# City of Lubbock, Texas
## Regular City Council Meeting
## Thursday, April 10, 2014

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
Latrelle Joy, Councilwoman, District 6

James Loomis, City Manager
Mitch Satterwhite, Interim 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.**

**6:15 p.m. -- City Council reconvenes in open session to consider items 2.-8.**

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. Cause No. 2013-508,039-City of Lubbock v. Lubbock Omni Office, Inc. et. al.

1. 1. 2. Cause No. 3094-2013, City of Lubbock v. 1913 Baylor Avenue, Municipal Court of the City of Lubbock, Lubbock County, Texas. (Villa Del Norte)

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

1. 2. 2. Police Station

1. 3. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.074, to discuss personnel matters.

1. 3. 1. City Attorney

1. 3. 2. City Manager

1. 3. 3. City Secretary

1. 4. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.074, to discuss personnel matters regarding the duties, responsibilities, and/or appointments to the Zoning Board of Adjustment.

2. **Proclamations and Presentations**

2. 1. Invocation by Pastor Shon Wagner, Redbud Baptist Church

2. 2. Presentation of Colors by Cub Scout Pack 536 followed by the Pledges of Allegiance.

2. 3. Presentation of a special recognition recognizing April as Parkinsons Awareness Month.

2. 4. Presentation of a special recognition to Ben Shacklette and students from the Texas Tech University College of Architecture.

2. 5. Presentation of a special recognition for National Public Safety Telecommunicator Week.

3. **Citizen Comments - Any citizen wishing to appear before any regular meeting of the City Council to speak:**

- **shall contact the City Manager's Office of that fact to provide the City Manager's Office the subject matter that will be addressed, no later than seventy-five (75) hours before the meeting at which the citizen wishes to appear; or**
- **shall sign up to speak at the City Council meeting itself in regard to any item posted on the City Council agenda under the "Citizen Comment Period."**

**Or, a citizen may sign up to speak at the City Council meeting itself on a topic that is not posted on the agenda under the "Open Citizen Comment" period.**

**REFER TO SUPPLEMENTAL AGENDA: CITIZEN COMMENT**

4. **Minutes**

4. 1. March 13, 2014 Regular City Council Meeting

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

5. 1. **Budget Ordinance Amendment 2nd Reading - Finance:** Consider Budget Ordinance 2014-O0052 Amendment 18 respecting the Capital Program to amend Capital Improvement Project (CIP) 91220, Major Repairs at Fire Stations; providing for filing; and providing for a savings clause.

5. 2. **Budget Ordinance Amendment 2nd Reading - Finance:** Consider Budget Ordinance 2014-O0053 Amendment 19 respecting the Grant Fund to accept and appropriate funding from the Dallas Police Department for the Internet Crimes Against Children grant; providing for filing; and providing for a savings clause.

5. 2. 1. **Resolution – Police:** Consider a resolution authorizing the Mayor to execute contract 11831 an Interlocal Agreement with the City of Dallas for the Internet Crimes Against Children Task Force investigations.

5. 3. **Resolution – Public Works Engineering**: Consider a resolution authorizing the Mayor to execute a Professional Services contract 11840 with Freese and Nichols, Inc. for engineering services associated with Preliminary and Final Design of Pump Station 16.

5. 4. **Resolution – Public Works Engineering:** Consider a resolution authorizing the Mayor to execute a Developer Agreement contract 11841, for construction of a portion of Kewanee Avenue and associated drainage improvements, West End Addition, between the City and MRXNO, LLC.

5. 5. **Resolution – Public Works Engineering**: Consider a resolution authorizing the Mayor to execute Change Order 1 and 2 of contract 11288 with Western Summit Constructors for Contract A of the Bailey County Well Field Supply Pipeline, RFP 13-11288-MA.

5. 6. **Ordinance 2nd Reading – Right-of-Way**: Consider Ordinance 2014-O0054 abandoning and closing a temporary drainage easement located in Section 28, Block AK, Lubbock County, Texas.

5. 7. **Ordinance 1st Reading – Right-of-Way**: Consider an ordinance abandoning and closing a portion of a 15-foot utility easement located in Lot 2, Hoop Addition, Lubbock County, Texas, 302 North University.

5. 8. **Resolution - Right-of-Way**: Consider a resolution authorizing the City Council to accept on behalf of the City an easement from Attebury Grain, LLC regarding the acquisition of right-of-way for the South Lubbock Sanitary Sewer Extension Phase 1, out of Section 4 Block B, Lubbock County, Texas.

5. 9. **Resolution - Right-of-Way**: Consider a resolution authorizing the City Council to accept on behalf of the City an easement from D.R. Bush Family Partners, Ltd., a Texas Limited Partnership, regarding the acquisition of right-of-way for the Bailey County Well Field Supply Line/Pumping System, located in Section 33, Block JS, Lubbock County, Texas.

5. 10. **Resolution - Right-of-Way**: Consider a resolution authorizing the City Council to accept on behalf of the City a Street and Public Use Dedication Deed from Walter Buchanan regarding the acquisition of right-of-way for the South Lubbock Sanitary Sewer Extension Phase 1, out of Section 8 Block E, Lubbock County, Texas.

5. 11. **Resolution - Purchasing and Contract Management:** Consider a resolution authorizing the City to reject all bids for security guard services, ITB 14-11752-TS.

5. 12. **Resolution - Purchasing and Contract Management:** Consider three resolutions authorizing the Mayor to execute contract 11741 with Overhead Door Company of Lubbock, contract 11829 with West Texas Door and Construction and contract 11830 with Brem Inc., dba Action Doors for garage door repair for various departments, ITB 14-11741-DG.

5. 13. **Resolution - Purchasing and Contract Management**: Consider twelve resolutions authorizing the Mayor to execute contract 11681 with Tim Johns Heating & Air Conditioning, contract 11818 with Stewart/Finn, Inc dba Roto-Rooter, contract 11819 with Amco Electric Inc., contract 11822 with Anthony Mechanical Inc., contract 11821 with Rieken Electric, Inc., contract 11823 with Brandon and Clark, contract 11824 with Tecta America-CS, LLC, contract 11825 with Dent Electric, Inc., contract 11826 with Lydick-Hooks Roofing Co, contract 11828 with GRG Sanders and Co. dba Hub City

Plumbing & Mechanical, contract 11827 with ABF Commercial Roofing, and contract 11836 with Anthony Mechanical Services, Inc., for minor repair service contracts, ITB 14-11681-MA.

5. 14. **Resolution - Vector Control:** Consider a resolution authorizing the Mayor to execute contract 11839 an interlocal agreement with Lubbock County for vector control services.

5. 15. **Resolution - Lubbock Power & Light:** Consider a resolution authorizing the Mayor to execute Change Request COL-09001-SUP-07 with Ventyx, Inc, successor to Indus International. Inc, increasing the not-to-exceed amount of that certain contract amendment, dated on or about July 26, 2011, by and between the City, Lubbock Power & Light, and Ventyx, Inc., for services related to customer utility billing and payment software migration upgrades.

5. 16. **Ordinance 2nd Reading – Planning**: Consider Ordinance 2014-O0040 for Zone Case 3222-A, a request of Ken Condray for a zoning change from T to C-3 on 1.81 acres of unplatted land out of Block AK, Section 39, 3418 Upland Avenue.

5. 17. **Ordinance 2nd Reading – Planning**: Consider Ordinance 2014-O0041 for Zone Case 2508-N, a request of Tigris Development, LLC for a zoning change from T to R-2 on 4.294 acres of unplatted land out of Block E-2, Section 20, west of University Avenue and south of 110th Street.

