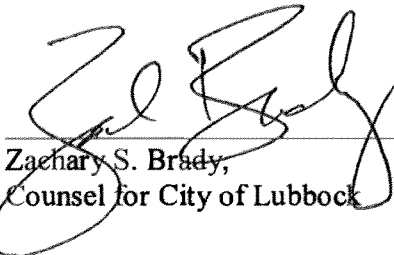
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Jacob W. Jarami
Director of Administration

APPROVED AS TO FORM:



Zachary S. Brady,
Counsel for City of Lubbock

Lessee:

FOUR SEVENS EXPLORATION CO., LTD.


By: Brad Cunningham
Title: Partner

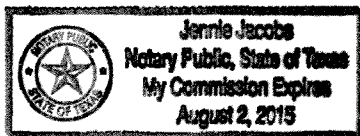
STATE OF TEXAS §
 §
COUNTY OF _____§

This instrument was acknowledged before me on the _____ day of _____, 2012, by Tom Martin, Mayor, The City of Lubbock, Texas, a Municipal Corporation.

Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF TARRANT §

This instrument was acknowledged before me on the 3 day of FEBRUARY, 2012, by Brad Cunningham, Partner, Four Sevens Exploration Co., Ltd.




Notary Public, State of Texas



Regular City Council Meeting

5. 13.

Meeting Date: 03/06/2012

Information

Agenda Item

Contract Resolution - Solid Waste: Consider a resolution authorizing the Mayor to execute Contract 10685 with Four Sevens Exploration Company, LTD, for the lease of City owned mineral rights in Lubbock County, Texas.

Item Summary

The paid up front oil and gas lease agreement allows Four Sevens Exploration Company to lease the City's mineral interest on the West Texas Regional Disposal Facility property. The site contains 1,237.54 gross acres out of several sections in Lubbock County, Texas.

The royalty share for oil and gas under the lease is 25%. Four Sevens Exploration Company will pay to the City a bonus of \$350 per acre for a primary term of three years for a total of \$433,139.

Fiscal Impact

\$433,139 revenue to the Solid Waste Fund.

Staff/Board Recommending

Scott Snider, Assistant City Manager for Community Services

Attachments

Resolution & Contract - Oil and Gas lease - Landfill

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 Oil and Gas Lease Agreement for mineral interest on the landfill property, by and between the City of Lubbock and Four Sevens Exploration Co., LTD., and 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 City Council.

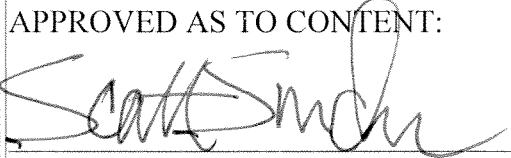
Passed by the City Council on _____.

TOM MARTIN, MAYOR

ATTEST:

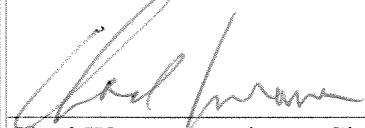
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Scott Snider, Assistant City Manager
Community Services

APPROVED AS TO FORM:



Chad Weaver, Assistant City Attorney

vw:ccdcs/RES.Agrmt-Four Sevens Exploration-landfill
February 14, 2012

PAID UP OIL AND GAS LEASE

THIS LEASE AGREEMENT is made as of the ____ day of _____, 20____, between The City of Lubbock, Texas, a Municipal Corporation, as Lessor (whether one or more) whose address is P.O. Box 15100 Lubbock, Texas 79410 and Four Seasons Exploration Co., Ltd., as Lessee, whose address is 777 Taylor St. Fort Worth, TX 76102, Suite 1090. All printed portions of this lease were prepared by the party hereinabove named as Lessee, but all other provisions (including the completion of blank spaces) were prepared jointly by Lessor and Lessee.

1. In consideration of a cash bonus in hand paid and the covenants herein contained, Lessor hereby grants, leases and less exclusively to Lessee the following described land, hereinafter called leased premises:

630.44 acres more or less, being all of Section 1, Block C-K, G.C. & S.F. Ry. Co. Survey, Abstract No. 617, Cert. No. 2/233, Lubbock County, Texas, being more particularly described by metes and bounds in that certain Warranty Deed dated May 2, 1997 from William D. Young, Jr., Trustee to The City of Lubbock, recorded as Volume 5466, Page 315, Deed Records, Lubbock County, Texas.

607.10 acres more or less, being all of Section 1, Block P, E.L. & R.R. Ry. Co. Survey, Abstract No. 335, land script No. 1211, Lubbock County, Texas, and being further described by metes and bounds in that certain Warranty Deed dated May 2, 1997 from Edmond A. Anderson et al, to the City of Lubbock, recorded as Volume 5495, Page 137, Deed Records, Lubbock County, Texas.

in the county of Lubbock, State of Texas, containing 1,237.54 gross acres, more or less (including any interests therein which Lessor may hereafter acquire by reversion, prescription or otherwise), for the purpose of exploring for, developing, producing and marketing oil and gas, along with all hydrocarbon and nonhydrocarbon substances produced in association therewith. The term "gas" as used herein includes helium, carbon dioxide and other commercial gases, as well as hydrocarbon gases. In addition to the above-described leased premises, this lease also covers accretions and any small strips or parcels of land now or hereafter owned by Lessor which are contiguous or adjacent to the above-described leased premises, and, in consideration of the aforementioned cash bonus, Lessor agrees to execute at Lessee's request any additional or supplemental instruments for a more complete or accurate description of the land so covered. For the purpose of determining the amount of any shut-in royalties hereunder, the number of gross acres above specified shall be deemed correct, whether actually more or less.

2. This lease, which is a "paid-up" lease requiring no rentals, shall be in force for a primary term of Three (3) years from the date hereof, and for as long thereafter as oil or gas or other substances covered hereby are produced in paying quantities from the leased premises or from lands pooled therewith or this lease is otherwise maintained in effect pursuant to the provisions hereof.

3. Royalties on oil, gas and other substances produced and saved hereunder shall be paid by Lessee to Lessor as follows: (a) For oil and other liquid hydrocarbons separated at Lessee's separator facilities, the royalty shall be twenty-two and one-half percent (22.5%) of such production, to be delivered at Lessee's option to Lessor at the wellhead or to Lessor's credit at the oil purchaser's transportation facilities, provided that Lessee shall have the continuing right to purchase such production at the wellhead market price then prevailing in the same field (or if there is no such price then prevailing in the same field, then in the nearest field in which there is such a prevailing price) for production of similar grade and gravity; (b) for gas (including casinghead gas) and all other substances covered hereby, the royalty shall be twenty-two and one-half percent (22.5%) of the proceeds realized by Lessee from the sale thereof, less a proportionate part of ad valorem taxes and production severance, or other excise taxes and the costs incurred by Lessee in delivering, processing or otherwise marketing such gas or other substances, provided that Lessee shall have the continuing right to purchase such production at the prevailing wellhead market price paid for production of similar quality in the same field (or if there is no such price then prevailing in the same field, then in the nearest field in which there is such a prevailing price) pursuant to comparable purchase contracts entered into on the same or nearest preceding date as the date on which Lessee commences its purchases hereunder; and (c) if at the end of the primary term or any time thereafter one or more wells on the leased premises or lands pooled therewith are capable of producing oil or gas or other substances covered hereby in paying quantities, but such well or wells are either shut in or production therefrom is not being sold by Lessee, such well or wells shall nevertheless be deemed to be producing in paying quantities for the purpose of maintaining this lease. If for a period of 90 consecutive days such well or wells are shut in or production therefrom is not being sold by Lessee, then Lessee shall pay shut-in royalty of one dollar per acre then covered by this lease, such payment to be made to Lessor or to Lessor's credit in the depository designated below, on or before the end of said 90-day period and thereafter on or before each anniversary of the end of said 90-day period while the well or wells are shut in or production therefrom is not being sold by Lessee; provided that if this lease is otherwise being maintained by operations, or if production is being sold by Lessee from another well or wells on the leased premises or lands pooled therewith, no shut-in royalty shall be due until the end of the 90-day period next following cessation of such operations or production. Lessee's failure to properly pay shut-in royalty shall render Lessee liable for the amount due, but shall not operate to terminate this lease.

4. All shut-in royalty payments under this lease shall be paid or tendered direct to Lessor at above address. All payments may be made by check and such payments to Lessor deposited in the U.S. Mails in a stamped envelope addressed to the Lessor at the last address known to Lessee shall constitute proper payment.

5. If Lessee drills a well which is incapable of producing in paying quantities (hereinafter called "dry hole") on the leased premises or lands pooled therewith, or if all production (whether or not in paying quantities) permanently ceases from any cause, including a revision of unit boundaries pursuant to the provisions of Paragraph 6 or the action of any governmental authority, then in the event this lease is not otherwise being maintained in force it shall nevertheless remain in force if Lessee commences operations for reworking an existing well or for drilling an additional well or for otherwise obtaining or restoring production on the leased premises or lands pooled therewith within 90 days after completion of operations on such dry hole or within 90 days after such cessation of all production. If at the end of the primary term, or at any time thereafter, this lease is not otherwise being maintained in force but Lessee is then engaged in drilling, reworking or any other operations reasonably calculated to obtain or restore production therefrom, this lease shall remain in force so long as any one or more of such operations are prosecuted with no cessation of more than 90 consecutive days, and if any such operations result in the production of oil or gas or other substances covered hereby, as long thereafter as there is production in paying quantities from the leased premises or lands pooled therewith. After completion of a well capable of producing in paying quantities hereunder, Lessee shall drill such additional wells on the leased premises or lands pooled therewith as a reasonably prudent operator would drill under the same or similar circumstances to (a) develop the leased premises as to formations then capable of producing in paying quantities on the leased premises or lands pooled therewith, or (b) to protect the leased premises from uncompensated drainage by any well or wells located on other lands not pooled therewith. There shall be no covenant to drill exploratory wells or any additional wells except as expressly provided herein.

6. Lessee shall have the right but not the obligation to pool all or any part of the leased premises or interest therein with any other lands or interests, as to any or all depths or zones, and as to any or all substances covered by this lease, either before or after the commencement of production, whenever Lessee deems it necessary or proper to do so in order to prudently develop or operate the leased premises, whether or not similar pooling authority exists with respect to such other lands or interests. The unit formed by such pooling for an oil well which is not a horizontal completion shall not exceed 80 acres plus a maximum acreage tolerance of 10%, and for a gas well or a horizontal oil completion shall not exceed 640 acres plus a maximum acreage tolerance of 10%; provided that a larger unit may be formed for an oil well or gas well or horizontal completion to conform to any well spacing or density pattern that may be prescribed or permitted by any governmental authority having jurisdiction to do so. For the purpose of the foregoing, the terms "oil well" and "gas well" shall have the meanings prescribed by applicable law or the appropriate government authority, or, if no definition is so prescribed, "oil well" means a well with an initial gas-oil ratio of less than 100,000 cubic feet per barrel, and "gas well" means a well with an initial gas-oil ratio of 100,000 cubic feet or more per barrel, based on a 24-hour production test conducted under normal producing conditions using standard lease separator facilities or equivalent testing equipment; and the term "horizontal completion" means a well in which there is a horizontal component in the gross completion reservoir or interval after the vertical component. In exercising its pooling rights hereunder, Lessee shall file of record a written declaration describing the unit and stating the effective date of pooling. Production, drilling or reworking operations anywhere on a unit which includes all or any part of the leased premises shall be treated as if it were production, drilling or reworking operations on the leased premises, except that the production of which Lessor's royalty is calculated shall be that proportion of the total unit production which the net acreage covered by this lease and included in the unit bears to the total gross acreage in the unit, but only to the extent such proportion of unit production is sold by Lessee. Pooling in one or more instances shall not exhaust Lessee's pooling rights hereunder, and Lessee shall have the recurring right but not the obligation to revise any unit formed hereunder by expansion or contraction or both, either before or after commencement of production, in order to conform to the well spacing or density pattern prescribed or permitted by the governmental authority having jurisdiction, or to conform to any productive acreage determination made by such governmental authority. In making such a revision, Lessee shall file of record a written declaration describing the revised unit and stating the effective date of revision. To the extent that any portion of the leased premises is included in or excluded from the unit by virtue of such revision, the proportion of unit production on which royalties are payable hereunder shall thereafter be adjusted accordingly. In the absence of production in paying quantities from a unit, or upon permanent cessation thereof, Lessee may terminate the unit by filing of record a written declaration describing the unit and stating the date of termination. Pooling hereunder shall not constitute a cross-conveyance of interests.

7. If Lessor owns less than the full mineral estate in all or any part of the leased premises, the royalties and shut-in royalties payable hereunder for any well on any part of the leased premises or lands pooled therewith shall be reduced to the proportion that Lessor's interest in such part of the leased premises bears to the full mineral estate in such part of the leased premises.

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NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVERS LICENSE NUMBER.

MEMORANDUM OF OIL AND GAS LEASE

THE STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF LUBBOCK §

That the undersigned, The City of Lubbock, Texas, a Municipal Corporation, whose address is PO Box 15100, Lubbock, TX 79350, (herein collectively called "Lessor", whether one or more) has executed and delivered to Four Sevens Exploration Co., Ltd., herein called "Lessee", whose address is 777 Taylor St., Suite 1090, Fort Worth, Texas, 76102, an Oil and Gas Lease dated _____, and covering minerals in 1,237.54 gross acres of land, whether more or less (+-) as situated in Lubbock County, Texas, and being more described in the following:

630.44 acres more or less, being all of Section 1, Block C-K, G.C & S.F. Ry. Co. Survey, Abstract No. 617, Cert. No. 2/233, Lubbock County, Texas, being more particularly described by metes and bounds in that certain Warranty Deed date May 2, 1997 from William D. Young, Jr., Trustee to The City of Lubbock, recorded as Volume 5466, Page 315, Deed Records, Lubbock County, Texas.

607.10 acres more or less, being all of Section 1, Block P, E.L. & R.R. Ry. Co. Survey, Abstract No. 335, land script No.1211, Lubbock County, Texas, and being further described by metes and bounds in that certain Warranty Deed dated May 2, 1997 from Edmond A. Anderson et al, to the City of Lubbock, recorded as Volume, 5495, Page 137, Deed Records, Lubbock County, Texas.

Whereas said Oil and Gas Lease provided for a "Primary Term" of 3 years effective on the date first written above. Duplicate copies of said lease are in the possession of Lessor's and Lessee where the same may be examined by any person having a lawful right or legitimate interest therein.

Now therefore, for the consideration set forth in said lease, Lessor does hereby grant, lease and let unto Lessee all of the rights as specified therein, to the above described properties.

This "Memorandum of Lease" shall be binding on all parties, their heirs, successors and Assigns.

LESSOR: The City of Lubbock, Texas, a Municipal Corporation

By: _____

Title: _____

CORPORATE ACKNOWLEDGMENT

STATE OF TEXAS)
)SS
COUNTY OF LUBBOCK)

The foregoing instrument was acknowledged before me this _____ day of _____, 2011, by _____, _____ (Office) of **The City of Lubbock, Texas, a Municipal Corporation**, on behalf of the corporation.

Seal:

Notary Public, State of Texas

Exhibit A
ADDENDUM

ATTACHED TO AND MADE A PART OF THAT CERTAIN OIL AND GAS LEASE
DATED _____

1. Minerals Covered. Oil and Gas Only: This lease covers only “oil and gas” which term, as used herein means “only oil, gas and other related hydrocarbons, including sulfur produced as a by-product of oil and or gas” and does not cover or include any other minerals, including but not limited to coal, lignite or uranium. All other said minerals are excluded and are reserved to Lessor.

2. Royalty. The royalty share for all oil and gas under this Lease shall be 25%.

Lessor’s royalty shall never bear or be chargeable with, either directly or indirectly, any part of the costs or expenses of production, gathering, dehydration, compression, transportation, manufacturing, processing, treating, marketing, or depreciation of any plant or other facility or facilities or equipment for processing or treating of the oil or gas produced from the Leased Premises or any other costs of a similar nature. Gas shall be priced at the point of sale to a third party and not at the well unless an arms length sale to a third party occurs at that point.

Upon written request and reasonable notice by Lessor, Lessee shall make available to Lessor or Lessor’s authorized representative for inspection and examination the books and accounts, receipts, well records, and all contracts and other records pertaining to the production, transportation, sale and marketing of the oil and gas produced on the Leased Premises which relate to or have bearing on, in any manner, the royalty to be received by Lessor hereunder. Any inspection or examination shall be done at Lessee’s principal place of business during normal working hours.

Any use of oil or gas produced from operations on or under the Leased Premises shall be included in calculating revenue and payment of royalties from the well production.

Notwithstanding any other provision in this section, Lessee may reduce Lessor’s royalty to not less than 22.5% upon providing Lessor satisfactory evidence that, in order to secure an off premise well site from which to produce oil or gas from the Leased Premises, Lessee was obligated to grant an overriding royalty interest in oil or gas produced from the Leased Premises to the surface owner at said off premise well site. In that event, and only in that event, Lessor’s royalty may be reduced by the amount of said overriding royalty interest, **but in no event shall such reduction exceed a 2.5% royalty interest.** Lessor and Lessee acknowledge that “pad sites” using current technology often host more than one well head. Therefore, Lessee agrees to make best efforts to secure an off premise well site without the grant of an overriding royalty interest. In the event such efforts are not successful, and only in that event, Lessee may reduce the Lessor’s royalty from the well in question to not less than 22.5% utilizing the calculation set out in this paragraph.

3. Primary Term Extension. Notwithstanding any provision herein to the contrary, in order the Primary Term to be extended by Lessee, Lessee shall pay Lessor the amount of \$350 per acre per year for such an extension. Lessee may opt to extend the Primary Term for two (2) one-year periods.

4. Shut-in Royalty. While there is a gas well on this Lease or on lands pooled with the Land capable of producing in paying quantities, but gas is not being sold, at the end of the Primary Term or any time thereafter, Lessee shall pay or tender in advance an annual shut-in royalty of \$20,000 for each well from which gas is not being sold. Payment with respect to a well will be due within 60 days after the well is shut-in and shall be proportionately reduced to Lessor's percentage of acreage in the pooled unit. While shut-in royalty payments are timely and properly paid, this Lease will be held as a producing lease.

5. Continuous Development.

(a) If, at the expiration of the Primary Term, oil or gas is not being produced from the Leased Premises, but Lessee has commenced the drilling of a well on the Leased Premises, the Lease will not terminate but will remain in effect for so long thereafter as operation are carried out with due diligence with no cessation of more than 60 days, and if the operations result in the production of oil or gas, the Lease shall remain in force as otherwise provided herein. For the purposes of this Lease, the term "operations" means operations for any of the following: drilling, testing, completing, reworking, recompleting, deepening, plugging back, or repairing of a well in search for production of oil or gas.

(b) If this Lease is maintained beyond the expiration of the Primary Term by production or otherwise, it will remain in force as to all acreage and depths as long as there is no lapse of more than 150 days between the completion of one well and the commencement of the actual drilling of another well. The commencement of actual drilling means the penetration of the surface with a drilling rig capable of drilling to the anticipated total depth of the well. After a well is commenced, drilling operations must continue in a good and workmanlike manner in a good faith effort to reach the anticipated total depth with no cessation of operations for more than 60 consecutive days. A well will be deemed to have been completed on the date of the release of the drilling rig from the drill site and any completion operations cease. The permitted time between wells shall be cumulative so that if a well is commenced prior to the date it is required to be commenced, the number of days prior to the date on which the well should have been commenced shall be added to the time permitted for the next well.

(c) If at any time the maximum time for the commencement of the actual drilling of a well expires without the commencement of the well, or upon the expiration of the Primary Term if the Lease is not maintained by continuous drilling or any other provision contained herein, this Lease will terminate except as to the Retained Tract (defined below) surrounding any well that is then producing in paying quantities or deemed to be producing in paying quantities by virtue of payment of shut-in royalties, and as to each Retained Tract, the Lease will then terminate as to all depths 100 feet below the stratigraphic equivalent of the base of the deepest producing formation on the Retained Tract. The Lease will be treated as a separate lease with respect to each Retained Tract and will continue so long as production in paying quantities continued from

the Retained Tract or the Lease is otherwise maintained. If production from a Retained Tract ceases from any cause, this Lease will terminate as to that tract unless Lessee commences operations for drilling or reworking on the tract within 60 days after the cessation of production or this Lease is maintained by other provisions, in which case the Lease as to that Retained Tract will continue in force as long as the operations are prosecuted with no cessation of more than 60 consecutive days, and if they result in production, so long thereafter as there is production from the Retained Tract.

(d) As used in the Lease, the term "horizontal well" means a well that meets the definition of a "horizontal drain hole well" under Statewide Rule 86 of the Railroad Commission of Texas, and a "vertical well" is a well that is not a horizontal well. The land assigned to a well for the purposes of this section is referred to as a "Retained Tract." Once Lessee concludes its continuous drilling operations hereunder, each Retained Tract must include sufficient wells drilled to hold the Retained Tract and the parties agree that the acreage earned by drilling a well may not exceed the minimum size required to obtain a drilling permit under the well density rules adopted by the Railroad Commission of Texas for the field, or if there are no field rules that apply, the Retained Tract shall be limited to the smallest size required to obtain a drilling permit under the statewide well density rules of the Railroad Commission of Texas. A Retained Tract for a vertical well may not exceed 40 acres. If field rules are established later that permit obtaining a drilling permit with less acreage, a Retained Tract for a vertical well may not exceed the minimum size permitted. A Retained Tract for a horizontal well may include the minimum acreage specified above for a vertical well plus the additional acreage listed in the tables in Rule 86 and must comply with the requirements of Rule 86 for a minimum permitted well density. Each Retained Tract shall be designated in a shape that maximizes the number of possible Retained Tracts on the Leased Premises.

