

City of Lubbock, Texas
Regular City Council Meeting
Thursday, April 11, 2013

Glen C. Robertson, Mayor
Karen Gibson, Mayor Pro Tem, District 5
Victor Hernandez, Councilman, District 1
Floyd Price, Councilman, District 2
Todd R. Klein, Councilman, District 3
Jim Gerlt, Councilman, District 4
Latrell Joy, Councilwoman, 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 775-2061 or write to Post Office Box 2000, Lubbock, Texas 79457 at least 48 hours in advance of the meeting.

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

3:00 p.m. -- City Council convenes in open session, and recesses into executive session to consider items 1.-1.4.3.

6:15 p.m. -- City Council reconvenes in open session to consider items 2.-7.2.

1. Executive Session

1. 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.
 1. 1. 1. Omni Building located at 1208 14th Street.
 1. 1. 2. Concerning the bylaws and the articles of incorporation of Lubbock Economic Development Alliance (LEDA) and Market Lubbock Development corporation and the proposed amendments thereof.
1. 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.
 1. 2. 1. Omni Building located at 1208 14th Street.
 1. 2. 2. Potential locations for Godeke Library.
1. 3. Hold an executive session in accordance with Vernon's Texas Codes Annotated (V.T.C.A.) Government Code, Section 551.087, to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; and to deliberate the offer of a financial or other incentive to a business prospect described hereinabove.
 1. 3. 1. Presentation from LEDA.

1. 4. 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.

1. 4. 1. City Attorney

1. 4. 2. City Manager

1. 4. 3. City Secretary

2. **Proclamations and Presentations**

2. 1. Invocation by Reverend Scott Campbell, Grace Presbyterian Church.

2. 2. Pledges of Allegiance.

2. 3. National Public Safety Telecommunications Week - April 14-20, 2013.

2. 4. Presentation of special recognition commemorating April as Sexual Assault Awareness Month and the Walk a Mile in Her Shoes event on April 13, 2013.

2. 5. Presentation of a special recognition to Link Ministries for the First Annual High Cotton Affair benefitting Tent City.

3. **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.**

4. **Minutes**

4. 1. February 19, 2013 Special City Council Meeting (EUB)
March 14, 2013 Regular City Council Meeting
March 18, 2013 Special City Council Meeting (Fire Station 18 Ribbon Cutting)

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

5. 1. **Budget Ordinance Amendment 2nd Reading - Finance:** Consider Budget Ordinance 2013-O0033 Amendment 18 amending the adopted FY 2012-13 Budget respecting the Grant Fund to accept and appropriate additional funding from the Texas Department of State Health Services (DSHS) for the Regional and Local Services Section/Local Public Health System (RLSS/LPHS) Grant; respecting the Capital Program to establish Capital Improvement Project 8583, Milwaukee Bridges: Marsha Sharp Freeway and Spur 327; providing for filing; and providing for a savings clause.
5. 1. 1. **Resolution - Community Services:** Consider a resolution authorizing the City Manager to execute on behalf of the City, amendment to program attachment 003 to contract 2013-041470 increasing the contract by \$20,559 due to restoration of Local Public Health System (LPHS) block grant funds. The categorical budget increased as follows: Personnel \$12,180 and Fringe Benefits \$8,379. All other terms and conditions of the contract remain in full force and effect.
5. 1. 2. **Resolution - Traffic Engineering:** Consider a resolution authorizing the Mayor to execute contract 11264 an inter-local agreement CSJ 0380-01-081 with Texas Department of Transportation (TxDOT) for the City to furnish and install traffic signal equipment as part of the US 62/82 at Milwaukee Avenue project.
5. 2. **Budget Ordinance Amendment 1st Reading - Finance:** Consider Budget Ordinance Amendment 20 amending the adopted FY 2012-13 Budget respecting the grant fund to accept and appropriate additional funding from the Texas Department of Housing and Community Affairs (TDHCA) for the Community Services Block Grant (CSBG); and to accept and appropriate funding from the Texas Department of Transportation (TxDOT) for the Section 5311(F) Federal Intercity Bus Grant; providing for filing; and providing for a savings clause.
5. 3. **Ordinance 2nd Reading – Right-of-Way:** Consider Ordinance 2013-O0034 abandoning and closing a portion of 66th Street east of Milwaukee Avenue.
5. 4. **Contract Resolution - Public Works:** Consider a resolution authorizing the Mayor to execute contract 11227 with Pavement Restoration Inc., for asphalt payment rejuvenation.
5. 5. **Contract Resolution - Public Works Wastewater:** Consider a resolution authorizing the Mayor to execute contract 11140 with STP Well Service, LLC., of Petersburg, Texas, for well maintenance and repair services for the Lubbock and Hancock Land Application Sites, BID 13-11140-DG.
5. 6. **Contract Resolution - Public Works Wastewater Utility:** Consider two resolutions authorizing the Mayor to execute contract 11176 with Circle R Lawn & Sprinkler and contract 11176-1 with Jerry Weaver Farms for hay harvesting services at the Lubbock Land Application Site (LLAS), BID 13-11176-DG.
5. 7. **Contract Resolution – Public Works Wastewater Utility:** Consider a resolution authorizing the Mayor to execute a contract 11127 with Massey Irrigation, Inc., for a wireless irrigation management system for the Lubbock Land Application Site (LLAS) and Hancock Land Application Site (HLAS), RFP 13-11127-TL.
5. 8. **Contract Resolution – Public Works Engineering:** Consider a resolution authorizing the Mayor to execute contract 11218 with Turfmaster Irrigation & Landscaping, Inc., for construction of the FM 1585 water line extension from Milwaukee to Iola Avenue BID 13-11218-DG.
5. 9. **Contract Resolution – Sewer Utilities:** Consider a resolution authorizing the Mayor to execute contract 11259 with Kimley Horn and Associates(KHA), Inc. for providing professional engineering services associated with the South Sanitary Sewer System Extension Phase II.

5. 10. **Ordinance 2nd Reading - Planning:** Zone Case 3203. A request of Todd Leake for a zoning change from T to M-1 limited to the wholesale of trees and shrubs and a holding yard on 3.4 acres of unplatted land out of Block E-2, Section 21 (north of 125th Street between Indiana Avenue and Flint Avenue).

5. 11. **Ordinance 2nd Reading - Planning:** Zone Case 2224-E. A request of Quattro Lubbock, LLC for a zoning change from C-2A Specific Use to C-2 on Tract D-2-A, Western Meadows Addition (5605 Slide Road).

5. 12. **Resolution - Cemetery:** Consider a resolution authorizing the Mayor to formally re-name the African-American Babyland sections of the Cemetery including Carver Heights Babyland to Vivian T. Cooke Memorial Babyland.

6. **Regular Agenda**

6. 1. **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 1619 University Avenue, for an off-premise alcoholic beverage permit.

6. 2. **Contract Resolution - Parks and Recreation:** Consider a resolution authorizing the Mayor to execute contract 11142 with Turfmaster Irrigation and Landscaping Inc., for irrigation system upgrades at Jack Stevens Park, BID 13-11142-TL.

6. 3. **Ordinance 1st Reading - Finance:** Consider an ordinance providing for the issuance of City of Lubbock, Texas, General Obligation Refunding and Improvement Bonds, Series 2013, and City of Lubbock, Texas, General Obligation Refunding Bonds, Taxable Series 2013, levying a tax in payment thereof; providing for the award of the sale thereof in accordance with specified parameters; approving the official statement; approving execution of a purchase contract and escrow agreement; and enacting other provisions relating thereto.

6. 4. **Ordinance 1st Reading - Finance:** Consider an ordinance providing for the issuance of City of Lubbock, Texas, Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2013; levying a tax and pledging surplus waterworks system revenues in payment thereof; providing for the award of the sale thereof in accordance with specified parameters; approving the official statement; approving execution of a purchase contract; and enacting other provisions relating thereto.

6. 5. **Ordinance 1st Reading - Finance:** Consider an ordinance providing for the issuance of City of Lubbock, Texas, Electric Light and Power System Revenue Refunding and Improvement Bonds, Series 2013; providing for the award of the sale thereof in accordance with specified parameters; approving the official statement; approving execution of a purchase contract and escrow agreement; and enacting other provisions relating thereto.

6. 6. **Board Appointments - City Secretary:** Consider five appointments to the Board of Health.

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 if the item indicates to the public the action to be taken.**

7. 1. Discussion and direction from the City Council on the FY 2013-14 Budget.

7. 2. Discussion regarding the September 30, 2012, Comprehensive Annual Financial Report and BKD's management letter.

**CITY OF LUBBOCK
SPECIAL CITY COUNCIL MEETING
February 19, 2013
2:00 P.M.**

The City Council of the City of Lubbock, Texas met in special session on the 19th of February, 2013, in the Second Floor Conference Room, 1301 Broadway, Lubbock, Texas at 2:00 p. m.

**2:03 P.M. CITY COUNCIL CONVENED
Second Floor Conference Room, 1301 Broadway, Lubbock, Texas**

Present: Mayor Glen C. Robertson; Mayor Pro Tem Karen Gibson; Council Member Jim Gerlt; Council Member Victor Hernandez; Council Member Latrelle Joy; Council Member Todd R. Klein; City Attorney Sam Medina; Deputy City Secretary Thomas Harris; Director of Finance Pam Moon

Absent: Council Member Floyd Price

This was a meeting of the Electric Utility Board. A quorum of Council Members attended and participated in discussions during the meeting which the Board considered and discussed the following topics as shown below.

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

- 1.1; 2.1-9; Executive Session; and 2.10

1. MINUTES

- 1. 1.** Approval of the minutes of the January 15, 2013 and amend November 20, 2012 Electric Utility Board (EUB) Meetings

Motion by George Carpenter, seconded by Clayton Isom, to approve the January 15, 2013 EUB minutes and the amended version of the November 20, 2012 EUB minutes.

Vote: 7 - 0 Motion carried by the board

2. REGULAR AGENDA

- 2. 1.** Discuss and deliberate financial and capital statements, financing options, financial policies of Lubbock Power & Light relating to debt issuance issues, reserve account funding, cost allocation, revenue and expense projections of Lubbock Power & Light.

Damian Pantoya, Financial Director, Electric Utilities, gave comments and answered questions from the Board.

2. 2. Discuss and deliberate advanced metering and meter reading technologies, services, studies and related business practices.

A handout was give to board members entitled, "Report on Health and Radio frequency Electromagnetic Fields from Advanced Meters."

2. 3. The board will consider a resolution approving a professional services agreement for transmission planning analysis consulting services with Burns & McDonnell Engineering Company, Inc.

Motion by Emilio Abeyta, seconded by Carroll McDonald, to approve resolution.

Vote: 7 - 0 Motion carried by the board

2. 4. Discuss and the board will take action on a budget amendment recommendation for Lubbock Power & Light's adopted FY 2012-2013 budget and make appropriate recommendations to the City Council of the City of Lubbock pursuant to § 2.03.415(a) of the Code of Ordinances, City of Lubbock, Texas, Chapter 2, Division 12 for CIP 92319 (230kV Transmission Loop) and CIP 92320 (Substation Breaker Replacement).

Chad Sales, Electric Utility Financial Analyst, gave comments and answered questions from the board.

No action was taken on this item.

2. 5. Discuss and deliberate customer service and business center procedures, policies, billing procedures, staffing and performance.

Discussion ensued, and Gary Zheng, LP&L Chief Executive Officer, informed the board that the LP&L business office would be closed February 25, 2013, for migration to a new Banner billing system.

2. 6. Discuss and deliberate electric transmission and distribution system performance, operations, staffing levels and related policies, projects and work management including information related to system reliability and continuity of service (to the extent not security-sensitive).

There were no questions regarding this item.

2. 7. Discuss and the board will take action on staff's recommendation to reject all proposals for RFP# 7117-13-ELD for 150 MVA, GSU Type Power Transformer.

Motion by Clayton Isom, seconded by George Carpenter, to reject all proposals for RFP# 7117-13-ELD as proposed byh staff.

Vote: 7 - 0 Motion carried by the board

2. 8. The board will consider a resolution to purchase a Fleet Vehicle for LP&L Substation from Scoggin Dickey Chevrolet for ¾ ton Utility Truck.

Motion by Clayton Isom, seconded by George Carpenter, to award purchase of a 3/4 ton Utility Truck to Scoggin Dickey Chevorlet as presented.

Vote: 7 - 0 Motion carried by the board

2. 9. The board will consider a resolution awarding ITB # 7118-13-ELD to Wesco Distribution, Texas Electric Cooperative and H.D. Supply Power Solutions for LP&L Pad Mounted Distribution Transformers.

Motion by Clayton Isom, seconded by George Carptenter, to award ITB# 7118-13-ELD, Three Phase Pad Mounted Distribution Transformers to Wesco Distribution, Texas Electric Cooperatives of Lubbock and H.D. Supply Power Solutions of Lubbock.

Vote: 7 - 0 Motion carried by the board

2. 10. Discuss and the board will take action on a budget amendment recommendation for Lubbock Power & Light's adopted FY 2012-2013 budget and make appropriate recommendations to the City Council of the City of Lubbock pursuant to § 2.03.415(a) of the Code of Ordinances, City of Lubbock, Texas, Chapter 2, Division 12 to amend Operating Budget 7313 – Electric Production Maintenance.

Chad Sales, Electric Utility Financial Analyst, gave comments and answered questions from the Board.

Motion by Emilio Abeyta, seconded by Suzanne Blake, to approve the budget amendment as presented.

Vote: 7 - 0 Motion carried by the board

3. **EXECUTIVE SESSION**

The meeting was called into a closed session at 2:22 p.m. under the provisions of Section 551, Texas Government Code. The meeting reconvened into a public session at 4:03 p.m.

3. 1. Hold an executive session in accordance with V.T.C.A. Government Code §551.086 on the following competitive matters of Lubbock Power & Light:

3. 1. 1. Discuss generation unit specific fixed and variable costs, including forecasts of those costs, capital improvement plans for generation units, and generation unit operating characteristics and outage scheduling and related agreements including the following:

a. Discuss and the board will take action on a contract for the repair and overhaul of Cooke Station's feed pump and water pump.

b. Discuss and the board will take action on a contract for in-place valve repair and replacement services for LP&L generating units.

3. 1. 2. Discuss and the board will take action on agreements, non-disclosure agreements, proposals and strategies related to plans, studies, proposals and analyses for system improvements, generation additions, or sales (other than transmission and distribution system improvements inside the service area for which LP&L is the sole certificated retail provider).

3. 1. 3. Discuss and deliberate bidding and pricing information for purchased power, generation and fuel; purchased power agreements; risk management information and related services and strategies.

3. 1. 4. Discuss and deliberate customer billing, contract, and usage information, electric power pricing information, system load characteristics, and electric power market analyses and strategies.

3. 2. 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 (Appeal Case No. 07-12-0438-CV of Cause No. 2012-501,169, Republic Power Partners, L.P. v. WTMPA and the City of Lubbock).

4:05 P.M. CITY COUNCIL ADJOURNED

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

GLEN C. ROBERTSON, MAYOR

ATTEST:

Rebecca Garza, City Secretary

**CITY OF LUBBOCK
REGULAR CITY COUNCIL MEETING
March 14, 2013
3:00 P. M.**

The City Council of the City of Lubbock, Texas met in regular session on the 14th of March, 2013, in City Council Chambers, City Hall, 1625 13th Street, Lubbock, Texas at 3:00 p. m.

**3:00 P.M. CITY COUNCIL CONVENED
City Council Chambers, 1625 13th Street, Lubbock, Texas**

Present: Mayor Glen C. Robertson; Mayor Pro Tem Karen Gibson; Council Member Jim Gerlt; Council Member Victor Hernandez; Council Member Latrelle Joy; Council Member Todd R. Klein; Council Member Floyd Price; City Manager Lee Ann Dumbauld; City Secretary Rebecca Garza; City Attorney Sam Medina

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

- *Executive Session; 2.1-2.3; Citizen Comments (3.1-3.3); Sign-ups (3.4); 4.1; 5.1-5.2; 5.4-5.10; 5.15-5.18; 5.20-5.22; 5.3; 5.11-5.14; 5.19; and 6.1-6.2.*
- *Item 6.3 was postponed indefinitely.*
- *Item 6.4 was deleted.*

1. Executive Session

The meeting was called into a closed session at 3:00 p.m. under the provisions of Section 551, Texas Government Code. The meeting was called back into a public session at 6:15 p.m.

1. 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.
 1. 1. 1. Omni Building located at 1208 14th Street.
 1. 1. 2. Public, Educational and Governmental Access Channel (PEG) fee in connection with Suddenlink Communications.
 1. 1. 3. Franchise fees in connection with West Texas Gas, Inc.
 1. 1. 4. Talon/LPE, LTD. v. Kevin Cashman; Texas Construction & Demo, Inc.; Red Industrial, Inc.; Jose Perez, d/b/a J.N.I. Contractors; Grant-Hill, Inc.; Susan Ring; Megan Cashman; and Ethel Cashman, Cause No. 101209-D in the 320th District Court, Potter County, Texas.

1. 1. 5. Concerning the bylaws and the articles of incorporation of Lubbock Economic Development Alliance and Market Lubbock Development Corporation and the proposed amendments thereof.
1. 1. 6. Discuss Chapter 252 of the Texas Local Government Code, purchasing and contracting authority of municipalities, and the case law and Texas Attorney General opinions construing same.
1. 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.
1. 2. 1. Omni Building located at 1208 14th Street.
1. 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.
1. 3. 1. City Attorney
1. 3. 2. City Manager
1. 3. 3. City Secretary

6:15 P.M. CITY COUNCIL RECONVENED
Council Chambers

2. Proclamations and Presentations

2. 1. Invocation by Media Pastor John Burke, Southcrest Baptist Church.

Pastor John Burke was unable to attend. Lynn Cartrite, Leader of Prayer Warrior Ministries, Southcrest Baptist Church, led the invocation.
2. 2. Pledges of Allegiance.

Pledges of Allegiance were given by those in Council Chambers to the United States flag and the Texas flag.
2. 3. Presentation of a special recognition commemorating March 28-30, 2013, as ABC Pro Rodeo Days.

Mayor Pro Tem Karen Gibson presented a special recognition commemorating March 28-30, 2013, as ABC Pro Rodeo Days. David Sanchez, 2013 ABC Pro Rodeo Chair, gave comments on the upcoming event and invited everyone out to the 2013 ABC Rodeo.

3. **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.**

3. 1. Blaine Roberts of Roberts Truck Center will appear before the City Council to discuss ITB 13-11103-RH, Refuse Collection Cab and Chassis.

Blaine Roberts, President and Owner of Roberts Truck Center, appeared before Council to discuss ITB 13-11103-RH, Refuse Collection Cab and Chassis.

3. 2. Mikel Ward will appear before the City Council to express her support for the position of the Mayor and City Manager regarding the LP&L audit and discuss North and East Lubbock Development Corporation.

Mikel Ward appeared before Council to discuss LP&L transparency and North and East Lubbock Development.

3. 3. Deanne Clark will appear before the City Council discuss LP&L finances.

Deanne Clark appeared before Council to discuss City of Lubbock and LP&L finances.

3. 4. **Sign-ups:**

- Lynn Strickland, President of the Friends of the Library Board, appeared to speak in opposition of item 6.3 (creating a Citizen Advisory Committee on City Library Services).
- Leo Padgett appeared before Council to speak in opposition of smart meters.
- Debbie Bartholomew appeared before Council to speak about issues regarding her deceased mother.
- Burley Owen appeared before Council to discuss City Council Meeting postings, executive sessions, and citizen comment periods for Electric Utility Board meetings.
- Maurice Stanley appeared before Council to discuss City facilities maintenance.
- Cobe Gilliam, with Roberts Truck Sales, appeared before Council to discuss bidding specifications as well as the City bid process.

4. **Minutes**

4. 1. January 15, 2013 Special City Council Meeting (Electric Utility Board)
February 14, 2013 Regular City Council Meeting
February 18, 2013 Special City Council Meeting (Work Session)
February 18, 2013 Special City Council Meeting (Intellectual Talk Series at Raindrop Turkish House)

Motion by Council Member Todd R. Klein, seconded by Mayor Pro Tem Karen Gibson to approve the January 15, 2013 Special City Council Meeting minutes (Electric Utility Board); the February 14, 2013 Regular City Council Meeting minutes; the February 18, 2013 Special City Council Meeting minutes (Work Session); and the February 18, 2013 Special City Council Meeting minutes (Intellectual Talk Series at Raindrop Turkish House).

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 Council Member Todd R. Klein, seconded by Council Member Floyd Price to approve items 5.1-5.2; 5.4-5.10; 5.15-5.18; and 5.20-5.22.

Vote: 7 - 0 Motion carried

- 5. 1. Budget Ordinance Amendment 2nd Reading - Finance :** Ordinance No. 2013-O0025, Amendment 15, respecting the Grant Fund, to accept and appropriate additional funding from the Dallas Police Department for the Internet Crimes Against Children (ICAC) Task Force Grant; accept and appropriate funding from the Federal Transit Administration (FTA) for the FY 12 Section 5309 State of Good Repair Grant; providing for filing; and providing for a savings clause.
- 5. 1. 1. Resolution - Police Department :** Resolution No. 2013-R0087 authorizing the City Manager to execute Supplement 2 of the Interlocal Agreement with the City of Dallas for the Internet Crimes Against Children (ICAC) Task Force investigation.
- 5. 1. 2. Contract Resolution - Citibus:** Resolution No. 2013-R0088 authorizing the City's Executive Director of Budget to execute contract 11184 a Federal Transit Administration (FTA) FY 2012 Section 5309 State of Good Repair Grant, TX-04-0107-00.
- 5. 2. Budget Ordinance Amendment 2nd Reading - Finance:** Ordinance No. 2013-O0026, Amendment 16, amending the Adopted FY 2012-13 Budget respecting the Fire Pay Plan to provide for greater separation in pay between Battalion Chief, Division Chief, and Deputy Chief; and position control by increasing Battalion Chiefs by one position, and decreasing Captains by one position.
- 5. 3. Budget Ordinance Amendment 1st Reading - Finance :** Ordinance No. 2013-O0031, Amendment 17 amending the FY 2012-13 Budget respecting the General Fund to provide funding for North and East Lubbock Community Development Corporation; increasing the sales tax revenue estimate; providing for filing; and providing for a savings clause.

Thomas Harris, Deputy City Secretary, gave comments and answered questions from Council.

Motion by Council Member Floyd Price, seconded by Mayor Pro Tem Karen Gibson to approve Ordinance No. 2013-O0031.

Vote: 6 - 1 Motion carried

NAY: Council Member Todd R. Klein

- 5. 4. Resolution - Finance :** Resolution No. 2013-R0089 approving the financing by the Red River Health Facilities Development Corporation of a health facility located within the City of Lubbock, Texas.

5. 5. **Ordinance Amendment 2nd Reading - Public Works Water Resources:** Ordinance 2013-O0028 Amendment to the Code of Ordinances, Section 22.03.085 (6)(A), that increases the water volume rate multiplier from 1.3 to 1.5 for “wholesale” water customers located outside of the City’s corporate limits.
5. 6. **Resolution - Water Utility :** Resolution No. 2013-R0090 authorizing the Mayor to execute purchase order contract 22102133 for a generator set engine for an emergency backup generator for Pump Station 14.
5. 7. **Ordinance 1st Reading – Right-of-Way :** Ordinance No. 2013-O0029 abandoning and closing a 20-foot underground utility easement located in Block AK Section 42, Lubbock County, adjacent to Tract A, Alcove Park Addition, 32nd and Yuma Avenue.
5. 8. **Ordinance 1st Reading – Right-of-Way :** Ordinance No. 2013-O0030 abandoning and closing a Lubbock Power & Light (LP&L) switching enclosure easement located in the southeast corner of Tract A, Clayton Homes Addition, 2318 North University Aveune.
5. 9. **Ordinance 2nd Reading – Right-of-Way :** Ordinance No. 2013-O0016 abandoning and closing portions of 5th Street, Avenue U, and two alleys, within or adjacent to Blocks 34, 35, 62, and 63 Overton Addition, 2104 5th Street.
5. 10. **Contract Resolution - Library :** Resolution No. 2013-R0091 authorizing the Mayor to execute contract 11143 with EBSCO Information Services for library subscription services, BID 13-11143-TL.
5. 11. **Contract Resolution - Fleet:** Resolution No. 2013-R0092 authorizing the Mayor to execute purchase order contract 31014077 with Associated Supply Company Inc., for a skid steer loader for Public Works Water Distribution and Maintenance Department.

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

Motion by Council Member Todd R. Klein, seconded by Mayor Pro Tem Karen Gibson to approve Resolution No. 2013-R0092.

Vote: 7 - 0 Motion carried

5. 12. **Contract Resolution - Fleet:** Resolution No. 2013-R0093 authorizing the Mayor to execute purchase order contract 31014104 with Sam Pack's Five Star Ford for four 1/2-ton pickups for the Police Department.

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

Motion by Council Member Todd R. Klein, seconded by Mayor Pro Tem Karen Gibson to approve Resolution No. 2013-R0093.

Vote: 7 - 0 Motion carried

5. 13. **Contract Resolution - Fleet:** Resolution No. 2013-R0094 authorizing the Mayor to execute purchase order contract 31014100 with Kubota Tractor Corporation for all-terrain vehicles (ATVs) for the Solid Waste Landfill.

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

Motion by Council Member Todd R. Klein, seconded by Council Member Floyd Price to approve Resolution No. 2013-R0094.

Vote: 7 - 0 Motion carried

5. 14. **Resolution - Fire Department** : Resolution No. 2013-R0095 authorizing the Mayor to execute purchase order contract 10007922 with DACO Fire Equipment, Inc. for two Rosenbauer pumpers and one Rosenbauer Quint.

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

Motion by Council Member Todd R. Klein, seconded by Council Member Floyd Price to approve Resolution No. 2013-R0095.

Vote: 7 - 0 Motion carried

5. 15. **Ordinance 2nd Reading - Planning** : Ordinance 2013-O0017, Zone Case 3047-E: request of AMD Engineering, LLC, for George McMahan for a zoning change from R-1 Specific Use to R-1 Specific Use for garden homes with reduced rear setback for third car garage units, reduced side setback on corner lots on 1.42 acres, R-1 Specific Use for reduced front and side setbacks, and reduced rear setbacks for third car garage units from the alley on 29.08 acres of unplatted land out of Block E-2, Section 23 (north of 122nd Street between Slide Road and Quaker Avenue).
5. 16. **Ordinance 2nd Reading - Planning** : Ordinance 2013-O0018, Zone Case 3048-E: request of McDougal Land for a zoning change from R-2 and A-1 to A-3 Specific Use for apartments on Lots 13 through 24 of Block 63, Lots 13 through 24 of Block 34, Blocks 35, and 62 and half of the adjacent right-of-way, Overton Addition (5th Street between Avenue T and Avenue V).
5. 17. **Ordinance 2nd Reading - Planning** : Ordinance 2013-O0019, Zone Case 3118-A: request of Hugo Reed and Associates, Inc., for FP Investors I, LLC for a zoning change from R-1 Specific Use to R-2 Specific Use for reduced setbacks for duplexes on 17.5 acres of unplatted land out of Block AK, Section 4 (133rd Street between Norfolk Avenue and Knoxville Avenue).
5. 18. **Ordinance 2nd Reading - Planning** : Ordinance 2013-O0020, Zone Case 3083-A: request of Hugo Reed and Associates, Inc., for Carl Mortensen for a zoning change from R-1 to R-1 Specific Use for riding stables with a reduced setback for the stables on 5.5 acres of unplatted land out of Block AK, Section 21 (109th Street and Ironton Avenue).
5. 19. **Ordinance 2nd Reading - Planning** : Ordinance 2013-O0024, Zone Case 2785-A: request of Texico Conference Association of Seventh-day Adventists, for Tigris Development, LLC for a zoning change from A-2 limited to church use to A-2 on 9 acres of unplatted land out of Block E, Section 10 (2005 98th Street).

Motion by Council Member Victor Hernandez, seconded by Council Member Todd R. Klein to approve Ordinance No. 2013-O0024.

Vote: 6 - 0 Motion carried

Other: Council Member Floyd Price (RECUSE)

5. 20. **Ordinance 2nd Reading - Planning** : Ordinance 2013-O0021, Zone Case 3096-A: request of Justin Houston, P.E., for Rex Robertson for a zoning change from C-3, GO, and R-1 to C-3 Specific Use on 24.763 acres of unplatted land out of Block E-2, Section 25 (114th Street and Slide Road).

5. 21. Ordinance 2nd Reading - Planning : Ordinance 2013-O0022, Zone Case 3202: request of Scott Collier, for 1585 Partners, LLC for a zoning change from T Transitional to C-3 for retail stores on 10.833 acres of unplatted land out of Block AK, Section 5 (Southwest corner of 130th Street and Quaker Avenue).

5. 22. Ordinance 2nd Reading - Planning : Ordinance 2013-O0023 request to amend the zoning code to allow “apartments” in the CB-2 district, rather than “A-2 apartments” as currently permitted, and amend the CB-2 parking requirements to add standards for apartments.

6. Regular Agenda

6. 1. Public Hearing 6:30 p.m. - Planning : Ordinance No. 2013-O0032, Zone Case 3200 - a request of Felipe Rodriguez for a zoning change from C-3 to C-4 limited to a dance hall and all C-3 uses on the northwest half of Lot 14, and Lots 15 through 18, Block 1, Burleson Osborn Heights Addition (2841 and 2837 Clovis Road) and consider an ordinance.

Dennis Carrizales, Senior Planner, gave comments and answered questions from Council.

Mayor Robertson opened the public hearing at 7:55 p.m.

No one appeared to speak in favor or opposition.

Mayor Robertson closed the public hearing at 7:55 p.m.

Motion by Council Member Todd R. Klein, seconded by Council Member Floyd Price to approve Ordinance No. 2013-O0032.

Vote: 7 - 0 Motion carried

6. 2. Public Hearing 6:30 p.m. - Planning : Resolution No. 2013-R0096 solution approving and granting a variance from the applicable 300-foot minimum distance provisions of City of Lubbock Ordinance 2009-O0060 at the location of 2703-A 26th Street for Host & Toast, a business requesting an off premise alcoholic beverage permit.

Mayor Robertson opened the public hearing at 7:58 p.m.

No one appeared to speak in favor or opposition.

Mayor Robertson closed the public hearing at 7:58 p.m.

Motion by Council Member Todd R. Klein, seconded by Council Member Floyd Price to approve Resolution No. 2013-R0096.

Vote: 6 - 1 Motion carried

NAY: Council Member Jim Gerlt

6. 3. Resolution - City Council : Consider a resolution creating a Citizen Advisory Committee on City Library Services to study library needs in the City of Lubbock and make recommendations to the City Council.

This item was postponed indefinitely.

Motion by Council Member Todd R. Klein, seconded by Council Member Floyd Price to postpone item 6.3 indefinitely.

Vote: 7 - 0 Motion carried

- 6. 4. Board Appointments - City Secretary :** Consider seven appointments to the Citizen Advisory Committee on City Library Services.

This item was deleted.

8:20 P.M. CITY COUNCIL ADJOURNED

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

GLEN C. ROBERTSON, MAYOR

ATTEST:

Rebecca Garza, City Secretary

**CITY OF LUBBOCK
SPECIAL CITY COUNCIL MEETING
March 18, 2013
10:00 A. M.**

The City Council of the City of Lubbock, Texas met in special session on the 18th of March, 2013, at Fire Station 18, 6611 Oakridge Avenue, Lubbock, Texas at 10:00 a. m.

**10:05 A.M. CITY COUNCIL CONVENED
Fire Station 18, 6611 Oakridge Avenue, Lubbock, Texas**

Present: Mayor Glen C. Robertson; Mayor Pro Tem Karen Gibson; Council Member Jim Gerlt; Council Member Victor Hernandez; Council Member Latrelle Joy; City Manager Lee Ann Dumbauld; City Secretary Rebecca Garza; City Attorney Sam Medina

Absent: Council Member Todd R. Klein; Council Member Floyd Price

1. Regular Agenda

1. 1. Presentation of Colors

The Lubbock Fire Department Honor Guard and the Pipe and Drums presented the Colors.

1. 2. Welcome and Introductions

Mike Kemp, Fire Chief, introduced Council Members, City Manager and staff, Fire Department staff and retirees, and other City staff in attendance.

1. 3. Speakers

Mayor Glen C. Robertson and Mayor Pro Tem Karen Gibson gave comments on the opening of Fire Station 18.

1. 4. Ceremony

Eddie Kirkpatrick, Lubbock Fire Department retiree, rang Fire Station 18 into service with the Fire Department Bell "10-8".

1. 5. Ribbon Cutting Ceremony

The Lubbock Chamber of Commerce Ambassadors initiated the ribbon cutting.

1. 6. Fire Station 18 will be open for refreshments and tours.

Fire Station 18 Personnel and Staff opened up for tours and refreshments.

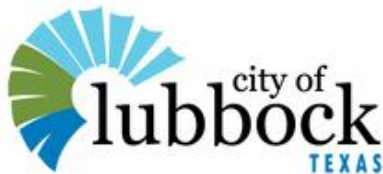
10:38 A.M. CITY COUNCIL ADJOURNED

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

GLEN C. ROBERTSON, MAYOR

ATTEST:

Rebecca Garza, City Secretary



Regular City Council Meeting

5. 1.

Meeting Date: 04/11/2013

Information

Agenda Item

Budget Ordinance Amendment 2nd Reading - Finance: Consider Budget Ordinance 2013-O0033 Amendment 18 amending the adopted FY 2012-13 Budget respecting the Grant Fund to accept and appropriate additional funding from the Texas Department of State Health Services (DSHS) for the Regional and Local Services Section/Local Public Health System (RLSS/LPHS) Grant; respecting the Capital Program to establish Capital Improvement Project 8583, Milwaukee Bridges: Marsha Sharp Freeway and Spur 327; providing for filing; and providing for a savings clause.

Item Summary

On March 28, 2013, the City Council approved the first reading of the ordinance.

- I. Accept and appropriate an additional \$20,559 from the Texas DSHS for the RLSS/LPHS Grant, for a total appropriation of \$108,204.
- II. Establish Capital Improvement Project 8583, Milwaukee Bridges: Marsha Sharp Freeway (MSF) and Spur 327, and appropriate \$52,567 for the purpose of furnishing and installing traffic signal equipment in the intersection of US 62/82 at Milwaukee Avenue. The funding source is reimbursement from Texas Department of Transportation.

Fiscal Impact

Included in Item Summary.

Staff/Board Recommending

Cheryl Brock, Executive Director of Budget

Attachments

Budget Amendment 18

Grant Detail - RLSS

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FY 2012-13 BUDGET FOR MUNICIPAL PURPOSES RESPECTING THE GRANT FUND TO ACCEPT AND APPROPRIATE ADDITIONAL FUNDING FROM THE TEXAS DEPARTMENT OF STATE HEALTH SERVICES (DSHS) FOR THE REGIONAL AND LOCAL SERVICES SECTION/LOCAL PUBLIC HEALTH SYSTEM (RLSS/LPHS) GRANT; RESPECTING THE CAPITAL PROGRAM TO ESTABLISH CAPITAL IMPROVEMENT PROJECT 8583, MILWAUKEE BRIDGES: MARSHA SHARP FREEWAY AND SPUR 327; PROVIDING FOR FILING; AND PROVIDING FOR A SAVINGS CLAUSE.

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

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

WHEREAS, the City Council deems it advisable to change the FY 2012-13 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 2012-13 (Budget Amendment #18) for municipal purposes, as follows:

- I. Accept and appropriate an additional \$20,559 from the Texas DSHS for the RLSS/LPHS Grant, for a total appropriation of \$108,204.
- II. Establish Capital Improvement Project 8583, Milwaukee Bridges: Marsha Sharp Freeway (MSF) and Spur 327, and appropriate \$52,567 for the purpose of furnishing and installing traffic signal equipment in the intersection of US 62/82 at Milwaukee Avenue. The funding source is reimbursement from Texas Department of Transportation.

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

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

AND IT IS SO ORDERED

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

GLEN C. ROBERTSON, MAYOR

ATTEST:

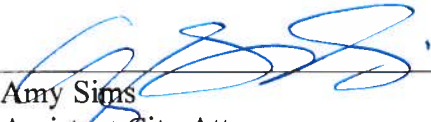
Rebecca Garza
City Secretary

APPROVED AS TO CONTENT:



Cheryl Brock
Executive Director of Budget

APPROVED AS TO FORM:



Amy Sims
Assistant City Attorney

City of Lubbock, TX
Grant Award
Existing Grant - Budget Detail
March 13, 2013

Administrative Information:

City Assigned Grant Number:	81094
Grant Name:	RLSS/Local Public Health System
Grant Effective Date:	9/1/2012-8/31/2013
Grant Provider/Agency:	Texas Department of State Health Services
Original Appropriation Date:	9/13/2012
Original Appropriation-Budget Ordinance:	2012-O0086
Original Grant Acceptance-Resolution:	2012-R0326
Amended Grant Award Amount:	\$ 108,204

Personnel Information:

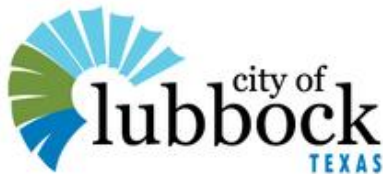
# of full-time positions funded w/grant	2

Title of Position	Annual Salary	Annual Benefits	Grant	General Fund
Registered Nurse	\$ 70,837	30,517	101,354	-
Registered Nurse	54,677	25,051	6,850	72,878
Total	\$ 125,514	55,568	108,204	72,878

Budget Information:

Grant Appropriation Detail

	9/13/2012 Amount	Amendment Amount	Total Award Amount
Full-time salary	\$ 65,508	12,180	\$ 77,688
Benefits	22,137	8,379	30,516
Total Appropriation	\$ 87,645	20,559	\$ 108,204



Regular City Council Meeting

5. 1. 1.

Meeting Date: 04/11/2013

Information

Agenda Item

Resolution - Community Services: Consider a resolution authorizing the City Manager to execute on behalf of the City, amendment to program attachment 003 to contract 2013-041470 increasing the contract by \$20,559 due to restoration of Local Public Health System (LPHS) block grant funds. The categorical budget increased as follows: Personnel \$12,180 and Fringe Benefits \$8,379. All other terms and conditions of the contract remain in full force and effect.

Item Summary

This contract provides funding under the Regional and Local Services Section (RLSS) / Local Public Health System (LPHS). This FY 2012-13 annual contract with the Department of State Health Services (DSHS), Contract 2013-041470, provides financial assistance to improve or strengthen local public health infrastructure by developing objectives to address public health issues and utilize resources provided through this contract to conduct activities and services that provide or support the delivery of essential public health services. Programs will also assess, monitor, and evaluate the essential public health services, and develop strategies to improve the delivery of essential public health services to identified service areas. The contract period is September 1, 2012, through August 31, 2013.

Fiscal Impact

The amendment will increase the categorical budget amount by \$20,559. This amendment will provide 100% of salary and fringe benefits for one registered nurse, 8.5% of salary for a second registered nurse and will save \$20,559 in the general fund.

Staff/Board Recommending

Scott Snider, Assistant City Manager

Attachments

Resolution - LPHS

Amendment - RLSS

RESOLUTION

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

THAT the City Manager of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, an amendment to Program Attachment #003 (Program Attachment) to Contract # 2013-041470 (Contract), increasing the contract by \$20,559.00 due to restoration of LPHS block grant funds, with the Categorical Budget categories increased as follows: Personnel from \$65,508.00 to \$77,688.00 and Fringe Benefits from \$22,137.00 to \$30,516.00. The Program Attachment, as amended, is to be numbered 003A. All other terms and conditions of the contract remain in full force and effect. Said amendment is attached hereto and incorporated in this Resolution as if fully set forth herein and shall be included in the minutes of the Council.

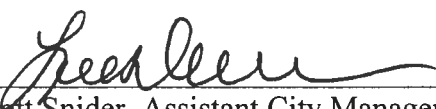
Passed by the City Council this _____ 2013.

GLEN C. ROBERTSON, MAYOR

ATTEST:

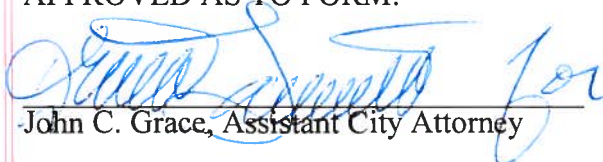
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT



Scott Snider, Assistant City Manager (Health)

APPROVED AS TO FORM:



John C. Grace, Assistant City Attorney

DEPARTMENT OF STATE HEALTH SERVICES



Amendment
To

The Department of State Health Services (DSHS) and CITY OF LUBBOCK (Contractor) agree to amend the Program Attachment # 003 (Program Attachment) to Contract # 2013-041470 (Contract) in accordance with this Amendment No. 003A:RLSS/LPHS-PnP, effective 02/07/2013.

The purpose of this Amendment is to increase the contract by \$20,559.00 due to restoration of PHHS block grant funds. The Categorical Budget categories are increased as follows: Personnel from \$65,508.00 to \$77,688.00 and Fringe Benefits from \$22,137.00 to \$30,516.00.

Therefore, DSHS and Contractor agree as follows:

The Program Attachment is revised as follows:

PROGRAM ATTACHMENT NO. ~~003~~ 003A

All other terms and conditions not hereby amended are to remain in full force and effect. In the event of a conflict between the terms of this contract and the terms of this Amendment, this Amendment shall control.

Department of State Health Services

City of Lubbock

Signature of Authorized Official

Signature of Authorized Official

Date: _____

Date: _____

Bob Burnette, C.P.M., CTPM

Name: LeeAnn Dumbauld

Director, Client Services Contracting Unit

Title: City Manager

1100 WEST 49TH STREET
AUSTIN, TEXAS 78756

Address: PO Box 2000

(512) 458-7470

Lubbock, TX 79457

Bob.Burnette@dshs.state.tx.us

Phone: (806) 775-2016

Email: LDumbauld@mylubbock.us

Approved as to form

John C. Grace

State Bar No. 00787574

Page - 1 of 1

APPROVED AS TO CONTENT: _____

Attest: Rebecca Garza, City Secretary

DEPARTMENT OF STATE HEALTH SERVICES



1100 WEST 49TH STREET
AUSTIN, TEXAS 78756-3199

CATEGORICAL BUDGET CHANGE REQUEST

DSHS PROGRAM: RLSS/LOCAL PUBLIC HEALTH SYSTEM-PnP

CONTRACTOR: CITY OF LUBBOCK

CONTRACT NO: 2013-041470

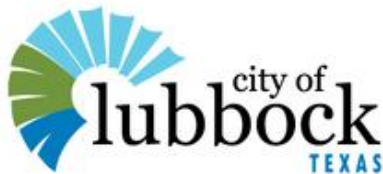
CONTRACT TERM: 09/01/2012 THRU: 08/31/2013

BUDGET PERIOD: 09/01/2012 THRU: 08/31/2013

CHG: 003A

DIRECT COST (OBJECT CLASS CATEGORIES)			
	Current Approved Budget (A)	Revised Budget (B)	Change Requested
Personnel	\$65,508.00	\$77,688.00	\$12,180.00
Fringe Benefits	\$22,137.00	\$30,516.00	\$8,379.00
Travel	\$0.00	\$0.00	\$0.00
Equipment	\$0.00	\$0.00	\$0.00
Supplies	\$0.00	\$0.00	\$0.00
Contractual	\$0.00	\$0.00	\$0.00
Other	\$0.00	\$0.00	\$0.00
Total Direct Charges	\$87,645.00	\$108,204.00	\$20,559.00
INDIRECT COST			
Base (\$)	\$0.00	\$0.00	\$0.00
Rate (%)	0.00%	0.00%	0.00%
Indirect Total	\$0.00	\$0.00	\$0.00
PROGRAM INCOME			
Program Income	\$0.00	\$0.00	\$0.00
Other Match	\$0.00	\$0.00	\$0.00
Income Total	\$0.00	\$0.00	\$0.00
LIMITS/RESTRICTIONS			
Advance Limit	\$0.00	\$0.00	\$0.00
Restricted Budget	\$0.00	\$0.00	\$0.00
SUMMARY			
Cost Total	\$87,645.00	\$108,204.00	\$20,559.00
Performing Agency Share	\$0.00	\$0.00	\$0.00
Receiving Agency Share	\$87,645.00	\$108,204.00	\$20,559.00
Total Reimbursements Limit	\$87,645.00	\$108,204.00	\$20,559.00
JUSTIFICATION			
Restoring the salaries that were reduced by 19%, bringing back up to level funding with the PHHSBG Funding.			

Financial status reports are due: 12/31/2012, 03/29/2013, 06/28/2013, 10/30/2013



Regular City Council Meeting

5. 1. 2.

Meeting Date: 04/11/2013

Information

Agenda Item

Resolution - Traffic Engineering: Consider a resolution authorizing the Mayor to execute contract 11264 an inter-local agreement CSJ 0380-01-081 with Texas Department of Transportation (TxDOT) for the City to furnish and install traffic signal equipment as part of the US 62/82 at Milwaukee Avenue project.

Item Summary

The agreement allows the City to purchase and install video detection equipment at Marsha Sharp Freeway and Milwaukee Avenue. The City will modify signal timing throughout construction and install the traffic signal cabinet, controller and, all associated traffic equipment in the cabinet.

Fiscal Impact

The City will be reimbursed up to \$52,567 by TxDOT for equipment and labor associated with this project. Capital Improvement Project 8583, Milwaukee Bridges: Marsha Sharp Freeway and Spur 327, has been set-up in a separate budget amendment.

Staff/Board Recommending

R. Keith Smith, P.E., Chief Operating Officer

Attachments

Resolution & Contract - Milwaukee

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 Agreement for furnishing and installing of traffic signal equipment at the intersection of US 62/82 at Milwaukee Avenue, by and between the City of Lubbock and the State of Texas, acting through the Texas Department of Transportation, 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.

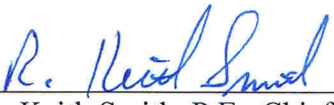
Passed by the City Council on _____.

GLEN C. ROBERTSON, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



R. Keith Smith, P.E., Chief Operating Officer

APPROVED AS TO FORM:



Chad Weaver, Assistant City Attorney

vw:ccdcs/RES.Contract-TxDOT
March 7, 2013

STATE OF TEXAS §

COUNTY OF TRAVIS §

**AGREEMENT FOR THE FURNISHING AND INSTALLING OF
TRAFFIC SIGNAL EQUIPMENT BY A MUNICIPALITY**

THIS AGREEMENT is made by and between the State of Texas, acting through the Texas Department of Transportation, called the “State,” and the City of Lubbock, called the “City,” acting through its duly authorized officers.