5. 18. **Ordinance 2nd Reading – Planning**: Consider Ordinance 2014-O0042 Zone Case 2416-B, a request of The Francis Law Firm, P.C., for Capital Telecom Acquisition, LLC, for a zoning change from C-3 to C-3 Specific Use for a telecommunications tower on a portion of Tract B-2-A, Heald Addition, 5217 82nd Street.

5. 19. **Ordinance 2nd Reading – Planning**: Consider Ordinance 2014-O0049 for Zone Case 3225, a request of Jack Galland for a zoning change from R-1 to Garden Office (GO) on Lot 9, Block 26, Modern Manors Addition, 4801 Elgin Avenue.

5. 20. **Ordinance 2nd Reading – Planning**: Consider Ordinance 2014-O0043 Zone Case 3116-D, a request of Hugo Reed and Associates, Inc., for FP Investors 1, LLC, for a zoning change from R-1 Specific Use and Garden Office (GO) to R-1 Specific Use for reduced setbacks on 73.4 acres of unplatted land out of Block AK, Section 4, south of 135th Street and east of Quaker Avenue.

5. 21. **Ordinance 2nd Reading – Planning**: Consider Ordinance 2014-O0051 Zone Case 1437-K, a request of Mark Lindley, for Asset Plus Realty Corporation, for a zoning change from R-3 Specific Use to A-2 on Lot 2, Holiday Park Addition, 4702 4th Street.

5. 22. **Ordinance 2nd Reading – Planning**: Consider Ordinance 2014-O0044 Zone Case 3095-C, a request of Hugo Reed and Associates, Inc., for Vasrim, Inc., for a zoning change from A-3 to IHC for a hotel on 1.7 acres of land out of Block A, Section 22, 4601 North Loop 289.

5. 23. **Ordinance 2nd Reading – Planning**: Consider Ordinance 2014-O0045 Zone Case 3034-A, a request of Condray Design Group, for Lubbock Children's Health Clinic, for a zoning change from C-2A and R-2 to AM Specific Use on Lots 5 through 9, SW McGaw Addition, 1702 and 1704 East 13th Street and 1703 East 14th Street.

5. 24. **Ordinance 2nd Reading – Planning**: Consider Ordinance 2014-O0046 Zone Case 1913-C, a request of Zac Garth, for Gene McGuire, for a zoning change from R-1 to Garden Office (GO) on 2.836 acres of unplatted land out of Block AK, Section 44, 2401 West Loop 289.

5. 25. **Ordinance 2nd Reading - Planning:** Consider Ordinance 2014-O0047 Zone Case 3226, a request of West Texas Engineering, LLC, for Asher Logistics, for a zoning change from M-1 to M-2 Limited to sand storage silos and all unconditionally permitted M-1 uses on 42.68 acres of unplatted land out of Block E, Section 1, between 63rd Street and 65th Street and between Elm Avenue and MLK Jr. Boulevard.

5. 26. **Ordinance 2nd Reading – Planning**: Consider Ordinance 2014-O0048, Zone Case 3227, a request of Keith McNeese, for Purple Tie Limo, for a zoning change from C-3 to C-4 limited to car rental, limo service, all vehicles to be stored inside, and all unconditional C-3 uses on Lots 3 and 4, Block 1, Lisemby Addition, 2605 and 2607 34th Street.

6. **Regular Agenda**

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

6. 2. Dedicated Public Comment for Item 6.3.

6. 3. **Ordinance 2nd Reading – Planning**: Consider Ordinance 2014-O0050 Zone Case 2824-A, a request of Hugo Reed and Associates, Inc., for Love's Travel Stops & Country Stores, for a zoning change from R-1 to Interstate Highway Industrial (IHI) on 16.6 acres of unplatted land out of Block A, Section 9, west of Interstate 27 and south of Regis Street.

6. 4. **Ordinance 1st Reading - Finance:** Consider an ordinance providing for the issuance of City of Lubbock, Texas, General Obligation Refunding Bonds, Series 2014; 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. 5. **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 2014; 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. 6. **Ordinance 1st Reading - Finance:** Consider an ordinance providing for the issuance of City of Lubbock, Texas, Electric Light and Power System Revenue Bonds, Series 2014; 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. 7. **Resolution - Finance:** Consider a resolution designating authorized representatives on the City's investment accounts with the Texas Local Government Investment Pools (TexPool).

6. 8. **Resolution - Finance**: Consider a resolution designating authorized representatives on the City's investment accounts with the Texas Short Term Asset Reserve Program (TexSTAR).

6. 9. **Ordinance 1st Reading - Mayor Pro Tem Karen Gibson**: Consider an ordinance amending Chapter 14 of the City of Lubbock Code of Ordinances with regard to Section 14.01.010 (Sale, public display for sale, attempted sale, gift, barter, delivery, possession, or use of illicit synthetic drugs and misbranded drugs.) to include new chemical structures found in illicit synthetic drug products, conforming the ordinance to state law, providing for publication, providing a penalty, and providing a savings clause.

6. 10. **Resolution - Councilman Todd Klein**: Consider a resolution establishing and charging a Citizens Task Force to Study Payday Lending, and making recommendations to State of Texas officials to mitigate predatory lending in Texas.

6. 11. **Resolution - Councilman Todd Klein -** Consider a resolution increasing the membership of the Veterans Advisory Committee to thirteen members.

6. 12. **Board Appointments - City Secretary:** Consider appointments to the Veterans Advisory Committee.

6. 13. **Board Appointments - City Secretary:** Consider one appointment to the Board of Health, one appointment to Keep Lubbock Beautiful Advisory Committee, and one appointment to the Zoning Board of Adjustment.

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. Presentation by the North and East Lubbock Community Development Corporation.

8. **Open Citizen Comment**

**BOARD APPOINTMENTS FOR**
**REGULAR CITY COUNCIL MEETING, APRIL 10, 2014 - EXECUTIVE**

| Officer of City | | Board Name & No. | Member Name | Term Expires | Attend % | Membership Requirements | Recommended Action | Eligible? |
|---|---|---|---|---|---|---|---|---|
| * | 1 | ZONING BOARD OF ADJUSTMENT | VACANT | | | ALTERNATE | REPLACE D. NAEGELE | N/A |
| | | | | | | | | |