(e) Within 60 days after the last to occur of the expiration of the Primary Term or the continuous drilling program, Lessee must file in the county records and furnish to Lessor a document designating each Retained Tract by metes and bounds description prepared by a professional surveyor, specifying the retained depths thereunder, and releasing all other depths and acreage. A gas well that becomes an oil well will hold only the acreage permitted for an oil well, and Lessee must file a redesignation of the Retained Tract (containing metes and bounds description prepared by a professional surveyor and specifying the retained depths thereunder) in the Real Property Records of the county where the Land is located. If Lessee fails to file timely a document required by this paragraph after Lessor has provided thirty (30) days prior written notices, then Lessor may do so, and the filing will bind Lessee.

(f) Lessee shall drill as many horizontal wells from each drill site as is reasonably practicable in accordance with good oilfield practices and taking into account all geological and geophysical information known to Lessee. Each drill site should be located in such a manner as to facilitate the drilling of as many wells as possible from such drill site in order to minimize the number of drill sites on lands pooled herewith.

6. Vertical Pugh Clause. Sixty (60) days after completion of a well, this lease shall expire to all depths below the stratigraphic equivalent of 100 feet below the base of the deepest producing formation, provided however, if Lessee is then engaged in drilling

operations on the Leased Premises or on acreage pooled therewith, this lease shall remain in full force and effect as to all depths so long as no more than one hundred fifty (150) days elapse between the completion or abandonment of one well and the commencement of operations for the drilling of another well.

7. **Horizontal Pugh Clause.** Notwithstanding any provision herein to the contrary, upon the expiration of the primary term of this lease or upon the expiration of sixty (60) days following the completion of the last well drilled on the leased premises or acreage pooled therewith (whether completed as a well capable of production in paying quantities or as a dry hole), whichever is the later date, this lease shall terminate as to any land not included in a pooled unit, proration unit or other unit from which any well, located thereon at pooled therewith, is producing or may be capable of producing in paying quantities, or upon which drilling, reworking or other operations calculated to restore production are being pursued as herein provided. After the expiration of the primary term of this lease, if production on any pooled, proration or other unit permanently ceases from any cause either voluntary or involuntary (and if this lease is not otherwise being maintained), this lease shall terminate as to such unit unless Lessee within (60) days thereafter commences reworking operations or the actual drilling of a new well thereon. In such event, this lease will continue in effect as to such unit so long as such drilling or reworking is prosecuted with no cessation of such operations for more than (60) consecutive days until production is restored.

8. Notwithstanding any provision to the contrary in this Lease, or Addendum, this Lease is entered into with the knowledge of the Parties that the current surface use of the Leased Premises is for a TCEQ-permitted municipal landfill. The Parties agree that Lessee shall make no operations on the Leased Premises without the consent of the TCEQ. Lessee accepts this risk, and enters into this Lease with the express knowledge that its activities on the Leased Premises may be curtailed by the TCEQ.

9. This Lease Agreement is entered into subject to that certain agricultural lease agreement between the City of Lubbock and Ronnie Hamilton dated 13 November 1997 and any and all extensions thereto. The Hamilton Lease Agreement is attached hereto as Exhibit "B".

10. **No Surface Drilling Use Clause.** It is hereby agreed and understood that there shall be no drilling activities on the surface of the Leased Premises without the prior written permission from the surface owner of the applicable portion of the Leased Premises. Notwithstanding the foregoing, this waiver of surface shall not be construed as a waiver of the rights of Lessee to utilize the subsurface of the Leased Premises under this Lease, and Lessee shall have the right to exploit, explore for, develop and produce oil, gas and other covered minerals under this Lease from wells from surface locations off the Leased Premises, including but not limited to, directional or horizontal drilling activity which comes under the surface of the Leased Premises. This drilling surface waiver does not apply to any surface rights associated with instruments other than this Lease.

11. **No Warranty of Title.** This Lease is made and entered into without any express or implied warranty of title by, or recourse upon, Lessor(s) whatsoever, not even for the return of the consideration paid heretofore or hereunder.

12. Addendum Prevails. It is understood and agreed by all parties hereto that the provisions of this Addendum supersede any provisions to the contrary in the printed lease hereof.

13. Offset Wells. For purposes of this Lease, an "offsetting well" is a well that is producing oil or gas from adjacent or nearby land and is in reasonable probability draining the Leased Premises. If an offsetting well is completed, Lessee must, within 120 days after the date of first sales from the offsetting well, commence operations for the drilling of an offset well on the Lease Premises and must diligently pursue those operations to the horizon in which the offsetting well is producing, or at the option of Lessee: (i) execute and deliver to Lessor a release in recordable form of the acreage nearest to the offsetting well; or (ii) pay Lessor a monthly royalty equal to the royalty that would be payable under this Lease if the production from the offsetting well had come from the Leased Premises. In the event acreage is released pursuant to (i) above, the release will cover a tract of a size and shape that will permit the drilling of a well to the producing formation and the creation of a proration unit surrounding the well in compliance with the field rules for the field in which the offsetting well is located, but if there are no fields rules, in compliance with the statewide rules of the Railroad Commission of Texas. A well producing with perforations within 330 feet of the Leased Premises will be conclusively presumed to be draining the Land.

14. No Warranties. Lessor makes no warranty of any kind with respect to, and has no obligation to defend, title to the Land. If Lessor owns an interest in the Land less than the entire fee simple estate, then the royalties payable hereunder will be reduced proportionately.

15. Attorney's Fees. In the event that Lessor is required to employ legal counsel for the enforcement of any provision of this Lease and prevails, Lessor will be entitled to recover from Lessee reasonable attorney's fees and expenses, including but not limited to expert witness fees, incurred by Lessor.

16. Insurance. At all times while this Lease is in force, Lessee shall acquire and maintain insurance covering all of its activities and operations hereunder, including any work performed on its behalf by contractors, subcontractors, and others, naming Lessor as an additional insured. The policies shall include coverage for comprehensive general liability, for bodily injury and property damage, blowout and loss of well coverage, and coverage for any damage to the environment, including coverage for the cost of clean up and surface remediation. The coverage shall be in the minimum amount of \$3,000,000. Lessee shall furnish a certificate from the issuing insurance company or companies evidencing the coverage.

17. Indemnity. LESSEE, ITS SUCCESSORS AND ASSIGNS WILL PROTECT, DEFEND, INDEMNIFY, REIMBURSE, AND HOLD HARMLESS, THE LESSEE, ITS EMPLOYEES, SURFACE TENANTS, AGENTS, SUCCESSORS, ASSIGNS, HEIRS, DEVISEES, AND PERSONAL REPRESENTATIVES (COLLECTIVELY "LESSEE INDEMNITEES") FROM AND AGAINST ALL ATTORNEYS' FEES, CAUSES OF ACTION, CLAIMS, COSTS, COURT COSTS, DAMAGES, DEMANDS, EXPENSES, EXPERT FEES, JUDGMENTS, PENALTIES, AND SUITS OF EVERY KIND OR CHARACTER (COLLECTIVELY "CLAIMS"), AND

WHETHER IN CONTRACT, IN TORT OR EXISTING AT COMMON LAW, OR BY VIRTUE OF ANY STATUTE, REGULATION OR ORDINANCE, ARISING OUT OF ANY ACT WHICH MAY HEREINAFTER TRANSPIRE FROM ANY ACTIVITY EXPRESSLY OR IMPLIEDLY AUTHORIZED OR REQUIRED BY THIS AGREEMENT WHETHER PERFORMED BY THE LESSEE OR THOSE HAVING A CONTRACTUAL RELATIONSHIP WITH LESSEE EXCEPT TO THE EXTENT THAT SUCH CLAIMS RESULT FROM LESSEE INDEMNITEES' NEGLIGENCE, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. FOR PURPOSES OF THE INDEMNITY PROVISIONS HEREOF, ANY ACTS OR OMISSIONS OF LESSEE, OR BY EMPLOYEES, AGENTS, ASSIGNEES, SUCCESSORS, GUESTS, INVITEES, CONTRACTORS, OR SUBCONTRACTORS OF LESSEE OR ACTIONS OF ANY OTHER PERSONS FOR OR ON BEHALF OF LESSEE (WHETHER OR NOT THEY ARE NEGLIGENT, INTENTIONAL, WILLFUL, OR UNLAWFUL), SHALL BE STRICTLY ATTRIBUTABLE TO LESSEE AND AS SUCH SHALL FALL WITHIN THE SCOPE OF LESSEES OBLIGATION IN THIS SUBPARAGRAPH TO INDEMNIFY LESSOR THE INDEMNITY OBLIGATIONS OF THIS PARAGRAPH SHALL APPLY TO ANY ATTORNEYS' FEES, COURT COSTS OR OTHER EXPENSES LESSEE INCURS IN THE SUCESSFUL DEFENSE OF ANY ACTION OR CLAIM BROUGHT AGAINST LESSEE WHICH ARISES FROM OR RELATES TO THE ACTIVITY OF LESSEE EXPRESSLY OR IMPLIEDLY AUTHORIZED OR REQUIRED BY THIS AGREEMENT.

18. Compliance with Environmental Laws and Regulations. Lessee, its successors and assigns, by its acceptance of this Lease, hereby agrees to comply with all applicable laws, rules and regulations and hereby assumes full responsibility for, and agrees to indemnify, defend and hold harmless, Lessor from and against any loss, liability, claim, fine, expense cost (including attorneys fees and expenses) and cause of action caused by or arising out of the violation (or defense of the alleged violation) of any federal, state or local laws, rules or regulations applicable to any waste material, drilling matter fluid or any hazardous substances released or caused to be released by Lessee or Lessee's agents, or independent contractors, or any other operations on the Leased Premises hereunder into the atmosphere or into or upon the land or any water course or body of water, including ground water, or subsurface water. Further, Lessee covenants and agrees to accept total and sole responsibility for the preservation of all animal and plant life existing under the protection of the Endangered Species Act; and to comply with all governmental laws and edicts relating to any other and all environmental cares and concerns. Lessee further acknowledges and agrees that, as between Lessor and Lessee, it is also solely liable for violations of environmental laws, rulings and edicts by contractors, crews, service companies, transportation companies, and any other company or individual who travels or works on, over or across the Leased Premises while engaged in pursuits that are, in any way, connected with the Lessee's exploration for oil and gas. Additionally, upon receiving any notice regarding any environmental, pollution or contamination problem or violation of any law, rule or regulation, Lessee will forward a copy to Lessor by certified mail within thirty (30) days. This provision and its indemnities shall survive the termination of this Lease, and shall enure to the successors, heirs and assigns of Lessor and Lessee.

Lessee agrees to pay the cost of water quality testing, as follows: (1) an initial baseline water quality test to be conducted no more than 60 days before Lessee commences actual drilling and (2) re-testing 1 year following completion of the first well, and (3) repeat testing every three years thereafter, as long as this lease remains in effect. Said testing shall be conducted at each mutually agreeable water wells on, the Leased Premises. The testing shall be done by a qualified professional water testing firm selected jointly by the Lessee and Lessor. Testing will include, but not be limited to, testing for gas, minerals, metals, volatile organic compounds (VOC's), and semi-volatile organic compounds (SVOC's).

19. Miscellaneous Provisions.

(a) In the event this Lease terminates for any reason as to all or any part of the Land, Lessee shall, within 60 days thereafter, deliver to Lessor a recordable release covering all of the Land or that portion of the Land as to which this Lease terminated.

(b) Nothing in this Lease negates any implied covenants imposed upon Lessee under applicable law.

(c) Lessee will conduct all operations hereunder in compliance with the rules of the Railroad Commission of Texas and federal and state environmental laws and regulations and municipal ordinances. Upon written request of Lessor, Lessee shall furnish to Lessor copies of applications to drill, daily drilling reports, well tests, completion reports, plugging records, and production reports. Lessee will divulge to Lessor's Representative correct information as requested in writing by Lessor as to each well, the production therefrom, and such non-proprietary technical information as Lessee may acquire; however, Lessor and Lessor's Representative must keep all such information confidential and may not divulge same to any third party. Lessor's Representative has the right to be present when wells or tanks are gauged and production metered and upon written request has the right to examine all run tickets and to have full information as to production and runs and to received copies of all run tickets.

(d) The term "production" means production in paying quantities. Lessee's obligations to pay money under this Lease are to be performed in Lubbock County, Texas. Paragraph headings are used in this Lease for convenience only and are not to be considered in the interpretation or construction of this Lease. The execution or ratification by Lessor of any division order, gas contract, or any other documents will not alter any provision of this Lease unless the intent to do so is expressly stated in the document. Under no circumstances may Lessee, its agents, employees, or contractors bring firearms or dogs or other animals on the Leased Premises or hunt or fish on the Leased Premises. Upon Lessor's written request, Lessee agrees to furnish to Lessor a copy of each title opinion or report obtained by Lessee that covers all or any part of the Leased Premises together with a copy of each title curative document obtained by Lessee.

(e) Any compressors used in connection with this Lease or the Leased Premises herewith shall be equipped with the latest technology in noise suppression and muffling devices. Every five years if requested by Lessor, Lessee shall be required to install quieter compressors if such are available for sale and distribution.

(f) Upon Lessor's written request and reasonable notice, Lessor shall have the right to inspect, during normal business hours, all records of Lessee relating to this Lease, operations conducted on the Leased Premises, the sale and marketing of production from the Leased Premises, and the payment of royalties, including the right to audit Lessee's books insofar as they relate to the foregoing. All such information is confidential and shall not be further disclosed by Lessor or Lessor's Representative without Lessee's prior written consent.

(g) Lessor may not own all of the minerals underlying the Land. Lessee agrees that it will not drill, conduct operations or participate in drilling or operations on the Land or Leased Premises which are not in compliance with the terms and requirements of this Lease by claiming authority under the lease or leases covering the outstanding interest.

(h) Choice of Law. This agreement will be construed under the laws of the State of Texas, without regard to choice-of-law rules of any jurisdiction. Venue is in Lubbock County, Texas.

(i) Lessee, for itself and its successors and assigns, hereby waives any right of eminent domain possessed by Lessee or any Affiliate of Lessee to acquire any right of way or easement for the transportation of gas, oil or any other substance.

(j) Groundwater Protection. Any oil or gas wells drilled by Lessee shall be drilled in compliance with the surface casing requirements imposed by the State of Texas for groundwater protection and Lessee shall install such surface casing in the required manner in order to insure the protection of all water bearing formations in and under the Land. Further, Lessee agrees to conduct water quality testing on any water wells available on lands pooled with the Land, as follows: (1) an initial baseline water quality test to be conducted no more than 60 days before Lessee commences actual drilling for the first well from Lessee's drillsite located on lands to be pooled with the Land, and (2) re-testing 1 year following completion of the first well, and (3) repeat testing every three years thereafter, as long as this Lease remains in effect. The testing shall be done by a qualified professional water testing firm and will include, but not be limited to, testing for gas, minerals, metals, volatile organic compounds (VOC's), and semi- volatile organic compounds (SVOCs).

(k) Visual Appearance. Lessee shall maintain any drillsites within 1,000 feet of the Land in a neat and orderly fashion. For safety and appearance, Lessee shall construct and install fencing around each drillsite and related facilities in a visually appealing manner, in an effort to maintain the continuity of the surrounding area, and shall maintain the fences in a good state of repair. Upon conclusion of Lessee's drilling and completion operations, Lessee shall restore that portion of the drillsite not being utilized by Lessee for producing operations as nearly as is reasonably practicable to its original state. In addition, Lessee shall maintain the drillsite in a manner whereby it shall be free of noxious vegetation and debris resulting from Lessee's operations. Upon lease expiration, Lessee shall remove all of Lessee's equipment and restore the surface of the ground on the drillsite as nearly as is reasonably practicable to its original state.

(l) Mud Pits. Lessee shall locate no mud pits on the Land.

(m) Remedial Action. Any remedial action or activities required of Lessee under this Lease shall be addressed and the remedial work commenced within the earlier of twenty (20) days or a reasonable amount of time under the circumstances, dependent on the nature of the remedial work, and must be diligently pursued until fully performed.

(n) Environmental Safeguards. Lessee shall employ such measures as will reduce the impact of its operations upon improvements, vegetation and habitat on the Leased Premises. Lessee shall use reasonable care and safeguards in conducting its operations to prevent contamination or pollution from any waste, pollutant, or contaminant to any environmental medium, including soil, surface waters, groundwater, sediments, surface or subsurface strata, ambient air, or any other environmental medium in, on, or under the Leased Premises. Lessee shall promptly remediate any condition which is hazardous to humans or wildlife resulting from Lessee's operations.

(o) Visual Appearance. Lessee shall not permit the disposal of trash, storage of used equipment or other such materials on the well site and shall maintain the well site in a neat and orderly fashion. Lessee shall construct or improve necessary lease roads as all weather roads and shall maintain such roads in a good state of condition and repair in order to prevent excess dust and erosion and maintain the continuity of the surrounding environment. For safety and appearance, Lessee shall install appropriate fences around each well and related facilities in a visually appealing manner in an effort to maintain the continuity of the surrounding area, and shall maintain the fences in a good state of repair. Upon conclusion of Lessee's drilling and completion operations, Lessee shall restore that portion of the well site not being utilized by Lessee for producing operations as nearly as is reasonably practicable to its original state. In addition, Lessee shall maintain the well site in a manner whereby it shall be free of noxious vegetation and debris resulting from Lessee's operations. Upon lease expiration, Lessee shall remove all of Lessee's equipment and restore the surface of the ground as nearly as is reasonably practicable to its original state.

(p) Noise Abatement and Safety. Lessee shall utilize modern equipment with appropriate safeguards in its drilling, completion and producing operations. Whenever possible, Lessee shall install sound barriers and utilize hospital grade mufflers on compressors to reduce noise levels and emissions while conducting its operations.

(q) Seismic Operations. Lessee shall pay for all damages incurred to the Land which result from its seismic operations. Other than seismic operations as provided herein, by execution and delivery of this Lease, Lessee does not otherwise obtain the right to conduct exploration, excavation or drilling operations from or upon the surface of any portion of the Land.

(r) Local Ordinances. In conducting its operations hereunder, Lessee shall comply with all present and future ordinances, rule or regulations imposed by the City of Lubbock or other governmental agency. For purposes of this Lease, the Leased Premises shall be deemed to be wholly inside the corporate boundaries of the City of Lubbock, and Lessee agrees to comply with City of Lubbock Ordinances Article 8.07 for the entirety of the Leased Premises.

(s) This Lease does not carry with it the right for Lessee to use ground water, fresh, brackish or otherwise, or surface water, from the Leased Premises. The parties are in discussions regarding the sale by Lessor to Lessee of certain municipal water treatment plant discharge water for use Lessee's operations. Regardless of the outcome of those negotiations, this Lease carries with it no express or implied right to utilize surface water or ground water from the Leased Premises and any indication to the contrary is hereby expressly revoked.

(t) Counterpart Language. This Lease may be executed in counterparts.

Executed on the date first written above.

Lessor:

**THE CITY OF LUBBOCK, TEXAS,
A MUNICIPAL CORPORATION**

Tom Martin, Mayor

ATTEST:

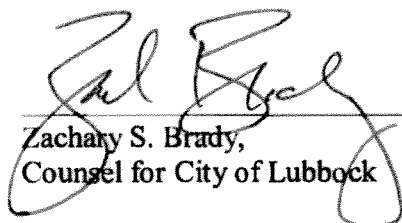
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Asst City Mgr. Comm. Serv.

APPROVED AS TO FORM:



Zachary S. Brady,
Counsel for City of Lubbock

Lessee:

FOUR SEVENS EXPLORATION CO., LTD.


By: Brad Cunningham
Title: Partner

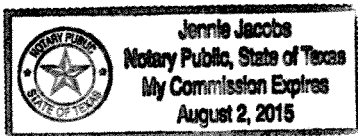
STATE OF TEXAS §
 §
COUNTY OF _____§

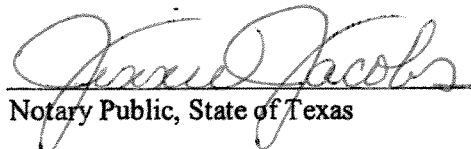
This instrument was acknowledged before me on the _____ day of _____, 2012, by Tom Martin, Mayor, The City of Lubbock, Texas, a Municipal Corporation.

Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF TARRANT §

This instrument was acknowledged before me on the 3 day of FEBRUARY, 2012, by Brad Cunningham, Partner, Four Sevens Exploration Co., Ltd.




Notary Public, State of Texas



Regular City Council Meeting

5. 14.

Meeting Date: 03/06/2012

Information

Agenda Item

Contract Resolution - Parks and Recreation: Consider a resolution authorizing the Mayor to execute Contract 10515 with Circle R Lawn and Sprinkler Company for granular fertilization of various parkland properties, BID-12-10515-CI.

Item Summary

The contract is for the application of granular fertilizer on various parkland properties during the 2012 season. One application will be applied to cover approximately 1,287 acres. The fertilizer application will improve turf health and appearance and will include a blend of 38-0-0 fertilizer with 4% Sulphur and 3% Iron applied from May 1 through June 30, 2012. Due to the possibility of extended drought and limited irrigation, staff recommends awarding one application at this time. Should Lubbock receive adequate rainfall during the growing season and Stage 2 of the Drought Contingency Plan is lifted, a second fertilizer application will be re-bid for an August/September application.

Bids were received from the following companies:

Circle R Lawn and Sprinkler of Lubbock, TX	\$56,383
Turfmaster Irrigation and Landscaping of Lubbock, TX	65,637
Tru Green Company of Odessa, TX	88,803

The contract is awarded by unit price for each item. The total amount of the award is based on estimated quantities and actual expenditures may be more or less depending on actual needs. The price per unit will not change and expenditures will not exceed appropriated funds.

Staff recommends contract award to the lowest bidders, Circle R Lawn and Sprinkler of Lubbock, Texas, for \$56,383.

Fiscal Impact

Funding is appropriated in the Adopted FY 2011-12 Parks and Recreation Operating Budget.

Staff/Board Recommending

Scott Snider, Community Services Assistant City Manager

Attachments

Resolution & Contract - Fertilize Parks

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. 10515 for granular fertilization for various parkland properties, by and between the City of Lubbock and Circle R. Lawn and Sprinkler Company, 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.