WITNESSETH

WHEREAS, the State owns and maintains a system of highways and roadways, including the intersection of US 62/82 at Milwaukee Ave located within the boundaries of the City; and

WHEREAS, the City has requested the State to reimburse the cost of furnishing and installing traffic signal equipment at the intersection of US 62/82 at Milwaukee Ave, called the “Project”; and

WHEREAS, the State and City wish to cooperate in the construction of this Project; and

WHEREAS, the City desires that equipment be provided that is compatible with standard signal operation or existing City equipment; and

WHEREAS, it is in the best interest of the City and the State for the City to assist the State by furnishing traffic signal equipment on the Project; and

WHEREAS, on _____, 20____, the Texas Transportation Commission passed Minute Order No. _____, approving the Project; and

WHEREAS, the Governing Body of the City has approved entering into this agreement by resolution or ordinance dated _____, 20____, labeled Attachment A, which is attached to and made a part of this agreement; and

WHEREAS, the Project has been designated as a federal-aid project and; therefore, this agreement shall be made in accordance with Federal Highway Administration (FHWA) procedures and regulations; and

WHEREAS, the State is authorized to enter into an agreement with the City for the Project pursuant to Texas Transportation Code §221.002;

NOW THEREFORE, the State and the City agree as follows:

AGREEMENT

Article 1. Period of this Agreement

This agreement becomes effective on final execution by both parties and shall remain in effect as long as the traffic signal equipment furnished by the City is in operation at the described location and the signal project is incomplete, or unless otherwise terminated or modified as provided below.

Article 2. Scope of Work

- A.** For all items of construction other than furnishing and installing the traffic signal equipment, the State will prepare the construction plans and specifications, advertise for bids, let the construction contract or otherwise provide for the construction, and supervise the construction. The State will secure the City's approval of construction plans and specifications prior to award of contract.
- B.** The City shall furnish and install the traffic signal equipment as shown in the construction plans and specifications.

Article 3. Personnel, Equipment, and Material

- A.** The City shall use labor and supervisory personnel employed directly by the City.
- B.** All employees of the City assigned to this agreement shall have sufficient knowledge and experience to enable them to perform the duties assigned to them.
- C.** The State may require the City to remove any employee from the work authorized in this agreement if, in the sole opinion of the State, the work of that employee does not comply with this agreement or the conduct of that employee is detrimental to the Project.
- D.** All materials used for the work shall be new and undepreciated.
- E.** Reimbursement for the use of materials purchased by other than competitive bid procedures will be made only if:
 - 1. Those procedures are shown to be in the public interest; and
 - 2. The State has given prior approval for the use of materials.
- F.** The City shall use City-owned machinery, equipment, and vehicles for the work. In the event that the City does not have the necessary machinery, equipment, and vehicles, they may be rented or leased at the lowest bid price of those submitted by two or more approved bidders.

Article 4. Compensation

- A.** The maximum amount reimbursable by the State to the City under this agreement without modification is \$52,567. A cost estimate of the traffic signal equipment furnished by the City under this agreement, labeled Attachment B, is attached to and made part of this agreement.
- B.** The State will reimburse the City for costs incurred under this agreement, provided the City has paid from City funds those obligations previously billed.
 - 1. The State will reimburse the City the cost of furnishing and installing the traffic signal equipment as shown in the construction plans and specifications.
 - 2. The State will reimburse the City for applicable labor, equipment use, materials, supplies, travel expenses, and warehouse or material handling charges.

3. The State will not reimburse unsupported costs, costs incurred prior to the issuance of a written work order by the State, and costs incurred after final acceptance by the State.
4. The State shall make payment to the City within thirty (30) days from the receipt of the City's request for payment contingent upon both:
 - a. The State's acceptance of the completed Project; and
 - b. The City's submission of an original and four copies of a request for payment:
 - 1) To the following address:
Frank Phillips, P.E.
135 Slaton Highway
Lubbock, Texas 79404
 - 2) On the State's Form 132 Billing Statement or other type of invoice acceptable to the State; and
 - 3) That documents the work performed and materials used through descriptions, quantities, unit prices, and extensions.
- C. The City shall be responsible for any funds determined to be ineligible for federal reimbursement, and shall reimburse the State the amount of those funds previously provided to it by the State.
- D. If the City will perform any work under this agreement for which reimbursement will be provided by or through the State, the City must complete training before federal spending authority is obligated. Training is complete when at least one individual who is working actively and directly on the Project successfully completes and receives a certificate for the course entitled *Local Government Project Procedures Qualification for the Texas Department of Transportation*. The City shall provide the certificate of qualification to the State. The individual who receives the training certificate may be an employee of the City or an employee of a firm that has been contracted by the City to perform oversight of the Project. The State in its discretion may deny reimbursement if the City has not designated a qualified individual to oversee the Project.

Article 5. Insurance

If this agreement authorizes the City or its contractor to perform any work on State right of way, before beginning work the entity performing the work shall provide the State with a fully executed copy of the State's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate of Insurance for all persons and entities working on State right of way. This coverage shall be maintained until all work on the State right of way is complete. If coverage is not maintained, all work on State right of way shall cease immediately, and the State may recover damages and all costs of completing the work.

Article 6. Responsibilities of the Parties

The State and the City agree that neither party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

Article 7. Progress

- A. Communications.** The City shall confer with the State during the progress of the Project. The City shall prepare and present all information that is requested by the State or is necessary for the State to evaluate the work performed by the City.
- B. Reports.** The City shall promptly advise the State in writing of events that may have a significant effect on the progress of the Project.
 - 1. The City shall promptly advise the State in writing of any problems, delays, or adverse conditions that will materially affect the ability to meet scheduled goals. This disclosure will be accompanied by statement of the action taken or contemplated and any State or federal assistance needed to resolve the situation.
 - 2. The City shall also promptly advise the State in writing of favorable developments or events that enable meeting goals sooner than anticipated.

Article 8. Inspection of Work

- A.** The State shall make frequent and complete inspection of all materials, equipment, and work to determine and permit certification that:
 - 1. They are in suitable condition for operation and maintenance by the City after completion; and
 - 2. All applicable requirements of the plans and specifications are satisfied.
- B.** The City shall provide opportunities, facilities, and representative samples, as required by the State to perform the above inspections.
- C.** The State will promptly notify the City of any deficiencies determined by the above inspections and the City shall, without delay, take corrective action acceptable to the State.

Article 9. Maintenance, Retention, and Audit of Records

- A. Retention Period.** The City shall maintain all books, documents, papers, computer-generated files, accounting records, and all other evidence pertaining to costs incurred and work performed under this agreement, and shall make those materials available at its office during the time period covered and for four years from the date of final payment under this agreement, until completion of all audits, or until pending litigation has been completely and fully resolved, whichever occurs last.
- B. Availability.** The State, FHWA, United States Department of Transportation and its Office of the Inspector General, State Auditor's Office, United States Comptroller General, and any of their authorized representatives shall have access to the records for the purpose of making audits, examinations, excerpts, and transcriptions.
- C. State Auditor.** The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under this agreement or indirectly through a subcontract under this agreement. Acceptance of funds directly under this agreement or indirectly through a subcontract under this agreement acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.
- D. Audit Timing.** The State will prepare an audit:

1. Upon completion of the work authorized or early termination of the agreement to determine the amount of the work performed and materials furnished by the City at that time; and
2. At any time it is deemed to be in the best interest of the State.

Article 10. Disputes

The State's decision on disputes regarding the responsibilities and obligations set forth in this agreement shall be final and binding.

Article 11. Non-collusion

The City shall warrant that it has not employed or retained any company or person, other than a bona fide employee working for the City, to solicit or secure this agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this agreement. If the City breaches or violates this warranty, the State shall have the right to annul this agreement without liability or, in its discretion, to deduct from the agreement price or consideration, or otherwise recover the full amount of the fee, commission, brokerage fee, gift, or contingent fee.

Article 12. Termination and Remedies

- A. Causes.** This agreement shall remain in effect until the project is completed and accepted by all parties, unless the agreement is terminated by:
1. Written agreement of the parties;
 2. Written notice from either party because the other party did not fulfill its contractual obligations;
 3. Written notice from the City, after the completion of preliminary engineering, specifications, and estimates, that it elects not to provide funding;
 4. The State if the Project is inactive for thirty-six months or longer and no expenditures have been charged against federal funds; or
 5. Thirty (30) days written notice from the State, with or without cause.
- B. Payments Due After Termination.**
1. If the State terminates this agreement, the State shall not be liable for any costs other than those due at the time of termination.
 2. If this agreement is terminated under Article 12(A)(3) and the project does not proceed because of insufficient funds, the City shall reimburse the State for its reasonable actual costs incurred during the project.
 3. If this agreement is terminated under Article 12(A)(5), the City shall not incur costs during the thirty (30) days after notice is given if those costs are more than the costs incurred during the preceding thirty (30) days.
- C. Value of Completed Work.** The State shall determine the value of any work that has been performed at the time of termination. In determining the compensation for partial work, the State will consider
1. Actual costs incurred in performing the work to the date of termination;
 2. The amount of work that was satisfactorily completed as of the date of termination;
 3. The value of the work that is usable by the State;

4. The cost to the State of employing others to complete the required work;
5. The time required to employ others to complete the work; and
6. Any other factors that affect the value to the State of the work performed.

D. Payment of Additional Costs. If this agreement is terminated under Article 12(A)(2), the State may take over the project and complete the work. The City shall be liable to the State for any additional costs to the State caused by the termination.

E. Excusable Delays. Except with respect to subcontractors, the City will not be considered in default for any failure that arises out of causes beyond the control and without the negligence of the City. These include acts of God or the public enemy, acts of the Government in its sovereign immunity or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather.

F. Surviving Requirements. Except for provisions that specifically establish responsibilities that extend beyond the agreement period, termination and payment under this article extinguish the rights, duties, and obligations of the State and the City under this agreement.

G. Remedies.

1. Any costs incurred by the State arising from the termination of this agreement under Article 12(A)(2) or (3) shall be paid by the City.
2. This agreement shall not be considered as specifying the exclusive remedy for any default, but all remedies existing at law and in equity may be pursued by either party and shall be cumulative.

Article 13. Compliance with Laws

A. Compliance Requirement. The parties shall comply with all applicable federal, state, and local laws, statutes, ordinances, rules, and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of this agreement, including worker's compensation laws, minimum and maximum salary and wage statutes and regulations, nondiscrimination laws, and licensing laws and regulations.

B. Proof of Compliance. At the request of the State, the City shall furnish satisfactory proof of its compliance with this article.

Article 14. Gratuities

A. Employees Not To Benefit. Employees of the State or the City shall not accept any benefits, gifts, or favors from any person doing business with, or who reasonably speaking may do business with the State or the City under this agreement.

B. Liability. The State may terminate this agreement if the City or any other person who is doing business with or who reasonably speaking may do business with the State under this agreement offers benefits, gifts, or favors to State employees in violation of this policy.

Article 15. Subcontracting

A. Prior Approval. The City shall not assign, subcontract, or transfer services related to the work under this agreement without the advance written approval of the State.

B. Required Provisions. All subcontracts shall include the provisions contained in this agreement and any other provisions required by law.

C. City Responsibilities. A subcontract does not relieve the City of any responsibilities under this agreement.

Article 16. Amendments to this Agreement

Any change to one or more of the terms and conditions of this agreement shall not be valid unless made in writing and agreed to by the parties before the change is implemented.

Article 17. Legal Construction

If any provision in this agreement is for any reason held to be invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or unenforceability shall not affect any other provision of this agreement. In that case, this agreement shall be construed as if the invalid, illegal, or unenforceable provision had never been contained in it.

Article 18. Successors and Assigns

- A.** The City and the State bind themselves and their successors and assigns to each other party of this agreement and to the successors and assigns to each other party with regard to all covenants of this agreement.
- B.** The City shall not assign, subcontract, or otherwise transfer its interests in this agreement without the written approval of the State.

Article 19. Sole Agreement

This agreement constitutes the sole agreement between the parties concerning the Project and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter of this agreement.

Article 20. Debarment Certification

The parties are prohibited from making any award at any tier to any party that is debarred or suspended or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, "Debarment and Suspension." By executing this agreement, the City certifies that it is not currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549 and further certifies that it will not do business with any party that is currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549. The parties to this agreement shall require any party to a subcontract or purchase order awarded under this agreement to certify its eligibility to receive federal funds and, when requested by the State, to furnish a copy of the certification.

Article 21. Civil Rights Compliance

The City shall comply with the regulations of the United States Department of Transportation as they relate to non-discrimination (49 CFR Part 21 and 23 CFR Part 200), and Executive Order 11246 titled "Equal Employment Opportunity," as amended by Executive Order 11375 and supplemented in the Department of Labor Regulations (41 CFR Part 60).

Article 22. Disadvantaged Business Enterprise (DBE) Program Requirements

- A.** The parties shall comply with the DBE Program requirements established in 49 CFR Part 26.
- B.** The City shall adopt, in its totality, the State's federally approved DBE program.

- C. The City shall set an appropriate DBE goal consistent with the State's DBE guidelines and in consideration of the local market, project size, and nature of the goods or services to be acquired. The City shall have final decision-making authority regarding the DBE goal and shall be responsible for documenting its actions.
- D. The City shall follow all other parts of the State's DBE program referenced in TxDOT Form 2395, Memorandum of Understanding Regarding the Adoption of the Texas Department of Transportation's Federally-Approved Disadvantaged Business Enterprise by Entity, and attachments found at web address http://txdot.gov/business/business_outreach/mou.htm.
- E. The City shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. Department of Transportation (DOT)-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The City shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of DOT-assisted contracts. The State's DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the City of its failure to carry out its approved program, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 USC 1001 and the Program Fraud Civil Remedies Act of 1986 (31 USC 3801 et seq.).
- F. Each contract the City signs with a contractor (and each subcontract the prime contractor signs with a sub-contractor) must include the following assurance: *The contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or such other remedy as the recipient deems appropriate.*

Article 23. Procurement and Property Management Standards

The parties shall adhere to the procurement standards established in 49 CFR § 18.36 and with the property management standard established in 49 CFR § 18.32.

Article 24. Office of Management and Budget (OMB) Cost Principles

In order to be reimbursed with federal funds, the parties shall comply with the Cost Principles established in OMB Circular A-87 that specify that all reimbursed costs are allowable, reasonable, and allocable to the Project.

Article 25. Lobbying Certification

In executing this agreement, each signatory certifies to the best of that signatory's knowledge and belief, that:

- A. No federal appropriated funds have been paid or will be paid by or on behalf of the parties to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal

contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with federal contracts, grants, loans, or cooperative agreements, the signatory for the City shall complete and submit the Federal Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The parties shall require that the language of this certification shall 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 all sub-recipients shall certify and disclose accordingly. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 USC §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Article 26. Federal Funding Accountability and Transparency Act Requirements

- A. Any recipient of funds under this agreement agrees to comply with the Federal Funding Accountability and Transparency Act and implementing regulations at 2 CFR Part 170, including Appendix A. This agreement is subject to the following award terms:
<http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf> and
<http://edocket.access.gpo.gov/2010/pdf/2010-22706.pdf>.
- B. The City agrees that it shall:
 - 1. Obtain and provide to the State a Central Contracting Registry (CCR) number (Federal Acquisition Regulation, Part 4, Sub-part 4.1100) if this award provides for more than \$25,000 in Federal funding. The CCR number may be obtained by visiting the CCR web-site whose address is: <https://www.bpn.gov/ccr/default.aspx>;
 - 2. Obtain and provide to the State a Data Universal Numbering System (DUNS) number, a unique nine-character number that allows the Federal government to track the distribution of federal money. The DUNS number may be requested free of charge for all businesses and entities required to do so by visiting the Dun & Bradstreet on-line registration website <http://fedgov.dnb.com/webform>; and
 - 3. Report the total compensation and names of its top five executives to the State if:
 - a. More than 80% of annual gross revenues are from the Federal government, and those revenues are greater than \$25,000,000; and
 - b. The compensation information is not already available through reporting to the U.S. Securities and Exchange Commission.

Article 27. Single Audit Report

- A. The parties shall comply with the requirements of the Single Audit Act of 1984, P.L. 98-502, ensuring that the single audit report includes the coverage stipulated in OMB Circular A-133.
- B. If threshold expenditures of \$500,000 or more are met during the City's fiscal year, the City must submit a Single Audit Report and Management Letter (if applicable) to TxDOT's Audit

Office, 125 E. 11th Street, Austin, TX 78701 or contact TxDOT's Audit Office at http://www.txdot.gov/contact_us/audit.htm.

- C. If expenditures are less than \$500,000 during the City's fiscal year, the City must submit a statement to TxDOT's Audit Office as follows: "We did not meet the \$500,000 expenditure threshold and therefore, are not required to have a single audit performed for FY _____."
- D. For each year the project remains open for federal funding expenditures, the City will be responsible for filing a report or statement as described above. The required annual filing shall extend throughout the life of the agreement, unless otherwise amended or the project has been formally closed out and no charges have been incurred within the current fiscal year.

Article 28. Notices

All notices to either party by the other under this agreement shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to the other party at the following addresses:

City	State
Sharmon Owens	Frank Phillips, P.E.
City Traffic Engineer	Director of Transportation Operations
P.O. Box 2000	135 Slaton Highway
Lubbock, Texas, 79457	Lubbock, Texas, 79404

All notices shall be deemed given on the date delivered or deposited in the mail. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that notices shall be delivered personally or by certified U.S. mail, and the request shall be carried out by the other party.

Article 29. Signatory Warranty

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

IN WITNESS WHEREOF, the State and the City have signed duplicate counterparts of the agreement.

ARTICLE 30. CITY OF LUBBOCK

GLEN C. ROBERTSON, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Sharmon Owens, City Traffic Engineer

APPROVED AS TO FORM:



Chad Weaver, Assistant City Attorney

THE STATE OF TEXAS

Signature

Type or Printed Name

Title

Date

ATTACHMENT A
CITY RESOLUTION OR ORDINANCE

[INSERT RESOLUTION OR ORDINANCE]

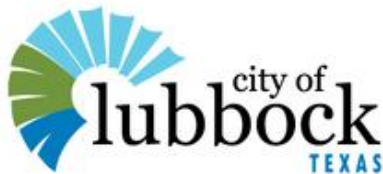
ATTACHMENT B
COST ESTIMATE

Total Estimate			
	Quantity	Cost	Extended Cost
VIVIDS Camera	4	\$1,365.00	\$5,460
Two Channel Detection Processor	2	\$2,400.00	\$4,800
VIVDS Cable	1500	\$1.50	\$2,250
Overhead Street Marker	12	\$500.00	\$6,000
Labor - Engineering	160	\$50.00	\$8,000
Labor - Signal Shop	480	\$40.00	\$19,200
Miscellaneous (15%)			\$6,857
Total Cost Estimate			\$52,567

Marsha Sharp Freeway & Milwaukee Avenue			
	Quantity	Cost	Extended Cost
VIVIDS Camera	4	\$1,365.00	\$5,460
Two Channel Detection Processor	2	\$2,400.00	\$4,800
VIVDS Cable	1500	\$1.50	\$2,250
Overhead Street Marker	6	\$500.00	\$3,000
Labor - Engineering	80	\$50.00	\$4,000
Labor - Signal Shop	240	\$40.00	\$9,600
Subtotal Estimate			\$29,110
Spur 327 & Milwaukee Avenue			
	Quantity	Cost	Extended Cost
VIVIDS Camera	0	\$1,365.00	\$0
Two Channel Detection Processor	0	\$2,400.00	\$0
VIVDS Cable	0	\$1.50	\$0
Overhead Street Marker	6	\$500.00	\$3,000
Labor - Engineering	80	\$50.00	\$4,000
Labor - Signal Shop	240	\$40.00	\$9,600
Subtotal Estimate			\$16,600

Notes:

- Use existing VIVDS system at Spur 327
- VIVDS systems will only be installed on outside approaches
- City of Lubbock may upgrade vehicle detection system but will only be re-imbursed for VIVDS system



Regular City Council Meeting

5. 2.

Meeting Date: 04/11/2013

Information

Agenda Item

Budget Ordinance Amendment 1st Reading - Finance: Consider Budget Ordinance Amendment 20 amending the adopted FY 2012-13 Budget respecting the grant fund to accept and appropriate additional funding from the Texas Department of Housing and Community Affairs (TDHCA) for the Community Services Block Grant (CSBG); and to accept and appropriate funding from the Texas Department of Transportation (TxDOT) for the Section 5311(F) Federal Intercity Bus Grant; providing for filing; and providing for a savings clause.

Item Summary

- I. Accept and appropriate an additional \$89,701 from the TDHCA for the CSBG, for a total appropriation of \$181,600.
- II. Accept and appropriate \$250,000 from TxDOT for the Section 5311(f) Federal Intercity Bus Grant for the expansion and renovation of the Downtown Transfer Plaza.

Fiscal Impact

Included in Item Summary.

Staff/Board Recommending

Cheryl Brock, Executive Director of Budget

Attachments

Budget Amendment 20

Grant Detail Sheet - CSBG

Grant Detail Sheet - Section 5311(f)

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FY 2012-13 BUDGET FOR MUNICIPAL PURPOSES RESPECTING THE GRANT FUND TO ACCEPT AND APPROPRIATE ADDITIONAL FUNDING FROM THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS (TDHCA) FOR THE COMMUNITY SERVICES BLOCK GRANT (CSBG); TO ACCEPT AND APPROPRIATE FUNDING FROM THE TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT) FOR THE SECTION 5311(F) FEDERAL INTERCITY BUS GRANT; PROVIDING FOR FILING; AND PROVIDING FOR A SAVINGS CLAUSE.

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

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

WHEREAS, the City Council deems it advisable to change the FY 2012-13 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 2012-13 (Budget Amendment #20) for municipal purposes, as follows:

- I. Accept and appropriate an additional \$89,701 from the TDHCA for the CSBG grant, for a total appropriation of \$181,600.
- II. Accept and appropriate \$250,000 from TxDOT for the Section 5311(f) Federal Intercity Bus Grant for the expansion and renovation of the Downtown Transfer Plaza.

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

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

AND IT IS SO ORDERED

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

GLEN C. ROBERTSON, MAYOR

ATTEST:

Rebecca Garza
City Secretary

APPROVED AS TO CONTENT:



Cheryl Brock
Executive Director of Budget

APPROVED AS TO FORM:



Amy Sims
Assistant City Attorney

City of Lubbock, TX
Grant Amendment
Existing Grant - Budget Detail
April 11, 2013

Administrative Information:

City Assigned Grant Number:	82050
Grant Name:	Community Services Block Grant
Grant Effective Date:	1/1/2013-12/31/2013
Grant Provider/Agency:	Texas Department of Housing and Community Affairs
Original Appropriation Date:	2/14/2013
Original Appropriation-Budget Ordinance:	2013-O0009
Original Grant Acceptance-Resolution:	2013-R0057

Personnel Information:

Full-time positions funded w/ grant:	5

Title of Position	Annual Salary	Annual Benefits	Grant	Other Grant
Program Specialist	\$ 39,815	21,393	14,769	46,439
Account Analyst	58,923	26,668	4,156	81,435
Administrative Assistant	23,417	16,247	5,913	33,751
CD Director & Citibus Liaison	67,340	33,380	4,663	96,057
CD Contract Coordinator	55,000	25,760	19,585	61,175
Total	\$ 244,495	123,448	49,086	318,857

Budget Information:

Grant Amendment Detail	2/14/2013 Award Amount	Amendment Amount	Total Award Amount
Salaries	\$ 16,748	16,350	\$ 33,098
Benefits	8,089	7,899	15,988
Travel	500	488	988
Supplies	1,149	1,121	2,270
Other	1,400	1,366	2,766
Indirect Cost	3,000	2,928	5,928
Contractual			
Catholic Charities, Diocese of Lubbock	43,907	42,854	86,761
South Plains Association of Governments	10,856	10,595	21,451
Lutheran Social Services CEAP Ops	3,500	3,416	6,916
LIFE Run Centers CEAP Ops	1,500	1,464	2,964
CEAP Household Crisis Inspections	1,250	1,220	2,470
Total Amendment	\$ 91,899	89,701	\$ 181,600

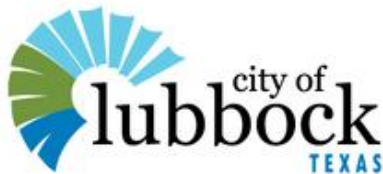
City of Lubbock, TX
Grant Award
New Grant - Budget Detail
April 11, 2013

Administrative Information:

Grant Name:	<u>Section 5311(f) Federal Intercity Bus</u>
Grant Effective Date:	<u>4/25/2013-5/31/2014</u>
Grant Provider/Agency:	<u>Texas Department of Transportation</u>
Grant Award Amount:	<u>\$ 250,000</u>

Budget Information:

Grant Budget Detail	<u>Award Amount</u>
Downtown Transfer Plaza expansion/renovation	\$ 250,000
Total Award	<u>\$ 250,000</u>



Regular City Council Meeting

5. 3.

Meeting Date: 04/11/2013

Information

Agenda Item

Ordinance 2nd Reading – Right-of-Way: Consider Ordinance 2013-O0034 abandoning and closing a portion of 66th Street east of Milwaukee Avenue.

Item Summary

On March 28, 2013, the City Council approved the first reading of the ordinance.

The ordinance abandons and closes a portion of 66th Street just east of Milwaukee Avenue. The north half of the street has 40-feet right-of-way and only needs to be 32-feet in width. Property owner, Mark Shipton, has requested to close the remaining 8-feet of the right-of-way. The street closure area will remain a utility easement.

Fiscal Impact

The total area being closed is 4,399.56 square foot. The Right-of-Way Department has valued the closure at \$1.75 per square foot based on adjacent property land values. The value of \$7,699.23 x 50% easement credit is a total of \$3,849.61 revenue to the City.

All utility companies are in agreement with this street closure.

Staff/Board Recommending

R. Keith Smith, P. E., Chief Operating Officer

Attachments

Ordinance - ROW 66th Street

ORDINANCE NO. _____

AN ORDINANCE ABANDONING AND CLOSING A 0.101 ACRE PORTION OF 66TH STREET IN SECTION 36, BLOCK AK, LUBBOCK COUNTY, TEXAS AND MORE PARTICULARLY DESCRIBED IN THE BODY OF THIS ORDINANCE; RESERVING AN EASEMENT FOR UTILITY PURPOSES; 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 street portion as hereinafter described in the body of this Ordinance is no longer needed for street purposes and for public use; and it would be in the public interest to close, vacate and abandon the same for street 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 street portion as hereinafter described shall BE and the same is hereby closed, vacated and abandoned for street purposes and for public use, such street being more particularly described in attached Exhibit "A".

SECTION 2. THAT an easement is hereby reserved on the property described in Section 1, above, and such easement is reserved and retained for utility purposes with the right of ingress and egress at all times for such purpose, and an easement is also reserved for any and all existing pipelines or other utilities within said property together with all rights appurtenant to the continuation of such utilities.

SECTION 3. 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 4. 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 5. 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 _____, 2013.

Passed by the City Council on second reading this _____, 2013.

GLEN C. ROBERTSON, 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

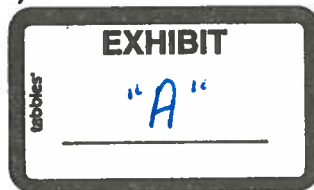
A&C-66th St., Section 36, Blk AK.ord
02.15.2013

ABACUS ENGINEERING SURVEYING

2737 81ST STREET LUBBOCK, TEXAS 79423
(806) 745-7670



"Count on it"



FIELD NOTES on a 0.101 Acre Tract out of Section 36, Block AK, Lubbock County, Texas being further described by metes and bounds as follows:

BEGINNING at a found 1/2" rod with stainless steel cap marked Abacus Engineering RPLS 4460 for the Southeast corner of this tract whence the Southwest corner of Section 36, Block AK bears N 88°12'48" W (Texas North Central Zone Bearing Basis), 912.05 feet and S 01°47'12" W, 32.0 feet;

THENCE N 88°12'48" W, with the proposed North line of 66th Street, 411.74 feet to a set 1/2" rod with stainless steel cap marked Abacus Engineering RPLS 4460 for a corner of this tract;

THENCE N 61°29'40" W, with the proposed North line of 66th Street, 146.63 feet to a set 1/2" rod with stainless steel cap marked Abacus Engineering RPLS 4460 for the Southwest corner of this tract;

THENCE N 01°44'49" E, 2.79 feet to a found 1/2" rod with stainless steel cap marked Abacus Engineering RPLS 4460 for the Northwest corner of this tract;

THENCE S 85°21'07" E, with the existing North line of 66th Street, 138.12 feet to a found rod with yellow cap for a corner of this tract;

THENCE S 00°36'36" W, 5.00 feet to a corner of this tract;

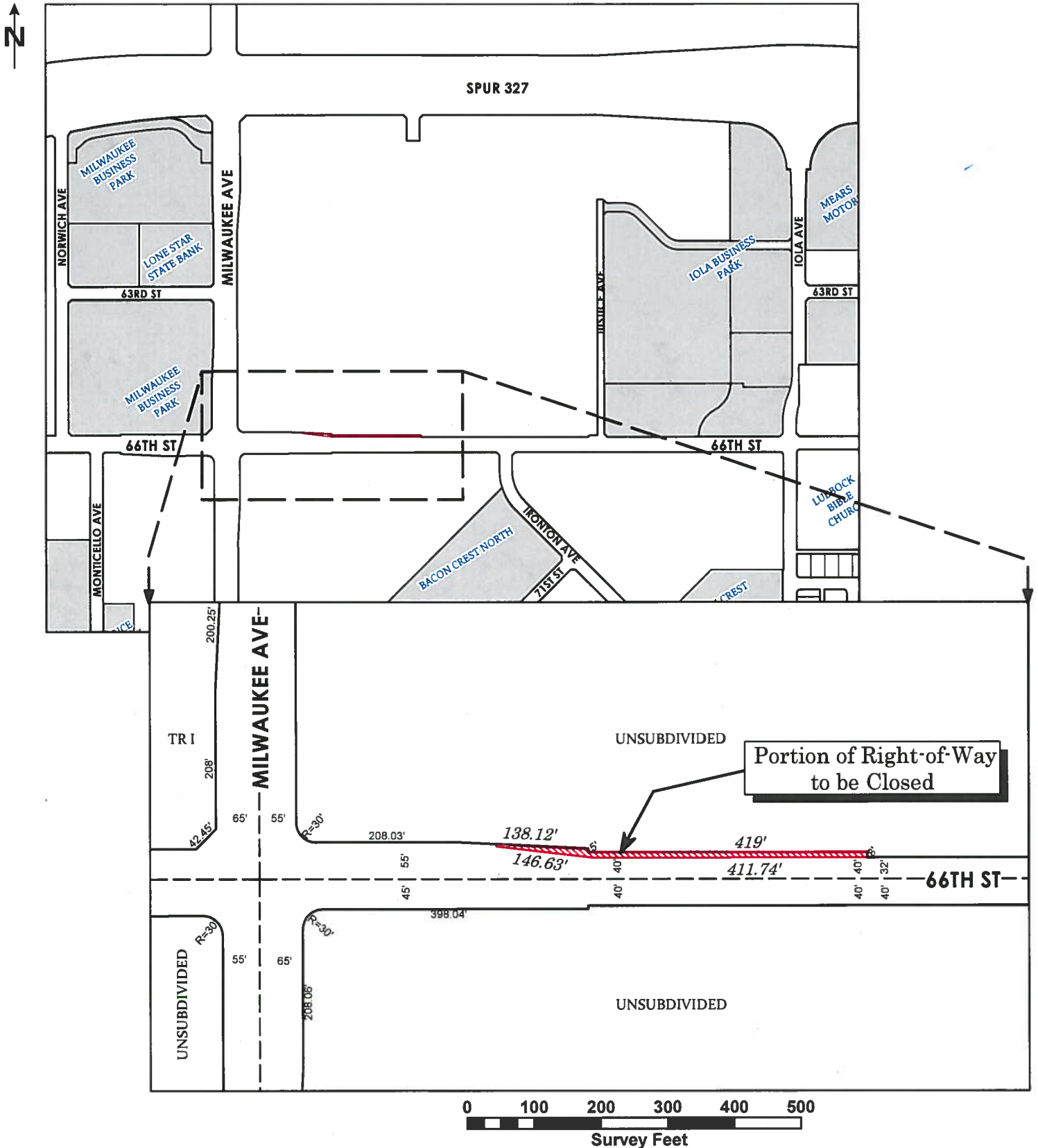
THENCE S 88°12'48" E, with the North line of 66th Street, a distance of 419.00 feet to a point for the Northeast corner of this tract;

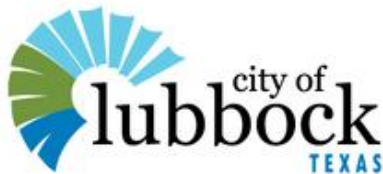
THENCE S 01°50'28" W, with the West line of a previously surveyed 12.05 acre tract, 8.00 feet to the Place of Beginning and containing 0.101 Acres.

These notes are based on a survey made on the ground.
J.M. Cieszinski, RPLS # 4460
February 4, 2013



Proposed Closing of a Portion of 66th Street Along the North Right-of-Way Line Between Justice and Milwaukee Avenues





Regular City Council Meeting

5. 4.

Meeting Date: 04/11/2013

Information

Agenda Item

Contract Resolution - Public Works: Consider a resolution authorizing the Mayor to execute contract 11227 with Pavement Restoration Inc., for asphalt payment rejuvenation.

Item Summary

The contract provides for full application processes, traffic control, and residential notification to prolong the life of asphalt pavement by rejuvenating and restoring the physical properties of asphalt pavements.

Reclamite preservative seal is a proprietary product manufactured by TRICOR Refining and is the only known rejuvenating agent designed to penetrate the road surface, chemically reacting with the asphalt to rejuvenate the asphalt binder that has been lost through oxidation. Pavement Restoration of Boerne, Texas, is the sole qualified and authorized applicator of reclamite preservative seal in the region, as authorized by TRICOR Refining. Consequently, this is a sole source procurement, exempt from competitive bidding pursuant to Texas Local Government Code 252.022.

The term of the contract is for three years. Each annual process starts on a date specified for each year in a written "Notice to Proceed" by the City. The Contractor is to substantially complete the project within 120 calendar days and the amount for liquidated damages is \$500 each calendar day. The cost of the product is \$1.05 per square yard and the contract is for the application of 476,190 square yards at a cost of \$500,000.

The contract is part of the 2013 Street Maintenance Program.

Fiscal Impact

\$28,022,068 is appropriated in Capital Improvement Project 92248, Phase II Street Maintenance Program, with \$500,000 available for this purpose.

Staff/Board Recommending

Keith Smith, P.E., Chief Operating Officer

Attachments

Resolution & Contract - Pavement Restoration

Budget Detail

CIP Detail

Estimated Street List

2013 Asphalt Rejuvenation Map

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. 11227 for asphalt pavement rejuvenation, by and between the City of Lubbock and Pavement Restoration, Inc., of Boerne, 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 _____.

GLEN C. ROBERTSON, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



R. Keith Smith, P.E., Chief Operating Officer

APPROVED AS TO FORM:



Chad Weaver, Assistant City Attorney

City of Lubbock, Tx
Asphalt Rejuvenation Program

STATE OF TEXAS §

COUNTY OF LUBBOCK §

This contract, (the "Contract"), effective as of the 11th day of April, 2013, (the "Effective Date"), is by and between the City of Lubbock, (the "City"), a Texas municipal corporation, and Pavement Restoration Inc. ("CONTRACTOR") of Boerne, Texas.

WITNESSETH

WHEREAS, the City desires to obtain an Asphalt Rejuvenation Program in Lubbock, Texas; and

WHEREAS, CONTRACTOR has a professional experienced staff and is qualified to provide Asphalt Rejuvenation Program;

and

WHEREAS, the City desires to contract with CONTRACTOR to provide an Asphalt Rejuvenation Program in Lubbock, Texas.

NOW THEREFORE, for and in consideration of the terms, covenants and conditions set forth in this Contract, the City and CONTRACTOR hereby agree as follows:

ARTICLE I. TERM

The contract shall be for a term of three years, each term of this Contract commences on a date to be specified for each year in a written "Notice to Proceed" of the Owner. The Contractor is to substantially complete the project within 120 (ONE HUNDRED TWENTY) calendar days and the liquidated damages amount is \$500 (FIVE HUNDRED) each calendar day thereafter as stipulated in the specifications and other contract documents.

ARTICLE II. COMPENSATION

CONTRACTOR shall be compensated by the City \$1.05 (ONE DOLLAR AND FIVE CENTS) per square yard for the first year, \$1.08 (ONE DOLLAR AND EIGHT CENTS) per square yard for the second year and \$1.15 (ONE DOLLAR AND FIFTEEN CENTS) per square yard for the third year. Estimated quantity of Reclamite Preservative Seal to be applied under this contract per year is 476,190 square yards for a total contract price not to exceed \$499,999.50 (FOUR HUNDRED NINETY NINE THOUSAND NINE HUNDRED AND NINETY NINE

DOLLARS AND FIFTY CENTS) per year. Contractor shall submit a monthly request for payment to the Owner's Representative for approval. The Owner shall pay the Contractor on or before the fifteenth day of the current month the total amount of the Owner's Representative's Certificate of Partial

Payment, less 5% of the amount thereof, which 5% shall be retained until final payment, and further, less all previous payments and all further sums that may be retained by Owner under the terms of the contract documents.

ARTICLE III. TERMINATION

a. General. City may terminate this Contract, for any reason, upon thirty (30) days written notice to CONTRACTOR.

b. Termination and Remedies. In the event CONTRACTOR breaches any term and/or provision of this Contract the City shall be entitled to exercise any right or remedy available to it at law or equity, including without limitation, termination of this Contract and assertion of action for damages and/or injunctive relief. The exercise of any right or remedy shall not preclude the concurrent or subsequent exercise of any other right or remedy and all other rights and remedies shall be cumulative. City or CONTRACTOR may, in its sole discretion, terminate this Agreement at any time, with or without cause upon thirty (30) days written notice.

ARTICLE IV. REPRESENTATIONS AND WARRANTIES

A. Existence. CONTRACTOR is a corporation duly organized, validly existing, and in good standing under the laws of the State of Texas and is qualified to carry on its business in the State of Texas.

B. Corporate Power. CONTRACTOR has the corporate power to enter into and perform this Contract and all other activities contemplated hereby.

C. Authorization. Execution, delivery, and performance of this Contract and the activities contemplated hereby have been duly and validly authorized by all the requisite corporate action on the part of CONTRACTOR. This Contract constitutes legal, valid, and binding obligations of the CONTRACTOR and is enforceable in accordance with the terms thereof.

D. CONTRACTOR. CONTRACTOR maintains a professional staff and employs, as needed, other qualified specialists experienced in providing **Asphalt Rejuvenation Program**, and are familiar with all laws, rules, and regulations, both state and federal, including, without limitation the applicable laws, regarding the activities contemplated hereby.

E. Performance. CONTRACTOR will and shall conduct all activities contemplated by this Contract in a good and workmanlike manner, and comply with all laws, rules, and regulations, both state and federal, relating to predictive maintenance services, as contemplated hereby. If any of the activities of CONTRACTOR, or omissions of the activities required herein, shall cause, in whole or in part, liability or loss on the part of the City, it shall be deemed that CONTRACTOR did not perform said activities (or omitted the performance of said activities) in a good and workmanlike manner.

F. Use of Copyrighted Material. CONTRACTOR warrants that any materials provided by CONTRACTOR for use by City pursuant to this Contract shall not contain any proprietary material owned by any other party that is protected under the Copyright Act or any other similar law. CONTRACTOR shall be solely responsible for ensuring that any materials provided by CONTRACTOR pursuant to this Contract satisfy this requirement and CONTRACTOR agrees to hold City harmless from all liability or loss to which City is exposed on account of CONTRACTOR's failure to perform this duty.

ARTICLE V. SCOPE OF WORK

CONTRACTOR shall accomplish the following:

The contractor shall furnish all labor, material, and equipment necessary to perform all operations for the application of an asphalt rejuvenating agent to asphaltic surfaces at various locations. All Traffic Control shall conform to the Texas Manual on Uniform Traffic Control Devices in accordance with the City of Lubbock Public Works Engineering Standard Paving Specifications, Section 10.1, BARRICADES. A map of streets selected for application is hereto attached and incorporated by reference.

The contractor shall be responsible for sweeping and cleaning of the streets prior to, and after treatment when required. Prior to treatment, the street will be cleaned of all debris (dirt, leaves, foreign materials, etc.) This work shall be accomplished by brooming, power blowing, or other approved methods. All sand used during the treatment must be removed no later than 48 hours after treatment of the street. This shall be accomplished by mechanical sweeping. All turnouts, cul-de-sacs, etc. must be cleaned of any material to the satisfaction of the Street Superintendent. If the cleanup process falls behind or the cleanup is not satisfactory to the Street Superintendent the application process will be halted until the sweeping crew has caught up, or until the street and surrounding right of way has been cleaned. Street sweeping and clean up shall be included in the price per square yard for the asphalt-rejuvenating agent.

The asphalt-rejuvenating agent shall be applied by a distributor truck at the temperature recommended by the manufacturer and at the pressure required for the proper distribution. The emulsion shall be applied so that uniform distribution is obtained at all points of the areas treated. Areas inadvertently missed shall receive additional treatment. Application of asphalt rejuvenating agent shall be on one-half width of the pavement at a time. When the second half of the surface is treated, the distributor nozzle nearest the center of the road shall overlap the previous application by at least one-half the width of the nozzle spray. In any event the centerline construction joint of the pavement shall be treated in both application passes of the distributor truck. The asphalt-rejuvenating agent shall be blended with water at the rate of two (2) parts rejuvenating agent to one (1) part water, by volume or as specified by the manufacturer. The combined mixture of asphalt rejuvenating agent and water shall be spread at the rate of 0.05 to 0.10 gallons per square yard, or as approved by the Street Superintendent following field testing. After the street has been treated, the area within one foot of the curb line on both sides of the road shall receive an additional treatment of the asphalt rejuvenating agent. The treatment shall be uniformly applied by a method acceptable to the Street Superintendent. After the rejuvenating agent has penetrated the surface, a coating of dry sand shall be applied to the surface to protect the traveling public.

The asphalt-rejuvenating agent shall not be placed when the ambient temperature is below 40 degrees F as determined by the National Weather Service continuous broadcast, 748-1071 selection 2. The asphalt-rejuvenating agent shall be applied only when the existing surface to be treated is thoroughly dry and when it is not threatening to rain.

ARTICLE VI. INDEPENDENT CONTRACTOR STATUS

CONTRACTOR and City agree that CONTRACTOR shall perform the duties under this Contract as an independent contractor. CONTRACTOR has the sole discretion to determine the manner in which the services are to be performed.

ARTICLE VII. INSURANCE

A. General. CONTRACTOR shall procure and carry, at its sole cost and expense through the life of this Contract insurance protection hereinafter specified, in form and substance satisfactory to the City. City must approve all policies prior to the commencement of any activities whether performed by CONTRACTOR, subcontractor, agents, or third parties. The insurance carrier must be an insurance company authorized to transact business in the State of Texas and have a Best's Financial rating of "A" or better. A Certificate of Insurance specifying each and all coverage shall be submitted to City prior to the execution of this Contract. All insurance shall be prepared and executed by the insurance company or its authorized agents and shall contain an endorsement naming the **City of Lubbock as additional on Auto/General Liability on a primary and non-contributory bases to include products of complete operations endorsement.** Written notice of cancellation or any material change will be provided thirty (30) days in advance of cancellation or change. All insurance, other than Workers' Compensation, shall provide a waiver of subrogation in favor of the City of Lubbock, and shall contain cross liability and severability clauses.

B. Required Coverage. CONTRACTOR shall obtain and maintain policies of insurance throughout the Contract term in limits specified below.

1. Worker's Compensation. CONTRACTOR shall maintain Workers' Compensation and Employer's Liability insurance coverage as required by statute: at a minimum **FIVE HUNDRED THOUSAND and no/100 DOLLARS (\$500,000).**

2. Commercial General Liability. CONTRACTOR shall maintain Commercial General Liability coverage endorsed to include Products and Completed Operations AGG., Contractual Liability, Personal & Advertising Injury and Heavy Equipment. The policy shall have a minimum of **ONE MILLION and no/100 Dollars (\$1,000,000)** combined single limit in the aggregate and per occurrence.

3. Commercial Automobile Liability. CONTRACTOR shall maintain Commercial Automobile Liability coverage with a minimum of **ONE MILLION and no/100 Dollars (\$1,000,000)** combined single for Bodily injury and Property Damage and shall include any auto or in the alternative, owned autos, non-owned autos and hired autos.

C. Subcontractors. CONTRACTOR shall require each subcontractor with whom it contracts to provide activities as contemplated by this Contract, to obtain proof of insurance coverage as set forth herein, and to provide to CONTRACTOR, prior to such person performing any such activities, a Certificate of Insurance establishing such coverage.

ARTICLE VIII. EMPLOYMENT OF AGENTS

CONTRACTOR may employ or retain agents, consultants, contractors, or third parties, to perform certain duties of CONTRACTOR under this Contract provided that CONTRACTOR is in no event relieved of any obligation under this Contract. Any such agents, contractors, or third parties retained and/or employed by CONTRACTOR shall be required to carry, for the protection and benefit of the City and CONTRACTOR and naming said third parties as additional insureds, insurance as described above in this Contract.

ARTICLE IX. CONFIDENTIALITY

CONTRACTOR shall retain all information received from or concerning the City and the City's business in strictest confidence and shall not reveal such information to third parties without prior written consent of the City, unless otherwise required by law.

ARTICLE X. INDEMNITY

CONTRACTOR shall indemnify and save harmless the City of Lubbock and its officers, agents, and employees from all suits, actions, losses, damages, claims, or liability of any character, type, or description, including without limiting the generality of the foregoing all expenses of litigation, court costs, and attorney's fees for injury or death to any person, or injury to any property, received or sustained by any person or persons or property, arising out of, or occasioned by, the acts of CONTRACTOR, its agents or employees, in the execution of this Contract.

ARTICLE XI. COMPLIANCE WITH APPLICABLE LAWS

CONTRACTOR shall comply with all applicable federal, state and local laws, statutes, ordinances, rules and regulations relating, in any way, manner or form, to the activities under this Contract, and any amendments thereto.

ARTICLE XII. 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.