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

## *Applicants No Preference*

| Update Date | Last Name | First Name | Gender | Ethnicity | Age | Occupation | Business Name | District |
|---|---|---|---|---|---|---|---|---|
| 01/27/2011 | Aguero | Olga | Female | Hispanic or Latino | | | | 1 |
| 11/04/2010 | Arnett | Claire | Female | Anglo | 50-59 | Education | Covenant School of Nursing | 4 |
| 10/29/2012 | Ashe | John | Male | Anglo | 60+ | Realtor | Action Realtors | 5 |
| 06/18/2010 | Ashley | Kyle | Male | Anglo | 40-49 | CEO | Alliance Federal Credit Union | 4 |
| 01/27/2011 | Bass | Byrn | Male | Anglo | | | | 6 |
| 02/01/2006 | Bass | Mark | Male | Anglo | 60+ | Financial Planner | Pennington, Bass & Associates | 3 |
| 10/28/2010 | Beck | Jim | Male | Anglo | 50-59 | Professor of Mission | Lubbock Christian University | 6 |
| 07/01/2003 | Bennett | James | Male | Anglo | 50-59 | | Economic Development | 4 |
| 11/02/2010 | Bentley | Donnie | Male | Anglo | 60+ | Owner | Don Bentley Roofing Co. | 3 |
| 02/17/2010 | Berk | Shirley | Female | Anglo | 50-59 | | | 6 |
| 02/02/2010 | Berry | Timothy | Male | Anglo | 40-49 | Paramedic | UMC Lubbock EMS | 5 |
| 03/24/2010 | Berryhill | Korbi | Female | Anglo | | RN Instructor | South Plains College, Reese | 5 |
| 11/01/2010 | Beversdorf | Cynthia | Female | Anglo | 40-49 | | | 5 |
| 10/27/2010 | Beversdorf | Fredrick | Male | Anglo | 50-59 | Senior Training Instructor | Atmos Energy | 5 |
| 10/28/2010 | Billings | Toby | Male | Anglo | 30-39 | Custodial Staff | Broadway Church of Christ | 1 |
| 10/28/2010 | Bosscher | Karen | Female | Anglo | 50-59 | Business Manager | Hemmo A. Bosscher, MD. | 4 |
| 10/26/2010 | Bryant | Gary | Male | African-American | 40-49 | House Manager | Lubbock Faith Center | 2 |
| 10/28/2010 | Bustos | Claudia | Female | Hispanic or Latino | 30-39 | Case Manager/Homeless | Community Health Center of Lubbock | 1 |
| 03/05/2013 | Castro | Joel | Male | Hispanic or Latino | 50-59 | Associate Superintendent | LISD | 3 |
| 10/28/2010 | Clayton | Letitia | Female | Anglo | 40-49 | Orthopedic Tech | Dr. Kenneth Stephenson | 5 |
| 07/06/2009 | Coppola | Martin | Male | Anglo | 40-49 | Associate Professor & Program Director | Texas Tech HSC | 5 |
| 10/25/2010 | Craig | Karl | Male | Anglo | 60+ | | | 5 |
| 07/22/2004 | Craig | Mickey | Male | Anglo | 60+ | | Retired | 2 |
| 07/01/2010 | Davenport | Cory | Male | Anglo | | Graduate Student | Texas Tech University | 6 |
| 11/15/2010 | Dingle | Darnell | Female | Anglo | 60+ | | | 5 |
| 02/17/2010 | Dotts | Ted | Male | Anglo | 60+ | | | 6 |
| 09/05/2013 | Doyle | Casey | Male | Anglo | 30-39 | General Manager | Casey Carpet One | 4 |
| 01/14/2010 | Dulin | Jim | Male | Anglo | 60+ | Judge | Lubbock County | 4 |
| 12/06/2010 | Dumas | Seanloui | Male | African-American | 18-29 | CEO | Unite Clothing | |
| 02/15/2010 | Eggenberger | Florence | Female | Anglo | 60+ | | | 6 |
| 11/29/2010 | Elliott | John | Male | Anglo | 60+ | Banking | Southwest Bank | 4 |
| 01/14/2010 | Epps | Mike | Male | Anglo | 50-59 | CFO | American State Bank | 5 |
| 11/02/2010 | Finley | Kathleen | Female | Anglo | 40-49 | Captain | Lubbock Co. Sheriff's Office | 4 |
| 10/27/2010 | Ford | Laura | Female | Hispanic or Latino | 30-39 | Clinic Manager | Lubbock Regional MHMR | 1 |
| 12/01/2010 | Gerlach | Mary | Female | Anglo | 40-49 | | | 3 |
| 10/29/2010 | Gifford | Gretchen | Female | Anglo | 18-29 | Legal Secretary | Buerner, Dennis, & Franklin | 4 |

| Update Date | Last Name | First Name | Gender | Ethnicity | Age | Occupation | Business Name | District |
|---|---|---|---|---|---|---|---|---|
| 11/08/2010 | Green | Velda | Female | Anglo | 50-59 | Non-Profit Relations | | 5 |
| 04/19/2010 | Griswold | Mary | Female | Anglo | 50-59 | Activities/Edcuation Director | Redr Frame & Art | 4 |
| 10/28/2010 | Guetersloh | Mary | Female | Anglo | 60+ | | Self-Employed | |
| 03/05/2008 | Hamer | Darla | Female | Anglo | 40-49 | Banker | Peoples Bank | 6 |
| 01/27/2011 | Hamilton | Charlie | Male | Anglo | | | | 4 |
| 09/06/2006 | Harvey | Larry | Male | Anglo | 40-49 | Architect | Chapman Harvey Architects | 4 |
| 08/23/2005 | Harvill | Natalie | Female | Anglo | 30-39 | Structural Engineer | Parkhill, Smith & Cooper | 5 |
| 01/14/2010 | Henry | Alan | Male | Anglo | 60+ | Insurance Agent | Alan Henry Insurance | 3 |
| 06/10/2009 | Henson | Matthew | Male | Anglo | 30-39 | Self Employed | Matt Henson Inc. | 5 |
| 11/11/2010 | Herrera | Gilbert | Male | Hispanic or Latino | 60+ | Evangelist | Gilbert Herrera Evangelistic Association | 4 |
| 11/15/2010 | Jackson | Emma | Female | African-American | 60+ | | | 2 |
| 02/22/2010 | Jackson | Winnie | Male | Anglo | 60+ | Retired Minister | | 4 |
| 02/19/2010 | Jones | Glenn | Male | Anglo | 60+ | | | 5 |
| 11/01/2010 | Kinserlow | Ray | Male | Anglo | 60+ | | | 4 |
| | Ladd | Rusty | Male | Anglo | | Judge | Lubbock County Courthouse | |
| 02/22/2010 | Letalien | Sharon | Female | Anglo | 50-59 | Registered Nurse LISD | Lubbock ISD | 4 |
| 12/08/2010 | Madison | Harvey | Male | Anglo | 60+ | Photography | Madison Photography | 4 |
| 11/03/2010 | McClendon | Lynn | Female | Anglo | 60+ | | | 4 |
| 10/27/2011 | McDonald | Carroll | Male | Anglo | 60+ | | | 1 |
| 10/27/2011 | McDougal | Marc | Male | Anglo | 40-49 | | McDougal Companies | 4 |
| 12/02/2009 | McMahon | Kevin | Male | Anglo | | CPA | | 5 |
| 07/01/2003 | Merritt | Earnest | Male | African-American | | Youth Director | Texas Workforce Center | 4 |
| 11/09/2010 | Mitchell | Walter | Male | Anglo | 30-39 | Pastor | Westminister Presbyterian Church | 4 |
| 11/05/2010 | Moret | Mary | Female | Anglo | 60+ | | | |
| 10/29/2010 | Morton | Michael | Male | Anglo | 50-59 | Captain | Salvation Army | 5 |
| 11/30/2010 | Morton | Philip | Male | Anglo | 30-39 | Associate Director | Texas Tech | 5 |
| 10/27/2011 | Musselman | Robert | Male | Anglo | | | | 6 |
| 01/10/2002 | Noble | Brent | Male | Anglo | | | Service Title | 4 |
| 11/12/2012 | Osborne | John | Male | Anglo | 40-49 | President & CEO | LEDA / MLI | |
| 10/26/2010 | Peel | James | Male | Anglo | 30-39 | Pastor | First Christian Church | 4 |
| 11/05/2010 | Perry | Wilson | Male | African-American | 50-59 | | City of Lubbock | 1 |
| 11/01/2010 | Pickett | Benjamin | Male | Anglo | 40-49 | Associate Minister | Monterey Church of Christ | 4 |
| 12/01/2006 | Podrebartz | Keith | Male | Anglo | 30-39 | Counselor | Texas Tech University | 1 |
| 11/29/2010 | Pope | Catherine | Female | Anglo | 60+ | CEO | Lubbock Regional MHMR Center | 6 |
| | Putteet | Janis | Female | Anglo | | Vice President | United Way - Lubbock | |
| 08/01/2003 | Rangel | Andrea | Female | Hispanic or Latino | 40-49 | | South Plains College | 5 |
| 11/01/2010 | Read | Alan | Male | Anglo | 60+ | Agent | AFLAC | 5 |
| | Rios | Roy | Male | Hispanic or Latino | | | Women's Protective Services | 2 |