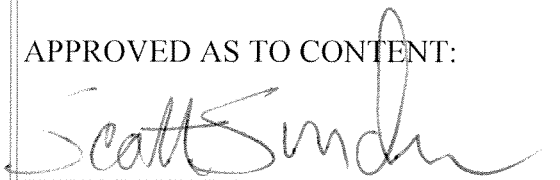
Passed by the City Council on _____.

TOM MARTIN, MAYOR

ATTEST:

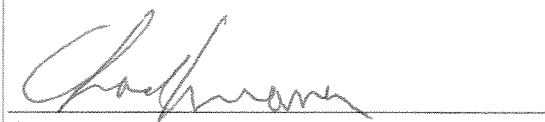
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Scott Snider, Assistant City Manager

APPROVED AS TO FORM:



Chad Weaver, Assistant City Attorney

vw:ccdcs/RES.Contract-Circle R Lawn & Sprinkler Co.
February 15, 2012

**CITY OF LUBBOCK, TX
CONTRACT FOR SERVICES
FOR GRANULAR FERTILIZATION FOR VARIOUS PARKLAND PROPERTIES**

THIS CONTRACT, made and entered into this **6th** day of **March, 2012** by the City of Lubbock, Texas, by and between the City of Lubbock ("City"), and **Circle R Lawn and Sprinkler Company** ("Contractor") of Lubbock, Texas.

WITNESSETH:

WHEREAS, the City of Lubbock duly advertised for bids for Granular Fertilization for Various Parkland Properties for the City of Lubbock 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 Granular Fertilization for Various Parkland Properties.

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 specifications and bid are attached hereto and made part hereof, Contractor will deliver to the City Granular Fertilization for Various Parkland Properties specifically referred to as Item No. 1 and more particularly described in the bid submitted by the Contractor or in the specifications attached hereto.
2. The contract shall begin upon City Council date of formal approval and shall be executed in accordance with the 2012 Parkland Turf program attached hereto. Application dates may vary.
3. This contract shall remain in effect until the expiration date, performance of services ordered, or termination by either party with a thirty (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.
4. 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. The City agrees to pay the Contractor according to the payment schedule attached; said payment schedule does not include any applicable sales or use tax.
5. The Contractor shall perform the work according to the procedure outlined in the specifications and Invitation to Bid attached hereto and incorporated herein.
6. 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.

7. 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:

<u>TYPE</u>	<u>AMOUNT</u>
General Liability	
Commercial General Liability	\$1,000,000
Automotive Liability	
Combined Single Limit	\$500,000
Any Auto	
Workers Compensation	Statutory Amounts
Employer's Liability	\$500,000

The City of Lubbock shall be named as primary 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.

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.

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.

8. 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.
9. This Contract consists of the following documents set forth herein; Invitation to Bid, 12-10515-CI, Granular Fertilization for Various Parkland Properties, General Conditions, Specifications, and the Bid Form.
10. The City reserves the right to exercise any right or remedy 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.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed the day and year first above written. Executed in triplicate.

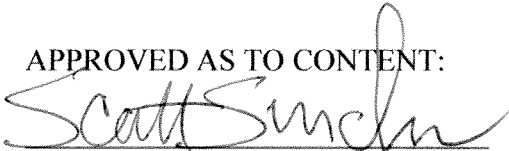
CITY OF LUBBOCK

Tom Martin, Mayor

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



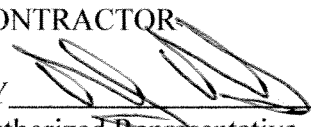
Scott Snider, Assistant City Manager

APPROVED AS TO FORM:



Assistant City Attorney

CONTRACTOR

BY 

Authorized Representative

Print Name

Rusty Dutton

3511 57th Street

Address

Lubbock, TX 79413

City, State, Zip Code

City of Lubbock, Texas
Purchasing and Contract Management
BID FORM

In compliance with the **Invitation to Bid 12-10515-CI**, 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 **12-10515-CI** is by reference incorporated in this contract. The Bid Form **must** be **completed** in blue or black ink or by typewriter.

ITEM	APPLICATION (dates may vary)	UNIT OF MEASURE (+/-)	PRODUCT	APPLICATION RATE	COST PER ACRE*	EXTENDED COST
1.	1 st Application May 1 – June 30, 2012	1,287 Acres	Granular Fertilizer 38- 0-0 4% Sulfur, 3% Iron	144 pounds per acre	\$ 43.81	\$56,384
2.	2 nd Application Jun 15 – Jul 31, 2012	1,287 Acres	Granular Fertilizer 38- 0-0 4% Sulfur, 3% Iron	144 pounds per acre	~~\$ 43.81~~	~~\$56,384~~
3.	3 rd Application Aug 1 – Aug 31, 2012	1,287 Acres	Granular Fertilizer 38- 0-0 4% Sulfur, 3% Iron, 50% Sulfur Coated Urea	144 pounds per acre	~~\$ 63.32~~	~~\$81,493~~
Total Cost					~~\$ 194,261~~	

(Cost per acre will prevail in the case of discrepancies.)

\$56,384

***COST PER ACRE: F.O.B. Destination, Freight Pre-Paid and Allowed**

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 ____%, net ____ 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 ☒ 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 _____ a corporation organized under the laws of the State of _____, or a partnership consisting of _____ or individual trading as

Circle R Lawn + Sprinkler of the City of Lubbock

Firm: Circle R Lawn + Sprinkler

Address: 3511 57th Street

City: Lubbock State: TX Zip: 79413

Bidder acknowledges receipt of the following addenda:

Addenda No. _____ Date _____

Addenda No. _____ Date _____

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. _____ (Franchised TX dealer)

By [Signature] Date: 2/6/2012

Authorized Representative - must sign by hand

Officer Name and Title: Rusty Dutton Owner
Please Print

Business Telephone Number (806) 789-5753 FAX: (806) 788-0369

E-mail Address: rusty-dutton@hotmail.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
Parks Recreation
Bid Tabulation
March 6, 2012

ITB 12-10515-CI

Granular Fertilization for Various Parkland Properties

Item	Qty	U/M	Description/Vendor	Location	Unit Cost	Extended Cost
1	1,287	ACRES	1st Application - Granular Fertilizer 38-0-0			
			Circle R Lawn & Sprinkler	Lubbock, TX	43.81	\$ 56,383
			Turfmaster Irrigation & Landscape	Lubbock, TX	51.00	65,637
			Tru Green Company	Odessa, TX	69.00	88,803
			Overall Total			
			Circle R Lawn & Sprinkler	Lubbock, TX		\$ 56,383
			Turfmaster Irrigation & Landscape	Lubbock, TX		65,637
			Tru Green Company	Odessa, TX		88,803



Regular City Council Meeting

5. 15.

Meeting Date: 03/06/2012

Information

Agenda Item

Contract Resolution - Civic Center: Consider a resolution authorizing the Mayor to execute lump sum price Contract 10495 with CS Advantage USAA, Inc., for replacement of the Lubbock Memorial Civic Center Physical Plant Roof, Bid 12-10495-CI.

Item Summary

The contract is for the removal of existing roofing material and damaged deck and its replacement. The existing roofing system is original material and has outlasted its life expectancy. The structure is experiencing several roof leaks during inclement weather, which causes damage to existing equipment inside the building.

Bids were received from the following companies:

CS Advantage USAA of College Station, TX	\$58,500
Lydick-Hooks Roofing Company of Lubbock, TX	67,625
Tecta America CS of Lubbock, TX	69,900
Tri-Lam Roofing and Waterproofing of Everman, TX	73,000
Advantage USAA Spring Branch, TX	79,000

Staff recommends contract award to the lowest bidder, CS Advantage USAA, of College Station, Texas, for \$58,500. Time for completion is 90 working days, and liquidated damages are \$100 per working day.

Fiscal Impact

\$1.45 million is appropriated in Capital Improvement Project No. 91195, Civic Center Renovation, with \$58,500 available for this purpose.

Staff/Board Recommending

Scott Snider, Assistant City Manager
Brooke Witcher, Managing Director, Cultural Facilities & Events
Freddy Chavez, Civic Services Director

Attachments

Resolution & Contract - Civic Center Roof

Budget Detail - 91195

CIP Detail - 91195

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. 10495 for Lubbock Memorial Civic Center physical plant roof replacement, by and between the City of Lubbock and CS Advantage USAA, Inc. of College Station, Texas, 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.

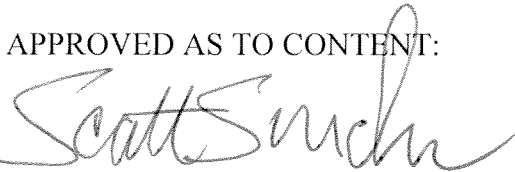
Passed by the City Council on _____.

TOM MARTIN, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Scott Snider, Assistant City Manager
Community Services

APPROVED AS TO FORM:



Chad Weaver, Assistant City Attorney

vw:ccdcs/RES.Contract-CS Advantage USAA, Inc.
February 9, 2012

*****REVISED*****
BID SUBMITTAL FORM
LUMP SUM BID CONTRACT

DATE: 1-30-12

ITB 12-10495-CI – Lubbock Memorial Civic Center Physical Plant Roof Replacement

Bid of CS ADVANTAGE USAA INC (hereinafter called Bidder)
To the Honorable Mayor and City Council City of Lubbock, Texas (hereinafter called Owner):

The Bidder, in compliance with your Invitation to Bid for the construction of Lubbock Memorial Civic Center Physical Plant Roof Replacement, having carefully examined the plans, specifications, instructions to bidders, notice to bidders and all other related contract documents and the site of the intended work, and being familiar with all of the conditions surrounding the construction of the intended project including the availability of materials and labor, hereby intends to furnish all labor, materials, and supplies; and to construct the project in accordance with the plans, specifications and contract documents, within the time set forth therein and at the price stated below.

The bidder binds himself on acceptance of his bid to execute a contract and any required bonds, according to the accompanying forms, for performing and completing the said work within the time stated and for the prices stated below.

BASE BID

ITEM NO.	DESCRIPTION	LUMP SUM COST
1.	Work shall include tear off of approximately 8,660 square feet of existing built-up roof assembly down to existing gypsum substrate in the locations noted on the project drawings, remove and replace approximately 1,200 square foot of existing gypsum deck. Install an approximately 8,660 square foot ballasted four-ply roof system as indicated in the specifications. The roof shall be installed in accordance with the specifications and in strict accordance with the manufacturer's recommended procedures. The new metal flashings and other sheet metal accessories are to comply with the requirements in the specifications.	\$ 58,500.00

ADDITIVE

A1-1. 1 SF Remove and replace damaged gypsum decking (nominal thickness of 2-1/4") per square foot for area found over and beyond original 1,200 sq. ft. in the lump sum bid.

TOTAL ITEM # A1-1: THREE \$ 00 /SF(3.00)
(Unit Price Amounts shall be shown in both words and numerals. In case of discrepancy, the amount shown in words shall govern.)

 Bidder's Initials

Bidder hereby agrees to commence the work on the above project on a date to be specified in a written "Notice to Proceed" of the Owner and to substantially complete the project within **Ninety (90) WORKING DAYS** thereafter as stipulated in the specifications and other contract documents. Bidder hereby further agrees to pay to Owner as liquidated damages the sum of **One-Hundred Dollars (\$100)** for each consecutive working day in excess of the time set forth herein above for completion of this project, all as more fully set forth in the general conditions of the contract documents.

Bidder understands and agrees that this bid submittal shall be completed and submitted in accordance with instruction number 29 of the General Instructions to Bidders.

Bidder understands that the Owner reserves the right to reject any or all bids and to waive any formality in the bidding.

The Bidder agrees that this bid shall be good and may not be withdrawn for a period of SIXTY (60) calendar days after the scheduled closing time for receiving bids.

The undersigned Bidder hereby declares that he has visited the site of the work and has carefully examined the plans, specifications and contract documents pertaining to the work covered by this bid, and he further agrees to commence work on or before the date specified in the written notice to proceed, and to substantially complete the work on which he has bid; as provided in the contract documents.

Bidders are required, whether or not a payment or performance bond is required, to submit a cashier's check or certified check issued by a bank satisfactory to the City of Lubbock, or a bid bond from a reliable surety company, payable without recourse to the order of the City of Lubbock in an amount not less than five percent (5%) of the total amount of the bid submitted as a guarantee that bidder will enter into a contract, obtain all required insurance policies, and execute all necessary bonds (if required) within ten (10) business days after notice of award of the contract to him

 Bidder's Initials

Enclosed with this bid is a Cashier's Check or Certified Check for 510,603 Dollars (\$510,603) or a Bid Bond in the sum of 510,603 Dollars (\$510,603), which it is agreed shall be collected and retained by the Owner as liquidated damages in the event the bid is accepted by the Owner and the undersigned fails to execute the necessary contract documents, insurance certificates, and the required bond (if any) with the Owner within ten (10) business days after the date of receipt of written notification of acceptance of said bid; otherwise, said check or bond shall be returned to the undersigned upon demand.

Bidder understands and agrees that the contract to be executed by Bidder shall be bound and include all contract documents made available to him for his inspection in accordance with the Notice to Bidders.

Pursuant to Texas Local Government Code 252.043(a), a competitive sealed bid that has been opened may not be changed for the purpose of correcting an error in the bid price. **THEREFORE, ANY CORRECTIONS TO THE BID PRICE MUST BE MADE ON THE BID SUBMITTAL FORM PRIOR TO BID OPENING.**

Date: 1-30-12
 Authorized Signature: [Signature]
 (Printed or Typed Name) Oscar Galvan

(Seal if Bidder is a Corporation)

ATTEST:

[Signature]
 Secretary

CS ADVANTAGE USAA
 Company
P.O. box 12407
 Address
College Station, Brazos
 City, County
TEXAS, 77842
 State Zip Code
 Telephone: 210 - 771-0720
 Fax: 210 - 579-2157

Bidder acknowledges receipt of the following addenda:

Addenda No. 1 Date 1/26/12
 Addenda No. _____ Date _____
 Addenda No. _____ Date _____
 Addenda No. _____ Date _____

FEDERAL TAX ID or SOCIAL SECURITY No. 272 312 935

EMAIL: o-galvan@hotmail.com

M/WBE Firm:	☒	Woman	☐	Black American	☐	Native American
	☐	Hispanic American	☐	Asian Pacific American	☐	Other (Specify)

**City of Lubbock, TX
Capital Project
Project Cost Detail
March 6, 2012**

Capital Project Number:	91195
Capital Project Name:	Civic Center Renovations

	Budget
<i>Encumbered/Expended</i>	
Minnix Contract - Stage Replacement (contract 10120)	\$ 53,046
Elevator Repair (contract 10234)	34,187
Protocol Air Monitoring (contract 10053)	1,090
Replace Wheelchair Lift - Talon	22,784
Civic Center Lighting (contract 10267)	155,031
Kirkpatrick Architecture (contract 9665)	24,500
Kirkpatrick Architecture (contract 9666)	11,750
Cox Dirks Architects (contract 10413)	9,600
Thoma Engineering (contract 10492)	23,500
Armko Industries (contract 10382)	7,000
Hub City Plumbing - Physical Plant Upgrade (contract 9756)	699,462
Bid Cost	1,565
Miscellaneous Expenses	396
Asbestos Removal	4,853

Agenda Items March 6, 2012

CS Advantage USAA - Physical Plant Roof	58,500
<i>Encumbered/Expended To Date</i>	1,107,264

Estimated Costs for Remaining Appropriation

Renovations	342,736
<i>Remaining Appropriation</i>	342,736
Total Appropriation	\$ 1,450,000

Managing Department **Civic Centers***Project Manager* **Freddy Chavez***Project Classification* **Bond Election Project - 2004***Project Status* **Approved***Project Scope*

Renovations to the Lubbock Memorial Civic Center and the physical plant that serves both the Civic Center and Mahon Library. The majority of the costs for the physical plant are funded from a Department of Energy American Recovery and Reinvestment Act (ARRA) grant.

Project Justification

The Lubbock Memorial Civic Center is more than thirty years old and is in need of repair. The project includes repair or replacement of the equipment in the physical plant, heating and air conditioning, freight elevators, a new roof for the physical plant, theater stage floor, theater handicapped lift, and any other improvements needed. The City received an ARRA grant for the replacement of the equipment in the physical plant in the amount of \$2,109,900.

Project History

The project was developed during the 2004 Citizen Advisory Committee process and was 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. 2008-00077, September 11, 2008.

<i>Appropriation Detail</i>	Appropriation to Date	Unappropriated Planning Years						Total Project Amount
		FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	
Construction	1,205,000	0	0	0	0	0	0	1,205,000
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	1,450,000	0	0	0	0	0	0	1,450,000

<i>Funding Detail</i>	Funding to Date	Unappropriated Planning Years						Total Funding
		FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	
FY 2010 General Obligation Bonds	1,450,000	0	0	0	0	0	0	1,450,000
Total Funding Sources	1,450,000	0	0	0	0	0	0	1,450,000

<i>Operating Budget Impact</i>	Unappropriated Planning Years						Total Impact
	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	
No Impact Anticipated	0	0	0	0	0	0	0
Total Operating Budget Impact	0	0	0	0	0	0	0



Regular City Council Meeting

5. 16.

Meeting Date: 03/06/2012

Information

Agenda Item

Contract Resolution - Information Technology: Consider a resolution authorizing the Mayor to execute purchase order Contract 10004862 with Dell Marketing, LP, for rugged laptops and mounting hardware for the Lubbock Fire Department.

Item Summary

The contract is for the purchase of 28 rugged laptops and mounting hardware used by the Lubbock Fire Department staff to communicate with the 911 operators when they are en route to emergencies and in the field. The laptops replace equipment acquired in 2005-2006 with grant funds.

The \$134,905 purchase is made available through State of Texas Department of Information Resources (DIR) Contract DIR-SDD-890-TX. 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 Texas Government Code Chapter 791.025, purchases using DIR contracts meet competitive bid requirements through the DIR program.

Fiscal Impact

The 28 laptops are approved in the Adopted FY 2011-12 Master Lease Program.

Staff/Board Recommending

Mark Yearwood, Chief Information Officer Assistant City Manager

Attachments

Resolution & Contract - Laptops - Fire

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 No. 10004862 for the purchase of rugged laptops and mounting hardware, by and between the City of Lubbock and Dell Marketing, LP of Round Rock, Texas, and related documents. 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 _____.

TOM MARTIN, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Mark Yearwood, Assistant City Manager
Chief Information Officer

APPROVED AS TO FORM:



Chad Weaver, Assistant City Attorney

vw:ccdcs/RES.Dell Marketing, LP-PurchaseOrd
February 15, 2012



PURCHASE ORDER

Page - 1
Date - 02/15/2012
Order Number 10004862 000 OP
Branch/Plant 100

TO:

DELL MARKETING LP
RR 8 BOX 8706 ONE DELL WAY
ROUND ROCK Texas 78682

SHIP TO:

CITY OF LUBBOCK
INFORMATION TECHNOLOGY
C/O MARK YEARWOOD
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 02/15/2012 Freight
Requested 02/15/2012 Taken By D.TORRES
Delivery Per J Zhine / Req #39119 Q #612424447/ DIR-SDD-890-TX

Description/Supplier Item	Ordered	Unit Cost	UM	Extension	Request Date
Dell Latitude E6420 XFR laptop	28.000	3,572.0000	EA	100,016.00	02/22/2012
Havis E6400XFR Vehcl Dockg Sta	28.000	730.3900	EA	20,450.92	02/22/2012
90W Pwr Supply for Dockng Sta	28.000	110.0000	EA	3,080.00	02/22/2012
Havis Mntg Base Pkg Chev Tahoe	10.000	420.6300	EA	4,206.30	02/22/2012
Havis Slide/Tilt Mntg Device	18.000	211.1900	EA	3,801.42	02/22/2012
4G Blk Combo Antenna for XF	28.000	119.6700	EA	3,350.76	02/22/2012

Total Order

Terms NET 30

134,905.40

This purchase order encumbers funds in the amount of \$134,905 awarded to Dell Marketing LP of Round Rock, Texas, on March 6, 2012. The following is incorporated into and made part of this purchase order by reference: Price quotation: 612424447 dated March 6, 2012 from Dell Marketing LP of Round Rock, TX and State of Texas Department of Information Resources, Contract DIR-SDD-890. Resolution#_____.