ARTICLE XIII. NOTICE

A. General. Whenever notice from CONTRACTOR to City or City to CONTRACTOR is required or permitted by this Contract and no other method of notice is provided, such notice shall be given by (1) actual delivery of the written notice to the other party by hand. (2) facsimile, or other reasonable means (in which case such notice shall be effective upon delivery). or (3) by depositing the written notice in the United States mail, properly addressed to the other party at the address provided in this article, registered or certified mail, return receipt requested, in which case such notice shall be effective on the third business day after such notice is so deposited.

B. CONTRACTOR's Address. CONTRACTOR's address and numbers for the purposes of notice are:

Pavement Restoration, Inc.
Attn: Robert Wiggins - President
P.O. Box 1532
Boerne, Texas 78006
Telephone: (813) 323-2710
Facsimile: (830) 336-3484

C. City's Address. The City's address and numbers for the purposes of notice are:

City of Lubbock
Attn: Kevin Lair – Street Superintendent
P. O. Box 2000
Lubbock, Texas 79457
Telephone: (806) 775 - 2600
Facsimile: (806) 775 - 2744

D. Change of Address. Either party may change its address or numbers for purposes of notice by giving written notice to the other party, referring specifically to this Contract, and setting forth such new address or numbers. The address or numbers shall become effective on the 15th day after such notice is effective.

ARTICLE XIII. MISCELLANEOUS

A. Captions. The captions for the articles and sections in this Contract are inserted in this Contract strictly for the parties' convenience in identifying the provisions to this Contract and shall not be given any effect in construing this Contract.

B. Audit. CONTRACTOR shall provide access to its corporate books and records to the City. The City may audit, at its expense and during normal business hours, CONTRACTOR's books and records with respect to this Contract between CONTRACTOR and City.

C. Records. CONTRACTOR shall maintain records that are necessary to substantiate the services provided by CONTRACTOR

D. Assignability. CONTRACTOR may not assign this Contract without the prior written approval of the City.

E. Successor and Assigns. This Contract binds and inures to the benefit of the City, CONTRACTOR, and their respective successors, legal representatives, and assigns.

F. Construction and Venue. THIS CONTRACT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. THE PARTIES HERETO HEREBY IRREVOCABLY CONSENT TO THE EXCLUSIVE JURISDICTION AND VENUE OF THE COURTS OF THE STATE OF TEXAS, COUNTY OF LUBBOCK, FOR THE PURPOSES OF ALL LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS CONTRACT OR THE ACTIONS THAT ARE CONTEMPLATED HEREBY.

G. Severability. If any provision of this Contract is ever held to be invalid or ineffective by any court of competent Jurisdiction with respect to any person or circumstances, the remainder of this Contract and the application of such provision to persons and/or circumstances other than those with respect to which it is held invalid or ineffective shall not be affected thereby.

H. Amendment. No amendment, modification, or alteration of the terms of this Contract shall be binding unless such amendment, modification, or alteration is in writing, dated subsequent to this Contract, and duly executed by CONTRACTOR and City.

I. Entire Agreement. This Contract contains the Entire Contract between the City and CONTRACTOR, and there are no other written or oral promises, conditions, warranties, or representations relating to or affecting the matters contemplated herein.

EXECUTED as of the Effective Date hereof.

CONTRACTOR:
(OWNER):

Pavement Restoration Inc

By: [Signature]
PRINTED NAME: ROBERT WIGGINS
TITLE: PRESIDENT

COMPLETE ADDRESS:

Company Pavement Restoration Inc
Address 111 VAUSEY KNOLL
City, State, Zip BOERN TX 78006

ATTEST: [Signature]

CITY OF LUBBOCK, TEXAS

By: _____
MAYOR

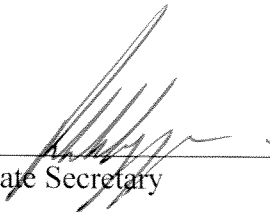
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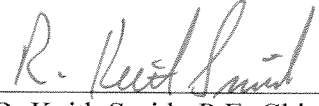
City Secretary

APPROVED AS TO CONTENT:

[Signature]

Owner's Representative



Corporate Secretary

R. Keith Smith, P.E. Chief
Operations Officer

APPROVED AS TO FORM:



City Attorney

SUSPENSION AND DEBARMENT CERTIFICATION

Federal Law (A-102 Common Rule and OMB Circular A-110) prohibits non-Federal entities from contracting with or making sub-awards under covered transactions to parties that are suspended or debarred or whose principals are suspended or debarred. Covered transactions include procurement contracts for goods or services equal to or in excess of \$25,000 and all non-procurement transactions (e.g., sub-awards to sub-recipients).

Contractors receiving individual awards of \$25,000 or more and all sub-recipients must certify that their organization and its principals are not suspended or debarred by a Federal agency.

Before an award of \$25,000 or more can be made to your firm, you must certify that your organization and its principals are not suspended or debarred by a Federal agency.

I, the undersigned agent for the firm named below, certify that neither this firm nor its principals are suspended or debarred by a Federal agency.

COMPANY NAME: PAVEMENT RESTORATION Inc

FEDERAL TAX ID or SOCIAL SECURITY No. 14 193 4204

Signature of Company Official: 

Printed name of company official signing above: ROBERT WIGGINS

Date Signed: 3 / 13 / 2013

**STATUTORY PAYMENT BOND PURSUANT TO SECTION 2253.021(a)
OF THE TEXAS GOVERNMENT CODE
(CONTRACTS MORE THAN \$50,000)**

KNOW ALL MEN BY THESE PRESENTS, that _____ (hereinafter called the Principal(s), as Principal(s), and

(hereinafter called the Surety(s), as Surety(s), are held and firmly bound unto the City of Lubbock (hereinafter called the Obligee), in the amount of **FIVE HUNDRED THOUSAND DOLLARS (\$500,000)** lawful money of the United States for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written contract with the Obligee, dated the 11th day of **April 2013**, to _____

and said Principal under the law is required before commencing the work provided for in said contract to execute a bond in the amount of said contract which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall pay all claimants supplying labor and material to him or a subcontractor in the prosecution of the work provided for in said contract, then, this obligation shall be void; otherwise to remain in full force and effect;

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Section 2253.021(a) of the Texas Government Code, and all liabilities on this bond shall be determined in accordance with the provisions of said Article to the same extent as if it were copied at length herein.

IN WITNESS WHEREOF, the said Principal (s) and Surety (s) have signed and sealed this instrument this _____ day of _____ **2013**.

Surety

(Company Name)

*By: _____
(Title)

By: _____
(Printed Name)

(Signature)

(Title)

The undersigned surety company represents that it is duly qualified to do business in Texas, and hereby designates _____ an agent resident in Lubbock County to whom any requisite notices may be delivered and on whom service of process may be had in matters arising out of such suretyship.

Surety

*By: _____
(Title)

Approved as to form:

City of Lubbock

By: _____
City Attorney

* Note: If signed by an officer of the Surety Company there must be on file a certified extract from the by-laws showing that this person has authority to sign such obligation. If signed by an Attorney in Fact, we must have copy of power of attorney for our files.

**STATUTORY PERFORMANCE BOND PURSUANT TO SECTION 2253.021(a)
OF THE TEXAS GOVERNMENT CODE
(CONTRACTS MORE THAN \$100,000)**

KNOW ALL MEN BY THESE PRESENTS, that _____ (hereinafter called the Principal(s), as Principal(s), and _____

(hereinafter called the Surety(s), as Surety(s), are held and firmly bound unto the City of Lubbock (hereinafter called the Obligee), in the amount of **FIVE HUNDRED THOUSAND DOLLARS (\$500,000)** lawful money of the United States for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written contract with the Obligee, dated the **11th** day of **April, 2013**, to _____

and said principal under the law is required before commencing the work provided for in said contract to execute a bond in the amount of said contract which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall faithfully perform the work in accordance with the plans, specifications and contract documents, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Section 2253.021(a) of the Texas Government Code, and all liabilities on this bond shall be determined in accordance with the provisions of said article to the same extent as if it were copied at length herein.

IN WITNESS WHEREOF, the said Principal (s) and Surety (s) have signed and sealed this instrument this ____ day of _____, **2013**.

Surety

(Company Name)

* By: _____
(Title)

By: _____
(Printed Name)

(Signature)

(Title)

The undersigned surety company represents that it is duly qualified to do business in Texas, and hereby designates _____ an agent resident in Lubbock County to whom any requisite notices may be delivered and on whom service of process may be had in matters arising out of such suretyship.

Surety

*By:_____
(Title)

Approved as to Form

City of Lubbock

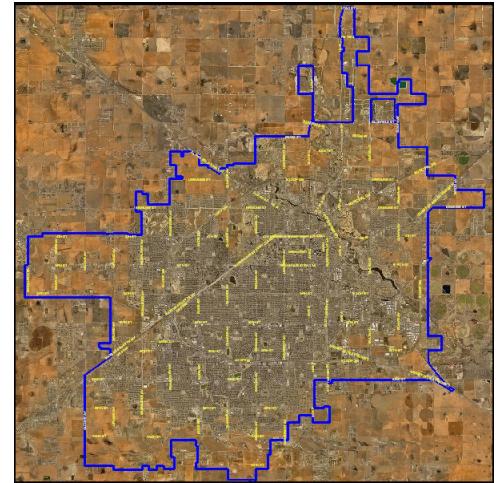
By: _____
City Attorney

* Note: If signed by an officer of the Surety Company, there must be on file a certified extract from the by-laws showing that this person has authority to sign such obligation. If signed by an Attorney in Fact, we must have copy of power of attorney for our files.

**City of Lubbock, TX
Capital Project
Project Cost Detail
April 11, 2013**

Capital Project Number:	92248
Capital Project Name:	<u>Street Maintenance Program</u>

	Budget
Capital Project Number:	
<i>Encumbered/Expended</i>	
FY 2010-11 Street maintenance and construction	\$ 7,958,621
Lone Star Dirt & Paving (Asphalt Patching)	1,545,867
Lone Star Dirt & Paving (Concrete Repairs)	949,300
Ballou Pavement Solutions (2012 Micro-Surfacing Project)	4,992,796
Pavement Restoration	197,252
Bee Equipment Sales (Lease Asphalt Paver)	45,000
Water System Improvements	396
Admin Cost	2,066
Asphalt	122,227
Mac Davis Lane Design	29,731
S & S Commercial Properties - Paving of 66th East of Iola	35,667
Lone Star Dirt & Paving (Asphalt Patching)	864,000
Lone Star Dirt & Paving (Concrete Repairs)	738,002
Intermountain Slurry Seal (2013 Micro-Surfacing Project)	5,058,650
 <i>Agenda Item April 11, 2013</i>	
Pavement Restoration (Asphalt Rejuvenation)	500,000
<i>Encumbered/Expended To Date</i>	<u>23,039,575</u>
 <i>Estimated Costs for Remaining Appropriation</i>	
Construction	4,982,493
<i>Remaining Appropriation</i>	<u>4,982,493</u>
 Total Appropriation	<u><u>\$ 28,022,068</u></u>

Managing Department **Paved Streets***Project Manager* **Kevin Lair***Project Classification* **Infrastructure Improvements***Project Status* **Approved***Project Scope*

Micro-surfacing, asphalt rejuvenation, asphalt milling, asphalt milling and overlay, full or partial depth pavement repair, total reconstruction, patching, crack sealing, concrete joint sealing, and brick street repair.

Project Justification

The project is a preventive maintenance program to help preserve and maintain our street infrastructure. The maintenance program is an essential tool to help extend the useful life of the pavement. Used early in a pavement's life, preventive maintenance corrects small problems before they become big problems, saves money, and improves safety and rideability. At some point, all roads require total rehabilitation as they near the end of their useful life. Total rehabilitation is completed when funding is available.

Project History

This project will replace CIP 92125 that funded street maintenance through FY 2009-10.

\$9,201,970 was appropriated in the FY 2010-11 Budget, Ord. No. 2010-O0070, September 16, 2010.

\$9,339,999 was appropriated in the FY 2011-12 Budget, Ord. No. 2011-O0080, September 8, 2011.

\$9,480,099 was appropriated in FY 2012-13 Budget, Ord. No. 2012-O0100, September 13, 2012. (General Fund Debt)

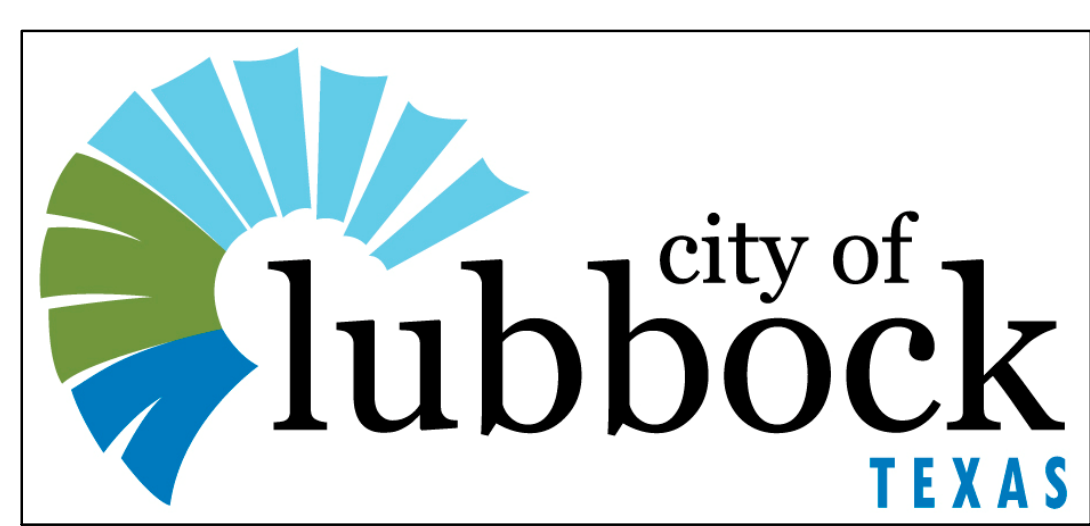
<i>Appropriation Detail</i>	Appropriation to Date	Unappropriated Planning Years						Total Project Amount
		FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	
Construction	18,541,969	9,480,099	9,622,300	9,766,635	9,913,135	10,061,832	10,212,759	77,598,729
Total Project Appropriation	18,541,969	9,480,099	9,622,300	9,766,635	9,913,135	10,061,832	10,212,759	77,598,729

<i>Funding Detail</i>	Funding to Date	Unappropriated Planning Years						Total Funding
		FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	
FY 2011 10-Year Certificates of Obligation	9,201,970	0	0	0	0	0	0	9,201,970
FY 2012 10-Year Certificates of Obligation	9,339,999	0	0	0	0	0	0	9,339,999
FY 2013 10-Year Tax Revenue CO's	0	9,480,099	0	0	0	0	0	9,480,099
FY 2014 10-Year Tax Revenue CO's	0	0	9,622,300	0	0	0	0	9,622,300
FY 2015 10-Year Tax Revenue CO's	0	0	0	9,766,635	0	0	0	9,766,635
FY 2016 10-Year Tax Revenue CO's	0	0	0	0	9,913,135	0	0	9,913,135
FY 2017 10-Year Tax Revenue CO's	0	0	0	0	0	10,061,832	0	10,061,832
FY 2018 10-Year Tax Revenue CO's	0	0	0	0	0	0	10,212,759	10,212,759
Total Funding Sources	18,541,969	9,480,099	9,622,300	9,766,635	9,913,135	10,061,832	10,212,759	77,598,729

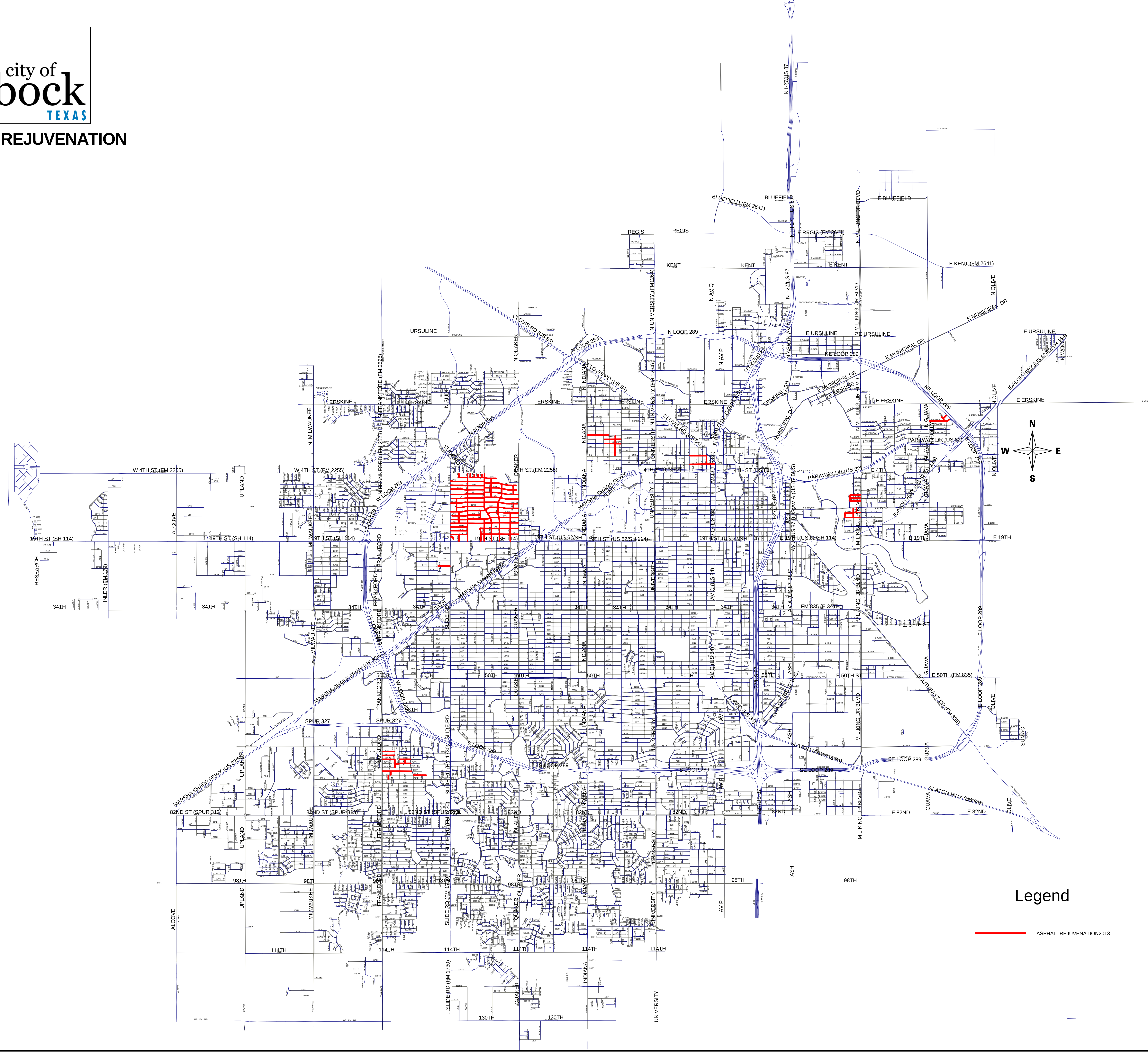
Street Rejuvenator 2013
Estimated Street List

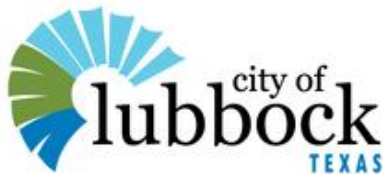
Street	From	To	Length	Width
18th Place	Slide Road	CDS	350	33
York	19th	18th	495	33
18th	Slide Road	Vicksburg	1275	33
17th place	Slide Road	Vicksburg	1275	33
17th	Slide Road	Vicksburg	1275	33
15th	CDS West of York	CDS East of York	1150	33
York	16th	13th	850	33
14th	CDS West of York	CDS East of York	1150	33
York	10th	13th	850	33
Utica Dr	19th	17TH	1025	33
18th	Utica DR	Toledo	780	33
Utica	19th	15TH	1680	33
16th	Slide Road	Toledo	3116	33
14th	Vicksburg	Utica Place	950	33
13th	Toledo	Slide Road	2685	33
Vicksburg	19th	4th	5195	33
12th	Toledo	York	2110	33
11th	Toledo	Slide Road	2565	33
17th	Utica DR	Toledo	780	33
15th	Vicksburg	toledo	1750	33
Utica PL	13th	15TH	605	33
Toledo	19th	4th	5315	33
York	4th	5th	305	33
10th	Toledo	CDS West of York	2520	33
9th	Toledo	Slide Raod	2560	33
8th	Slide Road	Toledo	2560	33
7th	Slide Road	Toledo	2560	33
Vale	5th	4th	275	33
6th	Slide Road	Toledo	2560	33
5th	York	Vicksburg	650	33
Utica	5th	CDS North of 5th	225	33
5th	Toledo	Vale	1060	33
Salisbury	5th	10th	1440	33
Troy	5th	CDS North of 5th	225	33
Topeka	5th	CDS North of 5th	225	33
5th	Toledo	CDS East of Toledo	950	33
18th	Quaker	Toledo	2075	33
17th	Quaker	Toledo	2055	33
16th	Quaker	Toledo	2058	33
15th	Quaker	Toledo	2160	33
Salem	19th	5th	4450	29
11th	Toledo	CDS East of Raleigh	2580	33
14th	Quaker	Toledo	2380	33

Street	From	To	Length	Width
13th	Quaker	Toledo	2595	33
10th	Quaker	CDS West of Salisbury	2590	33
Raleigh	14th	19th	2160	33
Raleigh	13th	11th	1155	33
8th	CDS West of Quaker	Toledo	2525	33
9th	Quaker	Toledo	2650	33
7th	CDS West of Quaker	CDS East of Toledo	2455	33
Raleigh	9th	7th	680	33
67th	Frankford	Elmwood	931	29
68th	Elmwood	Frankford	943	29
69th	Elkhart	Chicago	852	29
69th	Elmwood	Frankford	943	29
70th	CDS West of Dover	Chicago	801	29
Dover	69th	70th	271	29
70th	Elkhart	Elmwood	296	29
Elmwood	69th	70th Pl	557	29
71st	Frankford	Chicago	2255	29
Evanston Ave	69th	71st	262	29
Evanston Ave	69th	72nd	262	29
72nd	Chicago	Cds East of Bangor	976	29
Bates	Gary	Indiana	1305	29
Aburn	Gary	Detroit	1300	29
Amhurst	Gary	Detroit	1305	29
Elgin	2nd st.	Bates	1595	29
2nd st.	Ave G	Ave U	1272	33
3rd st.	Ave Q	Ave U	1919	33
Ave S	2nd st.	3rd st.	626	29
Nutmeg	E. 9th st.	E. Main	650	29
E. 9th st.	Nutmeg	MLK	820	33
E. 10th st.	Nutmeg	MLK	850	33
E. Main	Nutmeg	MLK	850	33
Magnolia Ave	E. 13th st.	E. 14th st.	339	32
E. 13th st.	Magnolia Ave	Oak Ave	585	32
E. 14th st.	Magnolia Ave	MLK	1217	33
Oak Ave	Broadway	N.LL E. 14th	696	32
E. 13th st.	Oak Ave	MLK	560	32
Pine Ave	Broadway	N.LL E. 13th	310	32
Ironwood	Loop 289 Ace Rd.	Ironwood	290	29
Ironwood	E. Cornell	D.E.	350	29
E. Cornell	N. Guava	CDS E. of N. Ironwoo	1550	29
24th st.	Albany	Slide Rd.	950	33
Estimated Application			476,190 SY	



2013 ASPHALT REJUVENATION





Regular City Council Meeting

5. 5.

Meeting Date: 04/11/2013

Information

Agenda Item

Contract Resolution - Public Works Wastewater: Consider a resolution authorizing the Mayor to execute contract 11140 with STP Well Service, LLC., of Petersburg, Texas, for well maintenance and repair services for the Lubbock and Hancock Land Application Sites, BID 13-11140-DG.

Item Summary

The City irrigation and monitoring wells at the Lubbock Land Application Site (LLAS) and the Hancock Land Application Site (HLAS) are operated by the City to meet its Texas Commission on Environmental Quality (TCEQ) wastewater discharge permit. Between the two sites, there are approximately 170 wells to maintain. The contract will provide routine maintenance, repair and replacement of remediation (irrigation type), and monitoring well equipment. Work under this contract will be on an as needed basis.

Bid were received from the following companies:

STP Well Service, LLC., of Petersburg, Texas	\$19,943
Wolf Pump Incorporated, of Abernathy, Texas	21,651
Thunder Well Service, of Shallowater, Texas	40,018

Staff recommends contract award to the lowest bidder, STP Well Service, LLC. of Petersburg, Texas for \$ 19,943. The term of the contract is for one year, with the option of four additional one-year extensions.

Fiscal Impact

Funding is available for \$39,715 in the Adopted FY 2012-13 Wastewater Operating Budget and \$60,000 in the Adopted FY 2012-13 Wastewater Capital Project Budget in capital project 91083 - Land Application Production and Monitoring Wells. The cost for the contract is anticipated to be \$19,943 per year for a total cost of \$99,715 for the length of a five-year contract.

Staff/Board Recommending

R. Keith Smith, P.E., Chief Operating Officer

Attachments

Resolution & Contract - STP Well Service

Budget Detail 91083

CIP Detail

RESOLUTION

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

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Contract No. 11140 for well maintenance and repair services, by and between the City of Lubbock and STP Well Service, LLC, of Petersburg, 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 _____.

GLEN C. ROBERTSON, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



R. Keith Smith, P.E., Chief Operating Officer

APPROVED AS TO FORM:



Chad Weaver, Assistant City Attorney

vw:ccdcs/RES.Contract-STP Well Service, LLC
March 8, 2013

City of Lubbock, TX
Well Maintenance and Repair Services

THIS CONTRACT made and entered into this **11th** day of **April, 2013**, by and between the City of Lubbock ("City"), and **STP Well Service, LLC**, ("Contractor").

WITNESSETH:

WHEREAS, the City of Lubbock duly advertised for bids for Well Maintenance and Repair Services 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 **Well Maintenance and Repair Services**.

NOW, THEREFORE, in consideration of the mutual agreement contained herein, as well as the financial consideration hereinafter referred to, the parties hereby covenant and agree as follows:

1. In accordance with City's specifications and Contractor's bid, copies of which are attached hereto and made part hereof, Contractor will deliver to the City, Well Maintenance and Repair Services and more specifically referred to as Items 1 – 9 on the bid submitted by the Contractor or in the specifications attached hereto.
2. The City promises and agrees to employ, and does employ, the Contractor to cause to be done the work provided for in this Contract and to complete and finish the same according to the attached specifications, offer, and terms and conditions contained herein.
3. The Contractor shall perform the work according to the procedures outlined in the Bid Form and Specifications attached hereto. The contract shall be for a term of one year, with the option of four, one year extensions, said date of term beginning upon formal approval. All stated annual quantities are approximations of usage during the time period to be covered by pricing established by this bid. Actual usage may be more or less. Order quantities will be determined by actual need.
4. 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.
5. The contractor shall obtain and maintain in full force and effect during the term of the contract, commercial general liability coverage with insurance carriers admitted to do business in the State of Texas. The insurance companies must carry a Best's Rating of A- VII or better. The policies will be written on an occurrence basis, subject to the following minimum limits of liability:

TYPE

AMOUNT

500,000

General Liability

Commercial General Liability

General Aggregate

Automotive Liability 500,000
Combined Single Limit
Any Auto

Workers Compensation 500,000

The City of Lubbock named as additional insured on auto/general liability on primary and non-contributory basis. To include products of completed operations endorsement with a waiver of subrogation in favor of the City of Lubbock on all coverages. All copies of the Certificates of Insurance shall reference the project name or bid number for which the insurance is being supplied. Copies of all endorsements are required.

The contractor will provide a Certificate of Insurance to the City as evidence of coverage. The certificate will provide 30 days notice of cancellation, and under the cancellation section, the wording "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" will be crossed out. A copy of the additional insured endorsement attached to the policy will be included with the certificate.

The contractor shall also maintain workers compensation insurance in the statutory amount.

6. If at any time during the life of the contract or any extension, the contractor fails to maintain the required insurance in full force and effect, all work under the contract shall be discontinued immediately. Any failure to maintain the required insurance may be sufficient cause for the City to terminate the contract.
7. Neither the City nor the Contractor shall assign, transfer or encumber any rights, duties or interests accruing from this Contract without the written consent of the other.
8. The City reserves the right to exercise any right or remedy available to it by law, contract, equity, or otherwise, including without limitation, the right to seek any and all forms of relief in a court of competent jurisdiction. Further, the City shall not be subject to any arbitration process prior to exercising its unrestricted right to seek judicial remedy. The remedies set forth herein are cumulative and not exclusive, and may be exercised concurrently. To the extent of any conflict between this provision and another provision in, or related to, this document, this provision shall control.
9. At any time during the term of the contract, or thereafter, the City, or a duly authorized audit representative of the City or the State of Texas, at its expense and at reasonable times, reserves the right to audit Contractor's records and books relevant to all services provided to the City under this Contract. In the event such an audit by the City reveals any errors or overpayments by the City, Contractor shall refund the City the full amount of such overpayments within thirty (30) days of such audit findings, or the City, at its option, reserves the right to deduct such amounts owing the City from any payments due Contractor.
10. This Contract consists of the following documents set forth herein; Invitation to Bid No. 13-11140-DG, Specifications, and the Bid Form.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed the day and year first above written. Executed in triplicate.

CITY OF LUBBOCK

CONTRACTOR

Glen C. Robertson, Mayor

BY J. Kyle Smith
Authorized Representative

ATTEST:

J. Kyle Sorrells
Print Name

Rebecca Garza, City Secretary

2932 Fm 400
Address

APPROVED AS TO CONTENT:

Petersburg TX 79250
City, State, Zip Code

R. Keith Smith
R.Keith Smith, P.E. Chief Operating Officer

APPROVED AS TO FORM:

[Signature]
Assistant City Attorney

Well Maintenance & Repair Services
CITY OF LUBBOCK, TEXAS

GENERAL SPECIFICATIONS

The City of Lubbock is seeking a service contract for the Lubbock and Hancock Land Application Sites with one or more Well Maintenance Companies to perform routine maintenance, repair and replacement of remediation (irrigation type) and monitoring well equipment. Work under this contract will be on an as needed basis. Vendor shall verbally respond to service requests within 24 hours to schedule the service. Services shall be initiated within 2 business days, unless otherwise approved by the site representative. The successful vendor will provide routine and unscheduled maintenance for the City to include, but will not be limited to the following:

1. Irrigation Wells – Submersible
 - a. Service Call
 - b. Pull and/or Set
 - c. Baling and/or Cleanout
 - d. Wire Cable Splice
2. Domestic Wells – Pressure Systems
 - a. Service call
 - b. Pull and/or set – 1 trip
 - c. Install or change pressure tank
 - d. Miscellaneous labor with pump truck
 - e. Wire cable splice
 - f. Bailing or cleanout
3. Electric well panel work by electrician
 - a. Panels (Sizes 1,2,3 or 4)
 - b. Service Call
 - c. Labor after hours
 - d. Miscellaneous electric parts
4. Well Video Inspection
 - a. 1 well
 - b. Additional wells – same customer on same day
5. Backhoe and Concrete Pad
 - a. Equipment with operator
 - b. Concrete well pad
 - c. Demolition, removal and disposal of irrigation and monitoring well surface structures
6. Well Plugging
 - a. Rig charge
 - b. Remove concrete slab, pull casing if possible or dig and cut off casing as required.
 - c. Furnish and install tremie pipe
 - d. Cement well and remove tremie pipe
 - e. Load and dispose of surface structure and casing debris
 - f. Plugging report submittal
7. Parts and Material Discount
 - a. Pump ends, submersible motors, pipe, wire, & misc. parts
 - b. Concrete

The price must include travel, labor and incidental parts & supplies, necessary to perform the listed scope of work.

CP 13-1140-DG

BID FORM
Well Maintenance and Repair Services
City of Lubbock, Texas
ITB No. 13-11140-DG

In compliance with the **Invitation to Bid 13-11140-DG**, 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 **13-11140-DG** is by reference incorporated in this contract. The Bid Form **must be completed** in blue or black ink or by typewriter.

ITEM	DESCRIPTION	Qty (+/-)	Service Rate	Extended Cost
1.	Irrigation Wells – Submersible			
A.	Service Call	10 EA	\$ 90.00	\$ 900.00
B.	Baling and/or Cleanout	10 EA	\$ 125.00	\$ 1250.00
C.	Wire Cable Splice	10 EA	\$ 25.00	\$ 250.00
1.1	Pull and Set Irrigation Subs. Unit Cost is Per FT with a 200 FT Minimum.		Cost Per FT	Extended Cost
D.	Pull and/or Set Irrigation Subs 2" – 4".	2,000 FT	\$ 1.50	\$ 3000.00
E.	Pull and/or Set Irrigation Subs 5" – 6"	2,000 FT	\$ 1.85	\$ 3700.00
F.	Pull and/or Set Irrigation Subs 8".	2,000 FT	\$ 2.50	\$ 5000.00
2.	Domestic Wells – Pressure Systems		Service Rate	Extended Cost
A.	Service call	2 EA	\$ 90.00	\$ 180.00
B.	Pull and/or set – 1 trip	2 EA	\$ 550.00	\$ 1100.00
C.	Install or change pressure tank	2 EA	\$ 250.00	\$ 500.00
D.	Miscellaneous labor with pump truck	2 EA	\$ 90.00	\$ 180.00
E.	Wire cable splice	2 EA	\$ 25.00	\$ 50.00
F.	Bailing or cleanout	2 EA	\$ 125.00	\$ 250.00
3.	Hang Panels & Wire-in with Standard Installation by Electrician		Service Rate	Extended Cost
A.	Panels Size 1 – 2 to include Labor and Standard Materials.	1 EA	\$ 275.00	\$ 275.00
B.	Panels Size 3 – 4 to include Labor and Standard Materials.	2 EA	\$ 400.00	\$ 800.00
C.	Labor Rate after first hour.	1 HR	\$ 65.00	\$ 65.00
D.	Service Call by an Electrician	1 EA	\$ 90.00	\$ 90.00
4.	Down-Hole Video for Lubbock and Hancock Sites		Service Rate	Extended Cost
A.	One Well	1 EA	\$ 400.00	\$ 400.00

CPIC 2013

ITEM	DESCRIPTION	Qty (+/-)	Service Rate	Extended Cost
B.	Additional Wells – Same Day service	1 EA	\$ 375.00	\$ 375.00
5.	Backhoe and Concrete Pad		Service Rate	Extended Cost
A.	Equipment with operator	1 EA	\$ 125.00	\$ 125.00
B.	Concrete well pad	1 EA	\$ 600.00	\$ 600.00
C.	Demolition, removal and disposal of irrigation and monitoring well surface structures	1 EA	\$ 150.00	\$ 150.00
6.	Well Plugging		Service Rate	Extended Cost
A.	Rig charge	1 EA	\$ 250.00	\$ 250.00
B.	Remove concrete slab, pull casing if possible or dig and cut off casing as required.	1 EA	\$ 150.00	\$ 150.00
C.	Furnish and install tremie pipe. Price per FT	1 FT	\$ 3.00	\$ 3.00
D.	Cement well and remove tremie pipe	1 EA	\$ 150.00	\$ 150.00
E.	Load and dispose of surface structure and casing debris	EA	\$ 150.00	\$ 150.00
F.	Plugging Report Submittal. Submittal due 14 days after completion		YES	YES
Total for Lines (1-6)			\$ 19,943.00	
7.	Parts Discount			Percent Discount
A.	Pump ends, submersible motors, pipe, wire, and misc. parts.			% 20.0
	Material Mark Up			Mark Up
B.	Concrete and miscellaneous materials mark up price percentage.			% 20.0
8.	Response Time		Yes	No
A.	Vendor shall verbally respond to service requests within 24 hours to schedule the service.		YES	
B.	Services shall be initiated within 2 business days, unless otherwise approved by the site representative.		YES	
9.	Mileage Rate Outside of 50 Mile Radius of Lubbock, TX.		Per Mile	\$ 2.50

The City of Lubbock is seeking a contract for Well Maintenance and Repair Services with one or more contractors. In order to assure adequate coverage, the City may make multiple awards, selecting multiple vendors to provide the products desired, if multiple awards are in the best interest of the City. A decision to make a multiple award of this Bid, however, is an option reserved by the City, based on the needs of the City.

PAYMENT TERMS AND DISCOUNTS - Bidder offers a prompt payment discount of 2%, net 30 calendar days. Discounts will not be considered in determining low bid. Unless otherwise indicated on the Bid Form, payment terms will be NET THIRTY DAYS. The City will pay the successful bidder within thirty days after the receipt of a correct invoice or after the date of acceptance, whichever event occurs later. Discounts for prompt payment requiring payment by the City within a stipulated number of days will be interpreted as applying within the stipulated number of calendar days after the date of receipt by the City of a correct invoice or after the date of acceptance that meets contract requirements, whichever event occurs later. Discounts for payment in less than ten days will not be considered.

01-26-2013

MOST FAVOURED PRICING: The Bidder certifies that the price quoted is not in excess of the lowest price charged anyone else, including its most favoured customer, for like quality and quantity of the products/services; does not include an element of profit on the sale in excess of that normally obtained by the Bidder on the sale of products/services of like quality and quantity; and does not include any provision for discounts to selling agents. If at any time during the contract period, the supplier should sell or offer for sale to any other customer, an equal or less quantity of similar contract products of like or better quality, at a lower net price(s) than provided herein, supplier agrees to notify the City and sell same product(s) at the lower price(s) on all deliveries made during the period in which such lower price(s) is effective.

INTERLOCAL PURCHASING (optional): The City desires to make available to other local governmental entities of the State of Texas, by mutual agreement with the successful bidder, and properly authorized interlocal purchasing agreements as provided for by the Interlocal Cooperation Act (Chapter 791, Government Code), the right to purchase the same services, at the prices quoted, for the period of this contract. Each bidder shall indicate on the Bid Form in the space provided below if he/she will honor Political Subdivision orders in addition to orders from the City of Lubbock. Should these other governmental entities decide to participate in this contract, would you (the bidder) agree that all terms, conditions, specifications, and pricing would apply?

Other governmental entities that might have interests in this contract are Frenship Independent School District, Lubbock Housing Authority, Lubbock County, Lubbock County Hospital District, Lubbock Independent School District, South Plains Association of Governments, City of Texarkana, Texas Tech University, West Texas Municipal Power Agency, Lynn County, and City of Wolfforth.

YES X NO _____

- If you (the bidder) checked YES, the following will apply:
- Governmental entities utilizing Interlocal Agreements for Cooperative Purchasing with the City of Lubbock will be eligible, but not obligated, to purchase materials/services under the contract(s) awarded as a result of this solicitation. All purchases by governmental entities other than the City of Lubbock will be billed directly to that governmental entity and paid by that governmental entity. City of Lubbock will not be responsible for another governmental entity's debts. Each governmental entity will order their own materials/service as needed.

THIS BID IS SUBMITTED BY STP Well Service, LLC a corporation organized under the laws of the State of TEXAS, or a partnership consisting of _____ or individual trading as _____ of the City of _____

Firm: STP Well Service, LLC

Address: 2932 FM 400

City: Petersburg State: Texas Zip 79250

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 American	☐	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 J. Kyle Sorrells Date: 2-19-2013
Authorized Representative - must sign by hand

Officer Name and Title: J. Kyle Sorrells, owner/president
Please Print

Business Telephone Number (806) 777-4007 FAX: (806) 667-0331

E-mail Address: jks@erfw.net

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
Capital Project
Project Cost Detail
April 11, 2013**

Capital Project Number: 91083
Capital Project Name: Land Application Production and Monitoring Wells

Capital Project Number: _____

Capital Project Name: _____ Wastewater Operating Budget

	Budget	
Capital Project Number:	91083	6421.8212
<i>Encumbered/Expended</i>		
Sewer System Improvements	\$ 416,950	
Water System Improvements	16,623	
Capital Equipment	15,845	
COL Staff Time - Design & Construction	22,709	
Professional Services	776	
Outside Employee Services	6,681	
Land Production and Monitoring Wells		1,344

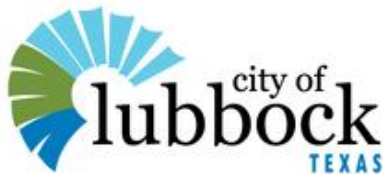
<i>Agenda Item April 11, 2013</i>		
Well Maintenance and Repair Contract	60,000	39,715
<i>Encumbered/Expended To Date</i>	<u>539,584</u>	<u>41,059</u>

<i>Estimated Costs for Remaining Appropriation</i>		
Land Application Production and Monitoring Wells	310,416	8,493
<i>Remaining Appropriation</i>	<u>310,416</u>	<u>8,493</u>
Total Appropriation	\$ 850,000	49,552

An aerial photograph showing a rural landscape. A blue dot is placed on a small, light-colored rectangular area, possibly a building or a cleared patch of land. To the right of this dot is a large, dark, irregularly shaped area that appears to be a pond or a reservoir. The surrounding land is green and shows signs of agricultural activity, with curved lines suggesting furrows or field boundaries. A white label with the number '91083' is positioned below the blue dot.

[illegible]

Project Name	Land Application Production and Monitoring Wells					Project Number		91083
Funding Detail	Funding to Date	FY 2012-13	Unappropriated Planning Years					Total Funding
			FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	
FY 2006 Wastewater Revenue CO's	270,000	0	0	0	0	0	0	270,000
FY 2009 Wastewater Pay-As-You-Go	100,000	0	0	0	0	0	0	100,000
FY 2010 Wastewater Pay-As-You-Go	85,000	0	0	0	0	0	0	85,000
FY 2011 Wastewater Pay-As-You-Go	145,000	0	0	0	0	0	0	145,000
FY 2012 Wastewater Pay-As-You-Go	75,000	0	0	0	0	0	0	75,000
FY 2013 Wastewater Pay-As-You-Go	0	175,000	0	0	0	0	0	175,000
FY 2014 Wastewater Pay-As-You-Go	0	0	75,000	0	0	0	0	75,000
FY 2015 Wastewater Pay-As-You-Go	0	0	0	75,000	0	0	0	75,000
FY 2016 Wastewater Pay-As-You-Go	0	0	0	0	75,000	0	0	75,000
FY 2017 Wastewater Pay-As-You-Go	0	0	0	0	0	75,000	0	75,000
FY 2018 Wastewater Pay-As-You-Go	0	0	0	0	0	0	75,000	75,000
Total Funding Sources	675,000	175,000	75,000	75,000	75,000	75,000	75,000	1,225,000



Regular City Council Meeting

5. 6.

Meeting Date: 04/11/2013

Information

Agenda Item

Contract Resolution - Public Works Wastewater Utility: Consider two resolutions authorizing the Mayor to execute contract 11176 with Circle R Lawn & Sprinkler and contract 11176-1 with Jerry Weaver Farms for hay harvesting services at the Lubbock Land Application Site (LLAS), BID 13-11176-DG.

Item Summary

The contract establishes annual pricing to cut, bale and remove hay from designated areas at the LLAS. The annual crop yields between 6,000 and 10,000 bales of hay.

Bids are expressed as a percentage of proceeds to the City from the sale of hay, and were received from the following companies:

Circle R Lawn & Sprinkler of Lubbock, TX	50%
Jerry Weaver Farms of Lubbock, TX	50%
Brandon Patschke of Lubbock, TX	45%

Hay is cut, baled, and removed from the LLAS, as necessary, to comply with remediation requirements of the Texas Commission on Environmental Quality. The removal of hay reduces the amount of nitrogen in the groundwater improving the agronomic nitrogen mass balance.

Staff recommends contract award to Circle R Lawn & Sprinkler as the primary contractor, and to Jerry Weaver Farms as the secondary contractor. Having a second contractor available to cut and remove hay when the primary contractor is unavailable due to equipment or personnel shortages allows the LLAS to remove an additional 4,000 to 6,500 bales of hay each year.

The term of each contract is one year with an option to extend the contract for two additional one-year periods.

Fiscal Impact

Estimated revenue to the wastewater fund is approximately \$135,000.

Staff/Board Recommending

R. Keith Smith, P.E., Chief Operating Officer.

Attachments

Resolution & Contract - Circle R

Resolution & Contract - Jerry Weaver

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. 11176 for hay harvesting services, by and between the City of Lubbock and Circle R Lawn and Sprinkler, 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 _____.

GLEN C. ROBERTSON, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



R. Keith Smith, P.E., Chief Operating Officer

APPROVED AS TO FORM:



Chad Weaver, Assistant City Attorney

vw:ccdcs/RES.Contract-Circle R Lawn & Sprinkler
March 26, 2013

City of Lubbock, TX
Contract for Services
Hay Harvesting Services

THIS CONTRACT made and entered into this 11th day of April, 2013, by and between the City of Lubbock ("City"), and Circle R Lawn and Sprinkler, ("Contractor").

WITNESSETH:

WHEREAS, the City of Lubbock duly advertised for bids for Hay Harvesting Services 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 Hay Harvesting Services.

NOW, THEREFORE, in consideration of the mutual agreement contained herein, as well as the financial consideration hereinafter referred to, the parties hereby covenant and agree as follows:

1. In accordance with City's specifications and Contractor's bid, copies of which are attached hereto and made part hereof, Contractor will provide to the City, Hay Harvesting Services and more specifically referred to as Primary Contractor for Item 1 on the bid submitted by the Contractor or in the specifications attached hereto.
2. The City promises and agrees to employ, and does employ, the Contractor to cause to be done the work provided for in this Contract and to complete and finish the same according to the attached specifications, offer, and terms and conditions contained herein.
3. The Contractor shall perform the work according to the procedures outlined in the Bid Form and Specifications attached hereto. The contract shall be for a term of one year, with the option of two, one year extensions, said date of term beginning upon formal approval. The City does not guarantee any specific amount of compensation, volume, minimum or maximum amount of services under this contract.
4. This contract shall remain in effect until the expiration date, performance of services ordered, or termination of by either party with a 30 day written notice. Such written notice must state the reason for cancellation. The City of Lubbock reserves the right to award the canceled contract to the next lowest and best bidder as it deems to be in the best interest of the city.
5. Contractor shall at all times be an independent contractor and not an agent or representative of City with regard to performance of the Services. Contractor shall not represent that it is, or hold itself out as, an agent or representative of City. In no event shall Contractor be authorized to enter into any agreement or undertaking for or on behalf of City.
6. The contractor shall obtain and maintain in full force and effect during the term of the contract, commercial general liability coverage with insurance carriers admitted to do business in the State of Texas. The insurance companies must carry a Best's Rating of A-VII or better. The policies will be written on an occurrence basis, subject to the following minimum limits of liability:

<u>TYPE</u>	<u>AMOUNT</u>
General Liability	
Commercial General Liability	500,000
General Aggregate	
Automotive Liability	
Combined Single Limit	
Any Auto	300,000
Workers Compensation	Statutory Amounts

The City of Lubbock shall be named as an additional insured on a primary and Non-Contributory basis on General Liability, with a waiver of subrogation in favor of the City of Lubbock on all coverages. All copies of the Certificates of Insurance shall reference the project name or bid number for which the insurance is being supplied. Copies of all endorsements are required.