| Update Date | Last Name | First Name | Gender | Ethnicity | Age | Occupation | Business Name | District |
|---|---|---|---|---|---|---|---|---|
| 10/19/2010 | Rothwell | Gary | Male | Anglo | 50-59 | Real Estate Investor | Gary Rothwell Inc | 5 |
| 08/09/2012 | Ruiz | Pete | Male | Hispanic or Latino | 30-39 | Accountant | Gene Messer | 5 |
| 01/13/2010 | Satterwhite | Letha | Female | Anglo | 50-59 | Registered Nurse | University Medical Center | 3 |
| 04/29/2008 | Schmedes | Gregg | Male | Anglo | | Medical Student | Texas Tech | 6 |
| 06/08/2004 | Sepeda | Esther | Female | Hispanic or Latino | | President/CEO | Lubbock Hispanic Chamber of Commerce | 4 |
| 05/27/2010 | Smith | David | Male | Anglo | 30-39 | Construction Director | Lee Lewis Construction | 5 |
| 06/28/2012 | Spitzer | Michelle | Female | Anglo | 50-59 | CFO | Sunwest Construction Inc. | 4 |
| 04/01/2008 | Stephens | Sherry | Female | Anglo | 30-39 | Administrative Assistant | High Plains Water District | 5 |
| 05/17/2012 | Stephenson | Pat | Male | Anglo | 50-59 | Service Manager | Bruce Thornton Air Conditioning | 4 |
| 01/27/2011 | Stevens | Mike | Male | Anglo | | | | 5 |
| 11/01/2010 | Swoboda | Tami | Female | Anglo | 40-49 | Grants & Communications | Lubbock Area Foundation | 3 |
| 05/08/2013 | Tinsley | Matt | Male | Anglo | 40-49 | Practice Administrator | Lubbock Surgical Associates | 5 |
| 11/30/2010 | Triplett | Douglass | Male | Anglo | 60+ | Adjunct Professor | Lubbock Christian University | 6 |
| 11/18/2010 | Vaughn | Denette | Female | Anglo | 50-59 | Attorney (Disability Law) | Advocacy, Inc. | 5 |
| 08/08/2013 | Walz | Donna | Female | Anglo | | | | 5 |
| 12/01/2006 | Walz | John | Male | Anglo | 60+ | Attorney | Retired | 5 |
| 01/27/2011 | Warnick | J.Q. | Male | Anglo | 60+ | | | 4 |
| 02/20/2004 | Warren | Steven | Male | Anglo | 50-59 | Engineer | (806) 748-4490 | 1 |
| 10/01/2007 | Wierzba | Susan | Female | Anglo | 40-49 | Partner/ Director | 8067982299 | 5 |
| 10/06/2006 | Wilkerson | David | Male | Anglo | 40-49 | Real Estate Developer | Wilkerson Properties | 5 |
| 01/27/2011 | Wilkes | Morris | Male | Anglo | | | | |
| 12/02/2010 | Williams | Shirley | Female | African-American | 60+ | Career Consultant | Workforce Solutions | 2 |
| 02/24/2010 | Woordward | Tracey | Female | Anglo | 50-59 | Registered Nurse | Covenant School of Nursing | 4 |
| 11/20/2007 | York | Martha | Female | Anglo | | Real Estate Broker | The Real Estate Company | 5 |
| | Young | Andy | Male | Anglo | | | | 5 |

## ZONING BOARD OF ADJUSTMENT

| | Lubbock Population | Lubbock Adult Population | All City Boards | This Board |
|---|---|---|---|---|
| **ETHNICITY** | | | | |
| Anglo | 55.0% | 61.0% | 73.4% | 87.5% (7) |
| Hispanic | 32.6% | 27.6% | 10.1% | 0.0% (0) |
| African-American | 8.7% | 7.4% | 10.1% | 12.5% (1) |
| Other | 3.7% | 4.0% | 6.3% | 0.0% (0) |
| **GENDER** | | | | |
| Male | 48.5% | 47.0% | 75.3% | 75.0% (6) |
| Female | 51.5% | 53.0% | 24.7% | 25.0% (2) |
| **GEOGRAPHIC DISTRIBUTION** | | | | |
| District 1 | 16.1% | 14.9% | 10.1% | 12.5% (1) |
| District 2 | 16.4% | 12.7% | 4.1% | 12.5% (1) |
| District 3 | 16.3% | 16.1% | 13.3% | 37.5% (3) |
| District 4 | 17.0% | 17.0% | 20.6% | 12.5% (1) |
| District 5 | 16.7% | 19.4% | 27.5% | 12.5% (1) |
| District 6 | 17.2% | 19.9% | 19.3% | 12.5% (1) |
| Other/Unknown | 0.0% | 0.0% | 5.1% | 0.0% (0) |

**PURPOSE:**
Permanent advisory board with officer of the city status to hear citizen requests for variances and special exceptions from regulations in the comprehensive zoning ordinance and grants relief as warranted.

**QUALIFICATIONS:** None

**APPOINTMENT INFORMATION:**

| Member Name & Demographic Facts | Requirement | Attend | Eligible | Action |
|---|---|---|---|---|
| Vacant | Alternate | N/A | N/A | Replace D. Naegele, Alt. |

**APPOINTMENTS ADVISORY BOARD RECOMMENDATIONS:**
*To replace Vacant seat:*
Margarita Olivarez (F,H,6) AT&T
David Sanchez (M,H,7) Lone Star State Bank

**City of Lubbock**
**Board and Commision Recruiting Database**

**Updated:** **3/29/2014**

**Zoning Board of Adjustment**

| *Date Updated* | *Last Name* | *First Name* | *Gender M/F* | *Ethnicity A,H,AA,O* | *Age* | *Occupation* | *Business* | *District* |
|---|---|---|---|---|---|---|---|---|
| **First Preference** | | | | | | | | |
| 11/13/1997 | Bounds | Jack | M | A | 60+ | Investments | Jack Bounds Investments | 2 |
| 11/01/2005 | Campbell | Jesse | M | A | 40-49 | Account Executive Service Sales | Johnson Controls, Inc | 4 |
| 03/04/2014 | Sanchez | David | M | H | 30-39 | Banker - Commercial Lender | Lone Star State Bank | 7 |
| **Second Preference** | | | | | | | | |
| **Third Preference** | | | | | | | | |
| 03/07/2008 | Lunsford | Jeremy | M | A | | | LNG Productions Inc. | 3 |
| **Fourth Preference** | | | | | | | | |
| 10/28/2013 | Gloyna | Edwin | M | A | 40-49 | Self Employed | Day Break Coffee | 6 |
| 07/22/2010 | Hudgens | Dickie | M | A | 60+ | Retired CPA | | 3 |
| 04/25/2012 | Putnam | Russell | M | A | 60+ | Business Consultant | Southwest Financial Group | 6 |
| **Fifith Preference** | | | | | | | | |
| **Sixth Preference** | | | | | | | | |