CITY OF LUBBOCK

ATTEST:

Tom Martin, Mayor

Rebecca Garza, City Secretary



QUOTATION

QUOTE #: 612424447

Customer #: 1784159

Contract #: 48ABO

Customer Agreement #: DIR-SDD-890-TX

Quote Date: 2/8/12

Date: 2/8/12 2:33:21 PM

Customer Name: CITY OF LUBBOCK

TOTAL QUOTE AMOUNT:	\$134,905.40		
Product Subtotal:	\$134,905.40		
Tax:	\$0.00		
Shipping & Handling:	\$0.00		
Shipping Method:	Ground	Total Number of System Groups:	1

GROUP: 1	QUANTITY: 28	SYSTEM PRICE: \$3,572.00	GROUP TOTAL: \$100,016.00
Base Unit:	Dell Latitude E6420 XFR (225-0809)		
Processor:	Intel Core i5-2520M, 2.50GHz, 3MB Cache, Dell Latitude E6X20 (317-5994)		
Memory:	4.0GB, DDR3-1333MHz SDRAM, 2 DIMMS, Dell Latitude (317-6239)		
Keyboard:	Internal English Backlit Keyboard, Red, Dell Latitude E6420 XFR (331-2135)		
Keyboard:	Quick Reference Guide, English, Dell Latitude E6420 XFR (331-2141)		
Keyboard:	Documentation (English/French), Dell Latitude E-Family/Mobile Precision (331-2169)		
Video Card:	Intel HD Graphics 3000 with Fingerprint and Contactless Smartcard Reader, Dell Latitude E6420 XFR (318-0662)		
Hard Drive:	128GB Dell Mobility Solid State Drive, 2.7MM, Dell Latitude E6420 XFR (342-2577)		
Floppy Disk Drive:	14.0 inch HD (1366x768) Outdoor Viewable with Direct Vue Touchscreen and Mic only (320-2237)		
Operating System:	Genuine Windows 7 Label, Latitude, Vostro and Mobile Precision Notebooks (330-6322)		
Operating System:	Genuine Windows 7 Professional, 32-bit, No Media, Latitude, English (421-8051)		
Modem:	External USB Modem for Latitude E-Family/Mobile Precision (313-7043)		
TBU:	90W 3-Pin, AC Adapter, Dell Latitude E (331-1719)		
TBU:	US - 3 foot Flat Power Cord, Dell Latitude (330-4016)		
CD-ROM or DVD-ROM Drive:	8X DVD+/-RW, Dell Latitude E (318-0330)		
CD-ROM or DVD-ROM Drive:	Cyberlink Power DVD 9.5.1,Media, Dell OptiPlex, Latitude and Precision Workstation (421-4822)		
CD-ROM or DVD-ROM Drive:	Roxio Creator Starter,Media, Dell OptiPlex, Latitude and Precision Workstation (421-4540)		
CD-ROM or DVD-ROM Drive:	8X DVD+/-RW Bezel, Dell Latitude E6420 XFR (318-0712)		
Sound Card:	Triple RF-Pass-Thru, Latitude E6420 XFR (331-2139)		
Processor Cable:	Intel WiFi Link 6205 (802.11a/g/n 2X2) 1/2 MiniCard for VPRO Latitude E/Mobile Precision (430-3961)		
Documentation Diskette:	No Intel vPro Technology Advanced Management Features, Dell Latitude E6X20 (331-1226)		
Bundled Software:	No Productivity Software,Dell OptiPlex,Precision and Latitude (421-3872)		
Feature	6-Cell (60WH) Primary Lithium Ion Battery for Latitude E6420 XFR (312-1214)		
Service:	Dell Limited Hardware Warranty Plus Service Extended Year(s) (935-8968)		
Service:	Dell Limited Hardware Warranty Plus Service Initial Year (931-4567)		
Service:	ProSupport: Next Business Day Limited Onsite Service After Remote Diagnosis 4 Year Extended (927-8354)		
Service:	ProSupport: Next Business Day Limited Onsite Service After Remote Diagnosis Initial Year (954-7200)		
Service:	Thank you choosing Dell ProSupport. For tech support, visit http://support.dell.com/ProSupport or call 1-866-5 (989-3449)		
Service:	ProSupport : 7x24 Technical Support, 4 Year Extended (928-8134)		
Service:	ProSupport : 7x24 Technical Support, Initial (956-5210)		

Installation:	Standard On-Site Installation Declined (900-9987)
Support:	Accidental Damage Protection, 5 Year (927-8474)
Support:	Info, Complete Care (988-7689)
Misc:	Dedicated SiRFstarIV GPS, Dell Latitude E6420 XFR (331-2143)
Misc:	Energy Star Enabled/E-PEAT/Gold, Latitude E6420/ATG (331-1931)
Misc:	Dell Wireless 5630 Multi-Mode EVDO-HSPA Mini-Card with A-GPS for Latitude and Mobile Precision (318-0407)
Misc:	SIM Card Insertion Tool, Dell Latitude E6420 XFR (331-3572)
	Intel Core i5 Processor (331-1633)

SOFTWARE & ACCESSORIES			
Product	Quantity	Unit Price	Total
HAVIS E6400 XFR VEHICLE DOCKING STATION (A3985624)	28	\$730.39	\$20,450.92
90 W Power Supply for Dell Docking Stations (A4373501)	28	\$110.00	\$3,080.00
HAVIS VEHICLE MOUNTING BASE PACKAGE WITH SHORT HANDLE: CHEVROLET TAHOE (A3985782)	10	\$420.63	\$4,206.30
HAVIS SLIDE OUT TILT/SWIVEL MOUNTING DEVICE: SHORT HANDLE (A3985736)	18	\$211.19	\$3,801.42
4G Black. Combo Antenna for XF (A5481447)	28	\$119.67	\$3,350.76
Number of S & A Items: 5		S&A Total Amount: \$34,889.40	

SALES REP:	Duane McCoy	PHONE:	512-513-9185
Email Address:	Duane_McCoy@Dell.com	Phone Ext:	5139185

Please review this quote carefully. If complete and accurate, you may place your order online at www.dell.com/qto (use quote number above). POs and payments should be made to *Dell Marketing L.P.*

If you do not have a separate agreement with Dell that applies to your order, please refer to www.dell.com/terms as follows:

If purchasing for your internal use, your order will be subject to *Dell's Terms and Conditions of Sale-Direct* including Dell's U.S. Return Policy, at www.dell.com/returnpolicy#total. If purchasing for resale, your order will be subject to *Dell's Terms and Condition of Sale for Persons or Entities Purchasing to Resell*, and other terms of Dell's PartnerDirect program at www.dell.com/partner. If your order includes services, visit www.dell.com/servicecontracts for service descriptions and terms.

Quote information is valid for U.S. customers and U.S. addresses only, and is subject to change. Sales tax on products shipped is based on "Ship To" address, and for downloads is based on "Bill To" address. Please indicate any tax-exempt status on your PO, and fax your exemption certificate, with seller listed as *Dell Marketing L.P.*, to Dell's Tax Department at 800-433-9023. Please include your Customer Number.

For certain products shipped to end-users in California, a State Environmental Fee will be applied. For Asset Recovery/Recycling Services, visit www.dell.com/assetrecovery.



Regular City Council Meeting

5. 17.

Meeting Date: 03/06/2012

Information

Agenda Item

Contract Resolution - Fleet Services: Consider a resolution authorizing the Mayor to execute purchase order Contract 10004866 with Scoggin-Dickey Chevrolet-Buick for 11 police sedans, BID 12-10512-CI.

Item Summary

The contract is for the purchase of 11 police four door sedans wired for grille lights, flasher system, siren speaker, and deck lights. The sedans replace: one 2003 model vehicle for Police Training, one 2004 model vehicle for Police Administration, and nine 2006 model vehicles for Police Investigations.

Bids were received from the following companies:

Scoggin-Dickey Chevrolet-Buick of Lubbock, TX	\$290,741
Caldwell Country Chevrolet of Caldwell, TX	\$293,040
Sam Pack's Five Star Ford of Carrollton, TX	NQAS

Staff recommends contract award to the lowest bidder meeting specifications, Scoggin-Dickey Chevrolet-Buick of Lubbock, Texas, for \$ 290,741.

Fiscal Impact

\$290,741 is appropriated in the Adopted FY 2011-12 Master Lease Program for this purpose.

Staff/Board Recommending

Mark Yearwood, Chief Information Officer Assistant City Manager

Attachments

Resolution & Contract - 11 Police Sedans

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 No. 10004866 for the purchase of police four door sedans as per BID 12-10512-CI, by and between the City of Lubbock and Scoggin-Dickey Chevrolet-Buick, and related documents. 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 _____.

TOM MARTIN, MAYOR

ATTEST:

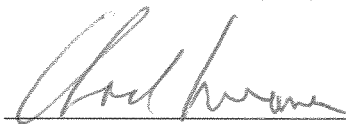
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Mark Yearwood, Assistant City Manager
Chief Information Officer

APPROVED AS TO FORM:



Chad Weaver, Assistant City Attorney

vw:ccdocs/RES.Scoggin Dickey-PurchaseOrd
February 17, 2012



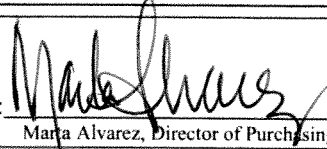
PURCHASE ORDER

Page - 1
Date - 02/17/2012
Order Number 10004874 000 OP
Branch/Plant 100

TO: SCOGGIN-DICKEY CHEVY-BUICK
5901 SPUR 327
LUBBOCK Texas 79464 4910

SHIP TO: CITY OF LUBBOCK
FLEET SERVICES
206 MUNICIPAL DRIVE
LUBBOCK Texas 79403

INVOICE TO: CITY OF LUBBOCK
ACCOUNTS PAYABLE
P.O. BOX 2000
LUBBOCK, TX 79457

BY: 
Maria Alvarez, Director of Purchasing & Contract Management

Ordered 02/17/2012 Freight
Requested 05/25/2012 Taken By C ISAACS
Delivery PER PORRAS_J REQ 38863 PER ITB 12-10512-CI

Description/Supplier Item	Ordered	Unit Cost	UM	Extension	Request Date
2012 Full Size, 4-Door, Sedans	11.000	25,590.0000	EA	281,490.00	05/25/2012
ML 2011-2012					
Installation of Wiring	11.000	841.0000	EA	9,251.00	05/25/2012
ML 2011-2012					
				Total Order	
Terms	NET 30			290,741.00	

This purchase order encumbers funds in the amount of \$290,741.00, for the purchase of vehicles awarded on March 6, 2012 to Scoggin-Dickey Chevrolet-Buick, of Lubbock, Texas in accordance with Scoggin-Dickey Chevrolet-Buick's response to ITB# 12-10512-CI. The following is incorporated into and made part of this purchase order by reference: Bid Submitted by your firm in response to City of Lubbock ITB# 12-10512-CI.

Resolution# _____.

CITY OF LUBBOCK

ATTEST:

Tom Martin, Mayor

Rebecca Garza, City Secretary



Regular City Council Meeting

5. 18.

Meeting Date: 03/06/2012

Information

Agenda Item

Contract Resolution - Community Development: Consider a resolution authorizing the Mayor to execute a Community Development Funding Contract 10689 with the South Plains Association of Governments (SPAG) to conduct information and referral services for Lubbock County residents and to produce and update the Information and Referral Guide through the Community Service Block Grant (CSBG) for the 2-1-1 Information and Referral Program.

Item Summary

The City received funding from the Texas Department of Housing and Community Affairs (TDHCA) for the CSBG. The City will pass the funds to SPAG, a sub-recipient, to operate the 2-1-1 Information and Referral Program. Funds are used to conduct information and referral services for Lubbock County residents and for the production and update of the Information and Referral Guide.

The period of performance is January 1, 2012, through December 31, 2012. On January 11, 2012, the Community Development and Services Board approved the project.

Fiscal Impact

The total allocation for the program is \$47,000. TDHCA has released approximately 20%, or \$9,531, of the total CSBG allocation. The City will notify the sub-recipient as more funds are made available.

Staff/Board Recommending

Quincy White, Assistant City Manager

Attachments

2012 CSBG SPAG Reso and Contract

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, by and between the City of Lubbock and the South Plains Association of Governments, from the Community Services Block Grant to fund 2-1-1 Information and Referral Program, and all 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 _____, 2012.

TOM MARTIN, MAYOR

ATTEST:

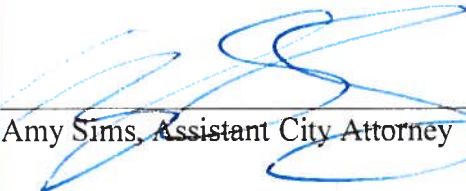
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Phyllis Brown
Interim Community Development Director

APPROVED AS TO FORM:



Amy Sims, Assistant City Attorney

COMMUNITY SERVICE BLOCK GRANT
AGREEMENT BETWEEN THE CITY OF LUBBOCK
AND SOUTH PLAINS ASSOCIATION OF GOVERNMENTS

STATE OF TEXAS §

COUNTY OF LUBBOCK §

This Contract entered into this 6th day of March 2012, by and between the CITY OF LUBBOCK (herein called "City") and SOUTH PLAINS ASSOCIATION OF GOVERNMENTS a council of governments (herein called "Contractor").

WHEREAS, the City is obligated to do and perform certain services in its administration of Community Services Block Grant; and

WHEREAS, the Contractor is a political subdivision of the state of Texas offering services to low-income individuals in the County of Lubbock; and

WHEREAS, the services provided by the Contractor benefit citizens of the County of Lubbock and constitute a valuable public service; and

WHEREAS, the City Council of the City of Lubbock has declared programs of the South Plains Association of Governments Area Information Center, Information and Referral 211, to be a public purpose and the provision of these services to be a predominant purpose of this transaction; and

WHEREAS, the Contractor and the services it provides have been found to meet the criteria for funding under the RFP; and

WHEREAS, the accomplishment of the above public purpose is the predominant purpose of this transaction, continuing supervision by the City and State 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 had found that the Contractor has the special expertise, knowledge and experience necessary for the performance of the contract and that the City will receive adequate consideration in the form of substantial public benefit; and

WHEREAS, the City desires to contract with the Contractor to make available operating assistance for the Information and Referral Program.

NOW, THEREFORE, it is agreed between the parties hereto that:

I. **SCOPE OF SERVICE**

A. **General Overview of Program:**

1. Contractor will use \$47,000 of CSBG funds awarded to administer the Information and Referral Program for Lubbock County and to produce, publish and or update a Resource Directory.

B. **City Responsibilities:**

1. City agrees to provide Contractor assistance from Community Services Block Grant funds in an amount not to exceed \$47,000 in return for Contractor performing the activities set forth in this Contract 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 funds to meet City's liabilities under this contract. If adequate funds are not available to make payment under this contract, City shall notify Contractor in writing within a reasonable time after such fact is determined. City shall terminate this Contract and will not be liable for failure to make payments to Contractor under this Contract.

The funds shall be disbursed in the amounts and at the time the funds are disbursed to the City by the State of Texas. The City is not responsible for any amounts not distributed by the State of Texas. CSBG funds shall be disbursed in the amount and at the time funds are disbursed to the City by the State of Texas. The State of Texas has currently released approximately twenty percent (20%) of the total amount of funds to the City. Therefore, the City shall currently disburse \$9,531 in CSBG funds to the Contractor, and will notify the Contractor as other funds are released.

3. City shall not be liable to Contractor for any costs incurred by Contractor, or any portions thereof, which have been paid to Contractor or which are subject to payment to Contractor, or which have been reimbursed to Contractor or which are subject to reimbursement to Contractor by any source other than City or Contractor.
4. City shall not be liable for any costs incurred by Contractor which are not allowable costs as set forth in the contract.
5. City shall not be liable to Contractor for any costs incurred by Contractor or for any performances rendered by Contractor which are not strictly in accordance with the terms of this Contract.
6. City shall not be liable to Contractor for any costs incurred by Contractor in the performance of this Contract which have not been billed to City by Contractor within sixty (60) days following termination of this Contract.

7. City shall not be liable for costs incurred or performances rendered by Contractor before commencement of this Contract or after termination of this Contract.
8. City's financial assistance will be limited to the following:
 - a. The assistance made available through this Contract shall be used by the Contractor solely for the purpose of the Information and Referral Program.
 - b. The assistance shall provide funding for expenses incurred within the operation and scope of the program.
 - c. The services provided by the Contractor shall benefit lower-income families whose residence is in the County of Lubbock.

C. Contractor's Responsibilities

1. Contractor agrees to use funds made available through this Contract solely for the purpose of the South Plains Association of Governments Information and Referral Program, located at 1323 58th Street, Lubbock, Texas.
2. Contractor agrees to comply with applicable uniform administrative requirements, as described in the South Plains Association of Governments Policy Manual and generally accepted administrative requirements for the Texas State Government located at 1TAC5.141 et seq. And the federal administrative requirements located at 45CFR Part 96.
3. Contractor agrees to carry out the activities under this Contract in compliance with all State and Local laws and regulations.

II. TIME OF PERFORMANCE

This Contract shall commence January 1, 2012 and shall terminate December 31, 2012. The term of this Contract and the provisions herein may be extended for an additional year, provided funds are received from TDHCA and provided the Contractor meets its contractual obligations during the current funding year, subject to board approval and Mayor's signature.

III. BUDGET

	CSBG Funds	Matching Funds	Total Project Funds
Administration:			
Personnel	\$21,936		
Fringe Benefits	12,035		
Indirect Cost	5,458		
Program:			
Redbook Publication	7,571		
TOTAL	\$47,000		

IV. **PAYMENT**

City will pay up to \$47,000 to Contractor based upon the receipt of request for funds and project expense summary for the above-described project. Contractor shall submit to City invoices for items purchased. City shall determine the reasonableness of each purchase and shall not make disbursement of any such payment until City has reviewed and approved each purchase. If need is shown to exist, City staff can release up to 10% of the funds to be used as start-up funding. Contractor will then bill City monthly for expenses occurred during the month. By end of program year, Contractor will have provided City with proper documentation to show how all funds were expended, including the start-up costs.

V. **NOTICES**

Communication and details concerning this Contract shall be directed to the following Contract representatives:

Joe Rangel
City of Lubbock
P. O. Box 2000
Lubbock, TX 79457

Aida Martinez
South Plains Association of Govts.
1323 58th Street
Lubbock, TX. 79412

VI. **SPECIAL CONDITIONS**

A. **Specific Requirements to Meet Conditions Outlined in RFP**

1. Contractor will keep adequate documentation of the design of the program, the implementation of the program, and evaluation of program design.
2. Contractor will keep documentation of their efforts to leverage CSBG funds with other programs to enhance the services provided to clients.
3. Contractor will keep documentation of their efforts to cooperate and collaborate with other service providers.

VII. **GENERAL CONDITIONS**

A. 1. **General Compliance**

Contractor agrees to comply with all applicable federal, state and local laws and regulations governing the funds provided under this Contract which were made available under City's Community Services Block Grant program.

2. **Labor Standards**

The Contractor agrees to comply with the requirements of the Secretary of Labor in accordance with the Copeland "Anti-Kickback" Act (40 U.S.C 276a-276a-5; 40 USC 327 and 40 USC 26c) and all other applicable Federal, state and local laws and

regulations pertaining to the labor standards insofar as those acts apply to the performance of this contract.

B. Independent Contractor

Nothing contained in this Contract is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. Contractor shall at all times remain an independent contractor with respect to the services to be performed under this Contract. City shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Worker's Compensation insurance as the Contractor 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, including, but not limited to, losses, damages, claims or liabilities arising from or related to, in any way, manner or form, the act or omission of third parties and/or the negligence or fault of City, its respective officers, employees, elected officials and /or agents. Grantee further covenants and agrees to defend any suits or administrative proceedings brought against the City and/or the City's respective officers, employees, elected officials and/or agents on account of any such claim, and to pay or discharge the full amount or obligation of any such claim incurred by, accruing to, or imposed on the City, or the City's respective officers, employees, elected officials and/or agents, as applicable, resulting from such suits, claims and/or administrative proceedings or any matter resulting from the settlement or resolution of said suits, claims and/or administrative proceedings, in addition, Grantee shall pay to the City, 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, on any theory of legal liability, including, but not limited to the negligence, of any type of degree or fault, of the City, arising from or related to, in any way, manner or form, the unenforceability or avoidance, for any reason, of all or part of this agreement.

The indemnity and release provided herein shall survive the termination or avoidance of this agreement.

D. Worker's Compensation

Contractor shall provide Worker's Compensation insurance coverage for all employees involved in the performance of this Contract.

E. Insurance and Bonding

Throughout the term of this Contract, the Contractor will maintain liability insurance in the following minimum amounts:

Type of Insurance	Minimum Liability
Commercial General Liability	\$1,000,000 Limit
Property Damage Liability	\$100,000 Each Occurrence

F. City Recognition

Contractor shall insure recognition of the role of City's Community Services Block Grant program in providing funding through this Contract. All activities, facilities and items utilized pursuant to this Contract shall be prominently labeled as to funding source. In addition, Contractor will include a reference to the support provided herein in all publications made possible with funds made available under this Contract.

G. Changes and Amendments

City or Contractor may amend this Contract at any time, provided that such amendments make specific reference to this Contract, 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 Contract, nor relieve nor release City or Contractor from its obligations under this Contract.

City may, in its discretion, amend this Contract 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 Contract, such modifications will be incorporated only by written amendment signed by both City and Contractor.

H. 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 thirty (30) days before the effective date of such termination. Partial termination of the Scope of Service in Paragraph "I.B" above may only be undertaken with the prior approval of 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 Contractor under this Contract shall at the option of City, become the property of City, and Contractor 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 Contract, in whole or in part, if Contractor materially fails to comply with any term of this Contract, or with any of the rules, regulations, or provisions referred to herein; and the City may declare the Contractor 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

Contractor 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 Contractor is found to be in compliance by 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.

I. Prevention of Waste, Fraud, and Abuse

Contractor shall establish, maintain, and utilize systems and procedures to prevent, detect, and correct waste, fraud, and abuse in activities funded under this contract. The systems and procedures shall address possible waste, fraud, an abuse by Contractor, its employees, recipients, vendors, and administrating agencies. Contractor's internal control systems and all transactions and other significant events are to be clearly documented, and the documentation is to be readily available for monitoring by City.

Contractor shall give City complete access to all of its records, employees, and agents for the purposes of any investigation of the funded programs. Contractor shall immediately notify City of any discovery of waste, fraud or abuse. Contractor shall fully cooperate with City's efforts to detect, investigate, and prevent waste, fraud and abuse in the funded program.

Contractor may not discriminate against any employee or other person who reports a violation of the terms of this contract or of any law or regulation to the City or to any appropriate law enforcement authority, if the report is made in good faith.

J. Legal Remedies

In instances where the Contractors violate or breach this Contract, the City may apply administrative, contractual, or legal remedies. The City may suspend all activities temporarily pending either corrective action by the Contractor or a decision by the City to terminate this contract.

K. Legal Authority

Contractor represents that it possesses the practical ability and legal authority to enter in to this contract, receive and manage funds authorized by this contract, and to perform the services Contractor has obligated itself to perform under this contract.

The person signing this contract on behalf of Contractor hereby warrants that he/she has been authorized by Contractor to execute this contract on behalf of Contractor and to bind Contractor to all terms herein set forth.

L. Reporting and Patent Rights

Contractor shall abide by all requirements and regulations pertaining to the reporting and patent rights involving research, developmental, experimental or demonstration work, with respect to any discovery or invention which arises or is developed in the course of satisfying the terms of this agreement.