The contractor will provide a Certificate of Insurance to the City as evidence of coverage. The certificate will provide 30 days notice of cancellation, and under the cancellation section, the wording "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" will be crossed out. A copy of the additional insured endorsement attached to the policy will be included with the certificate.

The contractor shall also maintain workers compensation insurance in the statutory amount.

If at any time during the life of the contract or any extension, the contractor fails to maintain the required insurance in full force and effect, all work under the contract shall be discontinued immediately. Any failure to maintain the required insurance may be sufficient cause for the City to terminate the contract.

7. Neither the City nor the Contractor shall assign, transfer or encumber any rights, duties or interests accruing from this Contract without the written consent of the other.
8. The City reserves the right to exercise any right or remedy available to it by law, contract, equity, or otherwise, including without limitation, the right to seek any and all forms of relief in a court of competent jurisdiction. Further, the City shall not be subject to any arbitration process prior to exercising its unrestricted right to seek judicial remedy. The remedies set forth herein are cumulative and not exclusive, and may be exercised concurrently. To the extent of any conflict between this provision and another provision in, or related to, this document, this provision shall control.
9. At any time during the term of the contract, or thereafter, the City, or a duly authorized audit representative of the City or the State of Texas, at its expense and at reasonable times, reserves the right to audit Contractor's records and books relevant to all services provided to the City under this Contract. In the event such an audit by the City reveals any errors or overpayments by the City, Contractor shall refund the City the full amount of such overpayments within thirty

(30) days of such audit findings, or the City, at its option, reserves the right to deduct such amounts owing the City from any payments due Contractor.

10. This Contract consists of the following documents set forth Specifications and the Bid Form.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed the and year above written. Executed in triplicate.

CITY OF LUBBOCK

Glen C. Robertson, Mayor

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

R. Keith Smith, P.E. Chief Operations Officer

APPROVED AS TO FORM:

Assistant City Attorney

CONTRACTOR

BY 
Authorized Representative

Rusty Dutton
Print Name

3811 55th Street
Address

Lubbock, TX 79413
City, State, Zip Code

City of Lubbock, TX
Hay Harvesting Services

General Specifications

SCOPE: The City of Lubbock is seeking a contract for hay harvesting with one or more contractors. Harvesting under this contract will be on an as needed basis.

No guarantee of Volume. The City of Lubbock does not guarantee any specific amount of compensation volume, minimum or maximum.

- I. SCOPE OF SERVICES: Cut, bale and remove hay crops from the land application site, in a timely manner. Work under this contract will be on an as needed basis. Farm Management will determine how much hay harvesting services will be needed.
- II. PRICING: Bidders must submit the percentage of the harvested crop they will retain as payment for services rendered on a plot by plot basis.
- III. REFERENCES: Supply a minimum of three references, which shall include the name and address of the company, contact name, telephone number and type of service provided.
- IV. TERM: The contract shall be for a term of one year, said date of term beginning upon formal approval. The contract may be renewed for an additional two year term under the same terms and conditions upon written agreement from both parties.

BID FORM
Hay Harvesting Services
City of Lubbock, Texas
BID 13-11176-CP

In compliance with the **Invitation to Bid 13-11176-CP**, 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 **13-11176-CP** is by reference incorporated in this contract. The Bid Form must be completed in blue or black ink or by typewriter.

ITEM	DESCRIPTION	Percentage Rate	
1.	Hay shall be cut, bale, remove and stack hay crop in close proximity to the plots as designated by City personnel. Bids will be evaluated on a percentage, which is most beneficial to the City. Bidders must submit what percentage of the harvested crop they will retain as payment for services rendered.	Contractor's %	50%
		City of Lubbock %	50%

PAYMENT TERMS AND DISCOUNTS - Bidder offers a prompt payment discount of _____%, net __ calendar days. Discounts will not be considered in determining low bid. Unless otherwise indicated on the Bid Form, payment terms will be **NET THIRTY DAYS**. The City will pay the successful bidder within thirty days after the receipt of a correct invoice or after the date of acceptance, whichever event occurs later. Discounts for prompt payment requiring payment by the City within a stipulated number of days will be interpreted as applying within the stipulated number of calendar days after the date of receipt by the City of a correct invoice or after the date of acceptance that meets contract requirements, whichever event occurs later. Discounts for payment in less than ten days will not be considered.

MOST FAVOURED PRICING: The Bidder certifies that the price quoted is not in excess of the lowest price charged anyone else, including its most favoured customer, for like quality and quantity of the products/services; does not include an element of profit on the sale in excess of that normally obtained by the Bidder on the sale of products/services of like quality and quantity; and does not include any provision for discounts to selling agents. If at any time during the contract period, the supplier should sell or offer for sale to any other customer, an equal or less quantity of similar contract products of like or better quality, at a lower net price(s) than provided herein, supplier agrees to notify the City and sell same product(s) at the lower price(s) on all deliveries made during the period in which such lower price(s) is effective.

INTERLOCAL PURCHASING (optional): The City desires to make available to other local governmental entities of the State of Texas, by mutual agreement with the successful bidder, and properly authorized interlocal purchasing agreements as provided for by the Interlocal Cooperation Act (Chapter 791, Government Code), the right to purchase the same services, at the prices quoted, for the period of this contract. Each bidder shall indicate on the Bid Form in the space provided below if he/she will honor Political Subdivision orders in addition to orders from the City of Lubbock. Should these other governmental entities decide to participate in this contract, would you (the bidder) agree that all terms, conditions, specifications, and pricing would apply?

Other governmental entities that might have interests in this contract are Frenship Independent School District, Lubbock Housing Authority, Lubbock County, Lubbock County Hospital District, Lubbock Independent School

THIS BID IS SUBMITTED BY _____ a corporation organized under the laws of the State of _____ or a partnership consisting of _____ or individual trading as _____

Firm: Circle R Lawn & Sprinkler of the City of Lubbock

Address: 3811 55th 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 American	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: 3/11/13
Authorized Representative - must sign by hand

Officer Name and Title: Rusty Dutton Owner
Please Print

Business Telephone Number 806-789-5753 FAX: _____

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 \$50,000): _____ Date P.O./Contract Issued: _____

**RETURN COMPLETED & SIGNED BID FORM ALONG WITH CITY OF LUBBOCK SPECIFICATIONS.
LABEL THE OUTSIDE OF YOUR SEALED BID WITH THE ITB NUMBER, THE CLOSING DATE AND TIME,
AND YOUR COMPANY NAME AND ADDRESS.**

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. 11176-1 for hay harvesting services, by and between the City of Lubbock and Jerry Weaver Farms, 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 _____.

GLEN C. ROBERTSON, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



R. Keith Smith, P.E., Chief Operating Officer

APPROVED AS TO FORM:



Chad Weaver, Assistant City Attorney

vw:ccdocs/RES.Contract-Jerry Weaver Farms
March 26, 2013

City of Lubbock, TX
Contract for Services
Hay Harvesting Services

THIS CONTRACT made and entered into this 11th day of April, 2013, by and between the City of Lubbock ("City"), and Jerry Weaver Farms, ("Contractor").

WITNESSETH:

WHEREAS, the City of Lubbock duly advertised for bids for Hay Harvesting Services 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 Hay Harvesting Services.

NOW, THEREFORE, in consideration of the mutual agreement contained herein, as well as the financial consideration hereinafter referred to, the parties hereby covenant and agree as follows:

1. In accordance with City's specifications and Contractor's bid, copies of which are attached hereto and made part hereof, Contractor will provide to the City, Hay Harvesting Services and more specifically referred to as **Secondary Contractor** for Item 1 on the bid submitted by the Contractor or in the specifications attached hereto.
2. The City promises and agrees to employ, and does employ, the Contractor to cause to be done the work provided for in this Contract and to complete and finish the same according to the attached specifications, offer, and terms and conditions contained herein.
3. The Contractor shall perform the work according to the procedures outlined in the Bid Form and Specifications attached hereto. The contract shall be for a term of one year, with the option of two, one year extensions, said date of term beginning upon formal approval. The City does not guarantee any specific amount of compensation, volume, minimum or maximum amount of services under this contract.
4. This contract shall remain in effect until the expiration date, performance of services ordered, or termination of by either party with a 30 day written notice. Such written notice must state the reason for cancellation. The City of Lubbock reserves the right to award the canceled contract to the next lowest and best bidder as it deems to be in the best interest of the city.
5. Contractor shall at all times be an independent contractor and not an agent or representative of City with regard to performance of the Services. Contractor shall not represent that it is, or hold itself out as, an agent or representative of City. In no event shall Contractor be authorized to enter into any agreement or undertaking for or on behalf of City.
6. The contractor shall obtain and maintain in full force and effect during the term of the contract, commercial general liability coverage with insurance carriers admitted to do business in the State of Texas. The insurance companies must carry a Best's Rating of A-VII or better. The policies will be written on an occurrence basis, subject to the following minimum limits of liability:

<u>TYPE</u>	<u>AMOUNT</u>
General Liability	
Commercial General Liability	500,000
General Aggregate	
Automotive Liability	
Combined Single Limit	
Any Auto	300,000
Workers Compensation	Statutory Amounts

The City of Lubbock shall be named as an additional insured on a primary and Non-Contributory basis on General Liability, with a waiver of subrogation in favor of the City of Lubbock on all coverages. All copies of the Certificates of Insurance shall reference the project name or bid number for which the insurance is being supplied. Copies of all endorsements are required.

The contractor will provide a Certificate of Insurance to the City as evidence of coverage. The certificate will provide 30 days notice of cancellation, and under the cancellation section, the wording "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" will be crossed out. A copy of the additional insured endorsement attached to the policy will be included with the certificate.

The contractor shall also maintain workers compensation insurance in the statutory amount.

If at any time during the life of the contract or any extension, the contractor fails to maintain the required insurance in full force and effect, all work under the contract shall be discontinued immediately. Any failure to maintain the required insurance may be sufficient cause for the City to terminate the contract.

7. Neither the City nor the Contractor shall assign, transfer or encumber any rights, duties or interests accruing from this Contract without the written consent of the other.
8. The City reserves the right to exercise any right or remedy available to it by law, contract, equity, or otherwise, including without limitation, the right to seek any and all forms of relief in a court of competent jurisdiction. Further, the City shall not be subject to any arbitration process prior to exercising its unrestricted right to seek judicial remedy. The remedies set forth herein are cumulative and not exclusive, and may be exercised concurrently. To the extent of any conflict between this provision and another provision in, or related to, this document, this provision shall control.
9. At any time during the term of the contract, or thereafter, the City, or a duly authorized audit representative of the City or the State of Texas, at its expense and at reasonable times, reserves the right to audit Contractor's records and books relevant to all services provided to the City under this Contract. In the event such an audit by the City reveals any errors or overpayments by the City, Contractor shall refund the City the full amount of such overpayments within thirty

(30) days of such audit findings, or the City, at its option, reserves the right to deduct such amounts owing the City from any payments due Contractor.

10. This Contract consists of the following documents set forth herein; Specifications and the Bid Form.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed the day and year first above written. Executed in triplicate.

CITY OF LUBBOCK

CONTRACTOR

Glen C. Robertson, Mayor

BY 
Authorized Representative

ATTEST:

Jerry Weaver
Print Name

Rebecca Garza, City Secretary

8304 CR 6950
Address
Lubbock TX 794107

APPROVED AS TO CONTENT:

City, State, Zip Code


R. Keith Smith, P.E. Chief Operations Officer

APPROVED AS TO FORM:


Assistant City Attorney

City of Lubbock, TX
Hay Harvesting Services

General Specifications

SCOPE: The City of Lubbock is seeking a contract for hay harvesting with one or more contractors. Harvesting under this contract will be on an as needed basis.

No guarantee of Volume. The City of Lubbock does not guarantee any specific amount of compensation volume, minimum or maximum.

- I. SCOPE OF SERVICES: Cut, bale and remove hay crops from the land application site, in a timely manner. Work under this contract will be on an as needed basis. Farm Management will determine how much hay harvesting services will be needed.
- II. PRICING: Bidders must submit the percentage of the harvested crop they will retain as payment for services rendered on a plot by plot basis.
- III. REFERENCES: Supply a minimum of three references, which shall include the name and address of the company, contact name, telephone number and type of service provided.
- IV. TERM: The contract shall be for a term of one year, said date of term beginning upon formal approval. The contract may be renewed for an additional two year term under the same terms and conditions upon written agreement from both parties.

BID FORM
Hay Harvesting Services
City of Lubbock, Texas
BID 13-11176-CP

In compliance with the **Invitation to Bid 13-11176-CP**, 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 **13-11176-CP** is by reference incorporated in this contract. The Bid Form **must be completed** in blue or black ink or by typewriter.

ITEM	DESCRIPTION	Percentage Rate	
1.	Hay shall be cut, bale, remove and stack hay crop in close proximity to the plots as designated by City personnel. Bids will be evaluated on a percentage, which is most beneficial to the City. Bidders must submit what percentage of the harvested crop they will retain as payment for services rendered. When reviewing hay yields from the past 6 years, harvester retained from 1500-4000 bales. The main difference from year to year is directly related to growing condition – rainfall. Farm Management will determine when and how hay harvesting is needed.	Contractor's %	50
		City of Lubbock %	50

PAYMENT TERMS AND DISCOUNTS - Bidder offers a prompt payment discount of _____%, net __ calendar days. Discounts will not be considered in determining low bid. Unless otherwise indicated on the Bid Form, payment terms will be NET THIRTY DAYS. The City will pay the successful bidder within thirty days after the receipt of a correct invoice or after the date of acceptance, whichever event occurs later. Discounts for prompt payment requiring payment by the City within a stipulated number of days will be interpreted as applying within the stipulated number of calendar days after the date of receipt by the City of a correct invoice or after the date of acceptance that meets contract requirements, whichever event occurs later. Discounts for payment in less than ten days will not be considered.

MOST FAVOURED PRICING: The Bidder certifies that the price quoted is not in excess of the lowest price charged anyone else, including its most favoured customer, for like quality and quantity of the products/services; does not include an element of profit on the sale in excess of that normally obtained by the Bidder on the sale of products/services of like quality and quantity; and does not include any provision for discounts to selling agents. If at any time during the contract period, the supplier should sell or offer for sale to any other customer, an equal or less quantity of similar contract products of like or better quality, at a lower net price(s) than provided herein, supplier agrees to notify the City and sell same product(s) at the lower price(s) on all deliveries made during the period in which such lower price(s) is effective.

INTERLOCAL PURCHASING (optional): The City desires to make available to other local governmental entities of the State of Texas, by mutual agreement with the successful bidder, and properly authorized interlocal purchasing agreements as provided for by the Interlocal Cooperation Act (Chapter 791, Government Code), the right to purchase the same services, at the prices quoted, for the period of this contract. Each bidder shall indicate on the Bid Form in the space provided below if he/she will honor Political Subdivision orders in addition to orders from the City of Lubbock. Should these other governmental entities decide to participate in this contract, would you (the bidder) agree that all terms, conditions, specifications, and pricing would apply?

THIS BID IS SUBMITTED BY _____ a corporation organized under the laws of the State of _____, or a partnership consisting of _____ or individual trading as

Jerry Weaver of the City of Lubbock

Firm: Jerry Weaver Farms

Address: 8304 CR 6950

City: Lubbock State: Texas Zip: 79407

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 Jerry Weaver Date: 3-10-13

Authorized Representative - must sign by hand

Officer Name and Title: Jerry Weaver, Owner
Please Print

Business Telephone Number 806-893-6433 FAX: 806-687-2232

E-mail Address: jweaver1532@yahoo.com

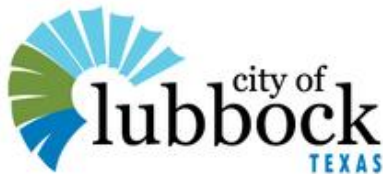
FOR CITY USE ONLY

Bid Form Item Number(s) Awarded to Above Named Firm/Individual: _____

Date of Award by City Council (for bids over \$50,000): _____ Date P.O./Contract Issued: _____

RETURN COMPLETED & SIGNED BID FORM ALONG WITH CITY OF LUBBOCK SPECIFICATIONS.

LABEL THE OUTSIDE OF YOUR SEALED BID WITH THE ITB NUMBER, THE CLOSING DATE AND TIME, AND YOUR COMPANY NAME AND ADDRESS.



Regular City Council Meeting

5. 7.

Meeting Date: 04/11/2013

Information

Agenda Item

Contract Resolution – Public Works Wastewater Utility: Consider a resolution authorizing the Mayor to execute a contract 11127 with Massey Irrigation, Inc., for a wireless irrigation management system for the Lubbock Land Application Site (LLAS) and Hancock Land Application Site (HLAS), RFP 13-11127-TL.

Item Summary

The wireless irrigation management system will upgrade the current pivot telemetry computer system at the LLAS and the HLAS. The current system is 17 years old and the Federal Communication Commission has removed the radio frequency this system used to relay data.

According to the City's wastewater discharge permit, the pivots must be operated to prevent ponding of land-applied treated effluent. The wireless irrigation management system will notify staff if a pivot has stopped during the night, so staff may respond quickly to correct the problem or stop the application of treated effluent.

Staff recommends contract award to the sole respondent, Massey Irrigation, Inc. of Lubbock, TX for \$65,008 for the wireless irrigation management system. Staff also recommends the purchase of a premier 36 month service contract in the amount of \$25,000.

Fiscal Impact

\$65,008 is appropriated in the FY 2012-13 Master Lease Program for the pivot telemetry computer system, and \$25,000 is available in the FY 2012-13 Wastewater Land Application Operating Budget for the premier 36 month service contract.

Staff/Board Recommending

R. Keith Smith, P.E., Chief Operating Officer.

Attachments

Resolution & Contract - Massey Irrigation

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. 11127 for a wireless irrigation management system, by and between the City of Lubbock and Massey Irrigation, 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 on _____.

GLEN C. ROBERTSON, MAYOR

ATTEST:

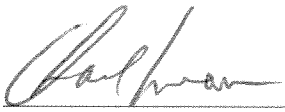
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



R. Keith Smith, P.E., Chief Operating Officer

APPROVED AS TO FORM:



Chad Weaver, Assistant City Attorney

vw:ccdocs/RES.Contract-Massey Irrigation, Inc.
March 19, 2013

City of Lubbock, TX
Wireless Irrigation Management System
Service Agreement

This Service Agreement (this "Agreement") is entered into as of the **11th** day of **April, 2013**, ("Effective Date") by and between **Massey Irrigation, Inc.**, (the Consultant), and the City of Lubbock (the "City").

RECITALS

WHEREAS, the City has issued a Request for Proposals 13-11127-TL – Wireless Irrigation Management System.

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 Wireless Irrigation Management System , 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 – General Requirements
3. Exhibit B – Proposal and Price Sheet
4. Exhibit C – Insurance Requirements

Scope of Work

Contractor shall provide the services that are specified in Exhibit A. The Consultant shall comply with all the applicable requirements set forth in Exhibit B and C attached hereto.

Article 1 Services

- 1.1 Contractor agrees to perform services for the City that are specified under the General Requirements set forth in Exhibit A. The City agrees to pay the amounts stated in Exhibit B, to Contractor for performing services.
- 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 At any time during the term of the contract, or thereafter, the City, or a duly authorized audit representative of the City or the State of Texas, at its expense and at reasonable times, reserves the right to audit Contractor's records and books relevant to all services provided to the City under this Contract. In the event such an audit by the City reveals any errors or overpayments by the City, Contractor shall refund the City the full amount of such overpayments within thirty (30) days of such audit findings, or the City, at its option, reserves the right to deduct such amounts owing the City from any payments due Contractor.

- 2.10 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, this Agreement is executed as of the Effective Date.

CITY OF LUBBOCK, TX:

Massey Irrigation, Inc.

Glen C. Robertson, Mayor

Ronnie Dubois

ATTEST:

Rebecca Garza, City Secretary

4611 IDALOV RD
Address
LUBBOCK, TX 79403

APPROVED AS TO CONTENT:

R. Keith Smith P.E., Chief Operating Officer

APPROVED AS TO FORM:

Chad Weaver, Assistant City Attorney

GENERAL REQUIREMENTS

1 INTENT

The City of Lubbock (hereinafter called "City") is issuing this Request for Proposals (this "RFP") under the guidelines of a High-Technology RFP. This means that failure to successfully meet all functional requirements may not necessarily disqualify the vendor. Vendors should take exception to functional specifications that they cannot meet and may offer alternative solutions and/or additional features in their proposals. The City of Lubbock is seeking proposals from interested firms and individuals to provide a Wireless Irrigation Management System.

- a) Offerors are invited to submit demonstrated competence and qualifications of their firm for providing this equipment.
- b) 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.

2 SCOPE OF WORK

The City of Lubbock requires a Wireless Irrigation Management System, which is internet based, and is capable of controlling, monitoring, alerting, and reporting various functions of electric center pivot irrigation systems.

- 2.1 The purpose of the Wireless Irrigation Management System is to provide an encompassing view to enable quick, effective decision making. Text message alerts further speed the process, making operational changes and notifications of potential problems quick and easy to handle. Employees must be able to access the system from anywhere, precisely track and graph water usage, and communicate with others from one easy, secure site.
- 2.2 The Wireless Irrigation Management System, when fully equipped, will serve to allow operators to monitor and control center pivot functions from any location that has internet availability, and is intended be equipped with and perform the following functions:
 - a) The wireless system must be user friendly. Operators must be able to monitor and control center pivot functions from any location that has internet availability.
 - b) Functions to include the following as a minimum:
 - 1. Pivot Start/Stop
 - 2. Pivot Direction
 - 3. Pivot Speed
 - 4. Water On/Off (actuator)
 - 5. Schedule Programming
 - 6. Chemigation System On/Off
 - 7. Pump/Valve Control at Pivot

8. Map View of Pivots

- c) System will provide field remote access from a smartphone, tablet, or laptop.
- d) Alert System
 - 1. The system must be event driven and must alert operators of system failure caused by mechanical failure, power outage, etc. Alert system must have the capability of text message and voice mail. System must respond within 3 minutes of event.
- e) Telemetry System
 - 1. Telemetry system must be capable of tracking and reporting effluent flows by use of electronic meters: history of hours run, system failures, date and times, GPC locations, etc.
- f) System must be expandable to pump/pump station controls.

Massey Irrigation & Liquidation, Inc.

**4611 Idalou Road
Lubbock, Texas 79403
(806) 763-5193 Fax (806) 763-0263**

Massey Irrigation has been in business for 32 years in Lubbock. We have been designing and installing irrigation systems throughout that time. We have 10 employees, 7 of them service technicians. We are a Lindsay Dealer which provides Zimmatic Irrigations Systems, Greenfield, Fieldnet, Growsmart and Watertronics.

This will be top a priority project, upon bid award. We will start the project immediately. I estimate finishing the project within 3 to 4 weeks. Fieldnet is manufactured by Lindsay and designed to go hand and hand with Zimmatic computer panels.

- A. Delivery time estimate is 2 weeks. We will start installation immediately, and training is included at that time. We will perform hands on training at the City of Lubbock Site.
- B. There is a 2 year warranty on all parts and labor.
- C. Upgrades are plug_and_play.
- D. Maintenance is a visual inspection of the equipment.
- E. We have 7 service technicians available in Lubbock. Massey Irrigation - Ronnie or Kyle DuBois 806-763-5193
- F. All service calls will be handled within 4 hours. Massey Irrigation's service rate is \$85.00 per hour, with no mileage charge.

City of Lubbock FieldNET Upgrade

Item Number	Item	Units	Price	Extended Price	Net
Bridge & Repeaters					
13-9071-0	Internet Bridge	1	\$ 2,130.00	\$ 2,130.00	\$ 2,130.00
13-9072-0	Repeater, SX-R3000	1	\$ 1,480.00	\$ 1,480.00	\$ 1,480.00
12-0428-0	Omni Directional Antenna	1	\$ 190.00	\$ 190.00	\$ 190.00
12-1546-0	8.5 dB gain Directional Antenna	1	\$ 102.00	\$ 102.00	\$ 102.00
	Subtotal			\$ 3,902.00	\$ 3,902.00
Pivot Equipment					
13-6908-0	AIMS Advance Interface Board	31	\$ 116.00	\$ 3,596.00	\$ 3,596.00
12-1547-0	6 dB gain Directional Antenna	6	\$ 81.00	\$ 486.00	\$ 486.00
12-1546-0	8.5 dB gain Directional Antenna	44	\$ 102.00	\$ 4,488.00	\$ 4,488.00
13-9073-0	FieldNET Radio RTU	50	\$ 870.00	\$ 43,500.00	\$ 43,500.00
11-7897-9	12v Power Supply	31	\$ 106.00	\$ 3,286.00	\$ 3,286.00
	Installation Labor	50	\$ 115.00	\$ 5,750.00	\$ 5,750.00
	Subtotal			\$ 61,106.00	\$ 61,106.00
Total					\$ 65,008.00
	Premier 12 Month Contract	50	\$ 200.00	\$ 10,000.00	\$ 10,000.00
	Premier 36 Month Contract	50	\$ 500.00	\$ 25,000.00	\$ 25,000.00
	15% discount on service contract for 50 or more pivots				
	10% discount on service contract for 25 to 49 pivots				
	5% discount on service contract for 15 to 24 pivots				

Massey Irrigation
4611 Idalou Rd.
Lubbock, TX 79403
806-763-5193

City of Lubbock, TX
Purchasing & Contract Management
RFP 13-11127-TL, Wireless Irrigation Management System
II – INSURANCE COVERAGE REQUIRED

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.

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):

TYPE OF INSURANCE	COMBINED SINGLE LIMIT
GENERAL LIABILITY	
☒ Commercial General Liability	General Aggregate <u>1,000,000</u>
☐ Claims Made ☐ Occurrence	Products-Comp/Op AGG ☒ X
W/Heavy Equipment	Personal & Adv. Injury ☒ X
☐ To Include Products of Complete Operation Endorsements	Contractual Liability ☒ X
	Fire Damage (Any one Fire)
	Med Exp (Any one Person)
PROFESSIONAL LIABILITY	
☐ _____	General Aggregate _____
AUTOMOTIVE LIABILITY	
☒ Any Auto ☐ All Owned Autos	Combined Single Limit <u>1,000,000</u>
☐ Scheduled Autos ☐ Hired Autos	
☐ Non-Owned Autos	Aggregate
EXCESS LIABILITY	
☐ Umbrella Form	Each Occurrence _____
	Aggregate _____
GARAGE LIABILITY	
☐ Any Auto	Auto Only - Each Accident
☐ _____ Other than Auto Only:	
	Aggregate _____
☐ BUILDER'S RISK	☐ 100% of the Total Contract Price
☐ INSTALLATION FLOATER	☐ 100% of the Total Material Costs
☐ CARGO	
☒ WORKERS COMPENSATION – STATUTORY AMOUNTS	
AND	
☐ OCCUPATIONAL MEDICAL AND DISABILITY	
☒ EMPLOYERS' LIABILITY	
OTHER: COPIES OF ENDOSEMENTS ARE REQUIRED	
☒ City of Lubbock named as additional insured on Auto/General Liability on a primary and non-contributory basis.	
☒ To include products of completed operations endorsement.	

IMPORTANT: POLICY ENDORSEMENTS

The Contractor will provide copies of the policies without expense, to the City 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. Any costs will be paid by the Contractor.

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 bid number for which the insurance is being supplied.**

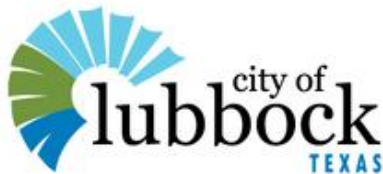
NOTICES

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 & 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.



Regular City Council Meeting

5. 8.

Meeting Date: 04/11/2013

Information

Agenda Item

Contract Resolution – Public Works Engineering: Consider a resolution authorizing the Mayor to execute contract 11218 with Turfmaster Irrigation & Landscaping, Inc., for construction of the FM 1585 water line extension from Milwaukee to Iola Avenue BID 13-11218-DG.

Item Summary

This project will install approximately 2,610 feet of 12-inch diameter C-900 PVC buried water pipe within an easement along the southern edge of the Lubbock Youth Sports Complex from Milwaukee Avenue to Iola Avenue. The purpose of this project is to extend a 12-inch water line across the City's plat limits in accordance to City development standards. This will provide the necessary infrastructure so development to the east may continue to extend the water line to provide water service, fire protection and an eventual loop to Frankford Avenue along the FM 1585 route.

Bids were received from the following companies:

Turfmaster Irrigation & Landscaping, Inc. of Lubbock, TX	\$134,393
Raydon, Inc. of Breckenridge, TX	156,102
Utility Contractors of America, Inc. of Lubbock, TX	160,465
Campbell-West Infrastructure Construction, LLC of Lubbock, TX	160,665
Deerwood Construction, Inc. of Lubbock, TX	161,208
Lewis Construction, Inc. of Dumas, TX	219,650

The contract is awarded by unit price. The total amount is based upon estimated quantities and actual expenditures may be more or less depending on actual quantities installed.

Staff recommends contract award to the lowest bidder Turfmaster Irrigation & Landscaping, Inc. of Lubbock, Tx, for \$134,393. Time for completion is 90 calendar days with liquidated damages of \$300 for consecutive day in excess of time set.

Fiscal Impact

\$3,122,000 is appropriated in Capital Improvement Project 91035, Water Lines Ahead of Street Pavings, with \$134,393 available for this purpose.

Staff/Board Recommending

Keith Smith, P.E. Chief Operating Officer

Attachments

RESOLUTION

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

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Contract No. 11218 for FM 1585 water line extension from Milwaukee to Iola Avenue, by and between the City of Lubbock and Turfmaster Irrigation & Landscaping, 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.

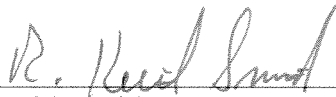
Passed by the City Council on _____.

GLEN C. ROBERTSON, MAYOR

ATTEST:

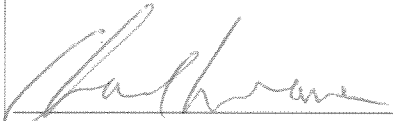
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



R. Keith Smith, P.E., Chief Operating Officer

APPROVED AS TO FORM:



Chad Weaver, Assistant City Attorney

vw:ccdcs/RES.Contract-Turfmaster
March 26, 2013

**BID SUBMITTAL FORM
UNIT PRICE BID CONTRACT**

DATE: 3-25-13

ITB 13-11218- DG FM 1585 Water Line Extension Milwaukee Avenue to Iola Avenue

Bid of Turfmaster Irrigation & Landscaping, Inc. (hereinafter called Bidder)

To the Honorable Mayor and City Council City of Lubbock, Texas (hereinafter called Owner)

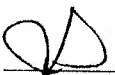
Ladies and Gentlemen:

The Bidder, in compliance with your Invitation to Bid for the construction of FM 1585 Water Line Extension Milwaukee Avenue to Iola Avenue, 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.

ITEM #	ITEM DESCRIPTION	QTY (+/-)	UNIT	UNIT COST	EXTENDED COST
General Items					
1	Mobilization - Including Contractor mobilization, insurance, payment bond, performance bond and demobilization.	1	LS		10,000. ⁰⁰
2	SWPPP - Including preparation, NOI, implementation, NOT and all other work considered incidental to this item.	1	LS		5,000. ⁰⁰
3	Traffic Control - Including TCP, signage, cones, barrels, temporary paving, detours, phasing and all other work considered incidental to this item.	1	LS		5,000. ⁰⁰
4	Surveying and As-built Record Drawings	1	LS		7,000. ⁰⁰
General Items Extended Total:					
Site Specific Items					
5	12" C900 PVC DR 18 Pipe Using Direct Bury Method - Including materials, equipment and labor to perform excavations, installation, embedment, backfill, testing and all other work considered incidental to this item.	2,610	LF	30. ⁰⁰	78,300. ⁰⁰
6	6" C900 PVC DR 18 Pipe Using Direct Bury Method - Including materials, equipment and labor to perform excavations, installation, embedment, backfill, testing and all other work considered incidental to this item.	6	LF	100. ⁰⁰	600. ⁰⁰

7	12" Gate Valve - Including materials, equipment, and labor to perform excavations, installation, backfill, testing, and all other work considered incidental to this item.	3	EA	3,500. ⁰⁰	10,500. ⁰⁰
8	6" Gate Valve - Including materials, equipment, and labor to perform installation, restraining, and all other work considered incidental to this item.	3	EA	1,000. ⁰⁰	3,000. ⁰⁰
9	Fire Hydrant Assembly - Including materials, equipment and labor to perform excavation, installation, embedment, backfill, testing, and all other work considered incidental to this item.	3	EA	4,000. ⁰⁰	12,000. ⁰⁰
10	Ductile Iron Fittings - Including materials, equipment, and labor to perform installation, blocking, restraining, and all other work considered incidental to this item.	665	LB	4. ⁵⁰	2,992. ⁵⁰
Site Specific Items Extended Total:					134,392. ⁵⁰
Project Total:					\$ 134,392. ⁵⁰

 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 (90) CALENDAR 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 \$ 300 for each consecutive calendar 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.

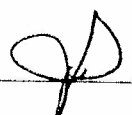
Bidder understands and agrees that this bid submittal shall be completed and submitted in accordance with instruction number 28 of the General Instructions to Bidders.

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 SEVENTY (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.

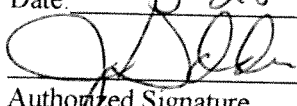
Bidders are required, whether or not a payment or performance bond is required, to submit a cashier's check or certified check issued by a bank satisfactory to the City of Lubbock, or a bid bond from a reliable surety company, payable without recourse to the order of the City of Lubbock in an amount 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 N/A Dollars (\$ N/A) or a Bid Bond in the sum of _____ Dollars (\$ 6,719.43), 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: 3-25-13

 Authorized Signature
Jimmy Schneider
 (Printed or Typed Name)

(Seal if Bidder is a Corporation)

ATTEST:

Secretary _____

Bidder acknowledges receipt of the following addenda:

Addenda No. #1 Date 3-18-13
 Addenda No. _____ Date _____
 Addenda No. _____ Date _____
 Addenda No. _____ Date _____

Turfmaster Irrigation + Landscaping, Inc.
 Company
11410 Trefalgar Ave
 Address
Lubbock, Lubbock
 City, County
Texas, 79424
 State Zip Code
 Telephone: 806 - 787-3767
 Fax: 806 - 407-5806

FEDERAL TAX ID or SOCIAL SECURITY No.
75-2658808

EMAIL: jimmyturfmaster@gmail.com

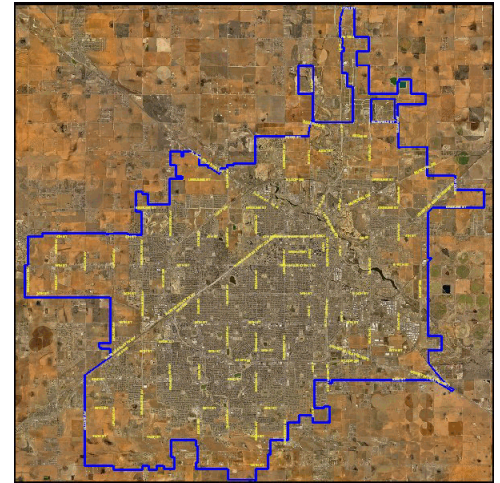
M/WBE Firm:

☐	Woman	☐	Black American	☐	Native American
☐	Hispanic American	☐	Asian Pacific American	☐	Other (Specify)

**City of Lubbock, TX
Capital Project
Project Cost Detail
April 11, 2013**

Capital Project Number:	91035
Capital Project Name:	<u>Water Lines Ahead of Paving</u>

	<u>Budget</u>
<i>Encumbered/Expended</i>	
City of Lubbock Staff Time	\$ 196,896
Professional Services	5,802
Advertisement	673
Hugo Reed & Associates	2,229
Water System Improvements	434,703
Wright Construction	475,036
Mickie Services	12,900
Alan Butler Construction	479,173
Armor Asphalt	1,213
Lewis Construction	156,999
Sewer System Improvements	45,396
 <i>Agenda Items: Date April 11,2013</i>	
FM 1585 Water Line: From Milwaukee to Iola Ave.	<u>134,393</u>
<i>Encumbered/Expended to Date</i>	<u>1,945,412</u>
 <i>Estimated Costs for Remaining Appropriation</i>	
Uncommitted	<u>1,176,588</u>
<i>Remaining Appropriation</i>	<u>1,176,588</u>
Total Appropriation To Date	<u>\$ 3,122,000</u>

Managing Department **Public Works Engineering***Project Manager* **John Turpin***Project Classification* **Replacement Infrastructure***Project Status* **Approved***Project Scope*

Relocate and install water lines ahead of municipal, county, and state paving projects and future development including but not limited to the Gateway Paving Projects.

Project Justification

The project is an annual water line installation program coordinated with street paving projects.

Project History

This is part of an annual water line installation program coordinated with street paving projects.

\$375,000 was appropriated in FY 2004-05, Ord. No. 2005-00031, March 24, 2005.

Reduced funding by \$263,000 in FY 2005-06, Ord. No. 2006-00077, July 10, 2006.

\$300,000 was appropriated in FY 2006-07 Budget, Ord. No. 2006-00098, September 13, 2006.

\$1.1 million was appropriated in the FY 2007-08 Budget, Ord. No. 2007-00091, September 13, 2007.

\$360,000 was appropriated in FY 2008-09 Budget, Ord. No. 2008-00077, September 11, 2008.

\$400,000 was appropriated in the FY 2009-10 Budget, Ord. No. 2009-00073, August 27, 2009.

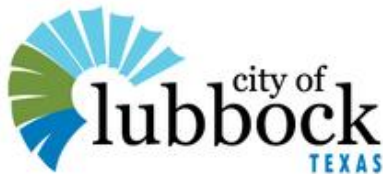
Reduced funding by \$400,000 in FY 2009-10 Budget Amendment No. 6, Ord. No. 2009-00108, December 2, 2009.

\$250,000 was appropriated in the FY 2011-12 Budget, Ord. No. 2011-00080, September 8, 2011.

\$1.0 million was appropriated in the FY 2012-13 Budget, Ord. No. 2012-00100, September 13, 2012.

<i>Appropriation Detail</i>	Appropriation to Date	Unappropriated Planning Years						Total Project Amount
		FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	
Construction	2,122,000	1,000,000	550,000	460,000	460,000	500,000	500,000	5,592,000
Total Project Appropriation	2,122,000	1,000,000	550,000	460,000	460,000	500,000	500,000	5,592,000

Funding Detail	Funding to Date	Unappropriated Planning Years						Total Funding
		FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	
2003 Tax and Waterworks Revenue CO's	112,000	0	0	0	0	0	0	112,000
FY 2007 10-year Tax Supported CO's	300,000	0	0	0	0	0	0	300,000
FY 2007 Water Revenue CO's	360,000	0	0	0	0	0	0	360,000
FY 2008 Water Revenue CO's	1,100,000	0	0	0	0	0	0	1,100,000
FY 2010 Water Revenue CO's	0	0	0	0	0	0	0	0
FY 2012 Water Revenue CO's	250,000	0	0	0	0	0	0	250,000
FY 2014 Water Revenue CO's	0	0	550,000	0	0	0	0	550,000
FY 2015 Water Revenue CO's	0	0	0	460,000	0	0	0	460,000
FY 2016 Water Revenue CO's	0	0	0	0	460,000	0	0	460,000
FY 2017 Water Revenue CO's	0	0	0	0	0	500,000	0	500,000
FY 2018 Water Revenue CO's	0	0	0	0	0	0	500,000	500,000
Prior Year Bonds	0	1,000,000	0	0	0	0	0	1,000,000
Total Funding Sources	2,122,000	1,000,000	550,000	460,000	460,000	500,000	500,000	5,592,000



Regular City Council Meeting

5. 9.

Meeting Date: 04/11/2013

Information

Agenda Item

Contract Resolution – Sewer Utilities: Consider a resolution authorizing the Mayor to execute contract 11259 with Kimley Horn and Associates(KHA), Inc. for providing professional engineering services associated with the South Sanitary Sewer System Extension Phase II.

Item Summary

Over the past decades, the City has experienced significant growth on the south and southwest regions of the existing sewer collection system. A combination of a deteriorating temporary sewer lift station at 98th Street and Avenue P and population growth in the south and southwest has resulted in a need for additional conveyance capacity from South Lubbock to the South East Water Reclamation Plant (SEWRP). These improvements were recommended in the Wastewater Master Plan for the City completed in 2009. The scope of the project is to identify a route for a proposed gravity sewer line from Alcove Avenue to Avenue P along the 130th Street corridor. This line will connect to the South Lubbock Sanitary Sewer System Expansion Phase I from the SEWRP to the 98th Street and Avenue P lift station.

KHA, Inc. received the engineering contract for Phase I of this project and is currently completing the bid documents for Phase I. Contract negotiations were conducted with KHA. Fair and reasonable hourly rates were agreed for a total amount not to exceed \$143,600.

Texas Government Code, Chapter 2254, prohibits municipalities from selecting a provider of professional services on the basis of competitive bids and requires municipalities to award the contract on the basis of demonstrated competence and qualifications. Furthermore, a procurement of professional services is exempt from competitive bidding pursuant to Texas Local Government Code 252.022(a)(4).

Fiscal Impact

\$2,000,000 is appropriated in Capital Improvement Project 92310, South Lubbock Sanitary Sewer Expansion Phase II, with \$143,600 available for this purpose.

Staff/Board Recommending

R. Keith Smith, P.E. Chief Operating Officer

Attachments

[Resolution - Kimley Horn](#)

[Contract Phase II - Kimley Horn](#)

[Budget Detail](#)

[CIP Detail](#)

RESOLUTION

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

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, a Professional Services Agreement for the evaluation and study of sanitary sewer systems, by and between the City of Lubbock and Kimley-Horn and Associates, Inc., 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 _____.

GLEN C. ROBERTSON, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



R. Keith Smith, P.E., Chief Operating Officer

APPROVED AS TO FORM:



Chad Weaver, Assistant City Attorney

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement ("Agreement") for South Lubbock Sanitary Sewer System Extension Phase II, is entered into this _____ day of _____, 2013, by and between the City of Lubbock (the "City" or "Owner"), a Texas home rule municipal corporation, and Kimley-Horn and Associates, Inc. (the "Engineer"), a North Carolina corporation.

WITNESSETH

WHEREAS, Engineer has substantial skill and experience in evaluation and study of sanitary sewer systems and is qualified to perform such activities (the "Activities");

WHEREAS, Engineer has demonstrated competence and qualifications to perform the Services, as defined below, and will perform the Services for the price provided herein, said price stipulated by City and Engineer to be a fair and reasonable price;

WHEREAS, the City desires to contract with Engineer to perform services related to the Activities and Engineer desires to provide the services related to same.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and Engineer agree as follows:

ARTICLE I

Services

- 1.01 Engineer shall conduct all activities and within such time frames, as set forth on Attachment "A", "Scope of Services", attached hereto (the "Services").
- 1.02 Engineer's Personnel at the Project Site: The presence or duties of the Engineer's personnel at the Project site, whether as on-site representatives or otherwise, do not make the Engineer or its personnel in any way responsible for those duties that belong to City

and/or to other contractors, subcontractors, or other entities, and do not relieve the other contractors, subcontractors, or other entities of their obligations, duties, and responsibilities, including, but not limited to, all methods, means, techniques, sequences, and procedures necessary for coordinating and completing all portions of the work of those parties in accordance with their contract requirements and any health or safety precautions required by such work. The Engineer and its personnel have no authority to exercise any control over any contractor, subcontractor, or other entity or their employees in connection with their work or any health or safety precautions and have no duty for inspecting, noting, observing, correcting, or reporting on health or safety deficiencies of any contractor, subcontractor, or other entity or any other persons at the Project site except Engineer's own personnel. Conditions which may appear unsafe to the Engineer will be reported to the Contractor and the City.

ARTICLE II

Compensation and Term

- 2.01 The consideration to be paid for the Services to be provided the City as described in Article I shall be as provided in Attachment "A", attached hereto, a not to exceed amount of \$143,600. Billing rates for time and materials portions are provided in Attachment "A," attached hereto. This amount shall be invoiced to the City monthly as work is performed. Each invoice shall be payable by the City within thirty (30) days of receipt of same.
- 2.02 This Agreement shall expire three hundred sixty five (365) days from the date of execution. Additionally, the City may terminate this Agreement at any time during the term hereof by providing written notice to Engineer at least thirty (30) days prior to the

effective date of termination as provided in such notice. In the event this Agreement is so terminated, the City shall only pay Engineer for services actually performed by Engineer up to the date Engineer is deemed to have received notice of termination as provided herein.

- 2.03 The Engineer's compensation is based on timely authorization to proceed and timely completion of the Project. If the Project timing deviates from the assumed schedule for causes beyond the Engineer's control, the Engineer may request renegotiation of those portions of the compensation affected by the time change.
- 2.04 If the Engineer determines that additional time is required to complete the Services, the City Manager, or their designee, may execute an agreement to grant up to an additional three (3) months of time so long as the amount of the consideration does not increase. An amendment to this agreement resulting in any increase in the amount of the consideration must be approved by the City acting through its governing body.

ARTICLE III

Independent Contractor

- 3.01 It is understood and agreed that Engineer is to perform the Services in a sound and professional manner and exercising the degree of care, skill and diligence in the performance of the Services as is exercised by a professional engineer under similar circumstances and Engineer hereby represents to the City that the Services shall be so performed. Further, Engineer is and shall be considered at all times an independent contractor under this Agreement and/or in its service, hereunder. During the performance of the Services under this Agreement, Engineer and Engineer's employees will not be considered, for any purpose, employees or agents of the City within the meaning or the

application of any federal, state or local law or regulation, including without limitation, laws, rules or regulations regarding or related to unemployment insurance, old age benefits, workers compensation, labor, personal injury or taxes of any kind.