| *Committee #* | *28* | *Zoning Board of Adjustment* | *Perm/Temp Board:* | **P** |
|---|---|---|---|---|

| | *Confidential* | *Home* | *Business* | | | *Reappt Elig.* |
|---|---|---|---|---|---|---|
| Member<br>Alternate<br>**Burrows**<br>**Mr. Dustin** | N | ***2806 21st Street***<br>***Lubbock, TX 79410*** | ***McCleskey, Harriger, Brazill & Graff***<br>***P.O. Box 1670***<br>***Lubbock, TX 79493*** | *Curr:*<br>*2nd:*<br>*1st:* | **02/01/2013-02/01/2015**<br>**05/10/2011-02/01/2013** | ***Y*** |
| ***Email:***<br>dustinburrows@mhbg.com | Y<br>N | ***8066872328***<br>***8067907369*** | ***8066870630***<br>***dustinburrows@mhbg.com*** | *Fax:* | ***8067967365*** | |
| Member<br>Member<br>**Caviel**<br>**Ms. Billie Jean** | Y | ***2401 E. 28th St***<br>***Lubbock, TX 79404*** | | *Curr:*<br>*2nd:*<br>*1st:* | **02/01/2014-02/01/2016**<br>**02/01/2012-02/01/2014**<br>**05/10/2011-02/01/2012** | ***Y*** |
| ***Email:***<br>billiej23@suddenlink.net | Y | ***8067628065*** | ***billiej23@suddenlink.net*** | *Fax:* | | |
| Member<br>Member<br>**Jackson**<br>**Ms. Lyn** | Y | ***8213 Bourbon St***<br>***Lubbock, TX 79424*** | | *Curr:*<br>*2nd:*<br>*1st:* | **02/01/2014-02/01/2016**<br>**02/01/2012-02/01/2014**<br>**06/23/2011-02/01/2012** | ***Y*** |
| ***Email:*** | Y | ***8067981251*** | ***8067755138*** | *Fax:* | ***8067755075*** | |
| Member<br>Alternate<br>**McKay**<br>**Mr. Joe** | Y | ***5115 2nd St, #12***<br>***Lubbock, TX 79416*** | ***JDMA, Architects***<br>***1402 Ave N***<br>***Lubbock, TX 79401*** | *Curr:*<br>*2nd:*<br>*1st:* | **03/27/2014-02/01/2016** | ***Y*** |
| ***Email:***<br>jmckay1438@gmail.com | Y<br>N | ***8067952620***<br>***8065353711*** | ***8067444490***<br>***jmckay@jdmatexas.com*** | *Fax:* | ***8067444494*** | |
| Member<br>Member<br>**Naegele**<br>**Mr. Douglas** | Y | ***3302 41st Street***<br>***Lubbock, TX 79413*** | | *Curr:*<br>*2nd:*<br>*1st:* | **02/27/2014-02/01/2016**<br>**02/01/2014-02/27/2014**<br>**02/01/2012-02/01/2014** | ***Y*** |
| ***Email:***<br>dougnaegele@mac.com | Y<br>Y | ***8063689278***<br>***5122965549*** | | *Fax:* | | |
| Member<br>Member<br>**Patton**<br>**Mr. Glenn** | N | ***3707 23rd Street***<br>***Lubbock, TX 79410*** | ***American Wind Power Center***<br>***1701 Canyon Lake Drive***<br>***Lubbock, TX 79410*** | *Curr:*<br>*2nd:*<br>*1st:* | **02/01/2013-02/01/2015**<br>**02/01/2011-02/01/2013**<br>**02/01/2010-02/01/2011** | ***N*** |
| ***Email:*** | N | ***8067992926*** | ***8067478734***<br>***glenn@windmill.com*** | *Fax:* | ***8067400668*** | |
| Vice Chair<br>Member<br>**Teinert**<br>**Mr. Allen** | N | ***3409 Mesa Road***<br>***Lubbock, TX 79403*** | ***Teinert Commercial Building Service***<br>***4009 Clovis Road***<br>***Lubbock, TX 79415*** | *Curr:*<br>*2nd:*<br>*1st:* | **02/01/2013-02/01/2015**<br>**02/01/2011-02/01/2013**<br>**12/02/2010-02/01/2011** | ***N*** |
| ***Email:*** | N | ***8067658330*** | ***8067442801***<br>***allen@teinert.com*** | *Fax:* | ***8067442401*** | |
| Member<br>Alternate<br>**Vaughn**<br>**Mr. Zane** | N | ***3908 105th Street***<br>***Lubbock, Texas 79423*** | ***ARMtech Insurance Services, Inc.***<br>***7101 82nd Street***<br>***Lubbock, Texas 79424*** | *Curr:*<br>*2nd:*<br>*1st:* | **01/23/2014-02/01/2016** | ***Y*** |
| ***Email:***<br>zanejvaughn@gmail.com | N | ***(806) 790-4701*** | ***(806) 784-3423***<br>***zvaughn@armt.com*** | *Fax:* | ***(806) 473-0334*** | |

City of
Lubbock
TEXAS

# CITY OF LUBBOCK
# REGULAR CITY COUNCIL MEETING
# March 13, 2014
# 3:00 P. M.

**The City Council of the City of Lubbock, Texas met in regular session on the 13th of March, 2014, 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 James Loomis; City Secretary Rebecca Garza; Interim City Attorney Mitch Satterwhite

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

- *Executive Session; 2.1-2.2; 2.4; 2.3; Citizen Comments 3.1-3.8; Citizen Comments 3.9 (sign-ups); 6.1-6.4; 4.1; 5.1-5.4; 5.6-5.16; 5.18-5.20; 5.23-5.26; 5.5; 5.17; 5.21-5.22; and 8.1 - Open Citizen Comments (sign-ups).*

**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.** Discuss the City's options related to the Statement of Intent to increase rates submitted to the City by Atmos Energy Corporation on or about October 18, 2013, including matters related to options for resolution of that submittal and matters related to pending litigation involving Atmos Energy Corporation's prior Statement of Intent submitted to the City on or about February 7, 2012 and related matters.

**1. 1. 2.** Cause No. 3094-2013, City of Lubbock v. 1913 Baylor Avenue, Municipal Court of the City of Lubbock, Lubbock County, Texas. (Villa Del Norte)

**1. 1. 3.** Procurement of electric generation, RFP No: 7132-13-EUA, including but not limited to the investigation conducted by The Ashcroft Law Firm, LLC, dated January 21, 2014, and the Lubbock Police Department, regarding activities in connection therewith, and the application of relevant bidding or procurement law.

**1. 1. 4.** Discuss the claim filed by Damian Pantoya against the City of Lubbock.

**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.** Police Station.

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

**1. 3. 1.** City Attorney

**1. 3. 2.** City Manager

**1. 3. 3.** City Secretary

**1. 3. 4.** City Treasurer

**1. 4.** Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.074, to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the City Attorney, or to hear a complaint or charge against the City Attorney.

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

**1. 5. 1.** to discuss, vote, and take final action on customer billing and electric power pricing

**1. 5. 2.** to discuss and deliberate plans, studies, proposals, and analyses for system improvements and risk management information and related strategies (Procurement of electric generation, RFP No: 7132-13-EUA).