VIII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards

Contractor agrees to comply with Attachment F of OMB Circular A-110 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

Contractor shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations", or A-21, "Cost Principles for Educational Institutions", as applicable, for all costs incurred whether charged on a direct or indirect basis.

B. Documentation and Record-Keeping

1. Records to be Maintained

Contractor shall maintain all records required by the State of Texas Department of Housing and Community Affairs, and that are pertinent to the activities to be funded under this Contract.

2. Retention

Contractor shall retain all record pertinent to expenditures incurred under this Contractor for a period of five (5) years after the termination of all activities funded under this Contract, or after the resolution of all State audit findings, whichever occurs later.

3. Client Data

Contractor shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to: total number of information and referral calls received and broken down into subject categories for every call; specific information obtained through random screening of calls such as income level, gender, race, age, education-level, and household size. Such information shall be made available to City monitors or their designees for review by the 10th day of every month.

4. Audits and Inspections

All Contractor records with respect to any matters covered by this Contract shall be made available to City, their designees or the State Government, at any time during normal business hours, as often as City or State deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data, both financial and programmatic. Any deficiencies noted in audit reports must be fully cleared by Contractor within thirty (30) days after receipt by the Contractor. Failure to comply with the above audit requirements will constitute a violation of this Contract and may result in the withholding of future payments.

C. Operation and Financial Reports

1. Financial Record Reports

Contractor agrees to submit to the City invoices for the services and approved costs of this program by the 10th day of each month; and

2. Operation Reports

Contractor agrees to submit to the City a monthly activity report in accordance with instructions provided by the State.

IX. PERSONNEL AND PARTICIPANT CONDITIONS

A. Civil Rights

Contractor 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 and the regulations issued under the order at 41 CFR chapter 60.

Non-discrimination and Equal Opportunity

No person shall, on the grounds of race, color, national origin, or sex be excluded from participation in, be denied from the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under the contract.

Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1990, or with respect to an otherwise qualified disabled individual as provided in section 04 of the Rehabilitation Act of 1973, shall also apply to any such program or activity.

B. Conduct

1. Prohibit Political Activity and Lobbying

None of the funds provided under this contract shall be used for influencing the outcome of any election, or the passage or defeat of any legislative measure. This prohibition shall not be construed to prevent any official or employee of Contractor from furnishing to any member of its governing body upon request, or to any other local or official not considered under law to be confidential information. Any action taken against an employee or official for supplying such information shall subject the person initiating the action to immediate dismissal from employment.

No funds provided under this Contract may be used directly or indirectly to hire employees or in any other way fund or support candidates for the legislative, executive, or judicial branches of government of Contractor, the State of Texas, or the government of the United States.

None of the funds provided under this contract shall be paid to any official or employee who violates any of the provisions of this section.

2. Conflict of Interest and Nepotism

Contractor covenants that neither it nor any member of its governing body presently has any interest or shall acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of this contract. Contractor further covenants that in the performance of this contract no person having such interest shall be employed or appointed by contractor.

No person (1) Who is an employee, agent, consultant, officer, or official of the contractor and who exercises or has exercised any functions or responsibilities with respect to assisted contract activities; or (2) Who is in a position to participate in a decision making process or gains inside information with regard to such activities, may obtain a personal or financial interest or benefit, direct or indirect, in any contract, subcontract, or agreement with respect thereto, or the proceeds there under, either for themselves or those with whom they have familiar or business ties, during their tenure.

Contractor's employees, officers, and/or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from subcontractors, or potential subcontractors.

C. Air & 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.

IN WITNESS WHEREOF, the Parties have executed this contract as of the date first written above.

CITY OF LUBBOCK

SOUTH PLAINS ASSOCIATION OF GOVERNMENTS

Tom Martin
MAYOR



Tim Pierce
EXECUTIVE DIRECTOR

ATTEST:

FED. I.D.# 7512852009

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Phyllis Brown, Interim Director
Community Development

APPROVED AS TO FORM:



Amy Sims, Assistant City Attorney



Regular City Council Meeting

5. 19.

Meeting Date: 03/06/2012

Information

Agenda Item

Ordinance 2nd Reading - Planning: Ordinance 2012-O0017 Consider an ordinance prohibiting the use of intermodal shipping containers (sea containers) as components for primary and accessory structures in R-1 (Single-Family District) and R-2 (Two-Family District).

Item Summary

On February 23, 2012, the City Council approved the first reading of the ordinance.

Codes Administration and Building Inspection staff received numerous requests to consider the use of sea containers, defined as intermodal shipping containers, as accessory buildings or storage units in backyards. A recent design and construction of multifamily living units was achieved at Lubbock Christian University where storage units were combined and engineered to provide student living quarters. A proposed three story complex did not meet engineering specifications and was not completed.

Consequently, the contractor of a number of the units that had been prepared for the project, and other companies in the business to potentially sell sea containers, began to request consideration for storage units to be used as components or in combination with stick built construction in residential areas. One such permit was approved by Building Inspection, and subsequently revoked as the actions of the applicant did not meet the standards of the building code.

In the meantime, Arnett Benson residents provided staff and several City Council members with strong objection for the use of storage containers as homes. A draft ordinance was considered by the Planning and Zoning (P&Z) Commission on February 2, 2012, during a public hearing. Subsequently, the P&Z Commission recommended banning storage containers for components of primary structures (living units) and accessory structures (storage, garage, or backyard buildings for any type use). The P&Z Commission cited incompatibility with normal residential building materials and a basic inability to incorporate with traditionally constructed homes.

Fiscal Impact

-

Staff/Board Recommending

Quincy White, Assistant City Manager

P&Z Commission

Attachments

Ordinance - Intermodal Ship Container

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LUBBOCK, TEXAS, AMENDING CHAPTER 40 OF THE CODE OF ORDINANCES OF THE CITY OF LUBBOCK, TEXAS, THE CITY OF LUBBOCK COMPREHENSIVE ZONING ORDINANCE, 1975, BY ADDING A DEFINITION OF INTERMODAL SHIPPING CONTAINER, AND PROHIBITING THEIR USE IN CERTAIN AREAS OF THE CITY OF LUBBOCK ZONED FOR RESIDENTIAL USE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY 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:

SECTION 1. THAT, Chapter 40, Section 40.01.003 of the City of Lubbock Code of Ordinances is amended, and renumbered accordingly, to include the following definition:

Intermodal Shipping Container: A metal standardized re-sealable transportation box for unitized freight handling with standardized equipment, commonly referred to as a "Sea Container."

SECTION 2. THAT, Chapter 40, Division 3, Section 40.03.202 of the City of Lubbock Code of Ordinances is amended by including a new subsection 40.03.202(d) to read as follows:

(d) Intermodal Shipping Containers, as separate structures or as a component to a structure, are prohibited for use within a district zoned as "R-1".

SECTION 3. THAT, Chapter 40, Division 4, Section 40.03.322 of the City of Lubbock Code of Ordinances is amended by including a new subsection 40.03.322(e) to read as follows:

(e) Intermodal Shipping Containers, as separate structures or as a component to a structure, are prohibited for use within a district zoned as "R-2".

SECTION 4. 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 5. 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 6. 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 _____, 2012.

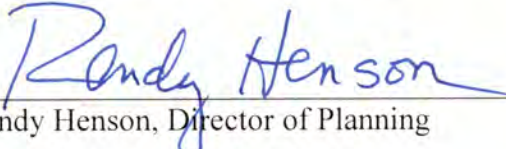
Passed by the City Council on second reading on _____, 2012.

TOM MARTIN, Mayor

ATTEST:

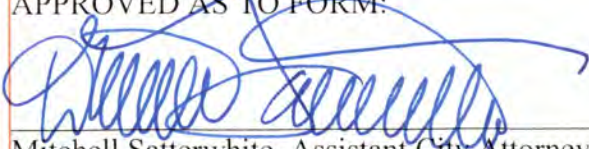
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Randy Henson, Director of Planning

APPROVED AS TO FORM:



Mitchell Satterwhite, Assistant City Attorney

Agenda Item 5.20

This item contains either trade secrets or confidential information in competitive sealed bids and proposals, proposed contracts, executive session information, personal information of appointments to boards and commissions, or information enhancing domestic security against terrorism as it relates to the U.S. Patriot Act.



Regular City Council Meeting

5. 20.

Meeting Date: 03/06/2012

Information

Agenda Item

Contract Resolution - Police: Consider a resolution authorizing the Mayor to execute a Memorandum of Understanding (MOU) with the Texas Department of Public Safety (DPS) for access to the DPS Mobile Identification System and the Federal Bureau of Investigation's (FBI) Rapid Search of the Repository for Individuals of Special Concern.

Item Summary

The MOU is for the limited purpose of accessing the Texas DPS Mobile Identification System and the FBI Repository for Individuals of Special Concern database.

The DPS and the FBI maintain millions of digital representations of fingerprint images, features from digital information in the DPS Automated Fingerprint Identification System, and the FBI Next Generation Identification system. Collectively, this data comprises the biometric content, format, and units of measurement for the electronic exchange of information that may be used for positive fingerprint identifications. The systems help reduce terrorist and criminal activities by improving and expanding biometric services that are provided to the Texas law enforcement user community.

Fiscal Impact

No fiscal impact.

Staff/Board Recommending

Roger Ellis, Chief of Police

Attachments

Resolution & Contract - MOU DPS

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 Memorandum of Understanding for access to the DPS Mobile ID System and the FBI's Rapid Search of the Repository for individuals of special concern, by and between the City of Lubbock and the Texas Department of Public Safety, and related documents. Said Memorandum of Understanding 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 _____.

TOM MARTIN, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Roger Ellis, Chief of Police

APPROVED AS TO FORM:



Amy Sims, Assistant City Attorney

vw:ccdcs/RES.Memo of Understanding-DPS
November 18, 2011

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE TEXAS DEPARTMENT OF PUBLIC SAFETY
AND
THE CITY OF LUBBOCK, TEXAS
FOR ACCESS TO THE DPS MOBILE ID SYSTEM AND THE FBI'S
RAPID SEARCH OF THE REPOSITORY FOR INDIVIDUALS OF SPECIAL CONCERN

GENERAL PROVISIONS

1. PURPOSE: This Memorandum of Understanding, hereinafter referred to as the "MOU" or the "Agreement", between the Texas Department of Public Safety (DPS) and the Texas Law Enforcement Agency (LEA) the City of Lubbock, Texas, hereinafter referred to as the "parties", is for the limited purpose of accessing the Texas Department of Public Safety (DPS) Mobile ID System (MID) and the Federal Bureau of Investigation (FBI) Repository for Individuals of Special Concern (RISC). This MOU memorializes the parties' understandings regarding the transmittal, receipt, storage, use, and dissemination of information relating to this initiative.
2. BACKGROUND: The DPS and the FBI maintain millions of digital representations of fingerprint images, features from digital fingerprint images, and associated criminal history record information in the DPS Automated Fingerprint Identification System (AFIS) and the FBI Next Generation Identification system (NGI). Collectively, this data comprises the biometric content, format, and units of measurement for the electronic exchange of information that may be used for positive fingerprint identifications. These systems will help reduce terrorist and criminal activities by improving and expanding biometric services that are provided to the Texas law enforcement user community.

The DPS MID will provide authorized users with a rapid identification response for searches that contain a minimum of two and maximum of ten fingerprints. The MID will search all criminal fingerprints contained in the DPS AFIS.

The FBI RISC rapid search functionality will provide law enforcement the capability to search a limited population of FBI maintained fingerprints using a minimum of two and maximum of ten rolled or flat fingerprints. These searches will be checked against the RISC, which contains records of Wanted Persons, Known or Suspected Terrorists,

and other persons of special interest. RISC data will be extracted from FBI systems on a daily basis. Consequently, the RISC database will NOT always have the most current data available to the FBI.

DPS and FBI responses to apparent fingerprint matches under this initiative will include, but is not limited to: Red (Hit), Yellow (Possible Hit), and Green (No Hit) indicators. DPS responses may also include a mug shot if available and if requested by the user.

The Texas LEA has instituted and deployed a localized rapid identification program from mobile and/or fixed sites. The Texas LEA has provided software and fingerprint capture devices that provide law enforcement officers the ability to scan fingerprint images and securely transmit these images to DPS to search the DPS MID. The LEA requested DPS to forward these images to the FBI, via the Criminal Justice Information Systems (CJIS) Wide Area Network (WAN), for comparison against the FBI RISC.

Both the DPS and the FBI will analyze transactions submitted by the LEA and their authorized contractors to assess system performance and modify system match thresholds.

System availability may be impacted by system outages as well as system maintenance. Accordingly, the DPS and FBI will attempt to provide the LEA with advance notice of sporadic system availability, backup recovery limitations, and failover shortfalls. Additionally, the DPS and FBI may limit the number of transactions that will be accepted from the LEA. DPS will inform the LEA of any transaction limitations imposed by the DPS and/or the FBI.

3. AUTHORITY: The Parties have the authority to enter into this agreement pursuant to the authority granted and in compliance with the provisions of "The Interlocal Cooperation Act", Texas Government Code, Section 791.001 et seq.

4. SCOPE: This MOU applies to fingerprint images provided by the LEA when requesting MID and RISC searches and DPS's routing of the requests and the resulting responses.

A. DPS will:

1. Accept a minimum of two index flat or rolled type 4 fingerprint image submissions;
2. Accept and route the images to be searched against the DPS MID and the FBI RISC;
3. Forward the DPS and FBI provided rapid responses, to include but not limited to: Red (Hit), Yellow (Possible Hit), and Green (No Hit) indicators;

4. Maintain a log of all transactions and disseminations;
5. Designate a point-of-contact (POC) for issues and concerns related to this initiative; and

B. The LEA will:

1. Capture/receive fingerprint images from DPS approved mobile and/or fixed capture devices;
2. Submit these fingerprint images to DPS for a rapid fingerprint search request to the DPS MID and the FBI RISC via the CJIS WAN. The submission methodology will be compliant with FBI's CJIS Security Policy requirements;
3. Accept Red (Hit), Yellow (Possible Hit), Green (No Hit), and other appropriate responses from both the DPS and the FBI;
4. Disseminate the responses to authorized recipients;
5. Designate a POC for issues and concerns related to this initiative;
6. Provide DPS with background incident information concerning the circumstances and outcomes associated with Red (Hit) notifications received as a result of RISC submissions. DPS may also request information regarding cases involving the successful use of the DPS MID, and;
7. Develop and deploy an agency policy that defines the appropriate use of the mobile devices. The LEA must provide DPS with a copy of their appropriate use policy.

5. NON-FUND OBLIGATING DOCUMENT: Nothing in this MOU shall obligate either DPS or the LEA to obligate or transfer any funds. Specific work projects or activities that involve the transfer of funds, services, or property among the various divisions and offices of DPS and the LEA will require execution of separate agreements and be contingent upon the availability of appropriated funds. Such activities must be independently authorized by appropriate statutory authority. This MOU does not provide such authority. Negotiation, execution, and administration of any further agreements must comply with all applicable statutes and regulations.

6. DISCLOSURE AND USE OF INFORMATION: The DPS MID and FBI RISC rapid search will be limited to authorized criminal justice agencies for criminal justice purposes. The RISC, and the rapid search thereof, is considered to be a part of the Fingerprint Identification Records System (FIRS). Therefore, all FBI rules regarding access to FIRS and use of information apply. The LEA is prohibited from relying solely on MID / RISC Rapid Search responses as the impetus for any law enforcement action. Instead, search responses serve as potential links between

submitted images and true identities that must be independently verified.

7. SETTLEMENT OF DISPUTES: Disagreements between the parties arising under or relating to this MOU will be resolved only by consultation between the parties and will not be referred to any other person or entity for settlement.

8. SECURITY: It is the intent of the parties that the transfer of information described under this MOU will be conducted at the unclassified level. Classified information will neither be provided nor generated under this MOU.

9. AMENDMENT, TERMINATION, ENTRY INTO FORCE, AND DURATION:

A. All activities under this MOU will be carried out in accordance to the above-described provisions.

B. This MOU may be amended or terminated by the mutual written consent of the parties' authorized representatives.

C. Either party may terminate this MOU upon 30-days written notification to the other party. Such notice will be the subject of immediate consultation by the parties to decide upon the appropriate course of action. In the event of such termination, the following rules apply:

1. The parties will continue participation, financial or otherwise, up to the effective date of termination.
2. Each party will pay the costs it incurs as a result of termination.
3. All information, copies thereof, and rights therein received under the provisions of this MOU prior to the termination will be maintained in accordance with the receiving party's practices.

D. This MOU shall enter into force upon signature by the parties' authorized representatives.

10. RIGHT TO AUDIT: The parties agree the representatives of the State Auditor's Office, the DPS, the LEA or other authorized representatives of the state of Texas, the DPS or the LEA, shall have access to, and the right to audit, examine, or reproduce, any and all records of the LEA and DPS related to the performance under this Agreement. LEA and DPS shall retain all such records for a period of two (2) years or until all audit and litigation matters the User or TXDPS has brought to the attention of each other are resolved, whichever is longer. User and TXDPS shall include the above section in all subcontractor agreements, if any, entered into in connection with this Agreement.

11. ASSIGNMENT: A party to this Agreement may not assign or transfer its interests under this Agreement.

12. ENTIRETY OF AGREEMENT: This MOU is the complete and entire Agreement between the parties with respect to the matters herein and supersedes all prior negotiations, agreements, representations, and understandings, if any, concerning the DPS MID and the FBI RISC. This MOU shall not affect the provisions of any other agreement between the parties regarding the provision of other services.

13. PUBLIC INFORMATION ACT: The Parties acknowledge each party is required to comply with the Public Information Act, Chapter 552, Government Code. The Parties maintain information that may be considered confidential or exempt from disclosure under laws administered by that party. To the extent required by law, each party is responsible for replying to all public information requests for information maintained by that party. Each party will promptly notify the other party of the receipt of a Texas Public Information Act request relating to confidential or exempt records obtained from the other party and will coordinate responses as necessary.

14. POINTS OF CONTACT: The individuals responsible for overseeing implementation of this MOU and the identification and resolution of issues hereunder, including shall be:

LoAnn Garcia Livescan Coordinator,
LESD/CRS Texas Department of Public
Safety
P.O. Box 4143 Austin, Texas
78765-4143 512-424-2409

Texas Law Enforcement Agency
Robert Ferguson, Sergeant

P.O. Box 2000

916 Texas Ave

Lubbock, TX 79401

806-775-2779

15. This MOU, which consists of fifteen Sections, will enter into effect upon the signature of both parties. This MOU is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law or otherwise by any third party against the parties, their parent agencies, the State of Texas, or the officers, employees, agents, or other associated personnel thereof

The foregoing represents the understandings reached between DPS and the LEA.

FOR THE TEXAS DEPARTMENT OF PUBLIC SAFETY:

Mike Lesko
Deputy Assistant Director, LESD/CRS
Texas Department of Public Safety

Date

FOR THE CITY OF LUBBOCK (LEA):

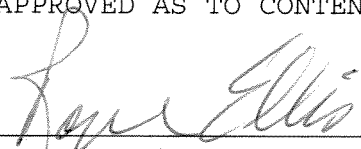
TOM MARTIN, MAYOR

Date

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Roger Ellis, Chief of Police

APPROVED AS TO FORM:



Amy L. Sims, Assistant City Attorney



Regular City Council Meeting

5. 21.

Meeting Date: 03/06/2012

Information

Agenda Item

Contract Resolution - Police: Consider a resolution authorizing the Mayor to execute Contract 10681 with the Texas Department of Public Safety (DPS) for the submission of electronically reportable arrests and fingerprints using the LiveScan Fingerprinting System.

Item Summary

The contract is for the submission of electronically reportable arrests and fingerprints to the Texas DPS using the LiveScan system.

The Lubbock Police Department (LPD) will submit LiveScan transactions for criminal justice purposes only. LiveScan submissions to the DPS will be limited to criminal justice applicants for the LPD, arrests, and identification verifications of subjects. The LPD must continuously submit retainable LiveScan submissions to maintain connectivity to the DPS.

Fiscal Impact

No fiscal impact.

Staff/Board Recommending

Roger Ellis, Chief of Police

Attachments

Resolution & Contract - DPS LiveScan

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 User Agreement for submission of electronically reportable arrest and fingerprints to the Texas Department of Public Safety for the LiveScan system, by and between the Lubbock Police Department and Texas Department of Public Safety, and 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 this _____, 2012.

TOM MARTIN, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Roger Ellis, Chief of Police

APPROVED AS TO FORM:



Amy L. Sims, Assistant City Attorney

UserAgrmnt-LPD and Tx Dept of Public Safety
12.7.11

TEXAS DEPARTMENT OF PUBLIC SAFETY

LIVESCAN USER AGREEMENT

This document constitutes an agreement between the Texas Department of Public Safety and

USER AGENCY	<u>Lubbock Police Department</u>
USER CONTACT NAME	<u>Sergeant Robert Ferguson</u>
USER CONTACT ADDRESS	<u>916 Texas Ave, Lubbock TX 79401</u>
USER CONTACT PHONE NUMBER	<u>806-775-2779</u>
USER CONTACT EMAIL	<u>Rferguson@mylubbock.us</u>

a law enforcement agency, hereinafter referred to as the User Agency. This agreement sets forth duties and responsibilities for both the Texas Department of Public Safety, hereinafter referred to as the Department, and the User Agency. Failure to abide by the conditions of this agreement may result in the removal of permissions provided by the Department.

The Department reserves the right to monitor, and limit if necessary, the number of transactions submitted to the state's Automated Fingerprint Identification System (APIS), as well as those forwarded to the FBI's Integrated Automated Fingerprint Identification System (IAFIS).

The Department will be the State Administrator of the Store and Forward device used to submit fingerprint images to the Federal Bureau of Investigation (FBI) and to the Department systems.

The User Agency will submit livescan transactions for criminal justice purposes only. Livescan submissions to the Department will be limited to criminal justice applicants for the User Agency, arrests and identification verifications of subjects. The User Agency must continuously submit retainable livescan submissions in order to be granted or maintain connectivity to the Department.