ARTICLE IV

Non-Arbitration

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

ARTICLE V

Events of Default/Remedies

5.01

a. City's Defaults/Engineer's Remedies. In the event the City shall default in the performance of any term or provision of this Agreement for any reason other than failure by Engineer to perform hereunder, Engineer may, if said default shall be continuing after five (5) days notice of such default is deemed received by the City, exercise any right or remedy available to it by law, contract, equity or otherwise.

b. Engineer's Defaults/City's Remedies. In the event Engineer shall default in the performance of any term or provision of this Agreement for any reason other than failure by the City to perform hereunder, the City may, if said default shall be continuing after five (5) days notice of such default is deemed received by Engineer, exercise any right or

remedy available to it by law, contract, equity or otherwise, including without limitation, specific performance and/or the right to terminate this Agreement without additional notice. The remedies set forth herein are cumulative and not exclusive, and may be exercised concurrently.

ARTICLE VI

Insurance/Indemnity

- 6.01 Engineer 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 City, carried with an insurance company authorized to transact business in the state of Texas, covering all aspects and risks of loss of all operations in connection with this Agreement, including without limitation, the indemnity obligations set forth herein.

Engineer shall obtain and maintain in full force and effect during the term of this Agreement, and shall cause each approved subcontractor or subconsultant of Engineer to obtain and maintain in full force and effect during the term of this Agreement, commercial general liability, professional liability and automobile liability coverage for non-owned and hired vehicles 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. Except for Professional Liability, the policies will be written on an occurrence basis, subject to the following minimum limits of liability:

Commercial General Liability:

Combined Single Limit: \$1,000,000

Professional Liability:

Combined Single Limit: \$1,000,000

Automobile Liability:

Combined Single Limit for any auto: \$500,000 Per Occurrence

Engineer shall further cause any approved subcontractor to procure and carry, during the term of this Agreement, Professional Liability coverage, as specified above for Engineer, protecting City against direct losses caused by the professional negligence of the approved subcontractor.

The City shall be listed as a primary additional insured with respect to the Automobile Liability and Commercial General Liability and shall be granted a waiver of subrogation under those policies. Engineer shall provide a Certificate of Insurance to the City as evidence of coverage. The Certificate shall provide 30 days notice of cancellation. A copy of the additional insured endorsement and waiver of subrogation attached to the policy will be included in the Certificate.

Engineer shall elect to obtain worker's compensation coverage pursuant to Section 406.002 of the Texas Labor Code. Further, Engineer shall maintain said coverage throughout the term of this Agreement and shall comply with all provisions of Title 5 of the Texas Labor Code to ensure that the Engineer maintains said coverage. The Engineer may maintain Occupational Accident and Disability Insurance in lieu of Worker's Compensation. In either event, the policy must be endorsed to include a waiver of subrogation in favor of the City of Lubbock.

If at any time during the life of the Agreement or any extension hereof, Engineer fails to maintain the required insurance in full force and effect, Engineer shall be in breach hereof and all work under the Agreement shall be discontinued immediately.

Engineer shall indemnify and hold City and City's elected officials, officers, agents, employees and independent contractors harmless, to the fullest extent permitted by law, from and against any and all claims, demands, damages, costs, liabilities and expenses, and including reasonable attorney's fees, as a result of, related to or arising from Engineer's use or occupation of City owned lands, and/or to the extent of Engineer's negligent activities, performance, operations or omissions under this Agreement. The indemnity provided herein shall survive the expiration or termination of this Agreement.

ARTICLE VII

Miscellaneous

- 7.01 Engineer shall comply with applicable laws, statutes, regulations, ordinances, rules and any other legal requirement related to, in any way, manner or form, the performance of the Services contemplated herein.
- 7.02 Any notice required by this Agreement shall be deemed to be properly served, if (i) provided in person or by telephonic facsimile; or (ii) deposited in the United States mail by certified letter, return receipt requested, addressed to the recipient at recipient's address shown below, subject to the right of either party to designate a different address by notice given in the manner just described. Notice shall be deemed to be received when delivered if provided in person or by telephonic facsimile or, if deposited in the United States mail, as set forth above, three (3) days after depositing such notice in the

United States mail, as set forth above.

For City:
John Turpin, P.E.
P.O. Box 2000
Lubbock, Texas 79457
Facsimile: (806) 775-3344

For Engineer:
Jeff James, P.E.
Kimley-Horn and Associates, Inc.
801 Cherry Street, Unit 11, Suite 950
Fort Worth, Texas 76102
Facsimile (817) 335-5070

- 7.03 THIS AGREEMENT IS TO BE CONSTRUED UNDER TEXAS LAW WITHOUT REGARD TO CONFLICT OF LAW RULES THAT WOULD DIRECT APPLICATION OF THE LAWS OF ANY OTHER JURISDICTION. THE OBLIGATIONS OF THE PARTIES CREATED BY THIS AGREEMENT ARE PERFORMABLE, AT LEAST IN PART, IN LUBBOCK COUNTY, TEXAS. VENUE FOR ANY ACTION BROUGHT PURSUANT TO THIS AGREEMENT, OR ACTIVITY CONTEMPLATED HEREBY, SHALL EXCLUSIVELY BE IN LUBBOCK COUNTY, TEXAS.
- 7.04 This Agreement, including the exhibits and attachments hereto, represents the entire and sole agreement between the City and Engineer with respect to the subject matter hereof and supersedes any and all prior negotiations, understandings, representations or other agreements, whether written or oral. This Agreement may not be modified or amended except in writing and duly executed by each party hereto.
- 7.05 Nothing contained herein shall be construed to imply a joint venture, joint enterprise, partnership or principal – agent relationship between Engineer and the City.

- 7.06 If any provision of this Agreement is declared invalid or unenforceable, such provision shall be deemed modified to the extent necessary to render it valid and enforceable so long as said modification is reasonably within the intent the parties as originally expressed. In the event such provision may not be so modified, the unenforceability or invalidity of any provision shall not affect any other provision of this Agreement, and this Agreement shall continue in force and effect as if such provision had not been included in this Agreement.
- 7.07 Any and all documents, drawings and specifications prepared by Engineer as part of the Services hereunder, shall become the property of the City when Engineer has been compensated as set forth in Section 2.01, above. The City will assume sole liability for any reuse or modification of the Engineer's work product. The Engineer may make copies of any and all work products for its files.
- 7.08 A waiver by either City or Engineer of a breach of this Agreement must be in writing to be effective. In the event either party shall execute and deliver such waiver, such waiver shall not affect the waiving party's rights with respect to any other or subsequent breach.
- 7.09 Engineer may not assign or subcontract any part of the Services under this Agreement, in whole or in part, without the written consent of such assignment or subcontract by the City. Engineer may, subject to the right of approval by the City, subcontract certain of the Services to highly qualified professionals. The right of approval of the City of Engineer's subcontractors is hereby delegated by the City Council of City to the Director of Water Utilities. The approval by the City of the subcontract requested by Engineer shall not affect the liability of Engineer hereunder to City for the timely performance of the Services as prescribed in this Agreement. The term "Engineer", as used in and for all

purposes of this Agreement, includes Engineer's subcontractors and subconsultants. City and Engineer each bind itself or himself, their legal representatives and permitted assigns in respect to all provisions of this Agreement.

- 7.10 Nothing in this Agreement shall be construed to provide any rights or benefits whatsoever to any party other than City and Engineer.
- 7.11 In the event Engineer is required by law to respond to a subpoena, government inquiry or other legal process directly related to the Services in connection with a legal or dispute resolution proceeding to which the City is a party and to which Engineer is not a party, City shall reimburse Engineer for reasonable costs in responding and compensate Engineer at its then standard rates for reasonable time incurred in gathering information and documents and attending depositions, hearings, and trial.
- 7.12 Engineer represents and warrants to City that it has taken all actions necessary to authorize the party executing this Agreement to bind, in all respects, Engineer to all terms and provisions of this Agreement, and that such person possesses authority to execute this Agreement and bind Engineer hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized representatives as of the date first written above.

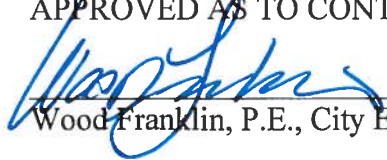
CITY OF LUBBOCK

Glen C. Robertson, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



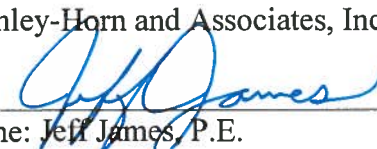
Wood Franklin, P.E., City Engineer

APPROVED AS TO FORM:



City Attorney

Kimley-Horn and Associates, Inc.

By: 

Name: Jeff James, P.E.

Title: Senior Vice President

ATTACHMENT "A"

Scope of Services

Project Understanding

This project is identified in the City of Lubbock Wastewater Master Plan, August 2009, as the 130th Street Gravity Line. It is also identified in the City of Lubbock Capital Improvement Program as the South Lubbock Sanitary Sewer Expansion Phase II project.

Section I of this project includes the following tasks necessary for identifying a route for a proposed gravity sanitary sewer line from Alcove Avenue to Avenue P along the 130th Street corridor.

Task 1: Project Management

Task 2: Routing and Alignment Study

The Scope of Services for future sections (master plan update, preliminary design, final design, and bidding/construction phase services) as recommended by the City of Lubbock is not included and may be provided as an amendment to this contract.

Section I

Task 1 Project Management

- a) Develop project communication plan
 - i) Prepare for and conduct monthly progress meetings to monitor the development of the project. A total of four (4) meetings are anticipated.
 - ii) Coordinate with survey subconsultant.
 - iii) Prepare monthly progress reports to the project team (as necessary).
- b) Develop project production plan
 - i) Document design criteria (coordinate with City staff at the project kick-off meeting).
 - ii) Develop project schedule and interim milestones (coordinate with City staff at the project kick-off meeting).
 - iii) Coordinate milestones with QC/QA reviewer, distribute plans and collect comments from the QC/QA reviewer.
- c) Project Administration
 - i) Prepare project correspondence and invoicing documents.

2) Routing and Alignment Study

- a) Kick-Off Meeting
 - i) Prepare for and facilitate a kick-off meeting with the City to develop criteria for alignment selection and design parameters.
- b) Data Collection - The City will be responsible for making the following information available to the Engineer where available.
 - i) Existing and Available Record Drawings (hard copy or electronically)
 - (1) Water system improvements.
 - (2) Sanitary sewer system improvements.
 - (3) Roadway improvements.
 - (4) Storm water improvements.
 - ii) Existing and Available digital maps
 - (1) Block or R.O.W. maps.
 - (2) Utility maps (water, sewer, and storm sewer) in GIS format.
 - (3) Contour maps with contour intervals of 5 feet based on the source data available from the City.
 - (4) Current aerial photography of the study area.
 - iii) In progress and planned projects in the study area
 - (1) Street/Roadway/Transportation improvements (including MPO).
 - (2) Water system improvements.
 - (3) Sanitary sewer system improvements.
 - (4) Storm water system improvements.
 - iv) Wastewater Master Plan, current version
 - (1) Historical information on sanitary sewer overflows in the study areas.
 - (2) Sanitary sewer overflow data.
 - (3) Electronic version of sanitary sewer model if available.
 - (4) Assumptions (i.e. Land Use, Population, Growth, etc.) used in the creation of the model.
 - v) Sanitary sewer inspection report and video, if available
 - vi) Submitted Plat Information for Load Area 8.
- c) Alignment Evaluation
 - i) Evaluate multiple alignments throughout the study area based on the following criteria.
 - (1) Wastewater System Master Plan
 - (2) Conflict with existing and proposed infrastructure
 - (3) Pipe material
 - (4) Property ownership
 - (5) Permitting
 - (6) Operational flexibility
 - (7) Traffic counts
 - (8) Easement acquisition requirements
 - (9) Hydraulics
 - (10) Constructability

- (11) Maintenance
- (12) Construction costs
- ii) Based on the alignment criteria, perform the following services in evaluating the multiple routes.
 - (1) Profile alignments.
 - (2) Property owner research and coordination on affected properties.
 - (3) Research any proposed plats within the Load Area 8.
 - (4) Meet with City personnel and land developers along the corridor including up to three (3) site visits
- d) Routing and Alignment Report
 - i) Provide 22"x34" exhibits and letter report summarizing the evaluation of no more than three (3) proposed alignments for the sewer line. The exhibits and letter report will include the following:
 - (1) Criteria for alignment selection and design parameters developed during the kick-off meeting.
 - (2) Advantages and disadvantages of each alignment.
 - (3) Recommended alignment.
 - (4) Recommended lift stations (if necessary).
 - (5) Recommended pipe size.
 - (6) Recommended pipe material with alternates.
 - (7) Recommended type of construction (open cut, bore, tunneling, etc.).
 - (8) Preliminary Opinion of Probable Construction Cost (OPCC) for each alignment
 - (9) Preliminary construction schedule for each alignment.
 - (10) Alignment exhibits.
 - (a) aerial photograph showing the approximate alignment
 - (b) property information obtained from the Lubbock Appraisal District
 - (c) zoning and land use information for each alignment
 - (d) recommended easement/right-of-way requirements
 - (e) profile of each alignment based on existing contour maps
- e) Routing and Alignment Submittal
 - i) Engineer will attend up to two (2) review meetings with City staff in Lubbock and conduct an electronic review. Review comments will be recorded during this meeting and distributed to members of the design team and the City. This review shall include the following:
 - (1) Six (6) copies of the Routing and Alignment Report for review and comment.
 - ii) Address comments and prepare final routing and alignment report

Additional Services/Future Tasks

Additional services to be performed if authorized by the City, but which are not included in the above-described Scope of Services, are as follows:

- A. Topographic survey
- B. Preliminary and Final Design tasks
- C. Update to the City's Wastewater Master Plan
- D. Update to the City's GIS data or maps.
- E. Preparation of contract documents or easement acquisition services
- F. Bidding and Construction phase services
- G. Update to the land use plan.
- H. Additional copies of Routing and Alignment report.
- I. Structural design
- J. Perform condition assessment on any existing sanitary sewer line including flow monitoring.
- K. Preparation of platting documents and/or real property survey for site acquisition.
- L. Permitting, application, and similar project fees.
- M. Accompanying the City when meeting with the TCEQ, U.S. Environmental Protection Agency, or other regulatory agencies during the course of the Project, beyond those meetings identified above. The Engineer will assist the City on an as-needed basis in preparing compliance schedules, progress reports, and providing general technical support for the Client's compliance efforts.
- N. Assisting City or Contractor in the defense or prosecution of litigation in connection with or in addition to those services contemplated by this Agreement. Such services, if any, will be furnished by the Engineer on a fee basis negotiated by the respective parties outside of and in addition to this Agreement.
- O. Sampling, testing, or analysis beyond that specifically included in the Scope of Services referenced herein above.
- P. Preparing applications and supporting documents for government grants, loans, or planning advances, and providing data for detailed applications.
- Q. Appearing before regulatory agencies or courts as an expert witness in any litigation with third parties or condemnation proceedings arising from the development or construction of the Project, including the preparation of engineering data and reports for assistance to the City.
- R. Providing professional services associated with the discovery of any hazardous waste or materials in the project site.
- S. Additional meetings beyond those identified in the Scope of Services.
- T. Preparation for and attendance to public meetings to discuss the project.
- U. Any services not listed in the Scope of Services.

Schedule

Engineer will provide the Services as expeditiously as practicable to meet the described schedule.

- Routing and Alignment Submittal – 4 months upon notice to proceed.

Fee and Billing

Engineer will provide the **Reimbursable Tasks** identified in the Scope of Services and shown in the Table below on a labor fee plus expense basis total, not to exceed \$143,600 for the reimbursable tasks, which includes all reimbursable expenses. The not to exceed amount will not be exceeded without the client's prior written approval and amendment of this Agreement. The reimbursable fee breakdowns below are provided for budgeting purposes only and are not intended to represent a specific budget for each reimbursable task. Engineer reserves the right to reallocate the reimbursable budget among tasks as determined necessary by Engineer and approved by City's representative. Labor fees will be billed according to the attached rate schedule. Direct reimbursable expenses including express delivery services, fees, and other direct expenses will be billed at 1.10 times cost. An amount will be added to each invoice to cover certain other expenses such as in-house duplicating, local mileage, telephone calls, facsimiles, postage, and word processing.

Reimbursable fees will be invoiced monthly based on the actual amount of services performed and expenses incurred. Payment of all fees will be due within 30 days of your receipt of the invoice.

Section I

Task:	Task Fee:
1. Project Management	\$31,000
2. Routing and Alignment Study (including Hugo Reed)	\$112,600
Total Reimbursable Fee:	\$143,600

Kimley-Horn and Associates, Inc.

Standard Rate Schedule

(Hourly Rate)

Quality Control (QC)	\$215
Project Manager (PM)	\$200
Senior Professional Engineer	\$150
Professional Engineer (PE)	\$135
Analyst/Engineer-In-Training (EIT)	\$110
Administrative Assistance	\$75

Effective January 1, 2013



Date: Feb 26, 2013



Date: February 26, 2013

Number: 100
Name: Project Mgmt
Task Mgr: Aaron Rader

[illegible]

Project Workplan Budget

Date: February 26, 2013

General Project Information

Client: **City of Lubbock**
Project: **South Lubbock SS Phase 2**
KHA No: **0631260XX**
PM: **Jeff James**

Task Effort Summary

Labor:	\$	70,000
Expenses:	\$	9,600
TOTAL:	\$	79,600

Task Information

Number: 200
Name: Routing & Alignment
Task Mgr: Aaron Rader

Task Description and Budgeting

[illegible]



General Project Information

Task Effort Summary

Task Information

Date: March 1, 2013

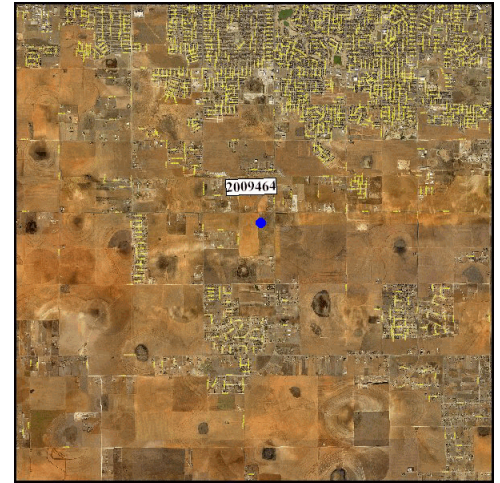
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	Lbr										Comp	Exp
Effort:	\$1,000	\$6,000		\$13,000	\$10,000						\$30,000	

**City of Lubbock, TX
Capital Project
Project Cost Detail
April 11, 2013**

Capital Project Number:	92310
Capital Project Name:	<u>South Sanitary Sewer System Extension Phase II</u>

	<u>Budget</u>
<i>Encumbered/Expended</i>	
City of Lubbock Staff Time	\$430
<i>Agenda Items: April 11, 2013</i>	
Kimley Horn and Associates, Inc. #11259	<u>143,600</u>
<i>Encumbered/Expended to Date</i>	<u>144,030</u>
<i>Estimated Costs for Remaining Appropriation</i>	
Uncommitted	<u>1,855,970</u>
<i>Remaining Appropriation</i>	<u>1,855,970</u>
Total Appropriation To Date	<u><u>\$2,000,000</u></u>

Managing Department **Public Works Engineering***Project Manager* **John Turpin***Project Classification* **Infrastructure Improvements***Project Status* **Approved***Project Scope*

Engineering and construction of large diameter sanitary sewer mains in South and Southwest Lubbock, as recommended by the Sewer Collection System Master Plan. The areas included are south of 114th Street and west of University Avenue.

Project Justification

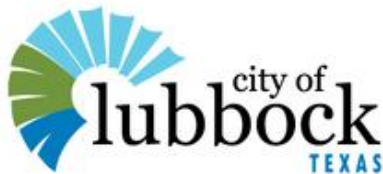
The project provides sanitary sewer service to newly annexed areas in South and Southwest Lubbock. With recent annexations in South and Southwest Lubbock, the sanitary sewer collection system needs to be extended to provide service.

Project History

\$2.0 million was appropriated in the FY 2012-13 Budget, Ord. No. 2012-O0100, September 13, 2012.

<i>Appropriation Detail</i>	Appropriation to Date	Unappropriated Planning Years						Total Project Amount
		FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	
Construction	0	2,000,000	16,000,000	0	0	0	0	18,000,000
Design and Engineering	2,000,000	0	0	0	0	0	0	2,000,000
Total Project Appropriation	2,000,000	2,000,000	16,000,000	0	0	0	0	20,000,000

<i>Funding Detail</i>	Funding to Date	Unappropriated Planning Years						Total Funding
		FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	
FY 2011 Wastewater Revenue CO's	2,000,000	0	0	0	0	0	0	2,000,000
FY 2015 Wastewater Revenue CO's	0	0	18,000,000	0	0	0	0	18,000,000
Total Funding Sources	2,000,000	0	18,000,000	0	0	0	0	20,000,000



Regular City Council Meeting

5. 10.

Meeting Date: 04/11/2013

Information

Agenda Item

Ordinance 2nd Reading - Planning: Zone Case 3203. A request of Todd Leake for a zoning change from T to M-1 limited to the wholesale of trees and shrubs and a holding yard on 3.4 acres of unplatted land out of Block E-2, Section 21 (north of 125th Street between Indiana Avenue and Flint Avenue).

Item Summary

On March 28, 2013, the City Council approved the first reading of the ordinance.

Zoning Request:

From T to M-1 limited to tree and shrub wholesale and holding yard.

Proposed Land Use:

Tree and shrub wholesale.

Adjacent Land Uses:

N – Vacant, Zoned T Transition

S – Residential, Zoned T Transition

E – Residential, Zoned T Transition

W – Commercial, Zoned IHC Interstate Highway Commercial

Planning and Zoning Commission (P&Z) Public Hearing Notes from March 7, 2013:

No one other than the applicant appeared before the P&Z. The applicant explained that the property was only going to be used to store trees and shrubs for regional distribution and that there would be no sales occurring on this tract. The P&Z voted unanimously to approve.

Impact on the Comprehensive Land Use Plan (CLUP):

The proposal represents a minor change to the CLUP. Although the request is for an industrial land use (namely outside sales), the proposed project should act as a buffer to future adjacent land uses. This tract or a portion of this tract was previously used for a nursery. It has since lost its legal non-conforming status by remaining vacant of the land use for more than one year.

P&Z Recommendation:

The P&Z recommends approval with the following condition:

1. Limited to the wholesale of trees, shrubs, and other plants along with a holding/storage yard.

Fiscal Impact

None.

Staff/Board Recommending

Quincy White, Assistant City Manager
P&Z Commission

Attachments

Ordinance - Zone Case 3203

Zone Case 3203

ORDINANCE NO. _____

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 7084 AND THE OFFICIAL MAP OF THE CITY OF LUBBOCK MAKING THE FOLLOWING CHANGES: **ZONE CASE NO. 3203**; A ZONING CHANGE FROM T TO M-1 ZONING DISTRICT LIMITED TO **THE WHOLESALE OF TREES AND SHRUBS AND A HOLDING YARD, ON 3.4 ACRES OF UNPLATTED LAND OUT OF BLOCK E-2, SECTION 21**, LUBBOCK, TEXAS; PROVIDING A PENALTY; SUBJECT TO CONDITIONS; PROVIDING A SAVINGS CLAUSE AND PROVIDING FOR PUBLICATION.

WHEREAS, the proposed changes in zoning as hereinafter made have been duly presented to the Planning and Zoning Commission for its recommendation which was received by the City Council and, after due consideration, the City Council found that due to changed conditions, it would be expedient and in the interest of the public health, safety and general welfare to make those proposed changes in zoning; and

WHEREAS, the 1986 Comprehensive Land Use Plan as amended is a guide to help the Lubbock Planning and Zoning Commission and City Council determine the physical development of the community; however, planning is a continuous process and change is inevitable; and

WHEREAS, the Lubbock Planning and Zoning Commission and City Council recognize that the zone change is a minor deviation from the 1986 Comprehensive Land Use Plan as amended, which protects public and private commitments that have been previously based on the Plan; and

WHEREAS, all conditions precedent required by law for a valid amendment to the Zoning Ordinance and Map have been fully complied with, including giving notices in compliance with Section 40.01.005 of the Code of Ordinances, City of Lubbock, Texas, and the notices provided by the Texas Local Government Code §211.007 (Vernon, 1990), and notice was duly published in the Lubbock Avalanche-Journal more than fifteen (15) days prior to the date of the public hearing before the City Council on such proposed amendment, and the public hearing according to said notice, was held in the City Council Chamber of the Municipal Building, Lubbock, Texas, at which time persons appeared in support of the proposal; and after said hearing, it was by the City Council determined that it would be in the public interest, due to changed conditions, that the Zoning Ordinance and the Zoning Map be amended in the manner hereinafter set forth in the body of this Ordinance and this Ordinance having been introduced prior to first reading hereof; NOW THEREFORE:

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

ZONE CASE NO. 3203

SECTION 1. THAT Ordinance No. 7084 and the Official Zoning Map are amended as follows:

A change of zoning under the provisions of Section 40.01.005 of the Code of Ordinances of the City of Lubbock from T to M-1 zoning district **limited to the wholesale of trees and shrubs and a holding yard on 3.4 acres of unplatted land out of Block E-2, Section 21, City of Lubbock, Lubbock County, Texas, located at north of 125th Street between Indiana Avenue and Flint Avenue,** subject to conditions, and being further described as follows:

METES AND BOUNDS DESCRIPTION: Attached as Exhibit "A".

SUBJECT TO THE FOLLOWING CONDITIONS:

- 1. THAT the zone change be limited to the wholesale of trees, shrubs, and other plants along with a holding and/or storage yard.**

SECTION 2. THAT violation of any provision of this Ordinance shall be deemed a misdemeanor punishable by fine not to exceed Two Thousand and No/100 Dollars (\$2,000.00) as provided in Section 40.01.006 of the Zoning Ordinance of the City of Lubbock.

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

SECTION 4. THAT the City Secretary is hereby authorized to cause publication of the descriptive caption of this Ordinance as an alternative method provided by law.

AND IT IS SO ORDERED.

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

GLEN C. ROBERTSON, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Matt Perkins, Director of Planning

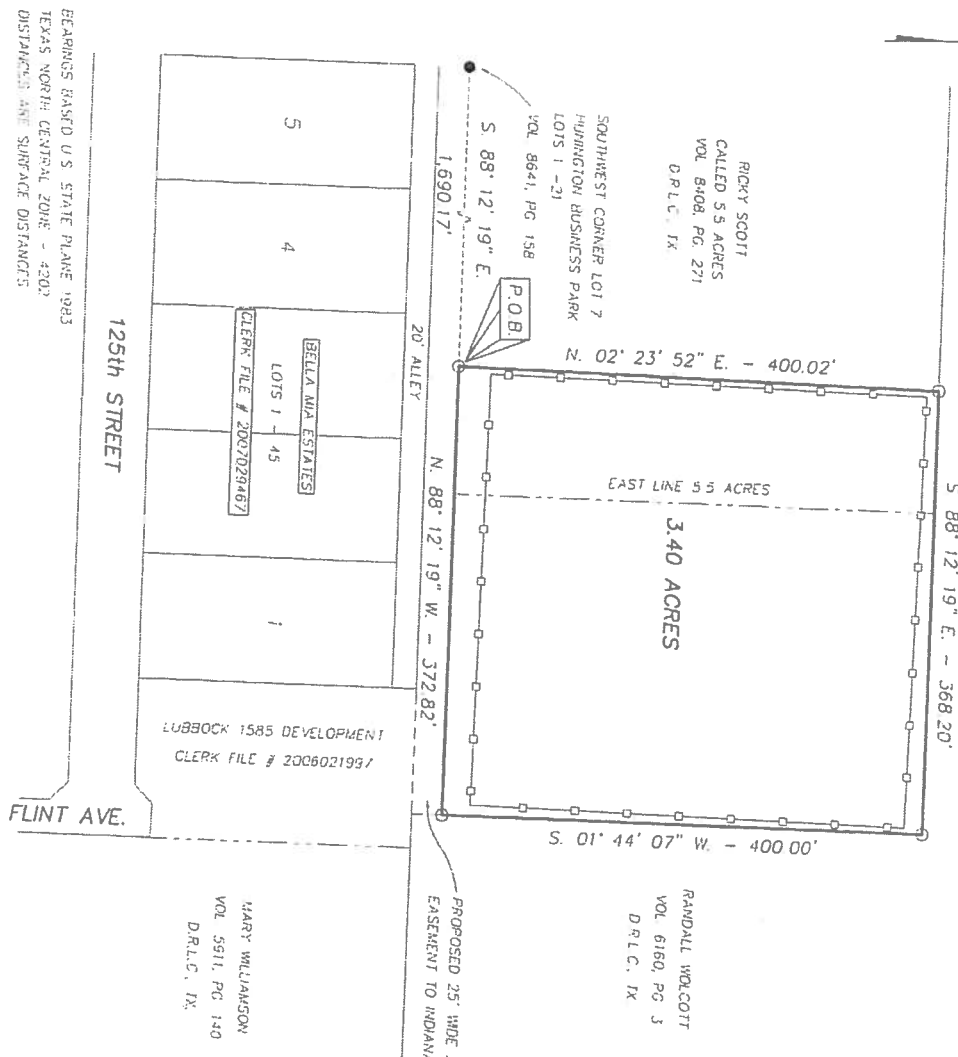
APPROVED AS TO FORM:



Chad Weaver
Assistant City Attorney

vw/CityAtt/Chad/Zones/ZC3203
March 7, 2013

RANDALL WOLCOTT
VOL. 6160, PG. 3
D.R.L.C., TX



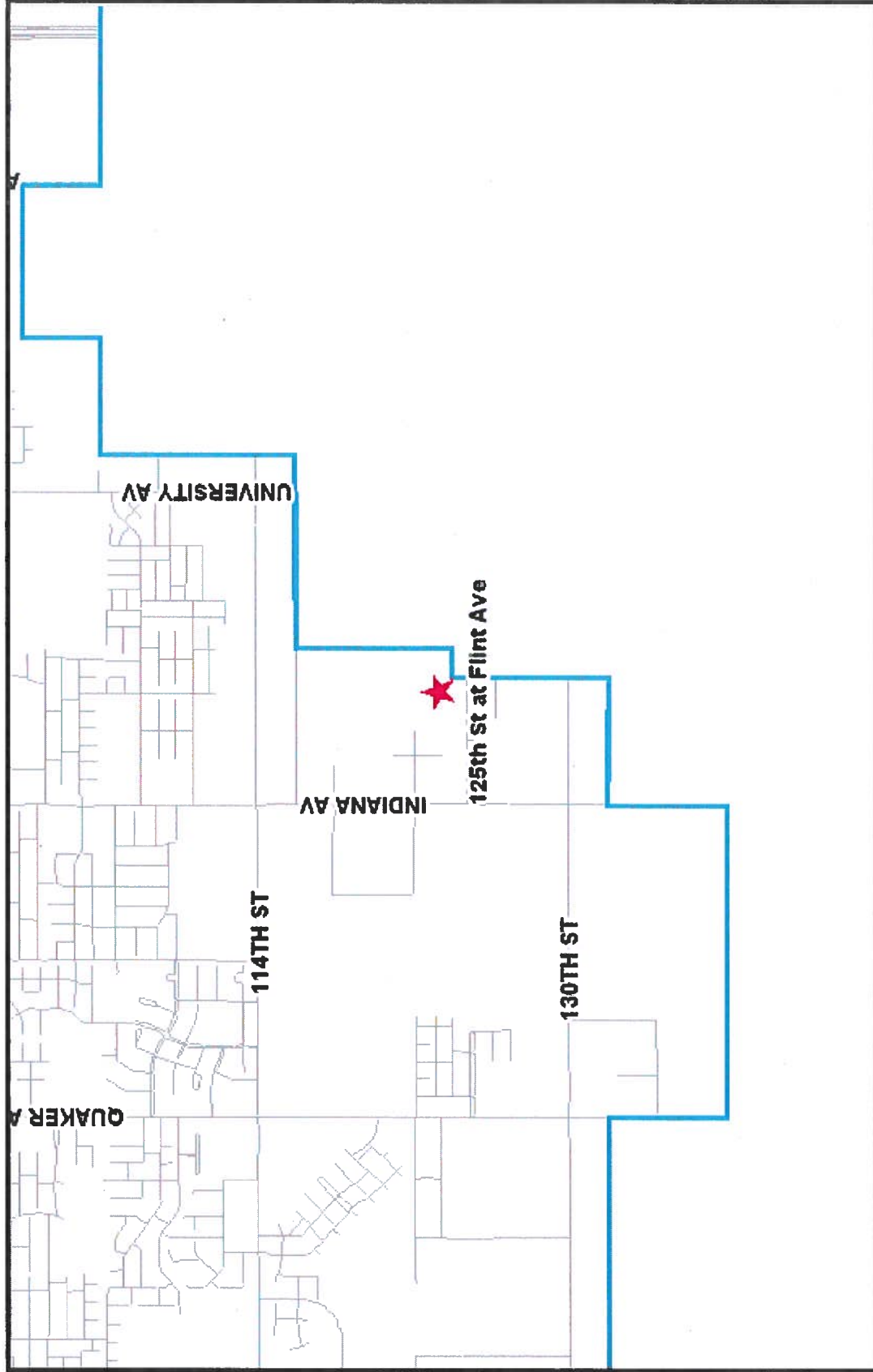
NOTE
Distances in () are plotted distances.
● = 1/2" iron rod w/yellow cap found
○ = 1/2" iron rod w/yellow cap increased "RPLS 4263" set
FIELD NOTES:
FIELD NOTES for a 3.40 acre tract of land being situated in Section 21, Block E - 2, Lubbock County, Texas, and being more particularly described as follows:
BEGINNING at a 1/2" iron rod with yellow cap inscribed "RPLS 4263" (such type cap and iron rod hereafter referred to as an OJD Cap) set in the north line of a proposed 25 foot wide access easement, which bears S. 88° 12' 19" E. a distance of 1,690.17 feet from a 1/2" iron rod with yellow cap found at the southwest corner of Lot 7, Huntington Business Park Lots 1 - 21, as recorded in Volume 8641, Page 158, Deed Records of Lubbock County, Texas, for the southwest corner of this tract
THENCE N. 02° 23' 52" E. a distance of 400.02 feet to an OJD Cap set for the northwest corner of this tract
THENCE S. 88° 12' 19" E. a distance of 368.20 feet to an OJD Cap set for the northeast corner of this tract
THENCE S. 01° 44' 07" W. a distance of 400.00 feet to an OJD Cap set at the northeast corner of said access easement for the southeast corner of this tract
THENCE N. 88° 12' 19" W. with the north line of said access easement, a distance of 372.82 feet to the place of BEGINNING and containing 3.40 acres of land

STATE OF TEXAS
COUNTY OF COLLINGSWORTH
KNOW ALL MEN BY THESE PRESENTS,
that I, Richard E. Johnson, Registered Professional Land Surveyor, do hereby certify that I did cause to be surveyed on the ground the tract of land shown on this plat, and to the best of my knowledge and belief, the said description is true and correct.
IN WITNESS THEREOF, my hand and seal, this the 31st day of December, A.D. 2012.

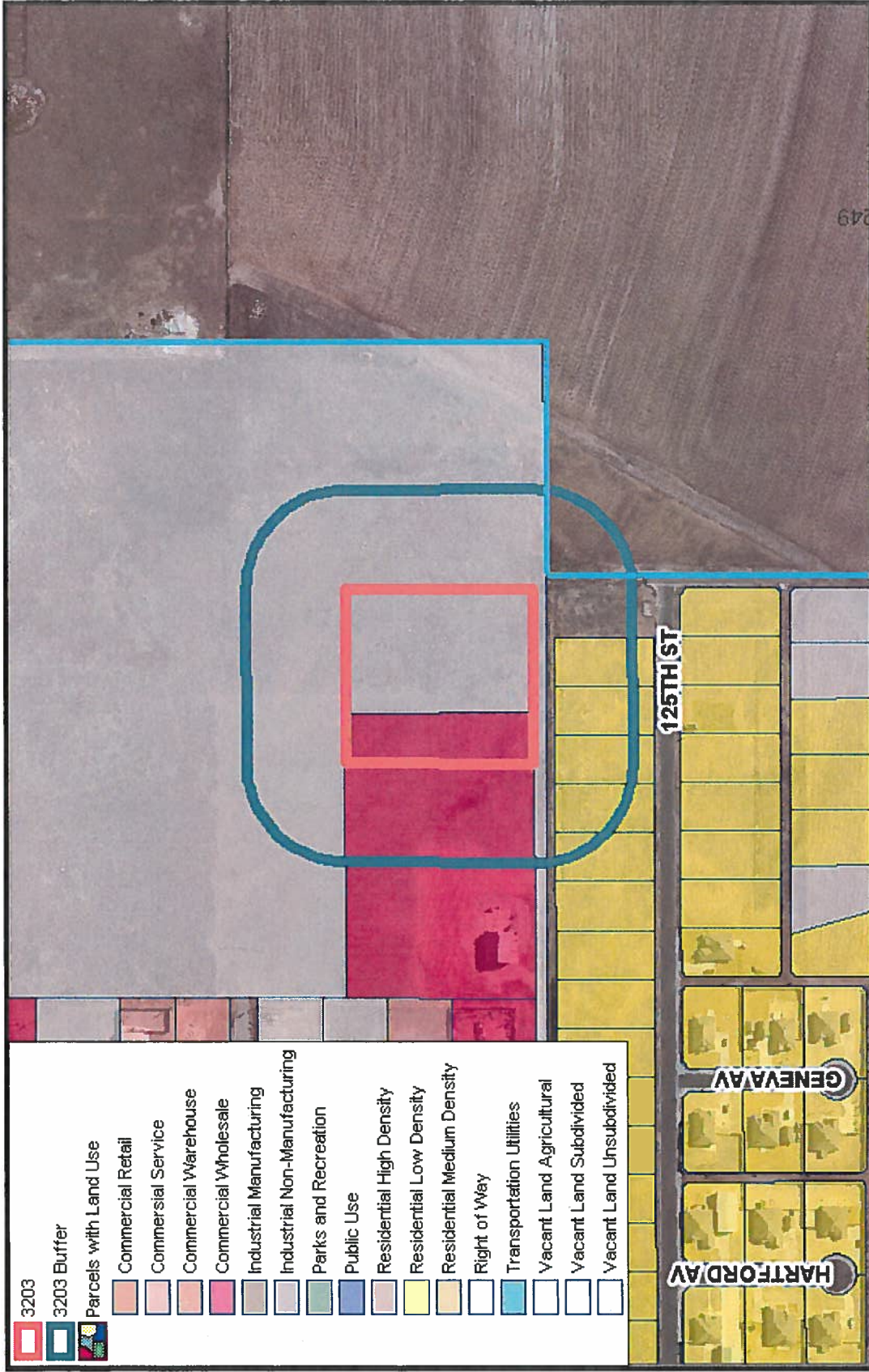


Richard E. Johnson
Richard E. Johnson
Registered Professional
Land Surveyor #4263

Situated in Section 21, Block E - 2, Lubbock County, Texas
A Plat of 3.40 Acres
SCALE: 1" = 100'
DATE: Dec 31, 2012
APPROVED BY: _____
DRAWN BY: CT
FILE NAME: _____
OLD Engineering, L.P.
Consulting Engineers & Surveyors
806-447-2503
P.O. Box 543
Wellington, Texas 79095
DRAWING NUMBER



P.Z.C. Case 3203



P.Z.C. Case 3203

Request of Todd Leake for a zoning change from T to M-1 limited to the wholesale of trees and shrubs and a holding yard, north of 125th Street between Indiana Avenue and Flint Avenue



APPLICATION FOR ZONE CHANGE

Lubbock Planning & Zoning Commission
PO Box 2000 / 1625 13th St
Lubbock, TX 79457

Applicant TODD LEAKE
(Please Print)
3803 85TH
Street/Post Office Box
Lubbock TX 79423
City State Zip
(806) 239-7185
Telephone

For _____

Street/Post Office Box

City State Zip
()
Telephone

Location or Address: Please see ATTACHED

Legal Description:* _____

Existing Land Use: VACANT **Existing Zoning:** T

Acres or Square Footage of Property: 3.40 Acres

Zoning Requested: Wholesale only Tree and Shrub
HOLDING YARD

Proposed Development: _____

If property is not subdivided, will preliminary plat be submitted?

Yes ✓ No _____

3
Applicant's Signature

Date

Filing Fee: 475 + 3(3) = 484
(\$475.00 for the first acre; \$3.00 for each additional acre;
\$165 for Non-Profit)

*There must be a separate legal description for each unplatted tract having different zoning. If the Planning & Zoning Commission or City Council amends a zone case as a condition for approval and if there is no appeal, an amended legal description must be received promptly or the zone case may be delayed.

REC: 17683

For City Use Only

Zone Case No.: 3203

Agenda No.: 1

Request for zoning change from: T

To: M-1

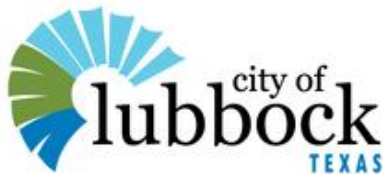
on 3.4 acres of unplatted land out of
Block E-2, Section 21

on Lot(s): _____

Block(s): _____

Subdivision: _____

Address: N of 125th St btwn
Indiana Ave + Flint Ave



Regular City Council Meeting

5. 11.

Meeting Date: 04/11/2013

Information

Agenda Item

Ordinance 2nd Reading - Planning: Zone Case 2224-E. A request of Quattro Lubbock, LLC for a zoning change from C-2A Specific Use to C-2 on Tract D-2-A, Western Meadows Addition (5605 Slide Road).

Item Summary

On March 28, 2013, the City Council approved the first reading of the ordinance.

Zoning Request:

From C-2A Restricted Local Retail District to C-2 Local Retail District.

Proposed Land Use:

The proposed land use is to construct two freestanding buildings to be used as retail lease spaces.

Adjacent Land Uses:

N – Commercial, Zoned C-3 General Retail District for a tire shop (Discount Tire)

S – Commercial, Zoned C-2A Restricted Local Retail District

E – Residential, Zoned R-1 Single-Family Residential Specific Use for reduced setbacks

W – Commercial, Zoned C-3 General Retail District Specific use and C-3 (mall and restaurant)

Planning and Zoning (P&Z) Public Hearing Notes:

The Planning Department received numerous phone calls from residents in the area wanting information on the zone case prior to the P&Z meeting. They expressed concern because of the current use of the property as well as its future use. No one other than the applicant appeared before the P&Z. The P&Z voted unanimously to approve.

Impact on the Comprehensive Land Use Plan (CLUP):

Slide Road is a major thoroughfare. The intersection of 57th (a collector) and Slide Road (major thoroughfare) is not a typical scenario we see within the City. The mall, caddy corner to this property, acts as an anchor and tends to pull more commercial uses towards this area. The CLUP dictates that this area along Slide Road should be considered for commercial uses. Although it is not typical to see heavier commercial on the corners of thoroughfares and collector streets, lighter commercial has been a common practice around this area and is acceptable.

The previous zone case completed on this property was for C-2A for a Restaurant which allows a restaurant or similar uses only on this property. The change to a less restrictive district, in staff's opinion, would not negatively affect the use on this property, yet would allow furniture stores.

Currently the proponent has indicated two freestanding buildings totaling 10,400 square feet for retail tenant spaces.

P&Z Commission Recommendation:

The P&Z recommends approval.

Fiscal Impact

None.

Staff/Board Recommending

Quincy White, Assistant City Manager
P&Z Commission

Attachments

Ordinance - Zone Case 2224-E

Zone Case 2224-E

ORDINANCE NO. _____

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 7084 AND THE OFFICIAL MAP OF THE CITY OF LUBBOCK MAKING THE FOLLOWING CHANGES: **ZONE CASE NO. 2224-E**; A ZONING CHANGE FROM **C-2A SPECIFIC USE** TO **C-2** ZONING DISTRICT ON **TRACT D-2-A, WESTERN MEADOWS ADDITION**, LUBBOCK, TEXAS; PROVIDING A PENALTY; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR PUBLICATION.

WHEREAS, the proposed changes in zoning as hereinafter made have been duly presented to the Planning and Zoning Commission for its recommendation which was received by the City Council and, after due consideration, the City Council found that due to changed conditions, it would be expedient and in the interest of the public health, safety and general welfare to make those proposed changes in zoning; and

WHEREAS, all conditions precedent required by law for a valid amendment to the Zoning Ordinance and Map have been fully complied with, including giving notices in compliance with Section 40.01.005 of the Code of Ordinances, City of Lubbock, Texas, and the notices provided by the Texas Local Government Code §211.007 (Vernon, 1990), and notice was duly published in the Lubbock Avalanche-Journal more than fifteen (15) days prior to the date of the public hearing before the City Council on such proposed amendment, and the public hearing according to said notice, was held in the City Council Chamber of the Municipal Building, Lubbock, Texas, at which time persons appeared in support of the proposal; and after said hearing, it was by the City Council determined that it would be in the public interest, due to changed conditions, that the Zoning Ordinance and the Zoning Map be amended in the manner hereinafter set forth in the body of this Ordinance and this Ordinance having been introduced prior to first reading hereof; NOW THEREFORE:

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

ZONE CASE NO. 2224-E

SECTION 1. THAT Ordinance No. 7084 and the Official Zoning Map are amended as follows:

A change of zoning under the provisions of Section 40.01.005 of the Code of Ordinances of the City of Lubbock from **C-2A Specific Use** to **C-2** zoning district on **Western Meadows Addition**, City of Lubbock, Lubbock County, Texas, located at **5605 Slide Road**.

SECTION 2. THAT violation of any provision of this Ordinance shall be deemed a misdemeanor punishable by fine not to exceed Two Thousand and No/100 Dollars (\$2,000.00) as provided in Section 40.01.006 of the Zoning Ordinance of the City of Lubbock.

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

SECTION 4. THAT the City Secretary is hereby authorized to cause publication of the descriptive caption of this Ordinance as an alternative method provided by law.

AND IT IS SO ORDERED.