**1. 5. 3.** to discuss and deliberate bidding and pricing information for purchased power, generation and fuel, purchased power agreements, and related services and strategies (Procurement of electric generation, RFP No: 7132-13-EUA).

**2. Proclamations and Presentations**

**2. 1.** Invocation by Life Group Pastor Tommy Cruz, Trinity Church

Pastor Tommy Cruz, Trinity 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 to ABC Pro Rodeo Days March 27 - 29, 2014.

Council Member Latrelle Joy presented a special recognition for the ABC Pro Rodeo Days, held March 27 - 29, 2014. Nick Redeker, 2014 ABC Pro Rodeo Chairman; and Abby Crutcher, 2014 ABC Pro Rodeo Queen, gave comments about the rodeo and invited all citizens to come out to the upcoming rodeo.

**2. 4.** Presentation of a special recognition recognizing March as Myeloma Awareness Month.

Council Member Latrelle Joy presented a special recognition recognizing March as Myeloma Awareness Month. Gayle Fargason, founder of the Ray Fargason Multiple Myeloma Support Group of Lubbock, spoke about Myeloma awareness and gave comments about the support group.

**3. Citizen Comments - Any citizen wishing to appear before any regular meeting of the City Council to speak:**

- **shall contact the City Manager's Office of that fact to provide the City Manager's Office the subject matter that will be addressed, no later than seventy-five (75) hours before the meeting at which the citizen wishes to appear; or**
- **shall sign up to speak at the City Council meeting itself in regard to any item posted on the City Council agenda under the "Citizen Comment Period."**

**Or, a citizen may sign up to speak at the City Council meeting itself on a topic that is not posted on the agenda under the "Open Citizen Comment" period.**

**3. 1.** Ricky Wall will appear before the City Council to discuss a traffic cone left in the street while five City trucks ignored the cone.

Ricky Wall appeared before City Council to discuss potholes in North Lubbock.

**3. 2.** Mikel Ward will appear before the City Council to discuss the history and the diversion of mineral interest to North and East Lubbock Community Development Corporation and Downtown Redevelopment.

Mikel Ward appeared before City Council to discuss the North and East Lubbock Community Development Corporation.

**3. 3.** Deanne Clark will appear before the City Council to discuss the opportunity to set new direction for North and East Lubbock Community Development Corporation.

Deanne Clark appeared before City Council to discuss the North and East Lubbock Community Development Corporation.

**3. 4.** Roger Settler will appear before the City Council to discuss the funding for North and East Lubbock Community Development Corporation.

Roger Settler appeared before City Council to discuss the North and East Lubbock Community Development Corporation.

**3. 5.** Liz Padgett will appear before City Council to discuss the funding of North and East Lubbock Community Development Corporation.

Liz Padgett appeared before City Council to discuss North and East Lubbock Community Development Corporation.

**3. 6.** Burley Owen will appear before the City Council to discuss the reconsideration of previous funding to the North and East Lubbock Community Development Corporation.

Burley Owen appeared before City Council to discuss the North and East Lubbock Community Development Corporation.

**3. 7.** Ysidro Gutierrez will appear before the City Council to discuss the history of the North and East Lubbock Community Development Corporation.

Ysidro Gutierrez appeared before City Council to discuss the North and East Lubbock Community Development Corporation.

**3. 8.** Lana Moore will appear before the City Council to discuss the need for transparency and accountability for the North and East Lubbock Community Development Corporation.

Lana Moore appeared before City Council to discuss the North and East Lubbock Community Development Corporation.

**3. 9.** **Sign-ups:**

- Tiger Pratt, David Langston, and Bill Stubblefield appeared before City Council to discuss the North and East Lubbock Community Development Corporation.

**4.** **Minutes**

**4. 1.** November 4, 2013 Special City Council Meeting (EUB)
November 18, 2013 Special City Council Meeting (EUB)
December 3, 2013 Special City Council Meeting (EUB)
January 21, 2014 Special City Council Meeting (EUB)
February 3, 2014 Special City Council Meeting (EUB)
February 13, 2014 Regular City Council Meeting
February 25, 2014 Special City Council Meeting (Budget)

Motion by Council Member Floyd Price, seconded by Council Member Latrelle Joy to approve the November 4, 2013 Special City Council Meeting minutes (EUB); the November 18, 2013 Special City Council Meeting minutes (EUB); the December 3, 2013 Special City Council Meeting minutes (EUB); the January 21, 2014 Special City Council Meeting minutes (EUB); the February 3, 2014 Special City Council Meeting minutes (EUB); the February 13, 2014 Regular City Council Meeting minutes; and the February 25, 2014 Special City Council Meeting minutes (Budget).

**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 Latrelle Joy, seconded by Council Member Todd R. Klein to approve items 5.1-5.4; 5.6-5.16; 5.18-5.20; and 5.23-5.26.

**Vote:** 7 - 0 Motion carried

**5. 1.** **Budget Ordinance Amendment 2nd Reading - Finance:** Ordinance No. 2014-O0025, Amendment 12, amending the FY 2013-14 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; providing for filing; and providing for a savings clause.

**5. 1. 1.** **Resolution - Health Services:** Resolution No. 2014-R0089 authorizing and directing the City Manager to execute for and on behalf of the City, Amendment to contract 11511 / 2014-001286-00, to increase the categorical budget amount, by and between the City and Department of State Health Services (DSHS), and related documents.

**5. 2.** **Budget Ordinance Amendment 2nd Reading - Finance:** Ordinance No. 2014-O0026, Amendment 13, amending the FY 2013-14 Budget for municipal purposes respecting the Capital Program to amend Capital Improvement Project (CIP) 90141, South Lubbock Storm Project, and establish and appropriate funding for CIP 92356, Storm Sewer Pipeline Easement; providing for filing; and providing for a savings clause.

**5. 3.** **Budget Ordinance Amendment 2nd Reading - Finance:** Ordinance No. 2014-O0030, Amendment 14, amending the FY 2013-14 Budget for municipal purposes respecting the Capital Program to amend Capital Improvement Project (CIP) 91220, Major Repairs at Fire Stations, and CIP 92322, Erskine Street; Indiana Avenue to Quaker Avenue; providing for filing; and providing for a savings clause.

**5. 4.** **Budget Ordinance Amendment 2nd Reading - Finance:** Ordinance No. 2014-O0031, Amendment 15, amending the FY 2013-14 Budget for municipal purposes respecting the Water Operating Fund by increasing expenses for equipment purchase; increase the utilization of net assets; and respecting the FY 2013-14 Master Lease; providing for filing; and providing for a savings clause.

**5. 5.** **Budget Ordinance Amendment 1st Reading - Finance:** Ordinance No. 2014-O0039, Amendment 16, amending the Capital Program in the Lubbock Power and Light (LP&L) Enterprise Fund per recommendation by the Electric Utility Board on March 3, 2014, to amend Capital Improvement Project (CIP)92330, 69 kV Transmission Line Reconductoring; amend CIP 92333, Cooke Station Outage; establish and appropriate funding for CIP 92357, Cooke Station Outage - Medium-Term; establish and appropriate funding for CIP 8590, Cooke Station Outage - Short-Term; amend CIP 92334, Massengale Outage; establish and appropriate funding for CIP 8591, Massengale Station Outage - Medium-Term; amend CIP 92335, Brandon Outage; amend CIP 92336, General Plant Outage; amend CIP 92337, FY 2013-14 Distribution Transformers; amend CIP 92339, FY 2013-14 Underground Electric; amend CIP 92340, FY 2013-14 Overhead Lines; amend the LP&L Operating Fund; providing for filing; and providing for a savings clause.