The Department will work with the User Agency and it's Livescan Vendor, if applicable, to accomplish connectivity to the Department. The User Agency will only submit transactions to the Department from DPS tested implementations utilizing devices that appear on the FBI's IAFIS certified product list, <https://www.fbiiospecs.org/IAFIS/Default.aspx>. The Livescans must also have Appendix F specifications with 500ppi and ANSI/NIST Type 4 fingerprints. The Livescan will connect to the Department in one of three forms: Direct Connect, Store and Forward via email, or Store and Forward via FTP.

The User Agency shall abide by all laws of the United States and the State of Texas, and shall abide by all present or hereinafter approved rules, policies, and procedures concerning the collection, storage, processing, retrieval, dissemination and exchange of criminal justice information. The User Agency shall adhere to the CJIS Security Policy.

The Department reserves the right to immediately suspend service to the User Agency when applicable policies are violated. The Department may reinstate service following such instances upon receipt of satisfactory assurances that such violations have been corrected and measures have been taken to prevent future violations. Failure to correct such violations could result in cancellation of service. All costs for reconnection of service are the responsibility of the User Agency. The User Agency may, upon 30 days written notice, discontinue service. The Department of Public Safety shall have the authority to inspect and audit the equipment, records and operations of the User Agency to determine compliance with this agreement and all applicable state and federal laws.

The User Agency agrees to hold harmless the Texas Department of Public Safety, its Director and employees from and against any and all claims, demands, actions and suits, including but not limited to any liability for damages by reason of or arising out of any false arrest or imprisonment or any cause of action, arising out of or involving any negligence on the part of the User Agency or its employees in the exercise of this Agreement, to the extent permitted by law.

This Agreement will become effective upon receipt by the Texas Department of Public Safety of the signed agreement.

In **WITNESS WHEREOF**, the parties hereto caused this Agreement to be executed by the proper officers and officials.

USER AGENCY

ORI# 1520200
Signature: Roger Ellis
Printed Name: Roger Ellis
Title: Chief
Date: 2-15-12

PLEASE MAIL TO:
DEPARTMENT OF PUBLIC SAFETY
CRIME RECORDS SERVICE
LIVESCAN COORDINATOR
PO BOX 4143
AUSTIN TX 78765-4143

TEXAS DPS

Signature: Mike Lester
Printed Name: MIKE LESTER
Title: DEPUTY ASSISTANT DIRECTOR
Date: 10/25/11

CITY OF LUBBOCK:

Tom Martin, Mayor

ATTEST:

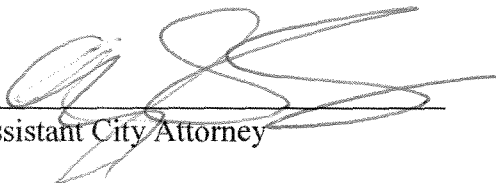
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Roger Ellis, Chief of Police

APPROVED AS TO FORM:



Assistant City Attorney



Regular City Council Meeting

5. 22.

Meeting Date: 03/06/2012

Information

Agenda Item

Contract Resolution - Police: Consider a resolution authorizing the Mayor to execute Contract 10682 with the Lubbock County Juvenile Justice Center for submission of electronically reportable arrest and fingerprints to the Texas Department of Public Safety for the LiveScan Fingerprinting System.

Item Summary

The Lubbock Police Department recently purchased a Mentalix LiveScan Fingerprinting system and will submit electronically all reportable arrest and fingerprints directly to the Texas Department of Public Safety for processing.

Fiscal Impact

No fiscal impact.

Staff/Board Recommending

Roger Ellis, Chief of Police

Attachments

Reso and Contract

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 Resolution for submission of electronically reportable arrest and fingerprints to the Texas Department of Public Safety for the LiveScan system, by and between the Lubbock Police Department and Lubbock County Juvenile Justice Center, and 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 this _____, 2012.

TOM MARTIN, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Roger Ellis, Chief of Police

APPROVED AS TO FORM:



Amy L. Sims, Assistant City Attorney

res-Agrmnt-LPD and Lubb County Juvenile Justice Center
12.6.11

AGREEMENT

This Agreement (the "Agreement") is entered into on this _____ day of _____, 20__, between the City of Lubbock, Texas (the "City"), a Texas Home Rule Municipal Corporation, and Lubbock County Juvenile Justice Center, a governmental body (the "Entity").

WHEREAS Lubbock Police Department recently purchased a Mentalix LiveScan system (the "system") and will in the future submit electronically all reportable arrest & fingerprints directly to the Texas Department of Public Safety for processing, and

WHEREAS, the Lubbock County Juvenile Justice Center desires to utilize the system; NOW THEREFORE:

1. Lubbock Police Department will assign a unique Tracking Control Number (TCN) to all reportable arrest submissions.
2. Effective _____, Lubbock County Juvenile Justice Center will no longer submit arrest information to Texas DPS on behalf of Lubbock Police Department.
3. The City's address and numbers for the purposes of notice are: Sergeant Robert Ferguson, Lubbock Police Department, email: RFerguson@mail.ci.lubbock.tx.us, (806) 775-2779.
4. Lubbock County Juvenile Justice Center abide by all local, state and federal laws and polices related to the use of the System.

CITY OF LUBBOCK, TEXAS:

ENTITY:

TOM MARTIN, MAYOR

Date executed: _____

BY: William A. Carter
Name: William A. Carter
Title: Director
Date executed: 1/25/12

ATTEST:

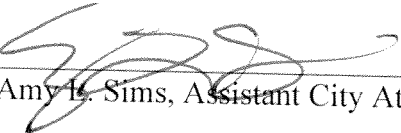
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



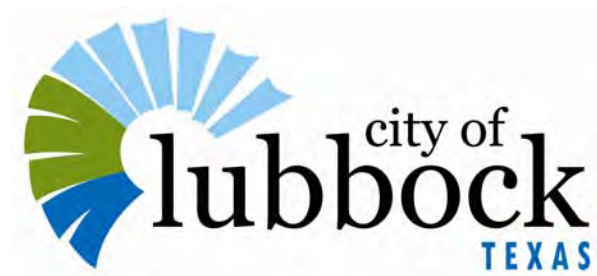
Roger Ellis, Chief of Police

APPROVED AS TO FORM:



Amy L. Sims, Assistant City Attorney

Mentalix LCJJC Agreement 1.13.12





Regular City Council Meeting

6. 1.

Meeting Date: 03/06/2012

Information

Agenda Item

Variance Resolution - Planning: Consider a resolution approving and granting a variance from the applicable 300-foot minimum distance provisions of City of Lubbock Ordinance 2009-O0060 at the location of 2701 26th Street for Capital Pizza Restaurant, a business requesting an on premise alcoholic beverage permit.

Item Summary

Effective August 8, 2009, Ordinance 2009-O0060 amends Section 18-11, Alcoholic beverages - Sale near church, school or hospital, in Chapter 18, Offences - Miscellaneous, of the City of Lubbock Code of Ordinances, related to businesses that obtain a permit from the Texas Alcohol Beverage Commission (TABC) for off premises sale of alcohol. As a part of the ordinance, the City Council adopted a standard that prohibits any business that is within 300 feet of any church, public or private school, day care, or public hospital, measured from property lines of each tract, from having a permit issued by the TABC. The City Council may consider a variance to the 300-foot rule as set forth in the Texas Alcoholic Beverage Code.

Capital Pizza Restaurant, located at 2701 26th Street, is across 26th Street and Canton Avenue from the Roscoe Wilson Elementary campus of the Lubbock Independent School District (LISD). The approximate separation from Roscoe Wilson Elementary to the business is 210 feet.

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.

Dr. Karen Garza, Superintendent of the Lubbock Independent School District, has been notified by letter of the request by Capital Pizza at 2701 26th Street for a variance.

Fiscal Impact

-

Staff/Board Recommending

Quincy White, Assistant City Manager

Attachments

Resolution - Variance - Capital Pizza

RESOLUTION

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. 2009-00060 at the following location: **Capital Pizza of Texas, 2605 Boston Avenue**, Lubbock, Texas. This variance shall remain in effect for so long as: 1) a **Mixed Beverage Permit [MB]**, and a 2) **Mixed Beverage Late Hours Permit [LB]**; and 3) a subsequent like use, if any, are in effect at the above-referenced location.

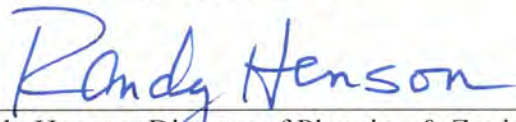
Passed by the City Council this _____ day of _____, 2012.

TOM MARTIN, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Randy Henson, Director of Planning & Zoning

APPROVED AS TO FORM:



Chad Weaver, Assistant City Attorney

vw/ccdocs/Chad/Resolutions/RES.Variance-Capital Pizza
February 14, 2012

NORTH



YWCARE AT WILSON

2807

WILSON
ELEMENTARY

- Permit Requested
- Schools
- 300-Ft Buffer Schools
- Parcels
- Streets

02/13/2012

2-6-12

TO: Randy Henson

ATT: Mayor Tom Martin

Honorable City Council members

Our plans are to put in Capital Pizza restaurant located at 26th & Boston. Also included in these plans is a mixed Beverage permit, Food & Bev. permit (certificate), and a mixed Beverage Late Hours Permit

We will offer a complete pizza, wings, etc menu with your choice of wine, beer, or spirits if so desired.

The business will be new construction (top to bottom / wall to wall) with a theme that emphasizes the state of Texas.

Our staff is and will be experienced and well trained in the serving of alcohol. All staff members have and will be certified in the T.A.B.C. Alcohol Training / serving class.

There is a school in proximity of our desired location, however, the school is closed campus.

May we bring to your attention that we have both been in the restaurant and liquor business for many years. We demand keen management and insist on being an asset and a business the community can be comfortable with and proud of. Thank you for your time and attention to this matter.

Christiane

Gray Hilbard



February 13, 2012
Dr. Karen Garza
Superintendent, Lubbock ISD
1628 19th Street
Lubbock, Texas 79401

Re: City Council hearings on variance for alcohol permits within 300 feet of a school
Dear Dr. Garza:

On August 8, 2009 the City of Lubbock completed an ordinance that amends the Zoning Code for particulars related to businesses that obtain a permit from the Texas Alcohol Beverage Commission (TABC) for the sale of alcohol. As a part of the ordinance, the City Council adopted a standard that prohibits any business that is three hundred (300) feet or less from a school, measured from property lines of each tract, from having a permit issued by the TABC. When the Council adopted the spacing rule, the "governing body" (Council) of the City may consider a variance to the 300 foot rule as outlined in the Section 18-11, "Offences – Misc." in the City of Lubbock Code of Ordinances. Capital Pizza restaurant at 2701 26th Street has requested a variance on the March 6th, 2012 City Council Agenda. The store is approximately 210 feet from Wilson Elementary School.

On the March 6th, 2012 Lubbock City Council will consider this request as a regular agenda item. As such, there is no set time and a representative should be here either at 9am or 9:30 am to respond to any questions the Council may have. Feel free check with me in a week to ten days to see if I can verify a tighter time frame.

Sincerely yours,

A handwritten signature in blue ink that reads "Randy Henson".

Randy Henson
Planning Director



Regular City Council Meeting

6. 2.

Meeting Date: 03/06/2012

Information

Agenda Item

Contract Resolution - Community Development: Consider a resolution authorizing the Mayor to execute a Community Development Funding Contract 10691 with Catholic Charities, Diocese of Lubbock (CCDL) to provide assistance to families to transition them out of poverty through the Community Service Block Grant (CSBG) for the Parent Empowerment Program (PEP).

Item Summary

The City received funding from the Texas Department of Housing and Community Affairs (TDHCA) for the CSBG. The City will pass the funds to CCDL, a subrecipient, to operate the PEP. Funds are used to provide assistance to transition families out of poverty.

The period of performance is January 1, 2012, through December 31, 2012. On January 11, 2012, the Community Development and Services Board approved the project.

Fiscal Impact

The total allocation for the program is \$198,500. TDHCA has released approximately 20.4%, or \$40,253, of the total CSBG allocation. The City will notify the subrecipient as more funds are made available.

Staff/Board Recommending

Quincy White, Assistant City Manager

Attachments

Resolution & Contract - CCDL - CSBG

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, by and between the City of Lubbock and Catholic Charities of Lubbock, from the Community Services Block Grant for the Parent Empowerment Program, and all 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.

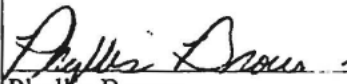
Passed by the City Council this _____, 2012.

TOM MARTIN, MAYOR

ATTEST:

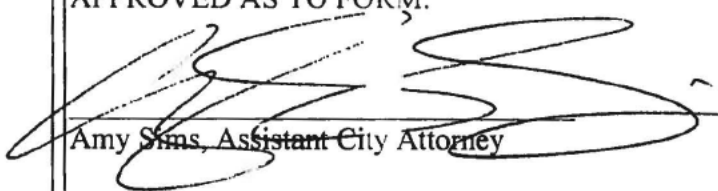
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Phyllis Brown
Interim Community Development Director

APPROVED AS TO FORM:



Amy Sims, Assistant City Attorney

gs/ccdocs/CDBG-Funding Agrmt-Catholic Charities of Lub.res
2.8.12

COMMUNITY SERVICE BLOCK GRANT
AGREEMENT BETWEEN THE CITY OF LUBBOCK
AND CATHOLIC CHARITIES, DIOCESE OF LUBBOCK

STATE OF TEXAS §

COUNTY OF LUBBOCK §

This Contract entered into this 6th day of March 2012, by and between the CITY OF LUBBOCK (herein called "City") and CATHOLIC CHARITIES, DIOCESE OF LUBBOCK a non-profit Center (herein called "Contractor").

WHEREAS, the City is obligated to do and perform certain services in its administration of Community Services Block Grant; and

WHEREAS, the Contractor operates a non-profit center offering services to low-income individuals in the County of Lubbock; and

WHEREAS, the services provided by the Contractor benefit citizens of the County of Lubbock and constitute a valuable public service; and

WHEREAS, the City Council of the City of Lubbock has declared programs of the Catholic Charities to be a public purpose and the provision of these services to be a predominate purpose of this transaction; and

WHEREAS, the Contractor and the services it provides have been found to meet the criteria for funding under the RFP; and

WHEREAS, the accomplishment of the above public purpose is the predominant purpose of this transaction, continuing supervision by the City and State 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 had found that the Contractor has the special expertise, knowledge and experience necessary for the performance of the contract and that the City will receive adequate consideration in the form of substantial public benefit; and

WHEREAS, the City desires to contract with the Contractor to make available operating assistance for the Parent Empowerment Program.

NOW, THEREFORE, it is agreed between the parties hereto that:

I. SCOPE OF SERVICE

A. General Overview of Program:

1. Contractor will use \$198,500 of CSBG funds awarded to administer the Parent Empowerment Program and transition people out of poverty by providing direct assistance with education and support services and per the budget herein.

B. City Responsibilities:

1. City agrees to provide Contractor assistance from Community Services Block Grant funds in an amount not to exceed \$198,500 for the Parent Empowerment Program in return for Contractor performing the activities set forth in this Contract as consideration for said funds:
2. It is expressly understood and agreed by the parties hereto that the City's responsibilities are contingent upon the actual receipt of adequate funds to meet City's liabilities under this contract. If adequate funds are not available to make payment under this contract, City shall notify Contractor in writing within a reasonable time after such fact is determined. City shall terminate this Contract and will not be liable for failure to make payments to Contractor under this Contract.

The funds shall be disbursed in the amounts and at the time the funds are disbursed to the City by the State of Texas. The City is not responsible for any amounts not distributed by the State of Texas. CSBG funds shall be disbursed in the amount and at the time funds are disbursed to the City by the State of Texas. The State of Texas has currently released approximately twenty percent (20%) of the total amount of funds to the City. Therefore, The City shall currently disbursed \$40,253 in CSBG funds to the Contractor, and will notify the Contractor as other funds are released.

3. City shall not be liable to Contractor for any costs incurred by Contractor, or any portions thereof, which have been paid to Contractor or which are subject to payment to Contractor, or which have been reimbursed to Contractor or which are subject to reimbursement to Contractor by any source other than City or Contractor.
4. City shall not be liable for any costs incurred by Contractor which are not allowable costs as set forth in the contract.
5. City shall not be liable to Contractor for any costs incurred by Contractor or for any performances rendered by Contractor which are not strictly in accordance with the terms of this Contract.
6. City shall not be liable to Contractor for any costs incurred by Contractor in the performance of this Contract which have not been billed to City by Contractor within sixty (60) days following termination of this Contract.

7. City shall not be liable for costs incurred or performances rendered by Contractor before commencement of this Contract or after termination of this Contract.
8. City's financial assistance will be limited to the following:
 - a. The assistance made available through this Contract shall be used by the Contractor solely for the purpose of the Parent Empowerment Program.
 - b. The assistance shall provide funding for expenses incurred within the operation and scope of the program.
 - c. The services provided by the Contractor shall benefit lower-income families residing in the County of Lubbock and whose gross household income does not exceed the most recent Poverty Income Guidelines issued by the U.S. Department of Health and Human Services.

C. Contractor's Responsibilities

1. Contractor agrees to use funds made available through this Contract solely for the purpose of the Catholic Charities Parent Empowerment Program, at 102 Ave J.
2. Contractor agrees to comply with applicable uniform administrative requirements, as described in the Catholic Charities Policy Manual and generally accepted administrative requirements for the Texas State Government located at 1TAC5.141 et seq. And the federal administrative requirements located at 45CFR Part 96.
3. Contractor agrees to carry out the activities under this Contract in compliance with all State and Local laws and regulations.

II. TIME OF PERFORMANCE

This Contract shall commence January 1, 2012 and shall terminate December 31, 2012. The term of this Contract and the provisions herein may be extended for an additional year, provided funds are received from TDHCA and provided the Contractor meets its contractual obligations during the current funding year, subject to board approval and Mayor's signature.

III. BUDGET

	CSBG Funds	Matching Funds	Total Project Funds
Administration:			
Personnel	12,000		
Fringe Benefits	12,800		
Office Supplies	200		
Copy Supplies	100		
Postage	250		
Telephone	100		
Office Space	560		
Facility Utilities	360		
Insurance	500		
Total Administration	26,870		
Program:			
Tuition, fees, certification, licensing, testing, etc.	17,000		
Books	26,500		
Child Care	8,401		
Transportation	10,000		
Utilities	37,634		
Rent	39,500		
Case Management	26,108		
Other (uniforms, Rx, eye exams and glasses, etc.)	6,487		
Total Program	\$ 171,630		
GRAND TOTAL	\$ 198,500		

IV. PAYMENT

City will pay up to \$198,500 to Contractor based upon the receipt of request for funds and project expense summary for the above-described project. Contractor shall submit to City invoices for items purchased. City shall determine the reasonableness of each purchase and shall not make disbursement of any such payment until City has reviewed and approved each purchase. If need is shown to exist, City staff can release up to 10% of the funds to be used as start-up funding. Contractor will then bill City monthly for expenses occurred during the month. By end of program year, Contractor will have provided City with proper documentation to show how all funds were expended, including the start-up costs.

V. NOTICES

Communication and details concerning this Contract shall be directed to the following Contract representatives:

Joe Rangel
City of Lubbock
P. O. Box 2000
Lubbock, TX 79457

Beth Zarate
Catholic Charities, Diocese of Lubbock
102 Ave J
Lubbock, TX 79401

VI. **SPECIAL CONDITIONS**

A. **Specific Requirements to Meet Conditions Outlined in RFP**

1. Contractor will maintain adequate case management files on each client assisted; whether the case management is funded through this grant or not, and whether the case management is provided by the Contractor or not.
2. Contractor will keep adequate documentation of the design of the program, the implementation of the program, and evaluation of program design.
3. Contractor will keep documentation of their efforts to leverage CSBG funds with other programs to enhance the services provided to clients.
4. Contractor will keep documentation of their efforts to cooperate and collaborate with other service providers.

VII. **GENERAL CONDITIONS**

A. 1. **General Compliance**

Contractor agrees to comply with all applicable federal, state and local laws and regulations governing the funds provided under this Contract which were made available under City's Community Services Block Grant program.

2. **Labor Standards**

The Contractor agrees to comply with the requirements of the Secretary of Labor in accordance with the Copeland "Anti-Kickback" Act (40 U.S.C 276a-276a-5; 40 USC 327 and 40 USC 26c) and all other applicable Federal, state and local laws and regulations pertaining to the labor standards insofar as those acts apply to the performance of this contract.

B. **Independent Contractor**

Nothing contained in this Contract is intended to, or shall be construed in any

manner, as creating or establishing the relationship of employer/employee between the parties. Contractor shall at all times remain an independent contractor with respect to the services to be performed under this Contract. City shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Worker's Compensation insurance as the Contractor 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, including, but not limited to, losses, damages, claims or liabilities arising from or related to, in any way, manner or form, the act or omission of third parties and/or the negligence or fault of City, its respective officers, employees, elected officials and/or agents. Grantee further covenants and agrees to defend any suits or administrative proceedings brought against the City and/or the City's respective officers, employees, elected officials and/or agents on account of any such claim, and to pay or discharge the full amount or obligation of any such claim incurred by, accruing to, or imposed on the City, or the City's respective officers, employees, elected officials and/or agents, as applicable, resulting from such suits, claims and/or administrative proceedings or any matter resulting from the settlement or resolution of said suits, claims and/or administrative proceedings, in addition, Grantee shall pay to the City, 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, on any theory of legal liability, including, but not limited to the negligence, of any type of degree or fault, of the City, arising from or related to, in any way, manner of form, the unenforceability or voidance, for any reason, of all or part of this agreement.

The indemnity and release provided herein shall survive the termination or voidance of this agreement.

D. Worker's Compensation

Contractor shall provide Worker's Compensation insurance coverage for all employees involved in the performance of this Contract.