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

GLEN C. ROBERTSON, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Matt Perkins, Director of Planning

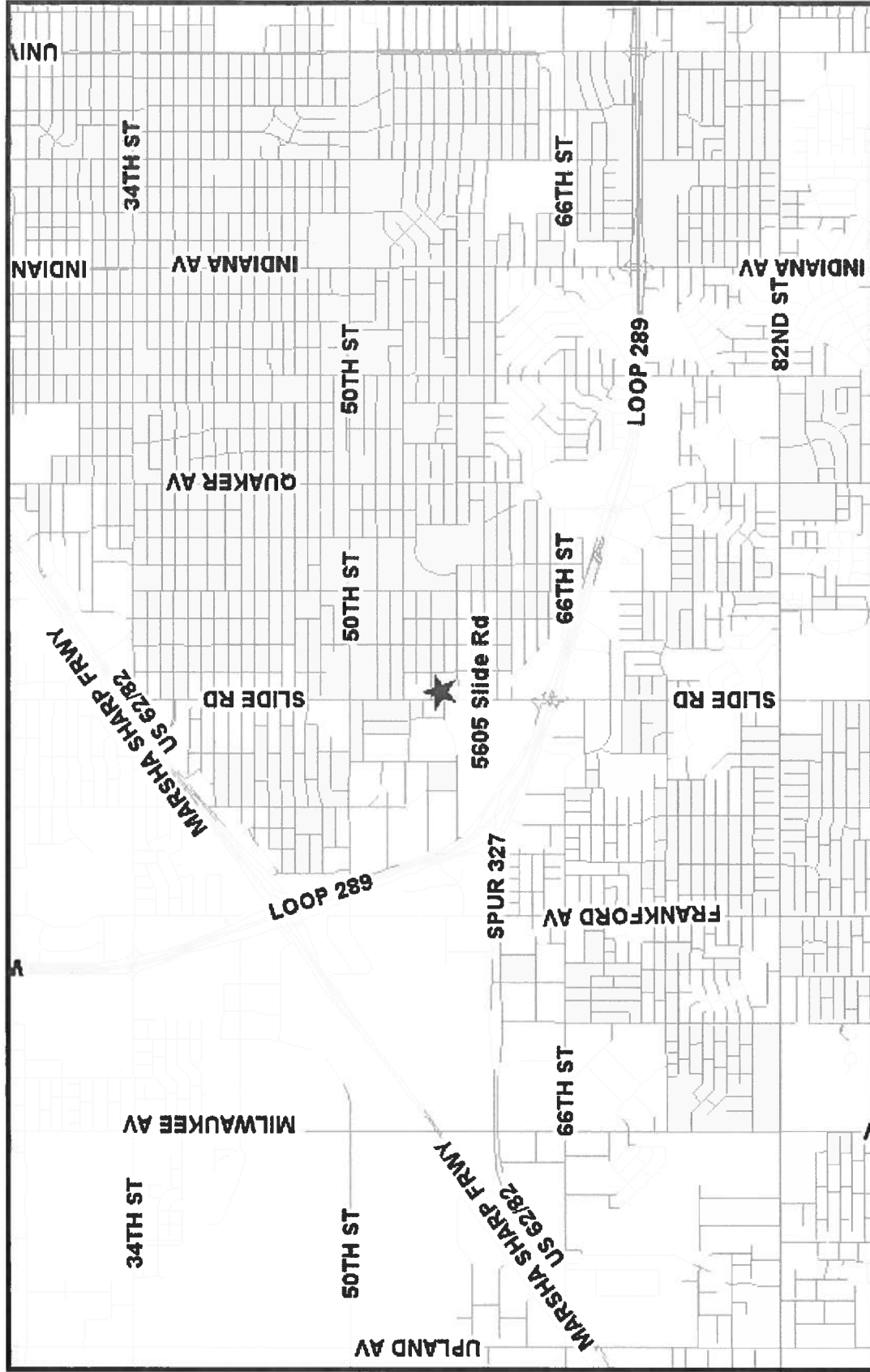
APPROVED AS TO FORM:



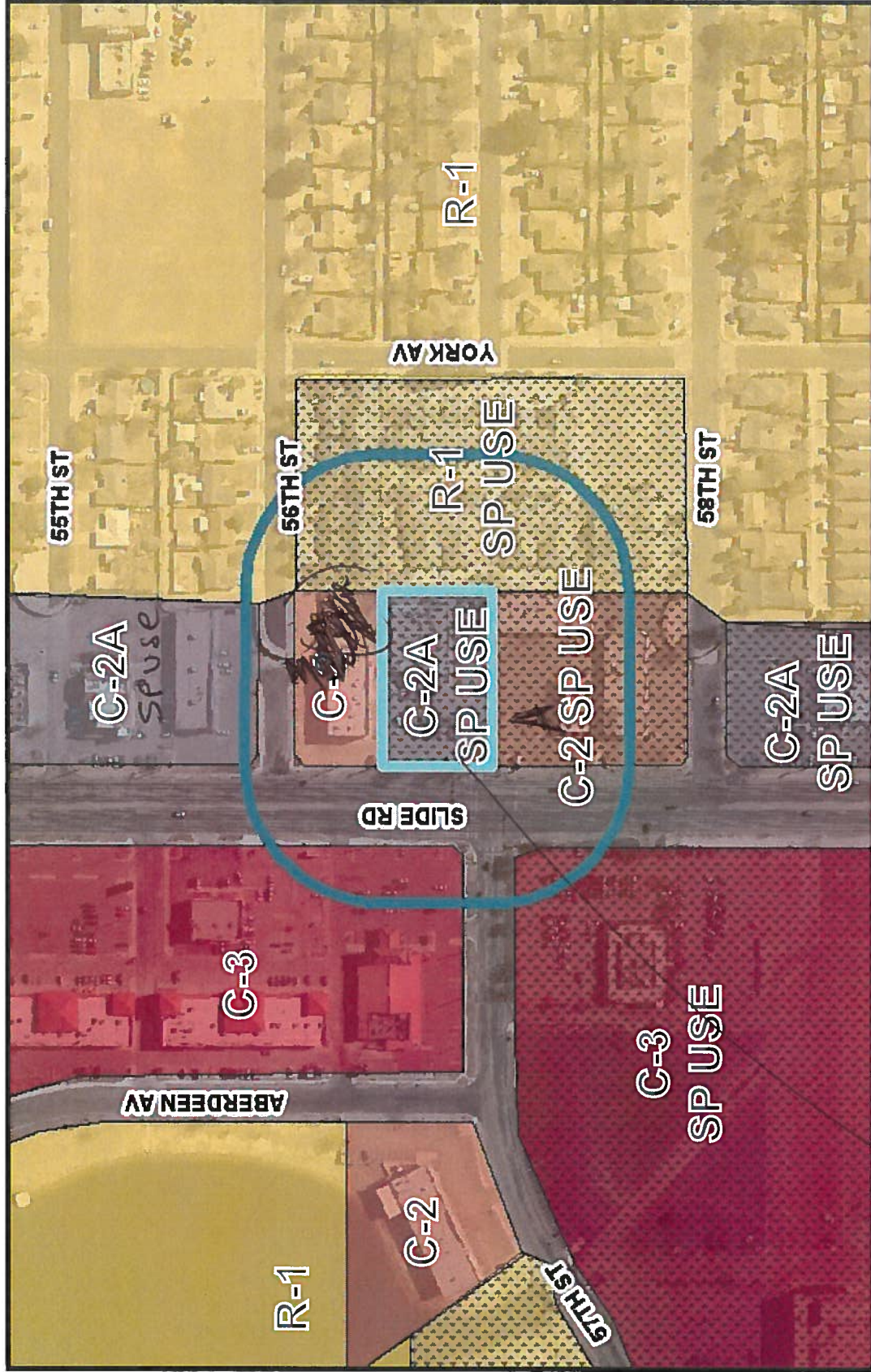
Chad Weaver

Assistant City Attorney

vw/cityatt/Chad/ZoneCase/ZC2224-E
March 8, 2013

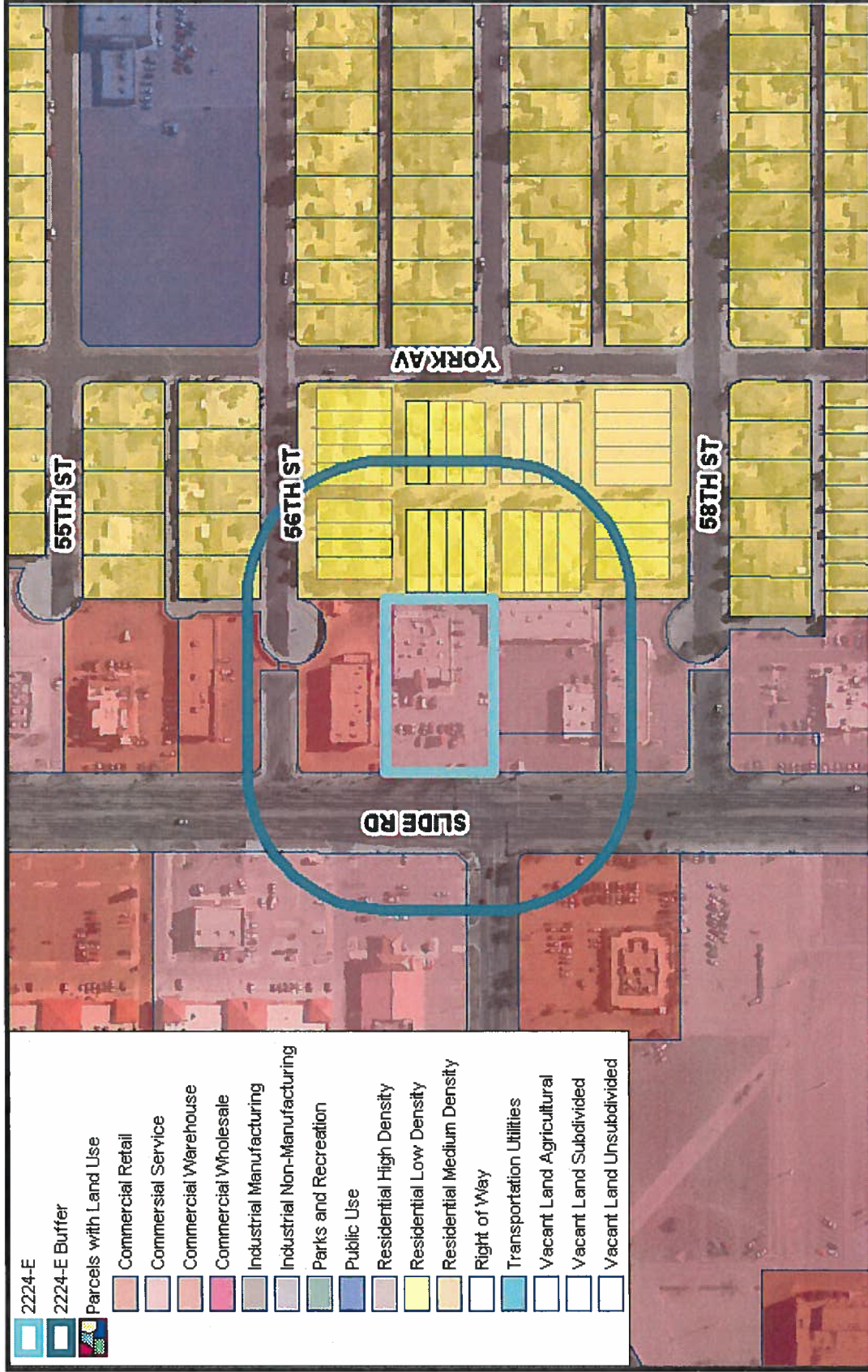


P.Z.C. Case 2224-E



P.Z.C. Case 2224-E Zoning

to C-2



P.Z.C. Case 2224-E

Request of Quattro Lubbock, LLC for a zoning change from C-2A Specific Use to C-2, 5605 Slide Road



APPLICATION FOR ZONE CHANGE

Lubbock Planning & Zoning Commission
PO Box 2000 / 1625 13th St
Lubbock, TX 79457

Applicant
(Please Print)

Quattro LUBBOCK, LLC
1100 Dorie Blvd - Ste 238
Street/Post Office Box
Oak Brook IL 60523
City State Zip
(630) 891-6473
Telephone

For

Quattro LUBBOCK, LLC
1100 Dorie Blvd, Ste 238
Street/Post Office Box
Oak Brook IL 60523
City State Zip
(630) 891-6473
Telephone

Location or Address:

5605 Slide Road, Lubbock, TX

Legal Description:*

SEE ATTACHED ALZ SURVEY

Existing Land Use:

Restaurant

Existing Zoning: C-2A, SPECIFIC USE

Acreage or Square Footage of Property:

1.03 ACRES

Zoning Requested:

C-2

Proposed Development:

PROPOSED (2) NEW COMMERCIAL BUILDINGS, (1) ONE 7,400 SF, TWO (2) TENANT BUILDING AND (1) ONE 3,000 SF SINGLE TENANT BUILDING

If property is not subdivided, will preliminary plat be submitted?

NO CURRENTLY
SUBDIVIDED

Yes

No

Applicant's Signature

Kevin Barnes

630-891-6476

KEVIN@QUATTRODEVELOPMENT.COM

Date

2-11-13

Filing Fee:

\$478.00

(\$475.00 for the first acre; \$3.00 for each additional acre;
\$165 for Non-Profit)

*There must be a separate legal description for each unplatted tract having different zoning. If the Planning & Zoning Commission or City Council amends a zone case as a condition for approval and if there is no appeal, an amended legal description must be received promptly or the zone case may be delayed.

For City Use Only

Zone Case No.:

2224-E

Agenda No.:

4

Request for zoning change from:

C 2A Spec Use

To:

C-2

on Lot(s):

Tract D-2-A

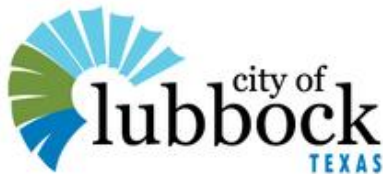
Block(s):

Subdivision:

Western Meadows Add

Address:

5605 Slide Road



Regular City Council Meeting

5. 12.

Meeting Date: 04/11/2013

Information

Agenda Item

Resolution - Cemetery: Consider a resolution authorizing the Mayor to formally re-name the African-American Babyland sections of the Cemetery including Carver Heights Babyland to Vivian T. Cooke Memorial Babyland.

Item Summary

On March 26, 2013, the Parks and Recreation Board voted to make a recommendation to the City Council on formally re-naming African-American Babyland sections of the cemetery, including the area known as Carver Heights Babyland to Vivian T. Cooke Memorial Babyland. Mrs. Cooke was a long time resident who taught art in local schools for over 30 years. In retirement, Mrs. Cooke focused her energy on her artistic talents, then in 2011 her sculpture "A Golden Day" was dedicated in the Carver Heights Babyland area of the cemetery.

Upon approval from the City Council, a request for bids will be processed for a pole mounted plaque engraved with Vivian T. Cooke Memorial Babyland. The plaque will be installed at the entrance to the section, either along Gallardia Drive or Hydrangea Drive, pending staff recommendations. The re-naming will be recognized in a dedication ceremony held on Saturday, June 22, 2013, in conjunction with the local Juneteenth celebrations.

Fiscal Impact

None.

Staff/Board Recommending

Quincy White, Assistant City Manager

Attachments

Resolution

RESOLUTION

WHEREAS, Vivian T. Cooke was a gifted artist and teacher in Lubbock for over 30 years; and

WHEREAS, Vivian T. Cooke was the sculptor of the statute, "A Golden Day" located in the Carver Heights Babyland area of the Lubbock Cemetery; and

WHEREAS, the Parks and Recreation Board has recommended to the City Council that it recognize Vivian T. Cooke's contributions to the community by renaming the African-American Babyland sections of the Lubbock Cemetery, including the Carver Heights Babyland, to Vivian T. Cooke Memorial Babyland; and

WHEREAS, the City Council finds that Vivian T. Cooke's contributions to the City of Lubbock as an artist, teacher and citizen were significant;

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

THAT the City Council of the City of Lubbock honors the memory of Vivian T. Cooke by formally re-naming the African-American Babyland sections of the City of Lubbock Cemetery to Vivian T. Cooke Memorial Babyland, including the Carver Heights Babyland section.

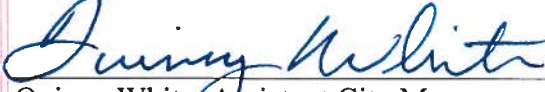
Passed by the City Council on _____.

GLEN C. ROBERTSON, MAYOR

ATTEST:

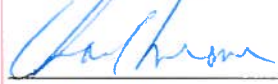
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

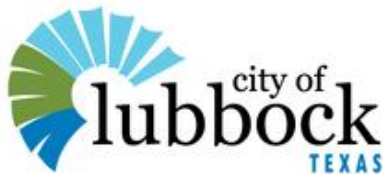


Quincy White, Assistant City Manager

APPROVED AS TO FORM:



Chad Weaver, Assistant City Attorney



Regular City Council Meeting

6. 1.

Meeting Date: 04/11/2013

Information

Agenda Item

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 1619 University Avenue, for an off-premise alcoholic beverage permit.

Item Summary

BACKGROUND/DISCUSSION:

Effective August 8, 2009, Ordinance 2009-O0060 amended Sec. 14.01.007 (Section 18-11), Alcoholic beverages - Sale near church, school or hospital, in Chapter 14, Offences - Miscellaneous, of the City of Lubbock Code of Ordinances, related to businesses who obtain a permit from the Texas Alcohol Beverage Commission (TABC) for the sale of alcohol. As part of the ordinance, the City Council adopted a standard which prohibits any business, that is within 300 feet of any public or private school (K-12), measured from the property lines of each tract, from having a permit issued by TABC. The City Council may consider a variance to the 300-foot rule as set forth in the Texas Alcoholic Beverage Code.

The request for a variance is from the package store, Smokehead Shop located at 1619 University, which abuts Texas Tech University. The business was previously approved for an off premise permit for a BQ license. A request for a new permit at this location is now pending, and the Planning staff required the separation variance request. Many of the nearby businesses across University Avenue from Texas Tech University have been approved for similar requests.

The City Council has wide discretion in considering whether to grant a variance. The following may be considered by the City Council (as noted by the State of Texas statute providing for the variance process):

The enforcement of the regulation in a particular instance is not in the best interest of the public.

The regulation constitutes waste or inefficient use of land or other resources.

The regulation creates an undue hardship on the applicant, does not serve its intended purpose or is not effective or necessary.

The variance may be granted for any other reason, after consideration of the health, safety and welfare of the public and the equity of the situation, if the governing body finds it to be in the best interest of the community.

Chancellor Hance and President Schovanec have been notified by letter of the request.

Fiscal Impact

None.

Staff/Board Recommending

Quincy White, Assistant City Manager.

Attachments

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-O0060 at the following location: **Smokehead Shop #2, LLC, 1619 University Avenue, Unit B**, Lubbock, Texas. This variance shall remain in effect for so long as: 1) a **Beer Retail Dealer's Off-Premise License [BF]**, and a 2) **Package Store Permit [P]**; and 3) a subsequent like use, if any, are in effect at the above-referenced location.

Passed by the City Council this _____ day of _____, 20__.

GLEN C. ROBERTSON, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Andrew Paxton, Interim Director of Planning & Zoning

APPROVED AS TO FORM:



Chad Weaver, Assistant City Attorney



RECEIVED

MAR 20 REC'D

PLANNING DEPARTMENT

Tim McLaurin (Managing Member)
5760 40th Street, Suite A
Lubbock, TX 79407
3/20/2013

Drew Paxton (Zoning and Planning)
1625 13th Street
Lubbock, TX 79401

Dear Mr. Paxton:

My name is Timothy McLaurin, a managing member for the Smokehead shop based in Lubbock TX.

I am writing to request a variance from school grounds, between our location at 1619 University and Texas Tech, which is on the opposite side of University Avenue.

Previously we had a BQ permit at our location on 1619 University, and are in the process of changing permits to BF/P – off premise. I would like to attend a hearing to request a variance from these school grounds, in order for our business to continue selling alcohol on these premises.

Thank you.

Sincerely,

Tim McLaurin
Managing Member
Smokehead Shop
806-793-4434

A handwritten signature in black ink that reads "Tim McLaurin".

NORTH



- Permit Requested
- Churches
- Schools
- Day Cares
- 300-Ft Buffer Churches
- 300-Ft Buffer Schools
- 300-Ft Buffer Day Cares
- Streets

UNIVERSITY AV

18TH ST

TEXAS
TECH
UNIVERSITY

1501

1509

2420

2418

2416

2412

1518

ST PAULS
EPISCOPAL

16TH ST

1601

1602

1604

1606

1608

1610

1609

1611

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1617

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1625

1627

2440

1612

1626

1628

AVE Y

1607

1603

1605

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1629

2420

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2402

AVE X

19TH ST

2515

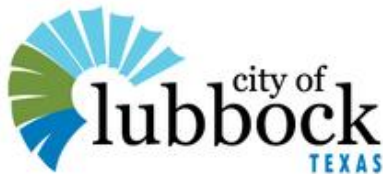
2501

1901

2419

2415

3/19/2013



Regular City Council Meeting

6. 2.

Meeting Date: 04/11/2013

Information

Agenda Item

Contract Resolution - Parks and Recreation: Consider a resolution authorizing the Mayor to execute contract 11142 with Turfmaster Irrigation and Landscaping Inc., for irrigation system upgrades at Jack Stevens Park, BID 13-11142-TL.

Item Summary

This project involves many aspects of landscape construction to accommodate a new irrigation system at Stevens Park and Fire Station 12. The contract includes the removal and return of existing valves and sprinkler heads, installation of a new controller, sleeves, back flow assemblies, piping, valves, and irrigation heads. The existing irrigation system does not meet current ordinances. Delay of the project may result in higher project cost and loss of turf and trees at the Park and Fire Station 12. The contract award for this agenda item is awarded by the lump sum price.

The following companies submitted bids:

Turfmaster Irrigation and Landscape Inc. of Lubbock, TX	\$247,000
Accent Landscape Contractors Inc. of El Paso, TX	279,369
Duininck Inc. of Prinsburg, MN	457,397

The City has worked with Turfmaster Irrigation and Landscaping Inc., Lubbock, Texas over the past several years and has successfully completed over 250 acres of irrigation on 12 sites for the Parks Department and has worked on the well conversion project for the Water Department.

Time for completion is 180 calendar days and liquidated damages are \$150 for each calendar day. Staff recommends contract award to the lowest bidder meeting specifications, Turfmaster Irrigation and Landscape Inc. of Lubbock TX \$247,000.

Fiscal Impact

\$ 2,857,960 is appropriated in Capital Improvement Project 92169, Irrigation Automation and Control Systems, with \$247,000 available for this purpose.

Staff/Board Recommending

Scott Snider, Community Services Assistant City Manager

Attachments

Resolution & Contract - Turfmaster

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. 11142 for irrigation system upgrades in Jack Stevens Park, by and between the City of Lubbock and Turfmaster Irrigation and Landscaping, 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.

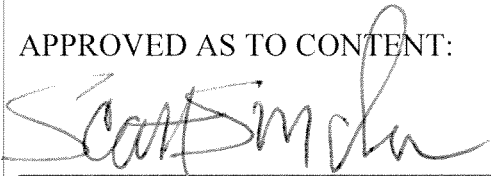
Passed by the City Council on _____.

GLEN C. ROBERTSON, 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

**BID SUBMITTAL FORM
LUMP SUM BID CONTRACT**

DATE: 2-6-13

"ITB 13-11142-TL, Irrigation System Upgrades Jack Stevens Park"

Bid of Turkmaster Irrigation and Landscaping, Inc. (hereinafter called Bidder)

To the Honorable Mayor and City Council City of Lubbock, Texas (hereinafter called Owner)

Ladies and Gentlemen:

The Bidder, in compliance with your Invitation to Bid for the construction of "Irrigation System Upgrades Jack Stevens", 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
1.	The Contractor shall supply all supervision, perform all work, furnish all labor, tools, materials, equipment, and incidentals necessary to fully and properly perform all irrigation work as shown on the plans and described in the specifications including but not limited to; digging, trenching, service connection, backflow assembly, mainline, quick coupler, wire, valves, boxes, laterals, swing joints, heads, adjusting, site work and fine grading. All construction and other work shall be completed in accordance with all governing codes and ordinances, with the best engineering and construction practices, including material manufacturer's recommendations for installation and workmanship, for the skill or trade involved.	\$ 247,000. ⁰⁰

 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 **180 (One Hundred Eighty)** calendar 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 **\$150 (One Hundred Fifty)** for each calendar 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 THIRTY (30) 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.

Enclosed with this bid is a Cashier's Check or Certified Check for N/A Dollars (\$) or a Bid Bond in the sum of Twelve thousand three hundred fifty Dollars (\$12,350.00), 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: 2-6-13
Authorized Signature: [Signature]
Jimmy Schneider
(Printed or Typed Name)
Company: Turtmaster Irrigation and Landscaping, Inc.
11410 Trafalgar Ave
Address: Lubbock, Lubbock
City: County:
TX, 79424
State: Zip Code:
Telephone: 806 - 787-3767
Fax: 806 - 407-5806
FEDERAL TAX ID or SOCIAL SECURITY No. 75-2658908
EMAIL: jimmyturtmaster@gmail.com

(Seal if Bidder is a Corporation)

ATTEST:

Secretary _____

Bidder acknowledges receipt of the following addenda:

Addenda No. 41 Date 1-29-13
Addenda No. _____ Date _____
Addenda No. _____ Date _____
Addenda No. _____ Date _____

M/WBE Firm:

	Woman		Black American		Native American
	Hispanic American		Asian Pacific American		Other (Specify)

**City of Lubbock, TX
Capital Project
Project Cost Detail
April 11, 2013**

Capital Project Number:	92169
Capital Project Name:	Irrigation Automation & Control Systems

	<u>Budget</u>
<i>Encumbered/Expended</i>	
Staff Cost; Admin and Design	\$ 32,092
Bid Cost	272
Water Depart; Water line, meter and meter box	87,984
Wallace Sprinkler Co. - Mae Simmons Irrigaion Systems	514,000
Turfmaster Irrigation and Landscaping Inc. - Clapp Park	1,003,125
Clapp Park Irrigaion Systems Other	21,465
Clapp Park Ball Field Lighting	47,981
JOC Tommy Klein Construction-Maxey Park & Buddy Holly Park Irrigation	37,362
West Texas Engineering, LLC - Stevens Irrigation A/E	7,000

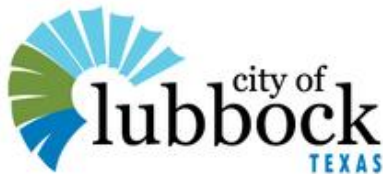
Agenda Items April 11, 2013

Irrigation System Upgrades Jack Stevens Park	247,000
<i>Encumbered/Expended To Date</i>	<u>1,998,281</u>

Estimated Costs for Remaining Appropriation

Water line, meter and meter box	36,000
Irrigation Automation	823,679
<i>Remaining Appropriation</i>	<u>859,679</u>

Total Appropriation	<u><u>\$ 2,857,960</u></u>



Regular City Council Meeting

6. 3.

Meeting Date: 04/11/2013

Information

Agenda Item

Ordinance 1st Reading - Finance: Consider an ordinance providing for the issuance of City of Lubbock, Texas, General Obligation Refunding and Improvement Bonds, Series 2013, and City of Lubbock, Texas, General Obligation Refunding Bonds, Taxable Series 2013, levying a tax in payment thereof; providing for the award of the sale thereof in accordance with specified parameters; approving the official statement; approving execution of a purchase contract and escrow agreement; and enacting other provisions relating thereto.

Item Summary

On February 28, 2013, the City Council approved the first step in the issuance process by authorizing publication of a Notice of Intent to Issue General Obligation Bonds (Bonds). Upon approval of this ordinance, the City will be able to sell the Bonds on a negotiated basis.

The ordinance authorizing the issuance of the Bonds is a “parameters ordinance” delegating authority to the City Manager or Executive Director of Finance (each an Authorized Officer) to determine the timing, terms (including the number of series), and interest rates, of the issuance. The ordinance expires after a six month period and 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 price to be paid for the Bonds of each series shall not be less than 90% of the aggregate principal amount of the Bonds of such series;
- b) the Bonds shall not bear interest at a rate greater than the maximum rate allowed by Chapter 1204, Texas Government Code, as amended;
- c) 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 \$7,975,000 for new money purposes and \$127,500,000 for refunding purposes;
- d) the refunding of the refunded obligations by a series of Bonds shall result in positive gross debt service savings and net present value savings of at least five percent (5%);
- e) the maximum maturity for the Bonds shall not exceed twenty-one years; and
- f) 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 agree to 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 Certificates with the City’s

underwriters (First Southwest Company, senior underwriter, Citigroup Global Markets, and Raymond James).

The projects scheduled to be funded with the Bonds are included in Schedule I. The City's outstanding bonds and certificates of obligation that could potentially be refunded in this financing are listed in Schedule II. The City desires to refund all or a portion of those outstanding obligations (which carry an interest rate that is higher than current interest rates) in order to achieve interest rate savings.

Pursuant to Section 1201.028(3), Texas Government Code, the authorization of a public security is effective immediately 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.

The projects that will be funded with new money bonds have been approved by City Council in the FY 2012-13 Capital Improvement Plan. City Council has also adopted a reimbursement resolution on September 27, 2012, allowing projects to start prior to the issuance of new money bonds.

A draft preliminary official statement is available in the City Secretary's office.

Fiscal Impact

Annual payments will be made from the revenues of the City. The bond proceeds will be used to fund the capital projects, refund prior year bonds and pay costs of issuance related to the financing.

Staff/Board Recommending

Pamela Moon, CPA, Executive Director of Finance

Attachments

Ordinance

ORDINANCE

relating to

CITY OF LUBBOCK, TEXAS
GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BONDS,
SERIES 2013

and

CITY OF LUBBOCK, TEXAS
GENERAL OBLIGATION REFUNDING BONDS,
TAXABLE SERIES 2013

Adopted: April 11, 2013

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AN ORDINANCE PROVIDING FOR THE ISSUANCE OF CITY OF LUBBOCK, TEXAS, GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BONDS, SERIES 2013, AND CITY OF LUBBOCK, TEXAS, GENERAL OBLIGATION REFUNDING BONDS, TAXABLE SERIES 2013; LEVYING A TAX IN PAYMENT THEREOF; PROVIDING FOR THE AWARD OF THE SALE THEREOF IN ACCORDANCE WITH SPECIFIED PARAMETERS; APPROVING THE OFFICIAL STATEMENT; APPROVING EXECUTION OF A PURCHASE CONTRACT AND ESCROW AGREEMENTS; AND ENACTING OTHER PROVISIONS RELATING THERETO

WHEREAS, at elections held in the City of Lubbock, Texas (the "City"), on May 15, 2004 and November 3, 2009, bonds were duly and favorably voted, as required by the Constitution and laws of the State of Texas, for the purposes set forth in Schedule I attached hereto;

WHEREAS, Schedule I also provides the amount of bonds authorized at said elections for each of the respective purposes indicated therein, the amount of bonds previously issued pursuant to each voted authorization, the amount therefrom authorized pursuant to this Ordinance, and the balance that remains unissued after the issuance of the bonds herein authorized;

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, there are presently outstanding certain obligations of the City described on Schedule II 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, together with 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 one or more escrow agreements 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 by this Ordinance will benefit the City by providing present value debt service savings in an amount or amounts to be certified in the Pricing Certificate(s) (hereinafter defined),

and that such benefit is sufficient consideration for the issuance of refunding bonds, as provided by this Ordinance, and the refunding of the Refunded Obligations;

WHEREAS, the City Council hereby finds and determines that it is necessary and in the best interest of the City and its citizens that it authorize by this Ordinance the issuance of bonds, in one or more series, the proceeds of which will be sufficient to (i) pay costs of issuance of such bonds; (ii) fund the amounts listed in Schedule I under the "Amount Being Issued" column for the related projects; and (iii) refund the Refunded Obligations;

WHEREAS, the City Council desires to delegate, pursuant to Chapters 1207 and 1371, Texas Government Code, as amended, and the parameters of this Ordinance, to the Authorized Officer, the authority to approve the principal amount, the interest rate, the number of series, the price and the 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 Executive Director of Finance, acting individually.

"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.

"Bonds" means the City's bonds authorized to be issued by Section 3.01 of this Ordinance.

"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 by all legislation, if any, enacted on or before the Issue Date.

“Computation Date” has the meaning stated in Section 1.148-1(b) of the Regulations.

“Designated Payment/Transfer Office” means the Designated Payment/Transfer Office, as designated in the Paying Agent/Registrar Agreement, or such other location designated by the Paying Agent/Registrar.

“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 an agreement between the City and the Escrow Agent pertaining to the defeasance of Refunded Obligations, as described in Section 14.03 of this Ordinance.

“Escrow Fund” means the fund by that name established in the Escrow Agreement.

“Escrow Securities” has the meaning assigned in the Escrow Agreement.

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

“Gross Proceeds” has the meaning stated in Section 1.148-1(b) of the Regulations.

“Initial Bond” means the initial bond or bonds of each series 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, as set forth in the Pricing Certificate.

“Investment” has the meaning stated in Section 1.148-1(b) of the Regulations.

“MSRB” means the Municipal Securities Rulemaking Board.

“Net Sale Proceeds” has the meaning stated in Section 1.148-1(b) of the Regulations.

“New Money Purposes” has the meaning assigned in Section 3.01 of this Ordinance.

“Nonpurpose Investment” has the meaning stated in Section 1.148-1(b) of the Regulations.

“Official Statement” means the document described in Section 7.01(c) prepared for dissemination to potential investors in connection with the public offering and sale of the Bonds.

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

“Paying Agent/Registrar” means the bank or trust company identified in the Paying Agent/Registrar Agreement referred to in Section 5.01 of this Ordinance, or any successor thereto as provided in this Ordinance.

“Preliminary Official Statement” means the document described in Section 7.01(c) prepared for dissemination to potential investors prior to the availability of the final Official Statement.

“Pricing Certificate” means a certificate or certificates signed by an Authorized Officer establishing the terms and features of each series of Bonds in accordance with Section 7.01 hereof.

“Proceeds” has the meaning stated in Section 1.148-1(b) of the Regulations.

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

“Rebate Amount” has the meaning stated in Section 1.148-3 of the Regulations.

“Record Date” means the date specified in the Pricing Certificate.

“Refunded Obligation Candidates” means the obligations of the City described in Schedule II attached hereto.

“Refunded Obligations” means the Refunded Obligation Candidates designated as Refunded Obligations in a Pricing Certificate.

“Refunding Purposes” has the meaning assigned in Section 3.01 of this Ordinance.

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

“Regulations” means the final or temporary Income Tax Regulations applicable to the Bonds issued pursuant to Sections 141 through 150 of the Code. Any reference to a section of the Regulations shall also refer to any successor provision to such section hereafter promulgated by the Internal Revenue Service pursuant to Sections 141 through 150 of the Code and applicable to the Bonds.

“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.

“Series 2013 Certificates of Obligation” means the City’s Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2013, authorized to be issued in accordance with the terms of an ordinance of the City adopted concurrently with this Ordinance.

“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).

“Taxable Bonds” means any Bonds for which the City does not intend that the interest thereon 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.

“Tax-Exempt Bonds” means any Bonds for which the City intends that the interest thereon 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.

“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 Purchase Contract.

“Yield of”

- (i) any Investment shall be computed in accordance with Section 1.148-5 of the Regulations, and
- (ii) the Bonds shall be computed in accordance with Section 1.148-4 of the Regulations.

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.

(c) Should the Series 2013 Certificates of Obligation not be sold pursuant to the ordinance authorizing their issuance, references in this Ordinance thereto shall be deemed surplusage.

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 thereafter 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 of each series, being (i) the interest on the Bonds of such series, 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 for the related series of Bonds.

(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 related series of 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 special funds to be designated as the "City of Lubbock, Texas, General Obligation Refunding and Improvement Bonds, Series 2013, Interest and Sinking Fund" relating to the Tax-Exempt Bonds and "City of Lubbock, Texas, General Obligation Refunding Bonds, Taxable Series 2013, Interest and Sinking Fund" relating to the Taxable Bonds, or such other designations as are set forth in the Pricing Certificate, said funds to be maintained at an official depository 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 related series of 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 Tax-Exempt Bonds, to be designated "City of Lubbock, Texas, General Obligation Refunding and Improvement Bonds, Series 2013," and the City's Taxable Bonds, to be designated "City of Lubbock, Texas, General Obligation Refunding Bonds, Taxable Series 2013," or such other designation or designations as set forth in the Pricing Certificate for such Bonds, are hereby authorized to be issued and delivered in accordance with the Constitution and laws of the State of Texas, including specifically Chapters 1207, 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 in the principal amount designated in the Pricing Certificate therefor, provided that the aggregate principal amount of all of the Bonds shall not to exceed \$135,475,000, consisting of (a) an aggregate principal amount not to exceed \$7,975,000 for the purposes of (i) paying the costs of the following permanent public improvements: (A) \$2,250,000 for firefighting facilities and equipment, including the acquisition of land and interests in land in connection therewith, and (B) \$5,725,000 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, and (ii) paying the costs of issuing the Bonds (collectively, the "New Money Purposes"), and (b) an aggregate principal amount not to exceed \$127,500,000 for the purposes of (i) refunding the Refunded Obligations and (ii) paying the costs of issuing the Bonds and refunding the Refunded Obligations (collectively, the "Refunding Purposes").

Bonds shall be issued as Taxable Bonds for the purpose of refunding Refunded Obligation Candidates that the Authorized Officer determines are ineligible for refunding through the issuance of Tax-Exempt Bonds. The allocation of principal amount between Tax-

Exempt Bonds and Taxable Bonds shall be determined by the Authorized Officer based on market conditions and the Authorized Officer's determination of the amount required to fund the purposes described in this Section 3.01.

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 for each series, except the Initial Bonds, which shall each be numbered T-1, or in such other manner provided in the Pricing Certificate.

(b) The Bonds shall mature on the date or dates, 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, or on such other basis as set forth in the Pricing Certificate.

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 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 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 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 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 Owners 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 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 temporary 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 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 determines that it is in the best interest of the City and the beneficial owners of the Bonds that they be able to obtain certificated Bonds, 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 Bonds to such successor securities depository; or (ii) notify DTC and DTC Participants of the availability through DTC of

certificated Bonds and cause the Paying Agent/Registrar to transfer one or more separate registered 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 Owners 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 of each series in the manner provided in the Form of Bonds attached hereto as Exhibit C, 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, or by any other customary method that results in a random selection, 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.

Bonds of each series designated as "Term Bonds," if any, in the Pricing Certificate are subject to scheduled mandatory redemption and will be redeemed by the City, out of moneys available for such purpose in the Interest and Sinking Fund, in the manner provided in the Form of Bonds attached hereto as Exhibit C, with such changes as are required by the Pricing Certificate. Term Bonds shall be subject to mandatory redemption at the price, on the dates, and in the respective principal amounts set forth in the Pricing Certificate.

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 remain outstanding and 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 Paying Agent/Registrar.

The form of Paying Agent/Registrar Agreement presented at the meeting at which this Ordinance was approved and the appointment of the Paying Agent/Registrar identified therein are hereby approved.

The Mayor is hereby authorized and directed to execute the Paying Agent/Registrar Agreement with the Paying Agent/Registrar, specifying the duties and responsibilities of the City and the Paying Agent/Registrar, in substantially the form presented at the meeting at which this Ordinance was approved with such changes as may be approved by the Mayor or an Authorized Officer. The signature of the Mayor shall be attested by the City Secretary.

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.

(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

Exhibit C hereto, 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 CUSIP Registration.

The City may secure identification numbers through CUSIP Global Services, managed on behalf of the American Bankers Association by Standard & Poor's Financial Services LLC, 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 6.03 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 6.04 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 Chapters 1207 and

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 each series of Bonds and carrying out the other procedures specified in this Ordinance, including determining (i) the total aggregate principal amount and the number of series of the Bonds (including the aggregate principal amount of Tax-Exempt Bonds and Taxable Bonds and the principal amount of each series of Bonds issued to effect the purposes identified in Section 3.01 of this Ordinance), (ii) whether to acquire bond insurance for each series of Bonds, (iii) the price at which the Bonds of each series will be sold, (iv) the Refunded Obligation Candidates to be refunded by Tax-Exempt Bonds, the Refunded Obligation Candidates to be refunded by Taxable Bonds, and their redemption dates, (v) the number and any additional or different title or designation for each series of Bonds to be issued, (vi) the form in which the Bonds of each series shall be issued, (vii) the dates on which the Bonds of each series will mature, the principal amount to mature in each year, the rate of interest to be borne by each such maturity, the interest payment dates, and the initial date from which interest will accrue, (viii) the dates, prices and other terms upon and at which the Bonds of each series shall be subject to redemption prior to maturity (including terms for optional and mandatory sinking fund redemption), and (ix) 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 for each series of Bonds.

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 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 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 purchase contract with respect to each series of Bonds (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 Bonds. The Bonds shall initially be registered in the name of the Representative. At the direction of the Authorized Officer, the Bonds and the Series 2013 Certificates of Obligation may be sold, but are not required to be sold, pursuant to the terms of a common Purchase Contract.

(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 the Preliminary Official Statement 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 of the Bonds. 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 the meeting at which this Ordinance was approved. 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. The Authorized Officer may direct the preparation of a common Official Statement for the Bonds and the Series 2013 Certificates of Obligation.

(d) All officers of the City are authorized to execute such documents, certificates, receipts and other instruments 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 Purchase Contract.

(e) The obligation of the Underwriters to accept delivery of the Bonds is subject to the closing conditions set forth in the Purchase Contract being satisfied, including specifically 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 Bonds 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 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.

Proceeds from the sale of the Bonds of each series shall be applied in accordance with the provisions set forth in the Pricing Certificate for such Bonds, which may provide for the creation of any special accounts deemed necessary or appropriate by the Authorized Officer.

ARTICLE VIII
INVESTMENTS

Section 8.01 Investments.

(a) Money in the Interest and Sinking Fund created by this Ordinance and any accounts provided for the Pricing Certificate pursuant to Section 7.03, at the City's option, may be invested in such securities or obligations as permitted under applicable law. The Authorized 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 any accounts provided for in the Pricing Certificate pursuant to Section 7.03, 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 other funds to be deposited pursuant to Section 7.03 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 the 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.

(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) Not to Cause Interest to Become Taxable. 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 Tax-Exempt 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 Tax-Exempt Bond, the City shall comply with each of the specific covenants in this Section.

(b) No Private Use or Private Payments. Except as permitted by Section 141 of the Code and the Regulations and rulings thereunder, the City shall, at all times after the Issue Date of any Tax-Exempt Bond and prior to the last stated maturity of the Tax-Exempt Bonds

(i) 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 such Tax-Exempt Bond (including property financed with Gross Proceeds of the Refunded Obligations or notes or bonds refunded by the Refunded Obligations) 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

(ii) not directly or indirectly impose or accept any charge or other payment for use of Gross Proceeds of such Tax-Exempt Bond or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with such Gross Proceeds (including property financed with Gross Proceeds of the Refunded Obligations or notes or bonds refunded by the Refunded Obligations) other than taxes of general application and interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

(c) No Private Loan. 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 such Tax-Exempt Bond 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 (including property financed with Gross Proceeds of the Refunded Obligations or notes or bonds refunded by the Refunded Obligations) 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.

(d) Not to Invest at Higher Yield. 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 such Tax-Exempt Bond, directly or indirectly invest Gross Proceeds of such Tax-Exempt Bond 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 Tax-Exempt Bonds.

(e) Not Federally Guaranteed. Except to the extent permitted by Section 149(b) of the Code and the Regulations and rulings thereunder, the City shall not take or omit to take any action which would cause the Tax-Exempt Bonds to be federally guaranteed within the meaning of Section 149(b) of the Code and the Regulations and rulings thereunder.

(f) Information Report. The City shall timely file with the Secretary of the Treasury the information required by Section 149(e) of the Code with respect to the Tax-Exempt Bonds on such forms and in such place as such Secretary may prescribe.

(g) Payment of Rebate Amount. Except to the extent otherwise provided in Section 148(f) of the Code and the Regulations and rulings thereunder, the City shall:

(i) account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of such

accounting for at least six years after the final Computation Date. The City may, however, to the extent permitted by law, commingle Gross Proceeds of the Tax-Exempt Bonds with other money of the City, provided that the City separately accounts for each receipt and expenditure of such Gross Proceeds and the obligations acquired therewith,

(ii) calculate the Rebate Amount with respect to the Tax-Exempt Bonds not less frequently than each Computation Date, in accordance with rules set forth in Section 148(f) of the Code, Section 1.148-3 of the Regulations, and the rulings thereunder. The City shall maintain a copy of such calculations for at least six years after the final Computation Date,

(iii) as additional consideration for the purchase of the Tax-Exempt Bonds by the initial purchaser thereof and the loan of the money represented thereby, and in order to induce such purchase by measures designed to ensure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, pay to the United States the amount described in paragraph (ii) above at the times, in the installments, to the place, in the manner and accompanied by such forms or other information as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder, and

(iv) exercise reasonable diligence to assure that no errors are made in the calculations required by paragraph (ii) and, if such error is made, to discover and promptly to correct such error within a reasonable amount of time thereafter, including payment to the United States of any interest and any penalty required by the Regulations.

(h) Not to Divert Arbitrage Profits. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the City shall not enter into any transaction that reduces the amount required to be paid to the United States pursuant to Subsection (h) of this Section because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield of the Tax-Exempt Bonds, not been relevant to either party.

(i) Not Hedge Bonds. The City did not invest more than 50 percent of the Proceeds of any series of the Refunded Obligations (or, if applicable, the obligations refunded by the Refunded Obligations (the "Original Bonds")) in Nonpurpose Investments having a guaranteed yield for four years or more. On the Issue Date of the Refunded Obligations, or, if applicable, the Original Bonds, the City reasonably expected that at least 85 percent of the Net Sale Proceeds of each series of the Refunded Obligations, or, if applicable, the Original Bonds, would be used to carry out the governmental purpose of such series within three years after the Issue Date of such series.

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 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.

(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 Identifying Information.

All documents provided to the MSRB pursuant to this Article shall be accompanied by identifying information as prescribed by the MSRB.

Section 12.04 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, 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 Authorized 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 escrow agreements, deposit agreements or similar agreements (each an "Escrow Agreement"), letters of instructions or any other instruments 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.

[Signature page follows]

PRESENTED, FINALLY PASSED AND APPROVED, AND EFFECTIVE on the 11th day of April, 2013, at a regular meeting of the City Council of the City of Lubbock, Texas.

GLEN C. ROBERTSON, Mayor

ATTEST:

REBECCA GARZA, City Secretary

[SEAL]

APPROVED AS TO CONTENT:

By: 

PAMELA MOON, Executive Director of Finance

APPROVED AS TO FORM:

By: 

JERRY V. KYLE, JR., Bond Counsel

Signature Page for Ordinance

SCHEDULE I

BOND ELECTION AUTHORIZATION

At elections held in the City on May 15, 2004 and November 3, 2009, bonds were duly and favorably voted for the purposes and in the amounts shown below. The schedule also provides the amount previously issued pursuant to each voted authorization, the amount from each voted authorization authorized pursuant to this Ordinance, and the balance that remains unissued after the issuance of the bonds authorized pursuant to this Ordinance.