Andy Burcham, Chief Financial Officer for LP&L, gave comments and answered questions from City Council.

Motion by Council Member Todd R. Klein, seconded by Council Member Jim Gerlt to approve Ordinance No. 2014-O0039.

**Vote:** 7 - 0 Motion carried

**5. 6.** **Budget Ordinance Amendment 1st Reading - Finance:** Ordinance No. 2014-O0034, Amendment 17, amending the FY 2013-14 Budget for municipal purposes respecting the Capital Program to amend Capital Improvement Project (CIP) 92352, Taste and Odor Control, and CIP 91003, Bailey County Well Field Improvements; providing for filing; and providing for a savings clause.

**5. 7.** **Ordinance 2nd Reading – Right-of-Way:** Ordinance No. 2014-O0027 abandoning and closing a 10-foot underground utility easement located in Section 36, Block AK, Lubbock County.

**5. 8.** **Ordinance 2nd Reading – Right-of-Way:** Consider Ordinance No. 2014-O0028 abandoning and closing a drainage easement located in Section 18, Block E-2, Lubbock County, Texas.

**5. 9.** **Ordinance 2nd Reading – Right-of-Way:** Ordinance No. 2014-O0029 abandoning and closing a temporary drainage easement located in Section 21, Block AK, Lubbock County, Texas.

**5. 10.** **Ordinance 1st Reading – Right-of-Way:** Ordinance No. 2014-O0035 abandoning and closing a 300.08 square foot tract of land (alley stub) out of Lots 185-277, Vintage Township, Lubbock County, Texas.

**5. 11.** **Ordinance 1st Reading – Right-of-Way:** Ordinance No. 2014-O0036 abandoning and closing two 10-foot underground utility easements located in Section 36, Block AK, Lubbock County, Texas.

**5. 12.** **Ordinance 1st Reading – Right-of-Way:** Ordinance No. 2014-O0037 abandoning and closing a 56-foot temporary drainage easement, located in Section 21, Block E-2, Lubbock County, Texas.

**5. 13.** **Resolution - Right-of-Way:** Resolution No. 2014-R0090 authorizing the City Council to accept on behalf of the City a temporary easement from McMenamy Farms regarding the acquisition of right-of-way for the Bailey County Well Field Supply Line/Pumping System, easement located out of Section 36, Block D-5, Lubbock County, Texas.

**5. 14.** **Resolution - Right-of-Way:** Resolution No. 2014-R0091 authorizing the City Council to accept on behalf of the City an easement from Ming-Tao Ho and wife Jui-Lien Chou Ho regarding the acquisition of right-of-way for the Bailey County Well Field Supply Line/Pumping System, easement located in Section 24, Block JS, Lubbock County, Texas.

**5. 15.** **Resolution - Right-of-Way:** Resolution No. 2014-R0092 authorizing the Mayor to execute a Right-of-Way and Easement located in the Southeast Quarter of Section 2, Block D-3, Lubbock County, Texas to Atmos Energy Corporation.

**5. 16.** **Resolution - Public Works Engineering:** Resolution No. 2014-R0093 authorizing the Mayor to execute Amendment 4 to contract 9786 a Professional Services Contract with Halff Associates, Inc. of Fort Worth, Texas for the Video Inspection of Storm Sewers – Phase 2, RFQ 10-110-MA.

**5. 17.** **Resolution - Public Works - Water Resources:** Resolution No. 2014-R0098 authorizing the Mayor to execute contract 11799 Professional Services Agreement between the City of Lubbock and Enprotec/Hibbs & Todd, Inc. (eHT) to perform environmental engineering services at the former Fire Training Academy (FTA) located at 102 Municipal Drive.

Keith Smith, Director of Public Works, gave comments and answered questions from City Council.

Motion by Council Member Todd R. Klein, seconded by Council Member Floyd Price to approve Resolution No. 2014-R0098.

**Vote:** 7 - 0 Motion carried

**5. 18.** **Resolution - Parks and Recreation:** Resolution No. 2014-R0095 authorizing the Mayor to execute contract 11718 with Gorman Outdoor, Inc. and contract 11791 with Back to Nature, Inc. for the fertilization at various parkland properties, ITB 14-11718-TS.

**5. 19.** **Resolution - Facilities:** Resolution No. 2014-R0096 authorizing the Mayor to ratify contract 14-11795-JOC with Teinert Commercial Building Services of Lubbock, TX for storm related repairs to the Wood Shop located at 1900 Erskine.

**5. 20.** **Resolution - Fire Safety:** Resolution No. 2014-R0097 authorizing the Mayor to execute purchase order contract 10011057 with DACO Fire Safety Equipment of Lubbock, Texas for two Rosenbauer Aerials (ladder trucks).

**5. 21.** **Resolution - Police Department:** Resolution No. 2014-R0099 authorizing the Mayor to execute an Interlocal Agreement contract 11805 with Idalou Police Department for use of the Lubbock Police Department Firing Range facilities.

Roger Ellis, Police Chief, gave comments and answered questions from City Council.

Motion by Council Member Todd R. Klein, seconded by Council Member Latrelle Joy to approve Resolution No. 2014-R0099.

**Vote:** 7 - 0 Motion carried

**5. 22.** **Ordinance 2nd Reading – Planning:** Ordinance No. 2014-O0021, a request for Zone Case 3224, a request of City of Lubbock for a zoning change from C-4 to C-2 on Lots 16-18, Block 1, Lots 19-21, Block 2, Hankins Addition, Lots 9-12, Block 5, Lots 5-12, Block 18, Lots 18-24, Block 19, Lots 13-24, Block 49, Lots 13-24, Block 78, Lots 13-24, Block 79, Lots 16-18, Block 104, Overton Addition, the south 143.4 feet of tract A, Lubbock High Addition, Lots 21-24, Block 3, Knight Addition, Lots 1-4, Block 1, Lane Addition, Lots 1-6, Block 1, JF Rice Addition, Lots 1-6, Block 1, Southwell Place Addition, Lots 1-12, Block 48, Lots 1-12, Block 49, Lots 1-12, Block 50, McCrummen's Second Addition, Block 1, less the south 150 feet, Ellwood Place Addition, along 19th Street between University Avenue and Avenue Q.

Drew Paxton, Director of Planning, gave comments and answered questions from City Council.

Motion by Council Member Jim Gerlt, seconded by Council Member Floyd Price to approve Ordinance No. 2014-O0021.

**Vote:** 6 - 1 Motion carried

NAY: Mayor Glen C. Robertson

**5. 23.** **Ordinance 2nd Reading – Planning:** Ordinance No. 2014-O0022, a request for Zone Case 3072-A, a request of GST RE LLC for a zoning change from C-2A to C-3 on a portion of Tract 1, Southwest Lubbock Health Center Addition, 5207 98th Street.

**5. 24.** **Ordinance 2nd Reading - Planning:** Ordinance No. 2014-O0023, a request for Zone Case 3124-A, a request of Genaro Garcia for a zoning change from R-1 to C-4 limited to an office warehouse and all unconditionally permitted C-3 uses on Lot 2, Block 4, Trigg Heights Addition, 8008 MLK Jr Boulevard.

**5. 25.** **Ordinance 2nd Reading – Planning** : Ordinance No. 2014-O0024, a request for Zone Case 3223, a request of Hugo Reed and Associates, Inc. (for Huff 80, Ltd.) for a zoning change from T to A-2 on 20.2 acres of unplatted land out of Block D-6, Section 2, East of Inler Street and North of 11th Street.