E. Insurance and Bonding

Throughout the term of this Contract, the Contractor will maintain liability insurance in the following minimum amounts:

Type of Insurance

Minimum Liability

Commercial General Liability	\$1,000,000 Limit
Property Damage Liability	\$100,000 Each Occurrence

F. City Recognition

Contractor shall insure recognition of the role of City's Community Services Block Grant program in providing funding through this Contract. All activities, facilities and items utilized pursuant to this Contract shall be prominently labeled as to funding source. In addition, Contractor will include a reference to the support provided herein in all publications made possible with funds made available under this Contract.

G. Changes and Amendments

City or Contractor may amend this Contract at any time, provided that such amendments make specific reference to this Contract, 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 Contract, nor relieve nor release City or Contractor from its obligations under this Contract.

City may, in its discretion, amend this Contract 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 Contract, such modifications will be incorporated only by written amendment signed by both City and Contractor.

H. 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 thirty (30) days before the effective date of such termination. Partial termination of the Scope of Service in Paragraph "I.B" above may only be undertaken with the prior approval of 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 Contractor under this Contract shall at the option of City, become the property of City, and Contractor 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 Contract, in whole or in part, if Contractor materially fails to comply with any term of this Contract, or with any of the rules, regulations, or provisions referred to herein; and the City may declare the Contractor 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 Contractor 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 Contractor is found to be in compliance by 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.

I. Prevention of Waste, Fraud, and Abuse

Contractor shall establish, maintain, and utilize systems and procedures to prevent, detect, and correct waste, fraud, and abuse in activities funded under this contract. The systems and procedures shall address possible waste, fraud, an abuse by Contractor, its employees, recipients, vendors, and administrating agencies. Contractor's internal control systems and all transactions and other significant events are to be clearly documented, and the documentation is to be readily available for monitoring by City.

Contractor shall give City complete access to all of its records, employees, and agents for the purposes of any investigation of the funded programs. Contractor shall immediately notify City of any discovery of waste, fraud or abuse. Contractor shall fully cooperate with City's efforts to detect, investigate, and prevent waste, fraud and abuse in the funded program.

Contractor may not discriminate against any employee or other person who reports a violation of the terms of this contract or of any law or regulation to the City or to any appropriate law enforcement authority, if the report is made in good faith.

J. Legal Remedies

In instances where the Contractors violate or breach this Contract, the City may apply administrative, contractual, or legal remedies. The City may suspend all activities temporarily pending either corrective action by the Contractor or a decision by the City to terminate this contract.

K. Legal Authority

Contractor represents that it possesses the practical ability and legal authority to enter in to this contract, receive and manage funds authorized by this contract, and to perform the services Contractor has obligated itself to perform under this contract.

The person signing this contract on behalf of Contractor hereby warrants that he/she has been authorized by Contractor to execute this contract on behalf of Contractor and to bind Contractor to all terms herein set forth.

L. Reporting and Patent Rights

Contractor shall abide by all requirements and regulations pertaining to the reporting and patent rights involving research, developmental, experimental or demonstration

work, with respect to any discovery or invention which arises or is developed in the course of satisfying the terms of this agreement.

VIII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards

Contractor agrees to comply with Attachment F of OMB Circular A-110 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

Contractor shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations", or A-21, "Cost Principles for Educational Institutions", as applicable, for all costs incurred whether charged on a direct or indirect basis.

B. Documentation and Record-Keeping

1. Records to be Maintained

Contractor shall maintain all records required by the State of Texas Department of Housing and Community Affairs, and that are pertinent to the activities to be funded under this Contract.

2. Retention

Contractor shall retain all record pertinent to expenditures incurred under this Contractor for a period of five (5) years after the termination of all activities funded under this Contract, or after the resolution of all State audit findings, whichever occurs later.

3. Client Data

Contractor shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to: total number of information and referral calls received and broken down into subject categories for every call; specific information obtained through random screening of calls such as income level, gender, race, age, education-level, and household size. Such information shall be made available to City monitors or their designees for review by the 10th day of every month.

4. Audits and Inspections

All Contractor records with respect to any matters covered by this

Contract shall be made available to City, their designees or the State Government, at any time during normal business hours, as often as City or State deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data, both financial and programmatic. Any deficiencies noted in audit reports must be fully cleared by Contractor within thirty (30) days after receipt by the Contractor. Failure to comply with the above audit requirements will constitute a violation of this Contract and may result in the withholding of future payments.

C. Operation and Financial Reports

1. Financial Record Reports

Contractor agrees to submit to the City invoices for the services and approved costs of this program by the 10th day of each month; and

2. Operation Reports

Contractor agrees to submit to the City a monthly activity report in accordance with instructions provided by the State.

IX. PERSONNEL AND PARTICIPANT CONDITIONS

A. Civil Rights

Contractor 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 and the regulations issued under the order at 41 CFR chapter 60.

Non-discrimination and Equal Opportunity

No person shall, on the grounds of race, color, national origin, or sex be excluded from participation in, be denied from the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under the contract.

Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1990, or with respect to an otherwise qualified disabled individual as provided in section 04 of the Rehabilitation Act of 1973, shall also apply to any such program or activity.

B. Conduct

1. Prohibit Political Activity and Lobbying

None of the funds provided under this contract shall be used for influencing the outcome of any election, or the passage or defeat of any legislative measure. This prohibition shall not be construed to prevent any official or employee of Contractor from furnishing to any member of its governing body upon request, or to any other local or official not considered under law to be confidential information. Any action taken against an employee or official for supplying such information shall subject the person initiating the action to immediate dismissal from employment.

No funds provided under this Contract may be used directly or indirectly to hire employees or in any other way fund or support candidates for the legislative, executive, or judicial branches of government of Contractor, the State of Texas, or the government of the United States.

None of the funds provided under this contract shall be paid to any official or employee who violates any of the provisions of this section.

2. Conflict of Interest and Nepotism

Contractor covenants that neither it nor any member of its governing body presently has any interest or shall acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of this contract. Contractor further covenants that in the performance of this contract no person having such interest shall be employed or appointed by contractor.

No person (1) Who is an employee, agent, consultant, officer, or official of the contractor and who exercises or has exercised any functions or responsibilities with respect to assisted contract activities; or (2) Who is in a position to participate in a decision making process or gains inside information with regard to such activities, may obtain a personal or financial interest or benefit, direct or indirect, in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have familiar or business ties, during their tenure.

Contractor's employees, officers, and/or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from subcontractors, or potential subcontractors.

C. Air & 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.

IN WITNESS WHEREOF, the Parties have executed this contract as of the date first written above.

CITY OF LUBBOCK

Tom Martin
MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Phyllis Brown, Interim Director
Community Development

APPROVED AS TO FORM:

Amy Sims, Assistant City Attorney

CATHOLIC CHARITIES
DIOCESE OF LUBBOCK

Beth Zarate
EXECUTIVE DIRECTOR

FED. I.D.# 75-1966688



Regular City Council Meeting

6.3.

Meeting Date: 03/06/2012

Information

Agenda Item

Ordinance Amendment 1st Reading – City Council: Consider an ordinance amending Chapter 22 of the City of Lubbock Code of Ordinances with regard to the Drought and Emergency Contingency Plan.

Item Summary

On July 8, 2010, the City Council adopted by Ordinance Number 2010-00055 a Drought and Emergency Contingency Plan as part of the City's Water Use Management Plan. The Plan is required by state law. The amendment to the Plan removes draining and refilling of swimming pools and hot tubs from Stage 2 restrictions and adds them to Stage 3 restrictions.

The amendment allows draining and refilling swimming pools and hot tub type pools during Stage 2 water restrictions planned for April 1, 2012, implementation.

Fiscal Impact

-

Staff/Board Recommending

Lubbock Water Advisory Commission

Attachments

Ordinance - Drought Contingency Plan

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 22 OF THE CODE OF ORDINANCES, CITY OF LUBBOCK, TEXAS, WITH REGARD TO RESTRICTIONS ON CERTAIN WATER USES RELATED TO DROUGHT OR SHORTAGES; PROVIDING A PENALTY; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

WHEREAS, the City of Lubbock, Texas (the "City"), recognizes that the amount of water available to the City and its water utility customers is limited; and

WHEREAS, the City has adopted a Water Conservation Plan and Drought and Emergency Contingency Plan (the "Water Use Management Plan"); and

WHEREAS, the City Council has deemed that the reasonable and prudent filling, emptying, and refilling of swimming pools and hot tubs represents a relatively insignificant portion of overall water consumption, such that said activities need be restricted only in certain, more drastic, drought and emergency conditions;

WHEREAS, the City Council of the City of Lubbock, Texas deems it in the best interest of the health, safety, and welfare of the citizens of Lubbock to make the following amendments to Chapter 22 of the Code of Ordinances with regard to amending the Water Use Management Plan to permit the reasonable filling, emptying, and refilling of swimming pools and hot tubs; NOW THEREFORE:

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

SECTION 1. THAT Section 22.08.079(2)(C)(iv) of the Code of Ordinances of the City of Lubbock, Texas, is hereby amended to read as follows:

- (iv) Water customers will refrain from or significantly limit aesthetic and non-essential water use. Water shall not be used to wash down hard surfaced areas, including, without limitation, sidewalks, parking lots, gutters, and patios. Water shall not be used for dust control. However, water may be used for construction or to clean surfaces for painting.

SECTION 2. THAT Section 22.08.079(3)(C) of the Code of Ordinances of the City of Lubbock, Texas, is hereby amended to read as follows:

- (C) Water use restrictions for reducing demand
 - (i) Irrigation shall occur without significant water runoff, which can be accomplished by correctly cycling the sprinkler system and allowing time for the water to soak into the landscape between irrigation events.

- (ii) Landscape irrigation shall not occur more than one day per month and not for more than 1.5 inches per zone. The City Manager, or his/her designee, may designate the irrigation schedule.
- (iii) Water customers will refrain from aesthetic and non-essential water use. Water shall not be used to wash down hard surfaced areas, including, without limitation, sidewalks, parking lots, gutters, and patios. Water shall not be used for dust control. Pools and hot tubs may not be filled or drained and refilled.
- (iv) Use of water from fire hydrants shall be limited to fire fighting or other related activities necessary to maintain public health, safety, and welfare. Under the direction of the City Manager, use of water from fire hydrants for construction purposes may be allowed by permit.
- (v) All City of Lubbock operations shall adhere to the water use restrictions.
- (vi) Hand watering for landscape irrigation purposes is allowed on a daily basis regardless of the time of year.
- (viii) The City Manager, or his/her designee, will contact wholesale water customers to discuss water supply and/or demand conditions and will request that wholesale water customers initiate additional mandatory measures to reduce non-essential water use (i.e., implement Stage 3 of the customer's drought contingency plan).

SECTION 3. THAT Section 22.08.003, Subsection entitled Nonessential water use, of the Code of Ordinances of the City of Lubbock, Texas, is hereby amended to read as follows:

Nonessential water use. Water uses that are neither essential nor required for the protection of public health, safety, and welfare, including without limitation:

- (1) Landscape irrigation;
- (2) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane, or other vehicle of any kind;
- (3) Use of water to spray or wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
- (4) Use of water to spray or wash down buildings or structures for purposes other than immediate fire protection;

(5) Flushing gutters or permitting water to run or accumulate in any gutter or street;

(6) In connection with Stage 3 and Stage 4 Drought Response Stages, use of water to fill, refill, or add to any indoor or outdoor swimming pools or hot tubs;

(7) Use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic and avian life; and

(8) Failure to repair a leak(s) within a reasonable period of time after having been given notice directing the repair of such leak(s).

SECTION 4. THAT violation of any provision of this Ordinance shall be deemed a misdemeanor punishable by a fine and in the manner as set forth in Section 22.08.083 of the City of Lubbock Code of Ordinances.

SECTION 5. THAT should any paragraph, section, 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 6. THAT the City Secretary of the City of Lubbock, Texas, is hereby authorized and directed to cause publication of the descriptive caption of this Ordinance as an alternative means of publication provided by law.

AND IT IS SO ORDERED.

Passed by the City Council on first reading this _____ day of _____, 2012.

Passed by the City Council on second reading this _____ day of _____, 2012.

TOM MARTIN, MAYOR

ATTEST:

Rebecca Garza, City Secretary

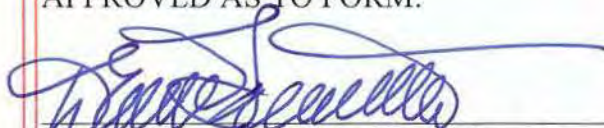
APPROVED AS TO CONTENT:


Marsha Reed, P.E., Chief Operations Officer

APPROVED AS TO CONTENT:


Aubrey Spear, P.E., Director of Water Resources

APPROVED AS TO FORM:


Mitchell Satterwhite, Assistant City Attorney

Water Use Management Plan Amend.2.16.12



Regular City Council Meeting

6. 4.

Meeting Date: 03/06/2012

Information

Agenda Item

Resolution - City Council: Consider a resolution amending certain policies and procedures, as set forth in the City of Lubbock Council Rules, Order of Business, and Procedures manual, respecting evening City Council meetings.

Item Summary

Consider a resolution amending certain policies and procedures, as set forth in the City of Lubbock Council Rules, Order of Business, and Procedures manual, respecting evening City Council meetings.

Fiscal Impact

-

Staff/Board Recommending

Todd Klein, City Councilman, District 3

Attachments

Resolution - Klein

RESOLUTION

WHEREAS, the City Council of the City of Lubbock, Texas values the knowledge and participation of the citizenry in matters of public importance, and further desires to ensure the maximum possible degree of transparency as to City Council activity; and

WHEREAS, the City Council of the City of Lubbock desires to place before itself the question of whether certain activities of the City Council should be conducted at a time when more citizens can attend and participate in discussions of public importance; and

WHEREAS, the City Council of the City of Lubbock finds that activities involving final votes on annexation of real property, the adoption of the City of Lubbock budget, and consideration of the City of Lubbock tax rate rise to the level of encouraging the maximum degree of transparency and public participation, and finds further that routine meetings of the City Council scheduled during evening hours would likewise promote transparency and public participation in city government; and

WHEREAS, the City Council recognizes the importance of accessibility as well as transparency, and wishes to accommodate the vast majority of citizens who are not able to otherwise attend morning meetings due to work; and

WHEREAS, the City Council respects the working citizens of Lubbock, and wishes to make local government, such as public comments before the City Council, as well as other public business, accessible to the citizens, taxpayers, and voters to whom the City Council is elected to serve; and

WHEREAS, the City Council has heretofore by Resolution established policies and procedures pertaining to the City Council and of the City of Lubbock in a Policies and Procedures Manual; and

WHEREAS, the City Council finds that it would be in the public interest to amend certain policies and procedures as set forth in the City of Lubbock Council Rules, Order of Business and Procedure Manual; and

WHEREAS, pursuant to Section II(B) of said Rules, this proposed amendment has been introduced into the record at a prior regular meeting of the City Council; NOW THEREFORE:

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

THAT Section III(A)(1) of the City of Lubbock Council Rules, Order of Business and Procedure Manual is amended by adding a new subsection III(A)(1)(c) to read as follows:

c. Evening Meetings. Notwithstanding any provision herein to the contrary, the City Council of the City of Lubbock shall schedule meetings where the following matters are held, discussed, or upon which final action is taken, during the evening after 5:30P.M.; provided, however, that for any topic where more than one such meeting is required, one meeting may be reserved for an otherwise scheduled morning meeting:

- (1) Involuntary annexation of real property;
- (2) Adoption of the City of Lubbock's budget; and
- (3) Public hearings or other consideration of the City of Lubbock tax rate.

In addition to the foregoing, the City Council of the City of Lubbock shall schedule at least four (4) regular meetings of the City Council per year, at least one (1) of said meetings being held per quarter, to be held during the evening, after 5:30P.M.

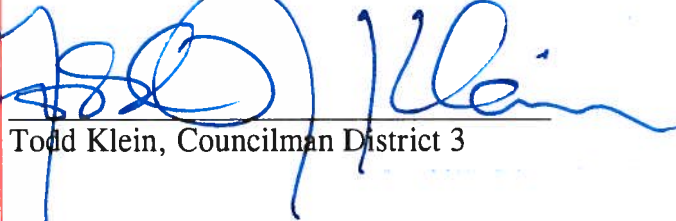
Passed by the City Council this _____ day of _____, 2012.

TOM MARTIN, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Todd Klein, Councilman District 3

ccdocs/RES.Evening Meetings
2.17.12



Regular City Council Meeting

6. 5.

Meeting Date: 03/06/2012

Information

Agenda Item

Resolution - City Council: Consider a resolution directing the Lubbock Board of Health to continue communication with representatives of University Medical Center, Covenant Health System, Lubbock County, Texas, and other public or private entities to explore the feasibility of a City/County Health Department; and consider health issues related to the City.

Item Summary

Consider a resolution directing the Lubbock Board of Health to continue communication with representatives of University Medical Center, Covenant Health System, Lubbock County, Texas, and other public or private entities to explore the feasibility of a City/County Health Department; and consider health issues related to the City.

Fiscal Impact

-

Staff/Board Recommending

Victor Hernandez, Councilman District 1

Attachments

Resolution - Hernandez City.County Health Dept

RESOLUTION

WHEREAS, the City of Lubbock undertakes many activities to promote and ensure the health and safety of its residents, including but not limited to the operation of a Health Department; and

WHEREAS, persons residing both in and outside of the city limits of the City of Lubbock have utilized services offered by the City of Lubbock Health Department, and the City Health Department effectively serves areas outside the city limits of the City of Lubbock; and

WHEREAS, the City Council of the City of Lubbock desires that the City of Lubbock Board of Health initiate/continue communication and discussion with appropriate representatives of the City of Lubbock, Lubbock County, University Medical Center, Covenant Health System, and/or other public and/or private entities which the Board of Health sees fit, to explore the feasibility of a City/County Health Department and/or other collaborative and mutually beneficial efforts which would lend themselves to the continued existence of a City Health Department and location thereof.

WHEREAS, the City Council of the City of Lubbock desires that the City of Lubbock Board of Health develop and list the top ten health related issues which are unacceptably high in the City of Lubbock, when compared to other cities of similar or greater size as the City of Lubbock, along with stated goals that are realistic in achieving success (i.e. lower the incidence thereof/reduce) as well as listing specific steps needed to reduce said incidence rates whether it be through existing or expanded services.

WHEREAS, the City Council of the City of Lubbock desires that the City of Lubbock Board of Health develop a model that offers a vision of the City of Lubbock Health Department (and consequently list areas where the Health Department is in need of additional resources) which includes, but is not limited to, services which could be added/expanded based on existing service models currently delivered at other cities of similar or greater size as the City of Lubbock.

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

THAT the City of Lubbock Board of Health is authorized and directed to initiate/continue communication and discussion with appropriate representatives of Lubbock County, Texas, University Medical Center, Covenant Health System, and/or other public and/or private entities which the Board of Health sees fit, to explore the feasibility of a City/County Health Department and/or other collaborative and mutually beneficial efforts which would lend themselves to the continued existence of a City Health Department and location thereof.

THAT the City of Lubbock Board of Health is authorized and directed to develop and list the top ten health related issues which are unacceptably high in the City of Lubbock, when compared to other cities of similar or greater size as the City of Lubbock, along with stated goals that are realistic in achieving success (i.e. lower the incidence thereof/reduce) as well as listing specific steps needed to reduce said incidence rates whether it be through existing or expanded services.

THAT the City of Lubbock Board of Health is authorized and directed to develop a model that offers a vision of the City of Lubbock Health Department (and consequently list areas where the Health Department is in need of additional resources) which includes, but is not

limited to, services which could be added/expanded based on existing service models currently delivered at other cities of similar or greater size as the City of Lubbock.

THAT the City of Lubbock Board of Health shall report back to the City Council the results of said communication and study within sixty (60) days of the date of this Resolution.

Passed by the City Council this _____, 2012.

TOM MARTIN, Mayor

ATTEST:

Rebecca Garza, Secretary

APPROVED AS TO CONTENT:


Victor Hernandez, Councilman District 1



Regular City Council Meeting

6. 6.

Meeting Date: 03/06/2012

Information

Agenda Item

Board Appointments - City Secretary: Consider three appointments to the North Overton Tax Increment Finance Reinvestment Zone Board, one appointment to the Urban Design and Historic Preservation Commission, three appointments to the Urban Renewal and Neighborhood Redevelopment Commission, and ten appointments to the Community Development and Services Board.

Item Summary

Consider three appointments to the North Overton Tax Increment Finance Reinvestment Zone Board, one appointment to the Urban Design and Historic Preservation Commission, three appointments to the Urban Renewal and Neighborhood Redevelopment Commission, and ten appointments to the Community Development and Services Board.

Fiscal Impact

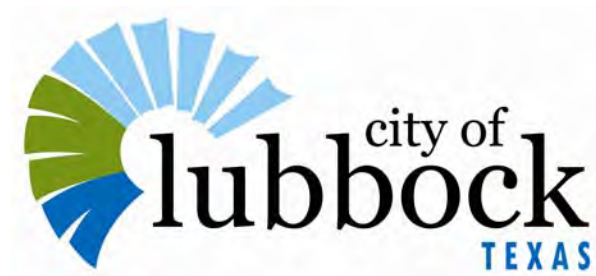
-

Staff/Board Recommending

Rebecca Garza, City Secretary

Attachments

Board Appointments - Regular



Board Appointments for
Regular City Council Meeting, March 6, 2012 - Regular Session

Officer of City	Board Name & No.	Member Name	Term Expires	Attend %	Membership Requirements	Recommended Action	Eligible?
1	COMMUNITY DEVELOPMENT & SERVICES BOARD	ALBARES, RUBEN	03.01.12	N/A	PUBLIC SECTOR	REPLACE	N/A
		BOATMAN, DON	03.01.12	N/A	DISTRICT 5	REAPPOINT	Y
		CURNOW, WILLIAM	03.01.12	71%	PUBLIC SECTOR	REAPPOINT	Y
		EDWARDS, NETTIE	03.01.12	71%	PUBLIC SECTOR	REAPPOINT	Y
		GONZALES, JULIO	03.01.12	N/A	DISTRICT 3	REPLACE	N/A
		LAVERTY, PETER	03.01.12	N/A	DISTRICT 1	REPLACE	N/A
		LUJAN, VERONICA	03.01.12	N/A	DISTRICT 1	REPLACE	N/A
		PHEA, JOE	03.01.12	100%	DISTRICT 2	REAPPOINT	Y
		RICKS, GREG	03.01.12	N/A	DISTRICT 4	REAPPOINT	Y
		ROBERTSON, BARBARA	03.01.12	N/A	DISTRICT 6	REPLACE	N/A

*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 .