(amounts in thousands)					
<u>Purpose</u>	<u>Election Date</u>	<u>Amount Voted</u>	<u>Amount Previously Issued</u>	<u>Amount Being Issued¹</u>	<u>Unissued Balance</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	37,360	5,725	-0-
Fire	11/3/09	<u>7,500</u>	<u>5,250</u>	<u>2,250</u>	<u>-0-</u>
Total		<u>\$64,190</u>	<u>\$52,479</u>	<u>\$7,975</u>	<u>\$3,736</u>

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

SCHEDULE II

REFUNDED OBLIGATION CANDIDATES

All outstanding maturities of the following obligations of the City:

- Tax and Sewer System Surplus Revenue Certificates of Obligation, Series 2002A
- Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2004
- General Obligation Bonds, Series 2004
- General Obligation Refunding Bonds, Series 2004
- Combination Tax and Electric Light and Power System Surplus Revenue Certificates of Obligation, Series 2005
- Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2005
- Tax and Waterworks System Surplus Revenue Refunding Bonds, Series 2005
- General Obligation Bonds, Series 2005
- General Obligation Refunding Bonds, Series 2005
- Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2006
- General Obligation Bonds, Series 2006

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 the Official Statement in “APPENDIX A - FINANCIAL INFORMATION REGARDING THE CITY” (Tables 1-5 and 7-17).

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 price to be paid for the Bonds of each series shall not be less than 90% of the aggregate principal amount of such Bonds;

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

(c) the aggregate principal amount of the Bonds of each series shall produce proceeds in an amount sufficient to fund the purposes of such series described in Section 3.01 and such aggregate principal amount (when combined with the aggregate principal amount of other series issued pursuant to the Ordinance) shall not exceed the maximum amount authorized in Section 3.01;

(d) the refunding of the Refunded Obligations by a series of bonds shall result in positive gross debt service savings and net present value savings of at least five percent (5%);

(e) the maximum maturity for the Bonds shall not exceed twenty-one (21) years from the date of their delivery; and

(f) 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.

EXHIBIT C

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 Bonds.

REGISTERED

No. _____

REGISTERED

\$_____

United States of America

State of Texas

County of Lubbock

CITY OF LUBBOCK, TEXAS

GENERAL OBLIGATION [REFUNDING AND IMPROVEMENT BOND]

[TAXABLE] SERIES 2013

INTEREST RATE: _____% MATURITY DATE: _____, _____ BOND DATE: _____, _____ CUSIP NUMBER: _____
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 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

¹ Information to be inserted from Pricing Certificate.

² Information to be inserted from Pricing Certificate.

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, N.A., 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 purposes of providing funds with which [to make various permanent public improvements for the City,] 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

³ Information to be inserted from Pricing Certificate.

\$5,000 on _____, 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.]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.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 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

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

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

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 §
OF THE STATE OF TEXAS §

REGISTER NO. _____

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.

_____,
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

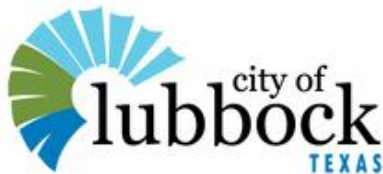
(ii) in the first paragraph of the Bond, the words “on the Maturity Date specified above” shall be deleted and the following will be inserted: “on February 15 in each of the years, in the principal installments and bearing interest at the per annum rates in accordance with the following schedule:

Years

Principal Installments

Interest Rate

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



Regular City Council Meeting

6. 4.

Meeting Date: 04/11/2013

Information

Agenda Item

Ordinance 1st Reading - Finance: Consider an ordinance providing for the issuance of City of Lubbock, Texas, Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2013; levying a tax and pledging surplus waterworks system revenues in payment thereof; providing for the award of the sale thereof in accordance with specified parameters; approving the official statement; approving execution of a purchase contract; and enacting other provisions relating thereto.

Item Summary

On February 28, 2013, the City Council approved the first step in the issuance process by authorizing publication of a Notice of Intent to Issue Certificates of Obligation (Certificates). Upon approval of this ordinance, the City will be able to sell the Certificates on a negotiated basis.

The ordinance authorizing the issuance of the Certificates is a "parameters ordinance" delegating authority to the City Manager or Executive Director of Finance (each an Authorized Officer) to determine the timing, terms (including the number of series), and interest rates, of the issuance. The ordinance expires after a six month period and 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 price to be paid for the Certificates shall not be less than 90% of the aggregate principal amount of the Certificates;
- b) the Certificates shall not bear interest at a rate greater than the maximum rate allowed by Chapter 1204, Texas Government Code, as amended;
- c) 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 \$60,000,000;
- d) the maximum maturity for the Certificates shall not exceed twenty-one years; and
- e) 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 agree to 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 (First Southwest Company, senior underwriter, Citigroup Global Markets, and Raymond James). The projects scheduled to be funded with the Certificates are included in Section 3.01 with a total cost of \$53,493,444.

Pursuant to Section 1201.028(3), Texas Government Code, the authorization of a public security is effective immediately 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.

The projects that will be funded with the Certificates have been approved by City Council in the FY 2012-13 Capital Improvement Plan. City Council has also adopted a reimbursement resolution on September 27, 2012, allowing projects to start prior to the issuance of the Certificates.

A draft preliminary official statement is available in the City Secretary's office.

Fiscal Impact

Annual payments will be made from the revenues of the City. The bond proceeds will be used to fund the capital projects and pay costs of issuance related to the financing.

Staff/Board Recommending

Pamela Moon, CPA, Executive Director of Finance

Attachments

Ordinance

FY 2012-13 Capital Projects List

ORDINANCE

relating to

CITY OF LUBBOCK, TEXAS
TAX AND WATERWORKS SYSTEM SURPLUS REVENUE
CERTIFICATES OF OBLIGATION
SERIES 2013

Adopted: April 11, 2013

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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 2013; LEVYING A TAX AND PLEDGING SURPLUS WATERWORKS SYSTEM REVENUES IN PAYMENT THEREOF; PROVIDING FOR THE AWARD OF THE SALE THEREOF IN ACCORDANCE WITH SPECIFIED PARAMETERS; 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 signed by at least five percent of the qualified electors of the City has been filed with the City Secretary 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 hereby finds and determines 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 is an "Issuer" within the meaning of Chapter 1371, Texas Government Code ("Chapter 1371"), as amended, and the City Council desires to delegate, pursuant to Chapter 1371 and the parameters of this Ordinance, to the Authorized Officer (hereinafter defined), the authority to approve the principal amount, the interest rate, the price and the other 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 Executive Director of Finance, acting individually.

“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 2013.”

“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 by all legislation, if any, enacted on or before the Issue Date.

“Computation Date” has the meaning stated in Section 1.148-1(b) of the Regulations.

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

“Designated Payment/Transfer Office” means the Designated Payment/Transfer Office, as designated in the Paying Agent/Registrar Agreement, or such other location designated by the Paying Agent/Registrar.

“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” has the meaning stated 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 2013 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, as set forth in the Pricing Certificate.

“Investment” has the meaning stated in Section 1.148-1(b) of the Regulations.

“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.

“Net Sale Proceeds” has the meaning stated in Section 1.148-1(b) of the Regulations.

“Nonpurpose Investment” has the meaning stated in Section 1.148-1(b) of the Regulations.

“Official Statement” means the document described in Section 7.01(c) prepared for dissemination to potential investors in connection with the public offering and sale of the Certificates.

“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 the bank or trust company identified in the Paying Agent/Registrar Agreement referred to in Section 5.01 of this Ordinance, or any successor thereto as provided in this Ordinance.

“Preliminary Official Statement” means the document described in Section 7.01(c) prepared for dissemination to potential investors prior to the availability of the final Official Statement.

“Pricing Certificate” means a certificate or certificates signed by an Authorized Officer establishing the terms and features of each series of Certificates in accordance with Section 7.01 hereof.

“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.

“Proceeds” has the meaning stated in Section 1.148-1(b) of the Regulations.

“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.

“Rebate Amount” has the meaning stated in Section 1.148-3 of the Regulations.

“Record Date” means the date specified in the Pricing Certificate.

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

“Regulations” means the final or temporary Income Tax Regulations applicable to the Certificates issued pursuant to Sections 141 through 150 of the Code. Any reference to a section of the Regulations shall also refer to any successor provision to such section hereafter promulgated by the Internal Revenue Service pursuant to Sections 141 through 150 of the Code and applicable to the Certificates.

“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.

“Series 2013 Bonds” means, collectively, the City’s General Obligation Refunding and Improvement Bonds, Series 2013 and the City’s General Obligation Refunding Bonds, Taxable Series 2013, authorized to be issued in accordance with the terms of an ordinance of the City adopted concurrently with this Ordinance.

“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 of”

- (i) any Investment shall be computed in accordance with Section 1.148-5 of the Regulations, and
- (ii) the Bonds shall be computed in accordance with Section 1.148-4 of the Regulations.

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.

(c) Should the Series 2013 Bonds not be sold pursuant to the ordinance authorizing their issuance, references in this Ordinance thereto shall be deemed surplusage.

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 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 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 (2%) 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 and budgeted for 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 and budgeted for deposit in the Interest and Sinking Fund prior to the levy of such ad valorem taxes.

(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 or budgeted for 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 2013, 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 2013" (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 ("Chapter 1371"), 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 \$60,000,000, for the purpose of paying contractual obligations to be incurred for the following purposes, to wit: (i) animal shelter expansion; (ii) 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; (iii) park and recreation system improvements; (iv) radio system upgrades; (v) improvements, relocations and extensions to the City's wastewater system; (vi) improvements, relocations and extensions to the City's storm water facilities and infrastructure (collectively, with items (i)-(v), the "Project") and (vii) 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 or in such other manner provided in the Pricing Certificate.

(b) The Certificates shall mature on the date or dates, 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 the number of years set forth in Exhibit B.

(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, or on such other basis as set forth in the Pricing Certificate.

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 other 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 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 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 the Certificates in temporary form; thereupon, upon the presentation and surrender of the Certificate or Certificates in temporary form to the Paying Agent/Registrar, the Paying Agent/Registrar shall cancel the Certificates in temporary form and 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:

(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 attached hereto as Exhibit C, 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, or by any other customary method that results in a random selection, 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.

Certificates designated as "Term Certificates," if any, in the Pricing Certificate are subject to scheduled mandatory redemption and will be redeemed by the City, out of moneys available for such purpose in the Interest and Sinking Fund, in the manner provided in the Form of Certificate attached hereto as Exhibit C, with such changes as are required by the Pricing Certificate. Term Certificates shall be subject to mandatory redemption at the price, on the dates, and in the respective principal amounts set forth in the Pricing Certificate.

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 remain outstanding and 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 Paying Agent/Registrar.

The form of Paying Agent/Registrar Agreement presented at the meeting at which this Ordinance was approved and the appointment of the Paying Agent/Registrar identified therein are hereby approved.

The Mayor is hereby authorized and directed to execute the Paying Agent/Registrar Agreement with the Paying Agent/Registrar, specifying the duties and responsibilities of the City and the Paying Agent/Registrar, in substantially the form presented at the meeting at which this Ordinance was approved with such changes as may be approved by the Mayor or an Authorized Officer. The signature of the Mayor shall be attested by the City Secretary.

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.

(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/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 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 Exhibit C hereto, 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. CUSIP Registration.

The City may secure identification numbers through CUSIP Global Services, managed on behalf of the American Bankers Association by Standard & Poor's Financial Services LLC, 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 6.03. 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 6.04. Statement of Insurance.

A statement relating to a municipal bond insurance policy, if any, to be issued for the Certificates may be printed on or attached to 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, 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 (i) the total aggregate principal amount and the number of series of the Certificates, (ii) whether to acquire bond insurance for the Certificates, (iii) the price at which the Certificates will be sold, (iv) the number and any additional or different title or designation for the Certificates to be issued, (v) the form in which the Certificates shall be issued, (vi) the dates on which the Certificates will mature, the principal amount to mature in each year, the rate of interest to be borne by each such maturity, the interest payment dates, and the initial date from which interest will accrue, (vii) the dates, prices and other terms upon and at which the Certificates shall be subject to redemption prior to maturity (including terms for optional and mandatory sinking fund redemption), and (viii) 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. At the direction of the Authorized Officer, the Certificates and the Series 2013 Bonds may be sold, but are not required to be sold, pursuant to the terms of a common Purchase Contract.

(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 the Preliminary Official Statement 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 of the Certificates. 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 the meeting at which this Ordinance was adopted. 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. The Authorized Officer may direct the preparation of a common Official Statement for the Certificates and the Series 2013 Bonds.

(d) All officers of the City are authorized to execute such documents, certificates, receipts and other instruments 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 to accept delivery of the Certificates is subject to the closing conditions set forth in the Purchase Contract being satisfied, including specifically 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 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.

Proceeds from the sale of the Certificates shall be applied in accordance with the provisions set forth in the Pricing Certificate, which may provide for the creation of any special accounts deemed necessary or appropriate by the Authorized Officer.

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 the Pricing Certificate pursuant to Section 7.03, at the City's option, may be invested in such securities or obligations as permitted under applicable law. The Authorized 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 the Pricing Certificate pursuant to Section 7.03, 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 other funds to be deposited pursuant to Section 7.03 hereof shall be credited to the fund or 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. Federal Income Tax Exclusion.

(a) Not to Cause Interest to Become Taxable. 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.

(b) No Private Use or Private Payments. Except as permitted by Section 141 of the Code and the Regulations and rulings thereunder, the City shall, at all times after the Issue Date of any Certificate and prior to the last stated maturity of the Certificates

(i) 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 such Certificate 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

(ii) not directly or indirectly impose or accept any charge or other payment for use of Gross Proceeds of such Certificate 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.

(c) No Private Loan. 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 such Certificate 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.

(d) Not to Invest at Higher Yield. 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 such Certificate, directly or indirectly invest Gross Proceeds of such Certificate 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.

(e) Not Federally Guaranteed. Except to the extent permitted by Section 149(b) of the Code and the Regulations and rulings thereunder, the City shall not take or omit to take any action which would cause the Certificates to be federally guaranteed within the meaning of Section 149(b) of the Code and the Regulations and rulings thereunder.

(f) Information Report. The City shall timely file with the Secretary of the Treasury the information required by Section 149(e) of the Code with respect to the Certificates on such forms and in such place as such Secretary may prescribe.

(g) Payment of Rebate Amount. Except to the extent otherwise provided in Section 148(f) of the Code and the Regulations and rulings thereunder, the City shall:

(i) account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of such accounting for at least six years after the final Computation Date. The City may, however, to the extent permitted by law, commingle Gross Proceeds of the Certificates

with other money of the City, provided that the City separately accounts for each receipt and expenditure of such Gross Proceeds and the obligations acquired therewith,

(ii) calculate the Rebate Amount with respect to the Certificates not less frequently than each Computation Date, in accordance with rules set forth in Section 148(f) of the Code, Section 1.148-3 of the Regulations, and the rulings thereunder. The City shall maintain a copy of such calculations for at least six years after the final Computation Date,

(iii) as additional consideration for the purchase of the Certificates by the initial purchaser thereof and the loan of the money represented thereby, and in order to induce such purchase by measures designed to ensure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, pay to the United States the amount described in paragraph (ii) above at the times, in the installments, to the place, in the manner and accompanied by such forms or other information as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder, and

(iv) exercise reasonable diligence to assure that no errors are made in the calculations required by paragraph (ii) and, if such error is made, to discover and promptly to correct such error within a reasonable amount of time thereafter, including payment to the United States of any interest and any penalty required by the Regulations.

(h) Not to Divert Arbitrage Profits. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the City shall not enter into any transaction that reduces the amount required to be paid to the United States pursuant to Subsection (h) of this Section because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield of the Certificates, not been relevant to either party.

(i) Not Hedge Bonds. The City will not invest more than 50 percent of the Proceeds of the Certificates in Nonpurpose Investments having a guaranteed yield for four years or more. On the Issue Date of the Certificates, the City reasonably expects that at least 85 percent of the Net Sale Proceeds of the Certificates will be used to carry out the governmental purpose of such series within three years after the Issue Date.

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. 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.

(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. Identifying Information.

All documents provided to the MSRB pursuant to this Article shall be accompanied by identifying information as prescribed by the MSRB.

Section 12.04. 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, 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.

[Signature page follows]

PRESENTED, FINALLY PASSED AND APPROVED, AND EFFECTIVE on the 11th day of April, 2013, at a regular meeting of the City Council of the City of Lubbock, Texas.

GLEN C. ROBERTSON, Mayor

ATTEST:

REBECCA GARZA, City Secretary

[SEAL]

APPROVED AS TO CONTENT:

By: 
PAMELA MOON, Executive Director of Finance

APPROVED AS TO FORM:

By: 
JERRY V. KYLE, Jr. 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 the Official Statement in "APPENDIX A - FINANCIAL INFORMATION REGARDING THE CITY" (Tables 1-5 and 7-17).

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 price to be paid for the Certificates shall not be less than 90% of the aggregate principal amount of the Certificates;

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

(c) 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;

(d) the maximum maturity for the Certificates shall not exceed twenty-one (21) years from the date of their delivery; and

(e) 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.

EXHIBIT C

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 2013

<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

¹ Information to be inserted from Pricing Certificate.

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, N.A., the initial Paying Agent/Registrar, 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 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.

² Information to be inserted from Pricing Certificate.

³ Information to be inserted from Pricing Certificate.

[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 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

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

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

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 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.

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)

City of Lubbock, TX
Finance Department
Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2013
Projects Funded by this Issue

CULTURAL AND RECREATIONAL SERVICES

Garden and Arts Center Renovations Funded by 2013 CO: \$100,000

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

Llano Estacado Lake Improvements Funded by 2013 CO: \$412,032

Evaluation and renovation of the existing Landwer House and other improvements as identified in the 2003 Fiesta Master Plan.

FACILITIES

Animal Shelter Expansion Funded by 2013 CO: \$748,600

The project includes the addition of one pod to the new animal shelter to provide space for additional animals.

PUBLIC WORKS

Street Maintenance Program – 10 Year Funded by 2013 CO: \$9,304,072

The 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.

Traffic Signals/Controllers – 10 Year Funded by 2013 CO: \$300,000

Installation of signals at un-signalized intersections and school zones as warranted, upgrade controllers, and perform necessary repairs. Some examples of major repairs are replacing crushed conduit and wiring, rebuilding failing signal arm assemblies, and exchanging cabinets and signal arm assemblies that have been damaged.

INTERNAL SERVICES

Upgrade 800 MHZ Radio System to P25 Compliance – 10 Year Funded by 2013 CO: \$2,825,000

The project consists of adding a primary network server switch, a regional site manager server, a 16 port EDACs Internet Protocol (IP) gateway, three 700 MHZ master V channels, replacing 565 non-P25 compliant radios with P25 compliant radios and upgrading 273 radios to P25 compliance.

City of Lubbock, TX
Finance Department
Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2013
Projects Funded by this Issue

STORM WATER

Northwest Lubbock and Maxey Park Project

Funded by 2013 CO: **\$5,253,961**

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.

WASTEWATER

Lift Station Rehabilitation – 10 Year

Funded by 2013 CO: **\$1,000,000**

Purchase and installation of new equipment; modification and/or rehabilitation of existing equipment, facilities, and piping systems; and other major maintenance activities. The 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 2013 CO: **\$380,000**

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

Sewer Lines Ahead of Street Paving

Funded by 2013 CO: **\$750,000**

Installation of sewer lines ahead of municipal, county, and state paving projects including but not limited to Gateway paving projects. Coordinating line change-outs with street paving projects reduces paving costs associated with line change-outs and minimizes customer inconvenience.

Sewer Tap Replacements – 10 Year

Funded by 2013 CO: **\$400,000**

Replacement of failed sewer taps. Damaged taps cause odors, sewer backups, and spills that result in citizen complaints, threaten human safety, and may result in regulatory fines.

Water Reclamation Plant Replacements – 10 Year

Funded by 2013 CO: **\$600,000**

The project includes the purchase and installation of new equipment; modification and/or rehabilitation of existing equipment, facility and piping systems; and other major maintenance activities. The project is part of an annual replacement program that ensures continuous and reliable wastewater treatment.

South Lubbock Sanitary Sewer System Expansion Phase I

Funded by 2013 CO: **\$9,469,779**

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. The project allows for service to recently and proposed annexed areas in South and Southwest Lubbock.

City of Lubbock, TX
Finance Department
Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2013
Projects Funded by this Issue

Northwest Water Reclamation Plant Funded by 2013 CO: **\$18,500,000**

The project includes the design and construction of a new Northwest Water Reclamation Plant. The reclamation plant will handle wastewater flow from Northwest Lubbock producing stream quality effluent that may be discharged into the North Fork of the Double Mountain Fork of the Brazos River for potential reuse.

SEWRP Solids Handling Facility Improvements Funded by 2013 CO: **\$1,500,000**

The project includes the design and construction of plant improvements to the Southeast Water Reclamation Plant (SEWRP), allowing the plant to produce a consistent supply of stream quality discharge into the North Fork of the Double Mountain Fork of the Brazos River.

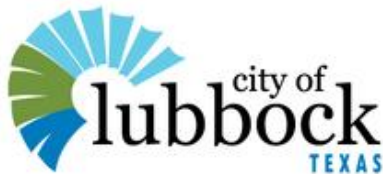
Canyon Lakes Sanitary Sewer Mains Rehabilitation Funded by 2013 CO: **\$1,500,000**

Replacement of large diameter sanitary sewer mains located in the Canyon Lakes area that have reached their useful life as determined by the Sewer Collection System Master Plan. The rehabilitation or replacement will greatly reduce the risk of surcharge or infiltration within the Canyon Lakes Area.

SEWRP Emergency Generator and Switch Gear – 10 Year Funded by 2013 CO: **\$450,000**

Design and construction of a generator facility to ensure electrical power to Lift Station 48 prior to the headworks and the Plant 4 intermediate lift station to maintain pump capacity during power outages. The project also includes design and installation of an automatic switch gear on effluent pump station 2 to ensure automatic start of effluent pumps during power outages.

TOTAL 2013 CO: **\$53,493,444**



Regular City Council Meeting

6. 5.

Meeting Date: 04/11/2013

Information

Agenda Item

Ordinance 1st Reading - Finance: Consider an ordinance providing for the issuance of City of Lubbock, Texas, Electric Light and Power System Revenue Refunding and Improvement Bonds, Series 2013; providing for the award of the sale thereof in accordance with specified parameters; approving the official statement; approving execution of a purchase contract and escrow agreement; and enacting other provisions relating thereto.

Item Summary

On February 28, 2013, the City Council approved the first step in the issuance process by authorizing publication of a Notice of Intent to Issue Electric Light and Power System Revenue Refunding and Improvement Bonds (Bonds). Upon approval of this ordinance, the City will be able to sell the Bonds on a negotiated basis.

The ordinance authorizing the issuance of the Bonds is a “parameters ordinance” delegating authority to the City Manager or Executive Director of Finance (each an Authorized Officer) to determine the timing, terms (including the number of series), and interest rates, of the issuance. The ordinance expires after a six month period and 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 price to be paid for the Bonds shall not be less than 90% of the aggregate principal amount of the Bonds;
- b) the Bonds shall not bear interest at a rate greater than the maximum rate allowed by Chapter 1204, Texas Government Code, as amended;
- c) 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 \$16,000,000 for new Money Purposes and \$4,000,000 for Refunding Purposes;
- d) the refunding of the Refunded Obligations shall result in positive gross debt service savings and net present value savings of at least five percent (5%);
- e) the maximum maturity for the Bonds shall not exceed twenty-one years; and
- f) 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 agree to 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 (First Southwest Company, senior underwriter, Citigroup Global Markets, and Raymond James).

The projects scheduled to be funded with the Bonds are included in the backup material. The Electric Light and Power System outstanding bonds that could potentially be refunded in this financing are listed in Schedule I. The City desires to refund all of a portion of those outstanding obligations (which carry an interest rate that is higher than current interest rates) in order to achieve interest rate savings.

Pursuant to Section 1201.028(3), Texas Government Code, the authorization of a public security is effective immediately 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.

The projects that will be funded with new money bonds have been approved by City Council in the FY 2012-13 Capital Improvement Plan. City Council has also adopted a reimbursement resolution on September 27, 2012; December 28, 2012; and February 28, 2013, allowing projects to start prior to the issuance of new money bonds.

A draft preliminary official statement is available in the City Secretary's office.

Fiscal Impact

Annual payments will be made from the revenues of LP&L. The bond proceeds will be used to fund the capital projects, refund prior year bonds, fund a debt service reserve and pay costs of issuance related to the financing.

Staff/Board Recommending

Pamela Moon, CPA, Executive Director of Finance

Attachments

Ordinance

FY 2012-13 Capital Projects List

ORDINANCE

relating to

CITY OF LUBBOCK, TEXAS
ELECTRIC LIGHT AND POWER SYSTEM
REVENUE REFUNDING AND IMPROVEMENT BONDS
SERIES 2013

Adopted: April 11, 2013

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AN ORDINANCE PROVIDING FOR THE ISSUANCE OF CITY OF LUBBOCK, TEXAS, ELECTRIC LIGHT AND POWER SYSTEM REVENUE REFUNDING AND IMPROVEMENT BONDS, SERIES 2013; PROVIDING FOR THE AWARD OF THE SALE THEREOF IN ACCORDANCE WITH SPECIFIED PARAMETERS; APPROVING THE OFFICIAL STATEMENT; APPROVING EXECUTION OF A PURCHASE CONTRACT AND ESCROW AGREEMENT; AND ENACTING OTHER PROVISIONS RELATING THERETO

WHEREAS, in accordance with the Constitution and laws of the State of Texas, specifically Chapter 1502, Texas Government Code, as amended ("Chapter 1502"), the City of Lubbock, Texas (the "City"), has previously issued its electric light and power system revenue bonds (such outstanding revenue bonds being the "Previously Issued Bonds"), payable from and secured by a first lien on and pledge of the net revenues of the City's Electric Light and Power System (the "System");

WHEREAS, in the ordinances authorizing the issuance of the Previously Issued Bonds the City reserved the right to issue, under certain conditions, additional bonds ("Additional Bonds") on a parity as to lien and right with the Previously Issued Bonds;

WHEREAS, the conditions precedent to the issuance of Additional Bonds under the ordinances authorizing the issuance of the Previously Issued Bonds have occurred and are existing, and the City intends to issue pursuant to this Ordinance its revenue bonds as additional bonds on a parity with the Previously Issued Bonds;

WHEREAS, the City Council of the City (the "City Council") hereby finds and determines that electric light and power system revenue bonds secured by a first lien on and pledge of the Net Revenues of the System on a parity with the Previously Issued Bonds should be issued for the purposes of acquiring, purchasing, constructing, improving, renovating, enlarging, and/or equipping property, buildings, structures, facilities, and/or related infrastructure for the System (the "Project");

WHEREAS, Chapter 1207, Texas Government Code, as amended ("Chapter 1207"), authorizes the City to issue refunding bonds to refund all or a portion of the Previously Issued Bonds 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 further authorizes the City to deposit the proceeds from the sale of refunding bonds, together with 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 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 by this Ordinance will benefit the City by providing present value debt service savings in an amount or amounts to be certified in the Pricing Certificate(s) (hereinafter defined), and that such benefit is sufficient consideration for the issuance of refunding bonds, as provided by this Ordinance, and the refunding of the Refunded Obligations;

WHEREAS, in the event that all of the Refunded Obligation Candidates are refunded in full as contemplated by this Ordinance, there will no longer be any Previously Issued Bonds outstanding that are dated on or prior to July 1, 2001;

WHEREAS, the City Council hereby finds and determines that electric light and power system revenue refunding bonds secured by a first lien on and pledge of the Net Revenues of the System on a parity with the Previously Issued Bonds should be issued for the purpose of refunding the Refunded Obligations;

WHEREAS, the revenue bonds hereinafter authorized are to be issued and delivered pursuant to Chapter 1207 and Chapter 1502 and in accordance with the general laws of the State of Texas;

WHEREAS, the City Council desires to delegate, pursuant to Chapter 1207 and Chapter 1371, Texas Government Code, as amended ("Chapter 1371"), and the parameters of this Ordinance, to the Authorized Officer, the authority to approve the principal amount, the interest rate, the number of series, the price and the other terms of the bonds authorized hereby and to otherwise take such actions as are necessary and appropriate to effect the sale of such bonds;

WHEREAS, the meeting at which this Ordinance is considered is open to the public as required by law, and the 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:

"Additional Bonds" means the additional parity obligations the City reserves the right to issue in accordance with the terms and conditions prescribed in Section 9.01 hereof.

"Authorized Officer" means each of the City Manager and the Executive Director of Finance, acting individually.

“Average Annual Debt Service” means that amount which, at the time of computation, is derived by dividing the total amount of Debt Service to be paid over a period of years as the same is scheduled to become due and payable by the number of years taken into account in determining the total Debt Service. Capitalized interest payments provided from bond proceeds shall be excluded in making the aforementioned computation.

“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 any bond purchase contract approved in Section 8.01(b) of this Ordinance.

“Bonds” means the City’s bonds authorized to be issued by Section 3.01 of this Ordinance.

“Bonds Similarly Secured” means the Previously Issued Bonds, the Bonds and Additional Bonds, if any.

“Business Day” means any day other than a Saturday, Sunday or legal holiday or other 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.

“Chief Financial Officer” means the Chief Financial Officer of the City or such other City employee who has assumed the duties of the Chief Financial Officer.

“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 by all legislation, if any, enacted on or before the Issue Date.

“Computation Date” has the meaning stated in Section 1.148-1(b) of the Regulations.

“Credit Facility” means any agreement of the City entered into with a financial institution in connection with and for the purpose of (i) enhancing or supporting the creditworthiness of (A) a series of Bonds Similarly Secured or (B) all of the Bonds Similarly Secured, (ii) providing a surety policy in order to fund all or a portion of the Required Reserve for the Bonds Similarly Secured, or (iii) providing liquidity with respect to a series of Bonds Similarly Secured which by their terms are subject to tender for purchase, and which, by its terms, creates a liability on the part of the City on a parity with the Bonds Similarly Secured; provided that, on the date any such credit facility is issued, any rating agency having an outstanding rating on the Bonds Similarly Secured would not lower the rating on the Bonds Similarly Secured as confirmed in writing by such rating agency. A determination by the City contained in the ordinance authorizing the issuance of Bonds Similarly Secured and/or authorizing the execution and delivery of a Credit

Facility that such agreement constitutes a Credit Facility under this definition shall be conclusive as against all Owners.

“Debt Service” means, as of any particular date of computation, with respect to any series of obligations and with respect to any period, the aggregate of the amounts to be paid or set aside by the City as of such date or in such period for the payment of the principal of, premium, if any, and interest (to the extent not capitalized) on such obligations; assuming in the case of obligations required to be redeemed or prepaid as to principal prior to maturity, the principal amounts thereof will be redeemed prior to maturity in accordance with the mandatory redemption provisions applicable thereto.

“Designated Payment/Transfer Office” means the Designated Payment/Transfer Office, as designated in the Paying Agent/Registrar Agreement, or such other location designated by the Paying Agent/Registrar.

“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 an Escrow Agreement between the City and the Escrow Agent pertaining to the defeasance of the Refunded Obligations, as described in Section 14.03 of this Ordinance.

“Escrow Fund” means the fund by that name established in the Escrow Agreement.

“Escrow Securities” has the meaning assigned in the Escrow Agreement.

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

“Fiscal Year” means the twelve (12) month accounting period used by the City in connection with the operations of the System which may be any twelve (12) consecutive month period established by the City.

“Fund” means any of the funds, accounts or a portion of a fund or account, confirmed and/or established pursuant to Article VII hereof.

“Gross Proceeds” has the meaning stated 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 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, as set forth in the Pricing Certificate.

“Investment” has the meaning stated in Section 1.148-1(b) of the Regulations.

“Issue Date” for each series or sub-series of the Bonds or other obligations of the City is the respective date on which such series or sub-series of the Bonds or other obligations of the City is delivered against payment therefor.

“MSRB” means the Municipal Securities Rulemaking Board.

“Net Revenues” means the gross revenues of the System less expenses of operation and maintenance. Such expenses of operation and maintenance shall not include depreciation charges or amounts or Funds pledged for the Bonds Similarly Secured, but shall include all salaries, labor, materials, repairs, and extensions necessary to render services; provided, however, that in determining “Net Revenues,” only such repairs and extensions as in the judgment of the City Council, reasonably and fairly exercised, are necessary to keep the System in operation and render adequate service to the City and inhabitants thereof, or such as might be necessary to meet some physical accident or condition which otherwise would impair the security of the Bonds Similarly Secured, shall be deducted.

“Net Sale Proceeds” has the meaning stated in Section 1.148-1(b) of the Regulations.

“New Money Purposes” has the meaning assigned in Section 3.01 of this Ordinance.

“Nonpurpose Investment” has the meaning stated in Section 1.148-1(b) of the Regulations.

“Outstanding” when used in this Ordinance with respect to Bonds Similarly Secured, means, as of the date of determination, all Bonds Similarly Secured theretofore sold, issued and delivered by the City, except:

- (1) those Bonds Similarly Secured cancelled or delivered to the transfer agent or registrar for cancellation in connection with the exchange or transfer of such obligations;
- (2) those Bonds Similarly Secured paid or deemed to be paid in accordance with the provisions of Section 11.01 of this Ordinance; and
- (3) those Bonds Similarly Secured that have been mutilated, destroyed, lost, or stolen and replacement bonds have been registered and delivered in lieu thereof.

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

“Paying Agent/Registrar” means the bank or trust company identified in the Paying Agent/Registrar Agreement referred to in Section 5.01 of this Ordinance, or any successor thereto as provided in this Ordinance.

“Previously Issued Bonds” means the Outstanding and unpaid revenue bonds payable from and secured by a first lien on and pledge of the Net Revenues of the System, further identified as follows:

(1) City of Lubbock, Texas, Electric Light and Power System Revenue Bonds, Series 2001, dated July 1, 2001, issued in the original principal amount of \$9,200,000, currently outstanding in the aggregate principal amount of \$4,140,000, and maturing on April 15 in each of the years 2013 through 2019, inclusive, and on April 15, 2021; and

(2) City of Lubbock, Texas, Electric Light and Power System Revenue Bonds, Series 2010, dated October 15, 2010, issued in the original principal amount of \$73,295,000, currently outstanding in the aggregate principal amount of \$59,580,000, and maturing on April 15 in each of the years 2013 through 2020, inclusive.

“Pricing Certificate” means a certificate or certificates signed by an Authorized Officer establishing the terms and features of each series of Bonds in accordance with Section 8.01 hereof.

“Proceeds” has the meaning stated in Section 1.148-1(b) of the Regulations.

“Project” has the meaning assigned in the recitals to this Ordinance.

“Rebate Amount” has the meaning stated in Section 1.148-3 of the Regulations.

“Record Date” means the date specified in the Pricing Certificate.

“Refunded Obligation Candidates” means the Previously Issued Bonds described in Schedule I attached hereto.

“Refunded Obligations” means the Refunded Obligation Candidates designated as Refunded Obligations in a Pricing Certificate.

“Refunding Purposes” has the meaning assigned in Section 3.01 of this Ordinance.

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

“Regulations” means the final or temporary Income Tax Regulations applicable to the Bonds issued pursuant to Sections 141 through 150 of the Code. Any reference to a section of the Regulations shall also refer to any successor provision to such section hereafter promulgated by the Internal Revenue Service pursuant to Sections 141 through 150 of the Code and applicable to the Bonds.

“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.

“Reserve Fund Obligations” means cash or investment securities of any of the type or types permitted under Section 7.06(d) of this Ordinance.

“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).

“System” means all properties, real, personal, mixed or otherwise, now owned or hereafter acquired by the City through purchase, construction or otherwise, and used in connection with the City’s Electric, Light and Power System and in anywise pertaining thereto, whether situated within or without the limits of the City.

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

“Unclaimed Payments” mean money deposited with the Paying Agent/Registrar for the payment of principal of, premium, if any, 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” mean the entities named as underwriters in the Bond Purchase Contract.

“Yield of”

- (i) any Investment shall be computed in accordance with Section 1.148-5 of the Regulations, and
- (ii) the Bonds shall be computed in accordance with Section 1.148-4 of the Regulations.

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) Any action required to be taken on a date which is not a Business Day shall be done on the next succeeding Business Day and have the same effect as if done on the date so required.

(c) 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

Section 2.01 Pledge of Security.

The City hereby covenants and agrees that all of the Net Revenues derived from the operation of the System, with the exception of those in excess of the amounts required to establish and maintain the special Funds created for the payment and security of the Bonds Similarly Secured, are hereby irrevocably pledged for the payment of the Previously Issued Bonds, the Bonds and Additional Bonds, if issued, and the interest thereon, and it is hereby ordained that the Previously Issued Bonds, the Bonds and Additional Bonds, if issued, and the interest thereon, shall constitute a first lien on the Net Revenues of the System and be valid and binding without any physical delivery thereof or further act by the City as provided in Chapter 1208, Texas Government Code, as amended.

Section 2.02 Limited Obligations.

The Bonds, together with the Previously Issued Bonds and any Additional Bonds, are special obligations of the City, payable solely from the pledged Net Revenues, and do not constitute a prohibited indebtedness of the City. Neither the Bonds nor any Additional Bonds shall ever be payable out of funds raised or to be raised by taxation.

Section 2.03 Security Interest.

The City represents that, under Chapter 1208, Texas Government Code, as amended ("Chapter 1208"), a security interest in the Net Revenues pledged to the payment of the Bonds that is created by the City is valid and effective according to the terms of the security agreement and is perfected from the time the security agreement is entered into or adopted continuously through the termination of the security interest, without physical delivery or transfer of control of the property, filing of a document, or another act. The City covenants that, if Chapter 1208 is amended at any time while the Bonds are outstanding and unpaid, the City shall take all actions required in order to preserve for the Owners of the Bonds a perfected security interest in the property in which such security interest is granted pursuant to Section 2.01 hereof.

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, Electric Light and Power System Revenue Refunding and Improvement Bonds, Series 2013," 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 1207, 1371 and 1502 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 in the principal amount designated in the Pricing Certificate(s) therefor, such aggregate principal amount not to exceed \$20,000,000, consisting of (a) an aggregate principal amount not to exceed \$16,000,000 for the purposes of (i) paying the costs of the Project, (ii) funding the reserve fund requirement for the Bonds, and (iii) paying the costs of issuing the Bonds (collectively, the "New Money Purposes"), and (b) an aggregate principal amount not to exceed \$4,000,000 for the purposes of (i) refunding the Refunded Obligations and (ii) paying the costs of issuing the Bonds and refunding the Refunded Obligations (collectively, the "Refunding Purposes").

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 or such other designation acceptable to the City and the Paying Agent/Registrar, except the Initial Bond, which shall be numbered T-1, or in such other manner provided in the Pricing Certificate.

(b) The Bonds shall mature on the date or dates, 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, or on such other basis as set forth in the Pricing Certificate.

Section 3.03 Medium, Method and Place of Payment.

(a) The principal of, premium, if any, 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 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.

(e) If the date for the payment of the principal of, premium, if any, or interest on the Bonds is not a Business Day, then the date for such payment shall be the next succeeding day that is a Business Day, 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 (3) 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 owners 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 in Section 6.02 of this Ordinance, 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 in Section 6.02 of this Ordinance, 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 representing the entire principal amount of all 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.

(a) 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.

(b) 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, premium, if any, 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, premium, if any, 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, premium, if any, 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, premium, if any, 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.

(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 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 Owners 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, premium, if any, 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 and in the Pricing Certificate.

Section 4.02 Optional Redemption.

(a) The City reserves the option to redeem Bonds in the manner provided in the Form of Bond attached hereto as Exhibit C, 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, or by any other customary method that results in a random selection, 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.

Bonds designated as "Term Bonds," if any, in the Pricing Certificate are subject to scheduled mandatory redemption and will be redeemed by the City, out of moneys available for such purpose in the Interest and Sinking Fund, in the manner provided in the Form of Bond attached hereto as Exhibit C, with such changes as are required by the Pricing Certificate. Term Bonds shall be subject to mandatory redemption at the price, on the dates, and in the respective principal amounts set forth in the Pricing Certificate.

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 remain Outstanding and 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 Paying Agent/Registrar.

The form of Paying Agent/Registrar Agreement presented at the meeting at which this Ordinance was approved and the appointment of the Paying Agent/Registrar identified therein are hereby approved.

The Mayor is hereby authorized and directed to execute the Paying Agent/Registrar Agreement with the Paying Agent/Registrar, specifying the duties and responsibilities of the City and the Paying Agent/Registrar, in substantially the form presented at the meeting at which this Ordinance was approved with such changes as may be approved by the Mayor or an Authorized Officer. The signature of the Mayor shall be attested by the City Secretary.

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.

(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 Exhibit C hereto, 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 CUSIP Registration.

The City may secure identification numbers through CUSIP Global Services, managed on behalf of the American Bankers Association by Standard & Poor's Financial Services LCC, 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 6.03 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 6.04 Statement of Insurance.

A statement relating to a municipal bond insurance policy, if any, issued for the Bonds may be printed on or attached to each Bond.

ARTICLE VII
FUNDS AND ACCOUNTS

Section 7.01 Segregation of Revenues/Fund Designations.

All receipts, revenues and income derived from the operation and ownership of the System shall be kept separate from other funds of the City and deposited within twenty-four (24) hours after collection in the "Electric Light and Power System Fund" (created and established in connection with the issuance of the Previously Issued Bonds), which Fund (hereinafter referred to as the "System Fund") is hereby reaffirmed and shall continue to be kept and maintained at an official depository bank of the City while the Bonds remain Outstanding. Furthermore, the "Special Electric Light and Power System Revenue Bond Retirement and Reserve Fund" (hereinafter referred to as the "Bond Fund"), created and established in connection with the issuance of the Previously Issued Bonds, is hereby reaffirmed and shall continue to be maintained by the City while the Bonds remain Outstanding. The Bond Fund is and shall continue to be kept and maintained at the City's official depository bank, and moneys deposited in the Bond Fund shall be used for no purpose other than for the payment, redemption and retirement of Bonds Similarly Secured.

Section 7.02 System Fund.

The City hereby reaffirms its covenant to the Owners of the Previously Issued Bonds and agrees with the owners of the Bonds that the moneys deposited in the System Fund shall be used first for the payment of the reasonable and proper expenses of operating and maintaining the System. All moneys deposited in the System Fund in excess of the amounts required to pay operating and maintenance expenses of the System shall be applied and appropriated, to the extent required and in the order of priority prescribed, as follows:

- (a) To the payment of the amounts required to be deposited in the Bond Fund for the payment of principal of and interest on the Bonds Similarly Secured as the same become due and payable; and
- (b) To the payment of the amounts, if any, required to be deposited in the Reserve Portion of the Bond Fund to accumulate, restore and maintain the Reserve Requirement as security for the payment of the principal of and interest on the Bonds Similarly Secured.

Section 7.03 Bond Fund.

- (a) In addition to the required monthly deposits to the Bond Fund for the payment of principal of and interest on the Previously Issued Bonds, the City hereby agrees and covenants to deposit to the Bond Fund an amount equal to one hundred percent (100%) of the amount required to fully pay the interest on and principal of the Bonds falling due on or before each maturity date and Interest Payment Date, such payments to be made in substantially equal

monthly installments on or before the first day of each month beginning on or before the first day of the month next following the month the Bonds are delivered to the Underwriters. The required monthly deposits to the Bond Fund for the payment of principal of and interest on the Bonds shall continue to be made as hereinabove provided until such time as (i) the total amount on deposit in the Bond Fund, including the "Reserve Portion" deposited therein, is equal to the amount required to fully pay and discharge all Outstanding Bonds Similarly Secured (principal and interest) or (ii) the Bonds are no longer Outstanding, i.e., the Bonds have been fully paid as to principal and interest or all the Bonds have been refunded. Accrued interest, if any, received from the purchasers of the Bonds shall be deposited in the Bond Fund, and shall be taken into consideration and reduce the amount of the monthly deposits hereinabove required which would otherwise be required to be deposited in the Bond Fund from the Net Revenues of the System.

(b) In addition to the amounts to be deposited in the Bond Fund to pay current principal and interest for the Bonds Similarly Secured, the City reaffirms its covenant to the holders of the Previously Issued Bonds and agrees to accumulate and maintain in said Fund a reserve amount (the "Reserve Portion") equal to not less than the average annual principal and interest requirements of all Outstanding Bonds Similarly Secured (calculated and predetermined at the time of issuance of each series of Bonds Similarly Secured). The Pricing Certificate shall set forth the amount required to be on deposit in the Reserve Portion of the Bond Fund by virtue of the issuance of the Bonds (the "Required Reserve"), which amount will be not less than the average annual principal and interest requirements of the Outstanding Bonds Similarly Secured after giving effect to the issuance of the Bonds. The Reserve Portion of the Bond Fund shall be made available for and reasonably employed in meeting the requirements of the Bond Fund if need be, and if any amount thereof is so employed, the Reserve Portion in the Bond Fund shall be fully restored to the Required Reserve as rapidly as possible from the first available Net Revenues of the System in the System Fund subject only to the priority of payments hereinabove prescribed in Section 7.02. Any amounts on deposit in the Reserve Portion of the Bond Fund which are in excess of the Required Reserve shall be transferred to the System Fund.

(c) At any time after all of the Previously Issued Bonds dated on or before July 1, 2001, have been paid, refunded or cancelled and are no longer Outstanding, the provisions of subsections (d) through (k) of this Section 7.03 shall apply to the Bonds and any Additional Bonds, and the provisions contained in subsection (b) of this Section 7.03 shall be of no force and effect.

(d) In addition to the amounts to be deposited in the Bond Fund to pay current principal and interest for the Bonds Similarly Secured, the City covenants and agrees to accumulate and maintain in the Bond Fund a reserve amount (the "Reserve Portion") of Reserve Fund Obligations equal to not less than the Average Annual Debt Service requirements of all Outstanding Bonds Similarly Secured (the "Required Reserve") which shall be calculated and predetermined at the time of issuance of each series of Bonds Similarly Secured. Upon issuance of Additional Bonds, the Required Reserve shall be increased, if required, to an amount equal to the lesser of (i) the Average Annual Debt Service (calculated on a Fiscal Year basis) for all bonds Outstanding, as determined on the date of issuance of each series of Additional Bonds, and annually following each principal payment date or redemption date for the Bonds, the Previously Issued Bonds and any Additional Bonds Outstanding, as the case may be, or (ii) the maximum amount in a reasonably required reserve fund that can be invested without restriction

as to yield pursuant to Subsection (d) of section 148 of the Code and regulations promulgated thereunder. The Reserve Portion of the Bond Fund shall be made available for and reasonably employed in meeting the requirements of the Bond Fund if need be, and if any amount thereof is so employed, and the Reserve Portion in the Bond Fund is less than the Required Reserve, or if an event of default under any Credit Facility held in the Reserve Portion of the Bond Fund has occurred and is continuing, the Required Reserve shall be restored from Net Revenues in twenty-four (24) approximately equal monthly payments from the first available Net Revenues of the System in the System Fund subject only to the priority of payments hereinabove prescribed in Section 7.02.

(e) The City may, at its option, withdraw all surplus on deposit in the Reserve Portion of the Bond Fund over the Required Reserve and deposit the same in the System Fund; provided, however, that to the extent such surplus monies constitute bond proceeds, including interest and income derived therefrom, such amounts shall not be deposited to the System Fund and shall only be used for the purposes for which bond proceeds may be used.

(f) For the purpose of determining compliance with the requirements of subsection (d) of this Section 7.03, Reserve Fund Obligations shall be valued each year as of the last day of the City's fiscal year at their market value, except that any direct obligations of the United States (State and Local Government Series) held for the benefit of the Reserve Portion of the Bond Fund in book-entry form shall be continuously valued at their par value or face principal amount.

(g) To the extent permitted by, and in accordance with applicable law and upon approval of the Attorney General of the State of Texas, the City may replace or substitute a Credit Facility for cash or investment securities on deposit in the Reserve Portion of the Bond Fund or in substitution or replacement of any existing Credit Facility. Upon such replacement or substitution, cash or investment securities of any of the types permitted by Section 7.06(d) hereof, on deposit in the Reserve Portion of the Bond Fund which, taken together with the face amount of any existing Credit Facilities, are in excess of the Required Reserve may be withdrawn by the City, at its option, and transferred to the System Fund; provided that the face amount of any Credit Facility may be reduced at the option of the City in lieu of such transfer. However, to the extent such surplus monies constitute bond proceeds, including interest and income derived therefrom, such amounts shall not be deposited to the System Fund and shall only be used for the purposes for which bond proceeds may be used. Any interest due on any reimbursement obligation under the Credit Facility shall not exceed the highest lawful rate of interest which may be paid by the City.

(h) If the City is required to make a withdrawal from the Reserve Portion of the Bond Fund, the City shall promptly notify the issuer of any Credit Facility of the necessity for a withdrawal from the Reserve Portion of the Bond Fund, and shall make such withdrawal first from available moneys or investment securities then on deposit in the Reserve Portion of the Bond Fund, and next from a drawing under any Credit Facility to the extent of such deficiency.

(i) In the event of a deficiency in the Reserve Portion of the Bond Fund, or in the event that on the date of termination or expiration of any Credit Facility or the date of an occurrence of an event of default under the Credit Facility has occurred and is continuing beyond any cure period therefor, if any, there is not on deposit in the Reserve Portion of the Bond Fund

sufficient Reserve Fund Obligations, all in an aggregate amount at least equal to the Required Reserve calculated as of the date of such deficiency, termination, expiration or event of default of such Credit Facility, then the City shall restore such deficiency from the first available Net Revenues of the System in the System Fund subject only to the priority of payments hereinabove prescribed in Section 7.02, in twenty-four (24) approximately equal monthly payments.

(j) In the event of the redemption or defeasance of any of the Outstanding Bonds Similarly Secured, any Reserve Fund Obligations on deposit in the Reserve Fund in excess of the Required Reserve may be withdrawn and transferred, at the option of the City and subject to the last sentence of this subparagraph (j), to the System Fund, as a result of (i) the redemption of the Outstanding Bonds Similarly Secured, or (ii) funds for the payment of the Outstanding Bonds Similarly Secured having been deposited irrevocably with the paying agent or place of payment therefor in the manner described in this Ordinance, the result of such deposit being that such Outstanding Bonds Similarly Secured no longer are deemed to be Outstanding under the terms of this Ordinance. However, to the extent such surplus monies constitute bond proceeds, including interest and income derived therefrom, such amounts shall not be deposited to the System Fund and shall only be used for the purposes for which bond proceeds may be used.

(k) In the event there is a draw upon the Credit Facility, the City shall reimburse the issuer of such Credit Facility for such draw in accordance with the terms of any agreement pursuant to which the Credit Facility is issued from Net Revenues; however, such reimbursement from Net Revenues (i) shall be subject to the provisions of subparagraph (h) hereof, and (ii) shall be subordinate and junior in right of payment to the payment of principal of and premium, if any, and interest on the Bonds Similarly Secured.

Section 7.04 Payment of Bonds.

While any of the Bonds are Outstanding, the proper officers of the City are hereby authorized to transfer or cause to be transferred to the Paying Agent/Registrar, from funds on deposit in the Bond Fund, including the Reserve Portion, if necessary, amounts sufficient to fully pay and discharge promptly as each installment of interest and principal on the Bonds accrues or matures or comes due by reason of redemption prior to maturity; such transfer of funds to be made in such manner as will cause immediately available funds to be deposited with the Paying Agent/Registrar for the Bonds at the close of the Business Day next preceding the date of payment for the Bonds.

Section 7.05 Deficiencies in Funds.

If in any month the City shall, for any reason, fail to pay into the Bond Fund the full amounts above stipulated, amounts equivalent to such deficiencies shall be set apart and paid into the Bond Fund from the first available and unallocated Net Revenues of the System in the following month or months and such payments shall be in addition to the amounts hereinabove provided to be otherwise paid into the Bond Fund during such month or months.

Section 7.06 Security of Funds.

(a) Moneys on deposit in the System Fund (except any amounts as may be properly invested) shall be secured in the manner and to the fullest extent required by the laws of the State

of Texas for the security of public funds. Moneys on deposit in the Bond Fund shall be continuously secured by a valid pledge of direct obligations of, or obligations unconditionally guaranteed by the United States of America, having a market value, exclusive of accrued interest, at all times at least equal to the amount of money to be deposited in said Fund. All sums deposited in the Bond Fund shall be held as a trust fund for the benefit of the Owners of the Bonds Similarly Secured, while the beneficial interest therein deemed to be vested in such Owners. To the extent money in the Reserve Portion of the Bond Fund is invested under the provisions of subsection (b) of this Section 7.06, securing such money as provided otherwise in this section, is not required.

(b) Money deposited to the credit of the Reserve Portion of the Bond Fund may, at the option of the City, be invested in obligations identified in, and in accordance with the provisions of the Public Funds Investment Act, Chapter 2256, Texas Government Code, relating to the investment of "bond proceeds"; provided that all such investments shall be made in such a manner that the money required to be expended from said Funds will be available at the proper time or times. Such investments (except State and Local Government Series investments held in book-entry form, which shall at all times be valued at par) shall be valued in terms of current market value within forty-five (45) days of the close of each Fiscal Year and, with respect to investments held for the account of the Reserve Portion of the Bond Fund, within thirty (30) days of the date of passage of each ordinance authorizing the issuance of Additional Bonds. All moneys resulting from maturity of principal and interest of the securities shall be reinvested or accumulated in the Reserve Portion of the Bond Fund and considered a part thereof and used for and only for the purposes hereinabove provided with respect to said Reserve Portion, provided that when the full amount required to be accumulated in the Reserve Portion of the Bond Fund (being the amounts required to be accumulated by the ordinances authorizing the Bonds Similarly Secured) is accumulated, any interest increment may be used in the Bond Fund to reduce the payments that would otherwise be required to pay the current Debt Service requirements on Bonds Similarly Secured.

(c) At any time after all of the Previously Issued Bonds dated on or before July 1, 2001, have been paid, refunded or cancelled and are no longer Outstanding, the provisions of subsection (d) of this Section 7.06 shall apply to the Bonds and any Additional Bonds, and the provisions contained in subsections (a) and (b) of this Section 7.06 shall be of no force and effect.

(d) Money in any Fund established or affirmed pursuant to this Ordinance or any ordinance authorizing the issuance of Previously Issued Bonds, and any Additional Bonds, may, at the option of the City, be invested in time deposits or certificates of deposit secured in the manner required by law for public funds, or be invested in direct obligations of, including obligations the principal and interest on which are unconditionally guaranteed by, the United States of America, in obligations of any agencies or instrumentalities thereof, or in such other investments as are permitted under the Public Funds Investment Act, Chapter 2256, Texas Government Code, as amended, or any successor law, as in effect from time to time, consistent with the City's investment policy; provided that all such deposits and investments shall be made in such manner (which may include repurchase agreements for such investment with any primary dealer of such agreements) that the money required to be expended from any such Fund will be available at the proper time or times. Such investments shall be valued each year in terms of

current market value as of the last day of the Fiscal Year. For purposes of maximizing investment returns, to the extent permitted by law, money in such Funds may be invested in common investments of the kind described above, or in a common pool of such investment which shall be kept and held at an official depository bank, which shall not be deemed to be or constitute a commingling of such money or funds provided that safekeeping receipts or certificates of participation clearly evidencing the investment or investment pool in which such money is invested and the share thereof purchased with such money or owned by such fund are held by or on behalf of each such Fund. If necessary, such investments shall be promptly sold to prevent any default. Any investment made with money deposited to the credit of the Reserve Portion of the Bond Fund shall not have a maturity in excess of five (5) years.

ARTICLE VIII SALE AND DELIVERY OF BONDS; DEPOSIT OF PROCEEDS

Section 8.01 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 8.01(a) and Exhibit B hereto, provided that all of the conditions set forth in Exhibit B can be satisfied. As authorized by Chapters 1207 and 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 each series of Bonds and carrying out the other procedures specified in this Ordinance, including determining (i) the total aggregate principal amount and the number of series of the Bonds, (ii) whether to acquire bond insurance for each series of Bonds, (iii) the amount and manner of funding the reserve fund requirement; (iv) the price at which the Bonds of each series will be sold, (v) the Refunded Obligation Candidates to be refunded and their redemption dates, (vi) the number and any additional or different title or designation for each series of Bonds to be issued, (vii) the form in which the Bonds of each series shall be issued, (viii) the dates on which the Bonds of each series will mature, the principal amount to mature in each year, the rate of interest to be borne by each such maturity, the interest payment dates, and the initial date from which interest will accrue, (ix) the dates, prices and other terms upon and at which the Bonds of each series shall be subject to redemption prior to maturity (including terms for optional and mandatory sinking fund redemption), and (x) 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 for each series of Bonds.

The authority granted to the Authorized Officer under this Section 8.01(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 with

respect to each series of Bonds (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 the Preliminary Official Statement 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 of the Bonds. 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 the meeting at which this Ordinance was approved. 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, receipts and other instruments 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 to accept delivery of the Bonds is subject to the closing conditions set forth in the Bond Purchase Contract, including specifically 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 8.02 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 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 Tern 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 Tern 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 8.03 Deposit of Proceeds.

Proceeds from the sale of the Bonds shall be applied in accordance with the provisions set forth in the Pricing Certificate for such Bonds.

ARTICLE IX
PARTICULAR REPRESENTATIONS AND COVENANTS

Section 9.01 Additional Bonds.

In addition to the right to issue bonds of inferior lien as authorized by the laws of the State of Texas, the City hereby reserves the right to issue Additional Bonds which, when duly authorized and issued in compliance with the terms and conditions hereinafter appearing, shall be on a parity with the Previously Issued Bonds and the Bonds herein authorized, payable from and equally and ratably secured by a first lien on and pledge of the Net Revenues of the System. The Additional Bonds may be issued in one or more installments, provided, however, that none shall be issued unless and until the following conditions have been met:

(a) The Mayor and Chief Financial Officer have certified that the City is not then in default as to any covenant, condition or obligation prescribed by any ordinance authorizing the issuance of Bonds Similarly Secured then Outstanding, including showings that all interest, sinking and reserve funds then provided for have been fully maintained in accordance with the provisions of said ordinances;

(b) The applicable laws of the State of Texas in force at the time provide permission and authority for the issuance of such Additional Bonds and have been fully complied with;

(c) The Additional Bonds are made to mature on April 15 or October 15, or both, in each of the years in which they are provided to mature;

(d) The Reserve Portion of the Bond Fund shall be accumulated and supplemented as necessary to maintain a sum which shall be not less than the Average Annual Debt Service requirements of all bonds secured by a first lien on and pledge of the Net Revenues of the System which will be outstanding upon the issuance of any series of Additional Bonds. Accordingly, each ordinance authorizing the issuance of any series of Additional Bonds shall provide for any required increase in the Reserve Portion, and if supplementation is necessary to meet all conditions of said Reserve Portion, said ordinances shall make provision that same be

supplemented by the required amounts in equal monthly installments over a period of not to exceed sixty (60) calendar months from the dating of such Additional Bonds.

(e) In addition to the conditions precedent that must be satisfied pursuant to this Section 9.01, so long as the Previously Issued Bonds dated on or prior to July 1, 2001, remain Outstanding, the condition precedent set forth in subdivision (i) below must be satisfied. Once the Previously Issued Bonds dated on or prior to July 1, 2001 are no longer Outstanding, the condition precedent in subdivision (ii) below must be satisfied.

(i) The City has secured from an independent certified public accountant a written report demonstrating the Net Revenues of the System were, during the last completed Fiscal Year, or during any consecutive twelve (12) months period of the last fifteen (15) consecutive months prior to the month of adoption of the ordinance authorizing the Additional Bonds, equal to at least one and one-half (1-1/2) times the Average Annual Debt Service requirements of all Bonds Similarly Secured and which will be outstanding upon the issuance of the Additional Bonds; and further demonstrating that for the same period as is employed in arriving at the aforementioned test said Net Revenues were equal to at least one and one-fifth (1-1/5) times the maximum annual principal and interest requirements of all such bonds as will be outstanding upon the issuance of the Additional Bonds.

(ii) The City has secured a certificate or opinion from an independent certified public accountant to the effect that, according to the books and records of the City, the Net Revenues of the System were, during the last completed Fiscal Year, or during any consecutive twelve (12) months period of the last eighteen (18) consecutive months prior to the month of adoption of the ordinance authorizing the Additional Bonds, equal to at least 1.25 times the Average Annual Debt Service requirements of the Bonds Similarly Secured which will be outstanding upon the issuance of the Additional Bonds; and further demonstrating that for the same period as is employed in arriving at the aforementioned test said Net Revenues were equal to at least 1.10 times the maximum annual principal and interest requirements of all Bonds Similarly Secured as will be outstanding upon the issuance of the Additional Bonds. In making a determination of the Net Revenues, the certified public accountant may take into consideration a change in the charges for services afforded by the System that became effective at least 60 days prior to the last day of the period for which Revenues are determined and, for purposes of satisfying the above Net Revenues test, make a pro-forma determination of the Net Revenues of the System for the period of time covered by his certification or opinion based on such change in charges being in effect for the entire period covered by the certificate or opinion of the certified public accountant.

When thus issued, such Additional Bonds may be secured by a pledge of the Net Revenues of the System on a parity in all things with the pledge securing the issuance of the Bonds and the Previously Issued Bonds.

Section 9.02 Rates and Charges.

The City hereby covenants and agrees with the owners of the Bonds that rates and charges for electric power and energy afforded by the System will be established and maintained to provide revenues sufficient at all times to pay:

- (a) all necessary and reasonable expenses of operating and maintaining the System as set forth in the definition "Net Revenues" and to recover depreciation;
- (b) the amounts required to be deposited to the Bond Fund to pay the principal of and interest on the Bonds Similarly Secured as the same becomes due and payable and to accumulate and maintain the reserve amount required to be deposited therein; and
- (c) any other legally incurred indebtedness payable from the revenues of the System and/or secured by a lien on the System or the revenues thereof.

Section 9.03 Maintenance and Operation; Insurance.

(a) Prior to the date that the Previously Issued Bonds dated on or prior to July 1, 2001, are no longer Outstanding, or deemed to be Outstanding, the provisions of this subparagraph (a) shall apply to the Similarly Secured Bonds. The City hereby covenants and agrees to maintain the System in good condition and operate the same in an efficient manner and at reasonable cost. The City further agrees to maintain insurance for the benefit of the owners of the Bonds of the kinds and in the amounts which are usually carried by private companies operating similar properties, and that during such time all policies of insurance shall be maintained in force and kept current as to premium payments. All moneys received from losses under such insurance policies other than public liability policies are hereby pledged as security for the Bonds Similarly Secured until and unless the proceeds thereof are paid out in making good the loss or damage in respect of which such proceeds are received, either by replacing the property destroyed or repairing the property damaged, and adequate provisions are made within ninety (90) days after the date of the loss for making good such loss or damage. The premiums for all insurance policies required under the provisions of this Section shall be considered as maintenance and operation expenses of the System.

(b) On the date that the Previously Issued Bonds issued on or prior to July 1, 2001, are no longer Outstanding, or deemed to be not Outstanding, the provisions of this subparagraph (b) shall apply to the Similarly Secured Bonds. In regard to the operations and properties of the System, the City agrees to carry and maintain liability and property damage insurance of the kind and in the amounts customarily carried by municipal corporations in Texas on such kind of properties; provided, however, the City, in lieu of and/or in combination with carrying such insurance, may self-insure against all perils and risks by establishing self-insurance reserves.

Section 9.04 Records, Accounts, Accounting Reports.

The City hereby covenants and agrees while any of the Bonds or any interest thereon remain Outstanding and unpaid, it will keep and maintain a proper and complete system of records and accounts pertaining to the operation of the System separate and apart from all other records and accounts of the City in accordance with generally accepted accounting principles

prescribed for municipal corporations, and complete and correct entries shall be made of all transactions relating to said System, as provided by applicable law. The Owner of any Bonds, or any duly authorized agent or agents of such Owner, shall have the right at all reasonable times to inspect all such records, accounts and data relating thereto and to inspect the System and all properties comprising the same. The City further agrees that as soon as possible following the close of each Fiscal Year, it will cause an audit of such books and accounts to be made by an independent firm of certified public accountants. Each such audit, in addition to whatever other matters may be thought proper by the certified public accountant, shall particularly include the following:

- (a) A detailed statement of the income and expenditures of the System for such Fiscal Year;
- (b) A balance sheet as of the end of such Fiscal Year;
- (c) The comments of such accountant regarding the manner in which the City has complied with the covenants and requirements of this Ordinance and his recommendations for any changes or improvements in the operation, records and accounts of the System;
- (d) A list of the insurance policies in force at the end of the Fiscal Year on the System properties, setting out as to each policy the amount thereof, the risk covered, the name of the insurer, and the policy's expiration date;
- (e) A list of the securities which have been on deposit as security for the money in the Bond Fund throughout the Fiscal Year and a list of the securities, if any, in which the Reserve Portion of the Bond Fund has been invested; and
- (f) The total number of metered and unmetered customers, if any, connected with the System at the end of the Fiscal Year.

Expenses incurred in making the audits above referred to are to be regarded as maintenance and operating expenses of the System and paid as such. Copies of the aforesaid annual audit shall be furnished upon written request to the original purchasers and any subsequent Owners of the Bonds.

Section 9.05 Further Covenants.

The City hereby further covenants and agrees as follows:

- (a) That it has the lawful power to pledge the Net Revenues to the payment of the Bonds and has lawfully exercised said power under the Constitution and laws of the State of Texas; that the Previously Issued Bonds, the Bonds and the Additional Bonds, when issued, shall be ratably secured under said pledge in such manner that one bond shall have no preference over any other bond of said issues.
- (b) That, other than for the payment of the Previously Issued Bonds and the Bonds, the Net Revenues are not in any manner now pledged to the payment of any debt or obligation of the City or of the System on a parity with the Previously Issued Bonds and the Bonds.

(c) That, for so long as any of the Bonds or any interest thereon remain Outstanding, the City will not sell, lease or encumber the System or any substantial part thereof; provided, however, this covenant shall not be construed to prohibit the sale of such machinery, or other properties or equipment which has become obsolete or otherwise unsuited to the efficient operation of the System when other property of equal value has been substituted therefor, and, also, with the exception of the Additional Bonds expressly permitted by this Ordinance to be issued, it will not encumber the Net Revenues unless such encumbrance is made junior and subordinate to all of the provisions of this Ordinance. In the event the City sells the System, the City will use proceeds of such sale to provide for final payment of the Bonds, the Previously Issued Bonds, and any Additional Bonds.

(d) That, it will cause to be rendered monthly to each customer receiving electric services a statement therefor and will not accept payment of less than all of any statement so rendered, using its power under existing ordinances and under all such ordinances to become effective in the future to enforce payment, to withhold service from such delinquent customers and to enforce and authorize reconnection charges.

(e) That it will faithfully and punctually perform all duties with respect to the System required by the Constitution and laws of the State of Texas, including the making and collecting of reasonable and sufficient rates for services supplied by the System, and the segregation and application of the revenues of the System as required by the provisions of this Ordinance.

(f) That no free service shall be provided by the System and to the extent the City or its departments or agencies utilize the services provided by the System, payment shall be made therefor at rates charged to others for similar service.

Section 9.06 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; the City will promptly pay or cause to be paid the principal of, premium, if any, 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 9.07 Federal Income Tax Exclusion.

(a) Not to Cause Interest to Become Taxable. 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 such 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.

(b) No Private Use or Private Payments. Except as permitted by Section 141 of the Code and the Regulations and rulings thereunder, the City shall, at all times after the Issue Date of any Bond and prior to the last stated maturity of the Bonds

(i) 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 such Bond (including property financed with Gross Proceeds of the Refunded Obligations or notes or bonds refunded by the Refunded Obligations) 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

(ii) not directly or indirectly impose or accept any charge or other payment for use of Gross Proceeds of such Bond or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with such Gross Proceeds (including property financed with Gross Proceeds of the Refunded Obligations or notes or bonds refunded by the Refunded Obligations) other than taxes of general application and interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

(c) No Private Loan. 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 such Bond 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 (including property financed with Gross Proceeds of the Refunded Obligations or notes or bonds refunded by the Refunded Obligations) 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.

(d) Not to Invest at Higher Yield. 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 such Bond, directly or indirectly invest Gross Proceeds of such Bond 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.

(e) Not Federally Guaranteed. Except to the extent permitted by Section 149(b) of the Code and the Regulations and rulings thereunder, the City shall not take or omit to take any

action which would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Code and the Regulations and rulings thereunder.

(f) Information Report. The City shall timely file with the Secretary of the Treasury the information required by Section 149(e) of the Code with respect to the Bonds on such forms and in such place as such Secretary may prescribe.

(g) Payment of Rebate Amount. Except to the extent otherwise provided in Section 148(f) of the Code and the Regulations and rulings thereunder, the City shall:

(i) account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of such accounting for at least six years after the final Computation Date. The City may, however, to the extent permitted by law, commingle Gross Proceeds of the Bonds with other money of the City, provided that the City separately accounts for each receipt and expenditure of such Gross Proceeds and the obligations acquired therewith,

(ii) calculate the Rebate Amount with respect to the Bonds not less frequently than each Computation Date, in accordance with rules set forth in Section 148(f) of the Code, Section 1.148-3 of the Regulations, and the rulings thereunder. The City shall maintain a copy of such calculations for at least six years after the final Computation Date,

(iii) as additional consideration for the purchase of the Bonds by the initial purchaser thereof and the loan of the money represented thereby, and in order to induce such purchase by measures designed to ensure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, pay to the United States the amount described in paragraph (ii) above at the times, in the installments, to the place, in the manner and accompanied by such forms or other information as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder, and

(iv) exercise reasonable diligence to assure that no errors are made in the calculations required by paragraph (ii) and, if such error is made, to discover and promptly to correct such error within a reasonable amount of time thereafter, including payment to the United States of any interest and any penalty required by the Regulations.

(h) Not to Divert Arbitrage Profits. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the City shall not enter into any transaction that reduces the amount required to be paid to the United States pursuant to Subsection (h) of this Section because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield of the Bonds, not been relevant to either party.

(i) Not Hedge Bonds. The City did not invest more than 50 percent of the Proceeds of any series of the Refunded Obligations (or, if applicable, the obligations refunded by the Refunded Obligations (the "Original Bonds")) in Nonpurpose Investments having a guaranteed

yield for four years or more. On the Issue Date of the Refunded Obligations, or, if applicable, the Original Bonds, the City reasonably expected that at least 85 percent of the Net Sale Proceeds of each series of the Refunded Obligations, or, if applicable, the Original Bonds, would be used to carry out the governmental purpose of such series within three years after the Issue Date of such series.

Section 9.08 Disposition of Project. The City covenants that the property financed or refinanced with the proceeds of the Bonds will not be sold or otherwise disposed in a transaction resulting in the receipt by the City of cash or other compensation, unless the City obtains an opinion of a nationally-recognized bond counsel substantially to the effect that such sale or other disposition will not adversely affect the tax-exempt status of the Bonds. For purposes of this Section, the portion of the property comprising personal property and disposed of in the ordinary course of business shall not be treated as a transaction resulting in the receipt of cash or other compensation. For purposes of this Section, the City shall not be obligated to comply with this covenant if it obtains an opinion of a nationally-recognized bond counsel to the effect that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

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:

- (a) defaults in payments to be made to the Bond Fund as required by this Ordinance;
- (b) defaults in the observance or performance of any other of the covenants, conditions or obligations set forth in this Ordinance.

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 and shall be entitled to a writ of mandamus issued by a court of proper jurisdiction compelling and requiring the City Council and other officers of the City to observe and perform any covenant, condition or obligation prescribed in this Ordinance.

(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.

No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power, or shall be construed to be a waiver of any such default or acquiescence therein, and every such right or power may be exercised from time to time and as often as may be deemed expedient.

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 referred to 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 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.

(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 Identifying Information.

All documents provided to the MSRB pursuant to this Article shall be accompanied by identifying information as prescribed by the MSRB.

Section 12.04 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, 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, premium, if any, 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 Authorized 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.

Section 14.05 Effect of Refunding All of the Refunded Obligation Candidates.

In the event that all of the Refunded Obligation Candidates are refunded in full as contemplated by this Ordinance, the following provisions of this Ordinance will no longer be of force and effect, and shall be superseded by the provisions of this Ordinance described below:

(i) Subsection (b) of Section 7.03 shall be of no force and effect, and the provisions of subsections (d) through (k) of Section 7.03 shall apply to the Bonds and any Additional Bonds;

(ii) Subsections (a) and (b) of Section 7.06 shall be of no force and effect, and the provisions of subsection (d) of Section 7.06 shall apply to the Bonds and any Additional Bonds;

(iii) Subdivision (i) of subsection (e) of Section 9.01 no longer will be required to be satisfied in connection with the issuance of Additional Bonds, and the condition precedent to the issuance of Additional Bonds set forth in subdivision (ii) of subsection (e) of Section 9.01 must be satisfied; and

(iv) Subsection (a) of Section 9.03 shall no longer apply to the Similarly Secured Bonds, and subsection (b) of Section 9.03 shall apply to the Similarly Secured Bonds.

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.

[Signature page follows]

PRESENTED, FINALLY PASSED AND APPROVED, AND EFFECTIVE on the 11th day of April, 2013, at a regular meeting of the City Council of the City of Lubbock, Texas.

GLEN C. ROBERTSON, Mayor

ATTEST:

REBECCA GARZA, City Secretary

[SEAL]

APPROVED AS TO CONTENT:

By: Pamela Moon
PAMELA MOON, CPA, Executive Director of Finance

APPROVED AS TO FORM:

By: Jerry V. Kyle, Jr.
JERRY V. KYLE, JR., Bond Counsel

Signature Page for Ordinance

SCHEDULE I

REFUNDED OBLIGATIONS CANDIDATES

All outstanding maturities of the following obligations of the City:

- Electric Light and Power System Revenue Bonds, Series 2001

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 the Official Statement in "APPENDIX A - FINANCIAL INFORMATION REGARDING THE CITY" (Tables 1 - 12).

Accounting Principles

The accounting principles referred to in such Article XII are the accounting principles described in the notes to the City's financial statements appended to the Official Statement.

EXHIBIT B

SALE PARAMETERS

In accordance with Section 8.01(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 price to be paid for the Bonds shall be not less than 90% of the aggregate principal amount of the Bonds;
- (b) the Bonds shall not bear interest at a rate greater than the maximum rate allowed by Chapter 1204, Texas Government Code, as amended;
- (c) 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;
- (d) the refunding of the Refunded Obligations shall result in positive gross debt service savings and net present value savings of at least five percent (5%);
- (e) the maximum maturity for the Bonds shall not exceed twenty-one (21) years from the date of their delivery; and
- (f) 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.

EXHIBIT C

FORM OF THE BONDS

The form of the Bonds shall be generally in the form set forth below, including the form of the Registration Certificate of the Comptroller of Public Accounts of the State of Texas to accompany the initially delivered Bonds, the form of Certificate of the Paying Agent/Registrar and the form of Assignment appearing on the Bonds shall be substantially 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
ELECTRIC LIGHT AND POWER SYSTEM REVENUE
[REFUNDING AND IMPROVEMENT BOND]
SERIES 2013

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, but solely from the sources and in the manner hereinafter provided, 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

¹ Information to be inserted from Pricing Certificate.

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 April 15 and October 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 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 office in Dallas, Texas (the "Designated Payment/Transfer Office"), of The Bank of New York Mellon Trust Company, N.A., the initial Paying Agent/Registrar, or, with respect to a successor Paying Agent/Registrar, at the Designated Payment/Transfer Office of such successor. Interest on this Bond is payable by check dated as of the interest payment date, and mailed by the Paying Agent/Registrar to the registered owner at the address shown on the Register kept by the Paying Agent/Registrar, or by such other customary banking arrangements 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. 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 an Interest Payment Date.

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 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 for all purposes be deemed to have been made on the original date payment was due.

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 the authority provided by Chapters 1207, 1371 and 1502, Texas Government Code, as amended, and a certain ordinance of the City (the "Ordinance"), for the purposes of (i) acquiring, purchasing, constructing, improving, renovating, enlarging, and/or equipping property, buildings, structures, facilities, and/or related infrastructure for the City's Electric Light and Power System, (ii) refunding certain outstanding obligations of the City, and (iii) paying the costs of issuing the Bonds.

The Bonds, together with certain outstanding parity lien revenue bonds of the City, are secured by and payable solely from a first lien on and pledge of the Net Revenues of the System, as provided or incorporated by reference in the Ordinance. The Bonds constitute special obligations of the City payable solely from the sources and in the manner set forth herein and in the Ordinance and not from any other revenues, funds or assets of the City.

² Information to be inserted from Pricing Certificate.

³ Information to be inserted from Pricing Certificate.

The City has reserved the right, subject to the restrictions stated or incorporated by reference in the Ordinance, to issue additional parity revenue bonds that may be secured in the same manner and on a parity with the Bonds and the Previously Issued Bonds.

[The City has reserved the option to redeem the Bonds maturing on or after April 15, 20__, before their respective scheduled maturities in whole or in part on April 15, 20__, or on any date thereafter, at a price equal to the principal amount of the Bonds so called for redemption 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 the Bonds, or portion thereof, within such maturity and in such principal amounts, for redemption.]⁴

[Bonds maturing on April 15, 20_ (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:

Term Bonds Maturing April 15, 20_____

<u>Redemption Date</u>	<u>Principal Amount</u>
April 15, 20_	
April 15, 20_	
April 15, 20_ (maturity)	

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 Term 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 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.]⁵

Notice of such redemption or redemptions shall be given by first class mail, postage prepaid, not less than 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. Subject to the right of the City to give a conditional notice of redemption with respect to an optional redemption, as described below,

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

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

notice having been so given, the Bonds or portions thereof designated for redemption shall become due and payable on the redemption date specified in such notice; from and after such date, notwithstanding that any of the Bonds or portions thereof so called for redemption shall not have been surrendered for payment, interest on such Bonds or portions thereof shall cease to accrue.

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 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 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 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) and for all other purposes, whether or not this Bond be overdue, and neither the City nor the Paying Agent/Registrar, nor any such agent shall be affected by notice to the contrary.

IT IS HEREBY CERTIFIED AND RECITED that this Bond has been duly and validly issued and delivered; that all acts, conditions, and things required or proper to be performed, exist, and be done precedent to or in the issuance and delivery of this Bond have been performed,

existed, and been done in accordance with law; that the Bonds do not exceed any constitutional or statutory limitation; and that provision has been made for the payment of the principal of and interest on the Bonds by irrevocably pledging the net revenues of the System, as hereinabove recited.

The registered owner hereof shall never have the right to demand payment of this Bond out of any funds raised or to be raised by taxation.

IN WITNESS WHEREOF, the City has caused this Bond to be executed in its name 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 special obligation of the City of Lubbock, Texas, payable from the revenues pledged to its payment by and in the ordinance authorizing same and that said bond has this day been registered by me.

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

Comptroller of Public Accounts
of the State of Texas

[SEAL]

(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

It is hereby certified that this Bond has been issued under the provisions of the Ordinance described on this Bond; and that this Bond has been issued in conversion of and exchange for or replacement of a bond, bonds, or portion of a bond or bonds of an issue which was originally approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas as shown in the records kept by the undersigned.

_____,
as Paying Agent/Registrar

Dated: _____ By: _____
Authorized Representative

(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 subsections (a), (b) and (d) of this Section, except for the following alterations:

(i) immediately under the name of the Bond (which name shall be set forth in the Pricing Certificate), the headings "INTEREST RATE" and "MATURITY DATE" shall be completed with the words "As shown below";

(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 April 15 in each of the years, in the principal installments and bearing interest at the per annum rates in accordance with the following schedule:

Year	Principal Installment	Interest Rate

(Information to be inserted from the Pricing Certificate)

(iii) the Initial Bond shall be numbered T-1.

City of Lubbock, TX
Finance Department
LP&L Revenue Bonds, Series 2013
Projects Funded by this Issue

LUBBOCK POWER & LIGHT

Downtown Redevelopment Underground – 10 Year Funded by 2013 LP&L Rev Bonds: **\$290,000**

Removal of overhead electrical facilities in the targeted area of Main to Broadway and Avenue O to Avenue Q which will include the revision of service to AT&T, Horizon Specialty Care, Kaplan College, City Substation, Holiday Inn, United Way, and the Kastman property.

MGL 6 & 7 Cooling Tower Replacement – 10 Year Funded by 2013 LP&L Rev Bonds: **\$4,180,000**

The project includes the replacement of the entire timber structure as a turnkey project by outside contractors. The existing mechanical components and the major reticulation piping, all of which has been renewed or refurbished, will be retained. Water deck covers to eliminate algae will be incorporated in the new tower.

Additional MCC for Cooke Station – 10 Year Funded by 2013 LP&L Rev Bonds: **\$300,000**

Purchase and installation of a Motor Control Center (MCC) cubicle at Cooke Station. The electrical load on Cooke Station is increasing, and is limited on access to power.

CK 2 Boiler Feed Pumps Overhaul – 10 Year Funded by 2013 LP&L Rev Bonds: **\$100,000**

The project includes overhaul of boiler feed pumps at the Cooke station. These pumps were last overhauled in 1993-94 and are overdue for overhaul.

GT3 Major Overhaul – 10 Year Funded by 2013 LP&L Rev Bonds: **\$850,000**

The project consists of major disassembly of the turbine, removal of the turbine rotor, and shipment and repair of all major components. Annual inspection of GT3 revealed wear in the compressor section of the turbine, raising concern about a potential failure of wasted blading and consequent downstream damage.

Critical Valve Overhauls – 10 Year Funded by 2013 LP&L Rev Bonds: **\$150,000**

Purchase and installation of replacement valves where necessary and contract field repair of those valves that can be economically restored to OEM performance and condition. This work has been ongoing over the past two years and this project will be Phase III.

Refurbish CK Startup Transformer – 10 Year Funded by 2013 LP&L Rev Bonds: **\$200,000**

Overhaul of old startup transformer for Cook Station. Installation of new transformer purchased last year and for backup of the existing transformer.

City of Lubbock, TX
Finance Department
LP&L Revenue Bonds, Series 2013
Projects Funded by this Issue

Underground Distribution – 10 Year Funded by 2013 LP&L Rev Bonds: **\$2,100,000**

The project provides for purchase and installation of the underground service and distribution system for Lubbock Power & Light to serve new customers.

Overhead Distribution – 10 Year Funded by 2013 LP&L Rev Bonds: **\$1,200,000**

The project provides for the purchase of materials and the installation, or extension, of new overhead distribution lines to serve customers of Lubbock Power & Light.

Distribution Transformers – 10 Year Funded by 2013 LP&L Rev Bonds: **\$2,300,000**

The project provides for the purchase of overhead transformers, padmount transformers, and switches to be used for upgrading capacity or for new customers to be served by Lubbock Power & Light.

Cooke CEMS Replacement – 10 Year Funded by 2013 LP&L Rev Bonds: **\$150,000**

The project includes removal of the existing continuous emissions monitoring system (CEMS), installation of the new CEMS, routing of new wire and tubing, testing of all hardware and software, and performing relative accuracy testing audit. The existing system was installed in 1995 and is both obsolete and experiencing abnormal operating issues.

CK 2 Boiler Controls Replacement – 10 Year Funded by 2013 LP&L Rev Bonds: **\$550,000**

Removal of old, obsolete pneumatic boiler controls at Cooke Station 2 and replacement with new PLC control system. New modern controls are needed to restore safe and reliable automatic control of the boilers.

CK2 Cooling Tower Mechanical Refurbishment – 10 Year

Funded by 2013 LP&L Rev Bonds: **\$150,000**

Replacement of three convection fans, purchase of a spare gear box, refurbishment of three gearboxes, motors and torque tubes, and replacement of drive shafts as necessary.

230 kV Transmission Loop Funded by 2013 LP&L Rev Bonds: **\$1,000,000**

The project includes completion of the first phase of a 230 kV transmission loop around Lubbock. This allows for a redundant and more reliable transmission system which will also have the capability of moving new generation power from the east side to the west side of Lubbock.

Substation Breaker Replacements Funded by 2013 LP&L Rev Bonds: **\$500,000**

The project provides for replacement of G.E. substation breakers which are experiencing consistent problems. The breakers are no longer in production and replacement parts are difficult to acquire.

TOTAL 2013 LP&L REVENUE BONDS: **\$14,020,000**



Regular City Council Meeting

6. 6.

Meeting Date: 04/11/2013

Information

Agenda Item

Board Appointments - City Secretary: Consider five appointments to the Board of Health.

Item Summary

Board Appointments - City Secretary: Consider five appointments to the Board of Health.

Fiscal Impact

None.

Staff/Board Recommending

Rebecca Garza, City Secretary

Attachments

**BOARD APPOINTMENTS FOR
REGULAR CITY COUNCIL MEETING, April 11, 2013 - REGULAR**

Officer of City		Board Name & No.	Member Name	Term Expires	Attend %	Membership Requirements	Recommended Action	Eligible?
	1	BOARD OF HEALTH	CARR, BRIAN	04.01.13	100%		REAPPOINT	Y
			CHEKURU, NAIDU	04.01.13	50%		REAPPOINT/REPLACE	Y
			CULP, WAYNE	04.01.13	75%		REAPPOINT	Y
			EPSTEIN, ANNE	04.01.13	83%		REAPPOINT	Y
			THOMAS, OLLIE	04.01.13	100%		REAPPOINT	Y

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

City of Lubbock
Board and Commission Recruiting Database

Updated: 4/4/2013

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
1210		Ashe	John	M	A		60+	Realtor	Action Realtors	5	
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 Admini	TX Dept of Cri	4	
1206		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 Manager	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	
0612		Podrebartz	Keith	M	A		30-39	Counselor	Texas Tech Un	1	
0707		Ramsey	Chad	M	A			Self-employed	Ramsey Auto	3	
0407		Riojas	Michael	M	H	C	40-49	Sr Acct Mana	GE Lighting	3	
1206		Spitzer	Michelle	F	A		50-59	CFO	Sunwest Const	4	
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	

BOARD OF HEALTH

	<u>Lubbock</u>	<u>Lubbock</u>	<u>All</u>	
	<u>Population</u>	<u>Adult</u>	<u>City</u>	<u>This</u>
<u>ETHNICITY</u>			<u>Boards</u>	<u>Board</u>
Anglo	55.0%	61.0%	77.8%	55.6% (5)
Hispanic	32.6%	27.6%	8.9%	0.0% (0)
African-American	8.7%	7.4%	9.5%	11.1% (1)
Other	3.7%	4.0%	3.8%	33.3% (3)
<u>GENDER</u>				
Male	48.5%	47.0%	73.2%	77.7% (7)
Female	51.5%	53.0%	26.8%	22.2% (2)
<u>GEOGRAPHIC DISTRIBUTION</u>				
District 1	16.1%	14.9%	11.8%	11.1% (1)
District 2	16.4%	12.7%	3.2%	0.0% (0)
District 3	16.3%	16.1%	14.6%	22.2% (2)
District 4	17.0%	17.0%	21.3%	11.1% (1)
District 5	16.7%	19.4%	28.7%	22.2% (2)
District 6	17.2%	19.9%	16.6%	33.3% (3)
Other/Unknown	0.0%	0.0%	3.8%	0.0% (0)

PURPOSE:

Permanent advisory board which considers and makes recommendations to the City Council on any and all matters pertaining to the public health of the City.

QUALIFICATIONS: Members shall be resident citizens of the city of Lubbock.

APPOINTMENT INFORMATION:

Member Name &

<u>Demographic Facts</u>	<u>Attend</u>	<u>Eligible</u>	<u>Action</u>
Carr, Brian (M,A,3)	100%	Y	Reappoint
Chekuru, Naidu (M,O,6)	50%	Y	Reappoint
Culp, Wayne (M,A,4)	75%	Y	Reappoint
Epstein, Anne (F,A,1)	83%	Y	Reappoint
Thomas, Ollie (M,AA,3)	100%	Y	Reappoint

APPOINTMENTS ADVISORY BOARD RECOMMENDATIONS:

To reappoint Dr. Brian Carr, Dr. Naidu Chekuru, Dr. Wayne Culp, Anne Epstein, and Ollie Thomas

Committee #18 Board of HealthPerm./Temp. Board: **P**

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Home**Business**Reappt
Elig.

				Curr:	4/1/2010	-	4/1/2013	Y
Carr	Y	3715 26th Street	3709 22nd Place Ste.C	2nd:		-		
Dr. Brian		Lubbock TX 79410	Lubbock TX 79410	1st:		-		
	N							
	Y	(806) 787-0761	(806) 795-3911	Fax:			(806) 795-2315	
	Y	(806) 787-0761	CEL					
E-mail		bha@healingtalk.com						

			Pulmonary Associates	Curr:	4/1/2010	-	4/1/2013	Y
Chekuru	Y	5010 21st St.	3621 22nd Street, Suite 400	2nd:		-		
Dr. Naidu		Lubbock TX 79407	Lubbock TX 79410	1st:		-		
	Y	naidukc1@suddenlink.net						
	Y	(806) 796-2852	(806) 791-8484	Fax:			(806) 791-8438	
	Y	(806) 441-2055	CEL					
E-mail		naidukc1@suddenlink.net						

				Curr:	4/1/2010	-	4/1/2013	Y
Culp	N	8502 Oxford Avenue		2nd:		-		
Dr. Wayne		Lubbock TX 79423		1st:		-		
	Y	cwculp@suddenlink.net						
	N	(806) 794-9109		Fax:			(806) 794-8993	
	Y		CEL					
E-mail		cwculp@suddenlink.net						

			Anne C. Epstein, M.D.	Curr:	9/27/2010	-	4/1/2013	Y
Epstein	Y	1924 31st Street	3411 20th Street	2nd:		-		
Dr. Anne		Lubbock TX 79411	Lubbock TX 79410	1st:		-		
	N	acepstein@sbcglobal.net						
	Y	(806) 765-6751	(806) 793-1939	Fax:			(806) 793-1952	
	Y	(806) 777-1888	CEL					
E-mail		acepstein@sbcglobal.net						

				Curr:	4/1/2012	-	4/1/2015	N
Hentges	N	4601 88th St		2nd:	4/1/2009	-	4/1/2012	
Ms. Kae		Lubbock TX 79424		1st:	4/1/2006	-	4/1/2009	
	Y	KAEHENTGES@YAHOO.COM		Fax:				
	N	(806) 794-5529						
	Y	(806) 281-0321	CEL					
E-mail								

Chair/Pres:	Dr. Brian Carr	Staff Liaison:	Beckie Brawley
Vice Chair/V.P.:		Term:	3 Years
Sec./Treasurer:	Dr. Anne Epstein	Ex-Officio Mbr.:	Scott Snider (Asst.City Manager)
See Board book for professional positions which Council has traditionally appointed to Board.			

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Last Update: 4/4/2013

Committee #18 Board of HealthPerm./Temp. Board: **P**

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Home**Business**Reappt
Elig.**May**
Dr. DonaldY 4611 9th Street
Lubbock TX 79416
Y donaldrmayer@sbcglobal.net
Y (806) 791-5941
Y (806) 543-0672 CEL

The May Farms

Curr: 4/1/2011 - 4/1/2014 Y
2nd: -
1st: -
Fax: (806) 791-5942

E-mail

Presley
Dr. StevenY 4612 10th St
Lubbock TX 79416
Y steve.presley@tiehh.ttu.edu
Y (806) 785-2527TTU
Box 41163
Lubbock TX 79409
(806) 885-0236Curr: 4/1/2012 - 4/1/2015 Y
2nd: - 4/1/2009
1st: 4/1/2012 -
Fax: (806) 885-2132

E-mail steve.presley@tiehh.ttu.edu

CEL

Reid
Dr. TedN 4501 82nd Lane
Lubbock TX 79424
Y ted.reid@ttuhsc.edu
N (806) 794-4967
Y (512) 913-1898 CEL3601 4th Street MS 7217
Lubbock TX 79430
(806) 743-2417Curr: 4/1/2012 - 4/1/2015 N
2nd: -
1st: 4/1/2009 - 4/1/2012
Fax:

E-mail ted.reid@ttuhsc.edu

Thomas
Mr. OllieY 5537 50th Street #2010
Lubbock TX 79414
Y ollie.thomasjr@gmail.com
Y (440) 479-0395
Y CELWalgreen Company
6502 Slide Road #409
Lubbock TX 79424
(806) 783-8307Curr: 11/29/2012 - 4/1/2013 Y
2nd: -
1st: -
Fax: (806) 783-8376

E-mail ollie.thomas@walgreens.com

Chair/Pres: Dr. Brian Carr**Vice Chair/V.P.:****Sec./Treasurer:** Dr. Anne Epstein**Staff Liaison:** Beckie Brawley**Term:** 3 Years**Ex-Officio Mbr.:** Scott Snider (Asst.City Manager)

See Board book for professional positions which Council has traditionally appointed to Board.

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Last Update: 4/4/2013