City of Lubbock
Board and Commission Recruiting Database

Updated: 2/15/2012

Sorted: No Preference

Key: CS - Currently serving on board(s)
X - Prior service on board(s)
PCI - Possible Conflict of Interest
T - Temporary

Date Refer	Key	Last Name	First Name	Gender M/F	Ethnic A,H,AA,O	Quad	Age Range	Occupation	Business	Council District	References Name
0601		Austin	Nicole	F	A	S	18-29	Computer Spe	Self-employed	4	
0601		Chesnutt	Gary	M	A	S	50-59	Cotton Broker	Chesnutt Cotto	5	
0501		Grant	Mack	M	A	S	40-49	Project Admin	TX Dept of Cri	4	
0707		Guerra	Julian	M	H	S	60+	New York Life	New York Life	4	
0509		Guerrero	Mary Lynn	F	H	C	18-29	PSO Officer	PD - City of Lu	6	
0803		Hamer	Darla	F	A		40-49	Banker	Peoples Bank	6	
0405		Hancock	Jennifer	F	A	S	18-29	Homemaker/P		6	
0906		Henson	Matthew	M	A		30-39	Self Employed	Matt Henson In	5	
0610		Hobgood	John	M	A		30-39	Social Worker	LIFE/RUN Cen	5	
0502		Hodges	Tom	M	A	C	40-49	Bank Manage	Wells Fargo B	4	
1002		Jackson	Winnie	M	A		60+	Retired Minist		4	
1012		Lynn	Samuel	M	A		40-49	Human Resou	Caprock Home	5	
0501		Nichols	Kathleen	F	A	S	30-39	Dentist	Kathleen Nicho	5	
0509		Pena	Esther	F	H	S	18-29	Sales Develop	American Stat	5	
0605		Perez	Jody	M	H	S	50-59	Self-employed	JMP Consultan	4	
0707		Ramsey	Chad	M	A			Self-employed	Ramsey Auto	3	
0407		Riojas	Michael	M	H	C	40-49	Sr Acct Mana	GE Lighting	3	
0804		Stephens	Sherry	F	A		30-39	Administrative	High Plains W	5	
0409		Terry	Dianna	F	A	S	50-59	Grant Develop	Covenant Foun	4	
0404		Williams	Peggy	F	A	S	50-59	Banker	American Bank	5	
0803		Wilson	Margaret	F	A	C	60+	Retired - Tech	Retired	5	

COMMUNITY DEVELOPMENT & SERVICES BOARD

	<u>Lubbock</u>	<u>Lubbock</u>	<u>All</u>	
	<u>Population</u>	<u>Adult</u>	<u>City</u>	<u>This</u>
<u>ETHNICITY</u>				
Anglo	55.0%	61.0%	78.2%	41.2% (7)
Hispanic	32.6%	27.6%	10.9%	23.5% (4)
African-American	8.7%	7.4%	7.1%	29.4% (5)
Other	3.7%	4.0%	3.8%	5.9% (1)
<u>GENDER</u>				
Male	48.5%	47.0%	71.0%	58.8% (10)
Female	51.5%	53.0%	29.0%	41.2% (7)
<u>GEOGRAPHIC DISTRIBUTION</u>				
District 1	16.1%	14.9%	10.9%	23.5% (4)
District 2	16.4%	12.7%	2.2%	11.8% (2)
District 3	16.3%	16.1%	20.2%	11.8% (2)
District 4	17.0%	17.0%	19.7%	23.5% (4)
District 5	16.7%	19.4%	22.4%	23.5% (4)
District 6	17.3%	19.9%	18.0%	5.9% (1)
Other/Unknown	0.0%	0.0%	6.6%	0.0% (0)

PURPOSE:

Serves as advisory board to the City Council, with power to hold hearings in the county and to consider and make recommendations to the City Council on any and all matters pertaining to the community development services of the county.

APPOINTMENT INFORMATION:

Member Name &

<u>Demographic Facts</u>	<u>Requirement</u>	<u>Attend</u>	<u>Eligible</u>	<u>Action</u>
Albares, Ruben (M,H,5)	Public Sector	N/A	N/A	Replace
Boatman, Don (M,A,5)	District 5	Y	N/A	Reappoint
Curnow, William (M,A,3)	Public Sector	Y	71%	Reappoint
Edwards, Nettie (F,AA,4)	Public Sector	Y	71%	Reappoint
Gonzales, Julio (M,H,3)	District 3	N/A	N/A	Replace
Laverty, Peter (M,A,1)	District 1	N/A	N/A	Replace
Lujan, Veronica (F,H,1)	District 1	N/A	N/A	Replace
Phea, Joe (M,AA,2)	District 2	Y	100%	Reappoint
Ricks, Greg (M,AA,4)	District 4	Y	N/A	Reappoint
Robertson, Barbara (F,A,1)	District 6	N/A	N/A	Replace

APPOINTMENTS ADVISORY BOARD RECOMMENDATIONS:

To reappoint Don Boatman, District 5; William Curnow, Public Sector; Nettie Edwards, Public Sector; Joe Phea, District 2; & Greg Rick, District 4

COMMUNITY DEVELOPMENT – CONTINUED:

To Ruben Albares, Public Sector:

Roger Karr (M,A,3) Lubbock MHMR

To replace Julio Gonzales, District 3:

Brice Foster (M,A,3)

To replace Peter Lavery & Veronica Lujan, District 1:

LeEarl Bryant (F,A1) Retired♦

Francisco Gutierrez (M,H,1) Retired

To replace Barbara Robertson, District 6:

Brittain Hardman (M,A,6) AFLAC

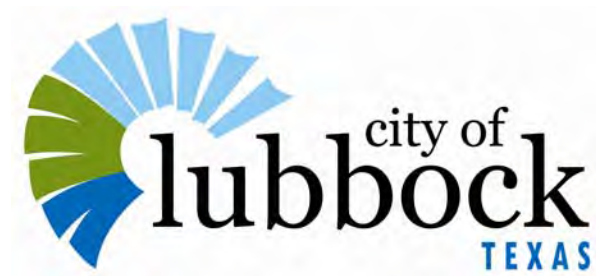
David Kelly (M,A,6) Texas Tech University

♦ Applicant chose Urban Renewal / Neighborhood Redevelopment Commission as a preference. AAB is nominating her since her preference is one similar to Community Development & Services Board, and lives in District 1.

Sorted: By Preference

Community Development & Services Board

Date Refer	Key	Last Name	First Name	Gender M/F	Ethnic A,H,AA,O	Quad	Age Range	Occupation	Business	Council District
First Preference:										
1005		Davidson	Lea	F	A		50-59	Coordinator Special Event	Texas Tech University	3
0502		Downs	Virginia	F	A	C	30-39	Editor	TTU Outreach & Extend	3
0810		Foster	Brice	M	A			Financial Consultant	FB&T Wealth Managem	3
0412		Hardman	Brittain	M	A	NW	50-59	Insurance Agent	AFLAC	6
0601		Jackson	Brooke	F	A	S	30-39	Banker/Commercial Lende	American Bank of Com	4
1111		Karr	Roger	M	A		40-49	Community Relations	Lubbock MHMR	
1008		Keller	Judith	F	A		60+	Retired Speech Language	Retired	3
0806		Kelly	David	M	A		30-39	Department Supervisor	Texas Tech University	6
0609		Mitchell	Kevin	M	A		30-39	Banker	Peoples Bank	4
1106		Podrebartz	Keith	M	A		30-39			
Second Preference:										
0707		Bobo	Brenda	F	A		40-49	Dir of Administration	TTUHSC School of Allie	4
0707		Gutierrez	Francisco	M	H		50-59	Retired	Retired	1
0804		Oatman	Mark	M	A			Financial Advisor	Merrill Lynch	3
0502		Shapiro	Beth	F	A	C	40-49	Marriage & Family Therapi	Gateways Counseling, P	3
0407		Sigler	Vickie	F	A	S	40-49	Customer Service Tech	INCODE	3
1011		Watts	Ian	M	A		18-29	Co-Owner/Program Direct	The Door	4
1004		Williams	Herbert	M	AA		40-49	Correctional Officer	TX Dept of Criminal Just	2
1111		Williams	Maurice	M	AA		60+	Retired Teacher	Retired	2
Third Preference:										
1005		Bair	Michelle	F	A		30-39	Administration	Texas Tech University	6
0905		Bloodworth	David	M	A	C	50-59	Commercial Real Estate	Coldwell Banker Comm	4
1111		Boatman	Don	M	A		60+	Retired Electrical Engineer	Retired	5
0907		Hunter	Patrick	M	AA		40-49	Law Librarian	Texas Dept. of Criminal	3
0910		McCord	Janine	F	A		30-39	Research Associate	TTU - Education Dean	5
0411		Renfro	Patsy	F	A	S	50-59	Travel Agent	Envoye Travel	5
0507		Trombley	Trudy	F	A	S	60+	Retired Educator	Retired Educator	5
Fourth Preference:										
0906		Brown-Mey	Casey	M	A		40-49	Sales Manager	All Star Auto Glass	4
0508		Camp-Rom	William	M	O	C	50-59	Retired - Federal Governm	Retired	4
0910		Geraci	Christine	F	A		50-59	Administrative Assistant	Pharr & Company	5
0609		Hurt	William	M	A		30-39	Police Officer	Lubbock PD	3
0611		Lee	Hong	M	O		60+	Retired Professor	Retired Professor-TTU	5
0907		Melendez	Jill	F	A		18-29	Social Worker	Montford Psychiatric Pri	6
0804		Perkins	Terrell	M	A			Computer Technician	Lubbock County Informa	5
Fifth Preference:										
1005		Bruegel	Jon	M	A		18-29	Student		4
0630		Dial	Reginald	M	AA		30-39	Business to Business Sale	Hollands Office Technol	5
1010		Kotal	Clint	M	A		18-29	Hospital Administration	Covenant Health Syste	4
0805		Preston	Brent	M	A		18-29	Self	1800JunkMax, RE Brok	4
0904		Stanek	Sunshine	F	A		30-39	Prosecutor	District Attorney's Office	5
1002		Walker	William	M	A		18-29	Student		3
Sixth Preference:										
1001		Fagin	Scott	M	A		40-49	Banker	First United Bank	6
1012		Jackson	Mike	M	A		30-39	Commercial Banker	American State Bank	5



Committee #13 Community Development & Services BoardPerm./Temp. Board: **P***Confidential***Home****Business***Reappt
Elig.*

PUBLIC SECTOR

Albares
Mr. RubenY 5411 95th St
Lubbock TX 79424
rubenalbares@aol.com

Y

Office of Attorney General
401 50th St
Lubbock TX 79408
(806) 767-0521Curr: 3/1/2009 - 3/1/2012
2nd: -
1st: 3/1/2006 - 3/1/2009
Fax: (806) 761-7094**N***E-mail* rubenalbares@aol.com**CEL**

DISTRICT 5

Boatman
Mr. Don5705 76th St
Lubbock TX 79424

(806) 794-5843

Curr: 12/1/2011 - 3/1/2012
2nd: -
1st: -
Fax:**Y***E-mail***CEL**

PUBLIC SECTOR

Curnow
Mr. WilliamN 2721 87th Street
Lubbock TX 79423
bcurnow@kernow.com

Y

Plains Cotton Cooperative Ass
3301 E. 50th St
Lubbock TX 79404
(806) 763-8011Curr: 3/23/2009 - 3/1/2012
2nd: -
1st: -
Fax: (806) 724-3017**Y***E-mail* bill.curnow@pcca.com(806) 535-4775 **CEL**

PUBLIC SECTOR

Edwards
Ms. NettieY 3004 80th Street
Lubbock TX 79423

Y

(806) 745-1461
(806) 787-3719 **CEL**Curr: 3/23/2009 - 3/1/2012
2nd: -
1st: -
Fax:**Y***E-mail*

DISTRICT 3

Garza
Ms. GraceY 2011 17th St
Lubbock TX 79401
GQGARZA@GMAIL.COM
N (806) 744-1874
Y (806) 438-4714 **CEL**FirstCare Health Plans
1901 W. Loop 289, Ste 9
Lubbock TX 79407
(806) 784-4328Curr: 3/1/2010 - 3/1/2013
2nd: -
1st: 7/12/2007 - 3/1/2010
Fax: (806) 784-4395**N***E-mail* ggarza@firstcare.comChair/Pres: Joe Phea, Jr.
Vice Chair/V.P.: Grace Garza
Sec./Treasurer: Billie RussellStaff Liaison: Bill Howerton
Term: 3 Years
Ex-Officio Mbr.: N/A

Members whose term expire may serve until replaced.

*** **CONFIDENTIAL INFORMATION NOT TO BE RELEASED!!** ***

Last Update: 2/15/2012

Committee #13 Community Development & Services BoardPerm./Temp. Board: **P***Confidential***Home****Business***Reappt
Elig.*

DISTRICT 3

Curr: **3/1/2009** - **3/1/2012** **Y****Gonzales**
Mr. JulioY 3610 42nd Street
Lubbock TX 79413
juliogonzales9@live.com2nd: -
1st: 7/1/2008 - 3/1/2009

Fax:

Y

(806) 241-2923 **CEL***E-mail juliogonzales9@live.com*

DISTRICT 1

Curr: **3/1/2009** - **3/1/2012** **N****Laverty**
Mr. PeterN 2101 26th St
Lubbock TX 79411University Medical Center
602 Indiana Ave
Lubbock TX 794152nd: 3/1/2006 - 3/1/2009
1st: 1/27/2005 - 3/1/2006

Fax: (806) 775-8760

N (806) 763-9155
(806) 241-0269 **CEL***E-mail plaverty@teamumc.com*

DISTRICT 1

Curr: **3/1/2009** - **3/1/2012** **N****Lujan**
Ms. VeronicaY 1201 Xavier St
Lubbock TX 79403Carillon Senior Life Care
1717 Norfolk Avenue
Lubbock TX 794162nd: -
1st: 3/1/2006 - 3/1/2009

Fax:

Y (806) 241-5994
CEL*E-mail vlujan@carillonweb.com*

DISTRICT 5

Curr: **3/1/2010** - **3/1/2013** **Y****Patel**
Ms. Harsha5115 97th Street
Lubbock TX 79424
harsha_p@yahoo.com
(806) 798-3295
(806) 438-1337 **CEL**2nd: -
1st: -

Fax:

E-mail harsha_p@yahoo.com

DISTRICT 2

Curr: **3/1/2009** - **3/1/2012** **Y****Phea**
Mr. JoeN 1819 E. 24th St
Lubbock TX 79404Lubbock Regional MHMR
PO Box 2828
Lubbock TX 794082nd: -
1st: 3/1/2006 - 3/1/2009

Fax: (806) 773-7854

N (806) 747-5104
CEL*E-mail jphea@yahoo.com*Chair/Pres: Joe Phea, Jr.
Vice Chair/V.P.: Grace Garza
Sec./Treasurer: Billie RussellStaff Liaison: Bill Howerton
Term: 3 Years
Ex-Officio Mbr.: N/A

Members whose term expire may serve until replaced.

*** **CONFIDENTIAL INFORMATION NOT TO BE RELEASED!!** ***

Last Update: 2/15/2012

Committee #13 Community Development & Services BoardPerm./Temp. Board: **P***Confidential***Home****Business***Reappt
Elig.*

DISTRICT 4

Curr: **10/27/2011** - **3/1/2012** **Y****Ricks**
Mr. Greg4911 60th Street
Lubbock TX 794142nd: -
1st: -

(806) 792-2890

Fax:

CEL

E-mail

DISTRICT 2

Curr: **3/1/2010** - **3/1/2013** **Y****Roberson**
Mr. Michael "Craig"Y 9203 Hyden Avenue
Lubbock TX 79424Texas Gutters / MCR Custom
P.O. Box 53202
Lubbock TX 794532nd: -
1st: -Y (806) 771-5185
(806) 928-7532 CEL

(806) 781-9188

Fax: (806) 771-6980

E-mail txgutters@gmail.com

DISTRICT 6

Curr: **6/11/2009** - **3/1/2012** **Y****Robertson**
Ms. BarbaraY 3007 Mesa Road
Lubbock TX 794032nd: -
1st: -Y (806) 788-0027
(806) 441-1148 CEL

Fax:

E-mail bbr1125@msn.com

CATEGORY 3

Curr: **3/1/2010** - **3/1/2013** **N****Russell**
Ms. BillieY 1806 E. 26th St
Lubbock TX 794012nd: -
1st: 3/1/2007 - 3/1/2010Y (806) 765-9276
CEL

Fax: (806) 765-9194

E-mail br0223@sbcglobal.net

PUBLIC SECTOR

Curr: **8/26/2010** - **3/1/2013** **Y****Stanley**
Mr. Maurice3801 25th Street
Lubbock TX 79410Jerry's Barber Shop
6520 University Avenue Ste 1
Lubbock TX 794132nd: -
1st: -(806) 241-4839
(806) 241-4839 CEL

(806) 795-7332

Fax:

E-mail mstanley5027@msn.comChair/Pres: Joe Phea, Jr.
Vice Chair/V.P.: Grace Garza
Sec./Treasurer: Billie RussellStaff Liaison: Bill Howerton
Term: 3 Years
Ex-Officio Mbr.: N/A

Members whose term expire may serve until replaced.

*** **CONFIDENTIAL INFORMATION NOT TO BE RELEASED!!** ***

Last Update: 2/15/2012

Committee #13 Community Development & Services BoardPerm./Temp. Board: **P***Confidential***Home****Business***Reappt
Elig.*

DISTRICT 6

Curr: **3/1/2010** - **3/1/2013** **Y****Tolbert**
Mr. Andrew2802 N. Quaker, #28A
Lubbock TX 79415Rose Real Estate
3307 82nd St
Lubbock TX 794232nd: -
1st: -

(806) 790-5593

(806) 799-7673

Fax: (806) 795-6931

CEL

E-mail andrew@tolbert.com

PUBLIC SECTOR

Curr: **3/1/2010** - **3/1/2013** **Y****Worley**
Ms. KarenY 4205 88th Street
Lubbock TX 794232nd: -
1st: -

Y (806) 794-4202

Y (806) 777-3626 CEL

Fax:

E-mail karenworley@me.com**Chair/Pres:** Joe Phea, Jr.
Vice Chair/V.P.: Grace Garza
Sec./Treasurer: Billie Russell**Staff Liaison:** Bill Howerton
Term: 3 Years
Ex-Officio Mbr.: N/A

Members whose term expire may serve until replaced.

*** **CONFIDENTIAL INFORMATION NOT TO BE RELEASED!!** *****Last Update:** 2/15/2012

Board Demographic Information

#13 Community Development & Services Board

Member	Beg. Date	Exp. Date	Gender	Ethnic	Quad	District	Age	Eligibility
Albares, Ruben	3/1/2009	3/1/2012	Male	Hispanic	S	5	50-59	N
Boatman, Don	12/1/2011	3/1/2012	Male	Anglo	S	5	50-59	Y
Currow, William	3/23/2009	3/1/2012	Male	Anglo		4	18-29	Y
Edwards, Nettie	3/23/2009	3/1/2012	Female	African-American		4	60+	Y
Garza, Grace	3/1/2010	3/1/2013	Female	Hispanic	E	1	30-39	N
Gonzales, Julio	3/1/2009	3/1/2012	Male	Hispanic		3	60+	Y
Lavery, Peter	3/1/2009	3/1/2012	Male	Anglo	E	1	50-59	N
Lujan, Veronica	3/1/2009	3/1/2012	Female	Hispanic	E	1	18-29	N
Patel, Harsha	3/1/2010	3/1/2013	Female	Other		5	40-49	Y
Phea, Joe	3/1/2009	3/1/2012	Male	African-American	E	2	40-49	Y
Ricks, Greg	10/27/2011	3/1/2012	Male	African-American		4		Y
Roberson, Michael "Craig"	3/1/2010	3/1/2013	Male	Anglo		5	30-39	Y
Robertson, Barbara	6/11/2009	3/1/2012	Female	Anglo		1		Y
Russell, Billie	3/1/2010	3/1/2013	Female	African-American		2	50-59	N
Stanley, Maurice	8/26/2010	3/1/2013	Male	Anglo		3	60+	Y
Tolbert, Andrew	3/1/2010	3/1/2013	Male	African-American	NW	6	40-49	Y
Worley, Karen	3/1/2010	3/1/2013	Female	Anglo		4		Y



Supplemental Information
for
Contract & Procurement Related Agenda Items



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 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. 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 – 25,000	City Manager	Written quotes/proposals, electronic bids	LGC §252.0215
More than \$25,000	City Council	Written bids/proposals, electronic bids	LGC §252.021, 024, 041, 0415, 042, 043,
Professional Services			
Up to \$25,000	City Manager	Written proposals	GC §2254.003
More than \$25,000	City Council	Written proposals	GC §2254.003
Architectural/Engineering Services			
Up to \$25,000	City Manager	Rotation list	GC §2254.004
More than \$25,000	City Council	Statement of qualifications	GC §2254.004
Construction			
Up to \$25,000	City Manager	Written quotes/proposals	LGC §252.0215
More than \$25,000	City Council	Written quotes/proposals	LGC §252.021, 0215, 043, 0435
Emergencies			
Up to \$25,000	City Manager	Verbal or written quotes	City Procurement Policy
More than \$25,000	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 \$25,000	City Manager	Negotiated	LGC §252.048
More than \$25,000	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 §252.044 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:

- 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.

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.