**5. 26.** **Ordinance 1st Reading - City Secretary** : Ordinance No. 2014-O0038 amending the 2014 Regular Municipal Election Order of the City of Lubbock with regard to polling places, appointing election judges, establishing hours for voting and providing early voting as set forth in the Election Order exhibits; directing the City Secretary to make any necessary changes to the election order exhibits as may be necessary to carry out the purposes of the Election Order.

**6. Regular Agenda**

**6. 1.** **Public Hearing 6:30 p.m. – Planning** : Ordinance No. 2014-O0032, for Zone Case 3117-A, a request of Morris Rubenstein (for Marco Steel and Aluminum, Inc.) for a zoning change from R-1 to IHI on 31.76 acres of unplatted land out of Block A, Section 8, 2712 North MLK JR Boulevard, and consider an ordinance.

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

Mayor Robertson opened the public hearing at 7:43 p.m.

No one appeared to speak in favor or in opposition.

Mayor Robertson closed the public hearing at 7:43 p.m.

Motion by Council Member Floyd Price, seconded by Mayor Pro Tem Karen Gibson to approve Ordinance No. 2014-O0032.

**Vote:** 7 - 0 Motion carried

**6. 2.** **Public Hearing 6:30 p.m. - City Attorney** : Consider Atmos Energy Corporation's Statement of Intent to increase rates submitted to the City on October 18, 2013.

**Public hearing only.**

Mayor Robertson opened the public hearing at 7:44 p.m.

No one appeared to speak in favor or opposition.

Mayor Robertson closed the public hearing at 7:44 p.m.

**6. 3.** **Ordinance 1st Reading - City Attorney** : Ordinance No. 2014-O0033 regarding Atmos Energy Corporation's Statement of Intent to increase rates submitted to the City on October 18, 2013.

Alfred "Freddy" R. Herrera, Attorney at Law - Herrera & Boyle PPLLC, gave comments and answered questions from City Council.

Motion by Council Member Jim Gerlt, seconded by Mayor Pro Tem Karen Gibson to approve Ordinance No. 2014-O0033.

**Vote:** 7 - 0 Motion carried

**6. 4.** Consider and take action regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the City Attorney, including but not limited to accepting the resignation of the City Attorney.

Council Member Latrelle Joy was excused from voting, and left the dais before discussion.

Motion by Council Member Jim Gerlt, seconded by Council Member Floyd Price, to accept Sam Medina's resignation as the City Attorney.

**Vote:** 6 - 0 Motion carried
Other: Council Member Latrelle Joy (EXCUSED)

**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.**

**8. Open Citizen Comment (Sign-ups)**

- Debbie Bartholomew appeared before City Council to speak about the Lubbock Grand Jury, the District Attorney's Office, and North and East Lubbock Community Development Corporation.
- Carol Meek appeared before City Council to discuss radio frequencies affecting structures.
- Dora Cortez appeared before City Council to discuss North and East Lubbock Community Development Corporation.

**8:28 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
TEXAS

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

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

**Budget Ordinance Amendment 2nd Reading - Finance:** Consider Budget Ordinance 2014-O0052 Amendment 18 respecting the Capital Program to amend Capital Improvement Project (CIP) 91220, Major Repairs at Fire Stations; providing for filing; and providing for a savings clause.

**Item Summary**

On March 27, 2014, the City Council approved the first reading of the ordinance.

I. Amend Capital Improvement Project 91220, Major Repairs at Fire Stations, by changing the name to "Major Repairs at Fire Facilities," and amend the scope to read as follows: "Perform major repairs to existing fire facilities."

**Fiscal Impact**

None.

**Staff/Board Recommending**

Cheryl Brock, Executive Director of Budget

**Attachments**

Ordinance - Budget Amendment 18

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FY 2013-14 BUDGET FOR MUNICIPAL PURPOSES RESPECTING THE CAPITAL PROGRAM TO AMEND CAPITAL IMPROVEMENT PROJECT (CIP) 91220, MAJOR REPAIRS AT FIRE STATIONS; 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 2013-14 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 2013-14 (Budget Amendment #18) for municipal purposes, as follows:

I. Amend Capital Improvement Project 91220, Major Repairs at Fire Stations, by changing the name to "Major Repairs at Fire Facilities," and amend the scope to read as follows: "Perform major repairs to existing fire facilities."

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

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

AND IT IS SO ORDERED

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

Rebecca Garza
City Secretary

APPROVED AS TO CONTENT:

Cheryl Brock
Executive Director of Budget

APPROVED AS TO FORM:

Amy Sims
Assistant City Attorney

ccdocs/BudgetFY1314.Amend18.ord
March 14, 2014

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

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

**Budget Ordinance Amendment 2nd Reading - Finance:** Consider Budget Ordinance 2014-O0053 Amendment 19 respecting the Grant Fund to accept and appropriate funding from the Dallas Police Department for the Internet Crimes Against Children grant; providing for filing; and providing for a savings clause.

**Item Summary**

On March 27, 2014, the City Council approved the first reading of the ordinance.

I. Accept and appropriate $20,000 from the Dallas Police Department for the Internet Crimes Against Children grant.

**Fiscal Impact**

Included in Item Summary.

**Staff/Board Recommending**

Cheryl Brock, Executive Director of Budget

**Attachments**

Ordinance - Budget Amendment 19

Grant Detail Sheet - Police ICAC

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FY 2013-14 BUDGET FOR MUNICIPAL PURPOSES RESPECTING THE GRANT FUND TO ACCEPT AND APPROPRIATE FUNDING FROM THE DALLAS POLICE DEPARTMENT FOR THE INTERNET CRIMES AGAINST CHILDREN 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 2013-14 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 2013-14 (Budget Amendment #19) for municipal purposes, as follows:

I. Accept and appropriate $20,000 from the Dallas Police Department for the Internet Crimes Against Children Grant.

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

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

AND IT IS SO ORDERED

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza
City Secretary

APPROVED AS TO CONTENT:

_____
Cheryl Brock
Executive Director of Budget

APPROVED AS TO FORM:

_____
Amy Sims
Assistant City Attorney

ccdocs/BudgetFY1314.Amend19.ord
March 18, 2014

**City of Lubbock, TX**
**Grant Award**
**New Grant - Budget Detail**
**March 27, 2014**

**Administrative Information:**

| | |
|---|---|
| City Assigned Grant Number: | TBD |
| Grant Name: | Internet Crimes Against Children |
| Grant Effective Date: | 07/01/2013-06/30/2014 |
| Grant Provider/Agency: | City of Dallas Police Department/Department of Justice |
| Grant Award Amount: | $ 20,000 |

**Budget Information:**

| | Cost |
|---|---|
| Training, Equipment, and Operations | $ 20,000 |
| Grant Total | $ 20,000 |

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

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

**Resolution – Police:** Consider a resolution authorizing the Mayor to execute contract 11831 an Interlocal Agreement with the City of Dallas for the Internet Crimes Against Children Task Force investigations.

**Item Summary**

The Internet Crimes Against Children Task Force is a grant program funded under an award by the United States Department of Justice (DOJ) through their Office of Juvenile Justice and Delinquency Prevention under the Federal Missing and Exploited Children's Program. The City of Dallas and the Lubbock Police Department desire to enter into an agreement regarding the Dallas Internet Crimes Against Children Task Force. The City of Dallas has applied for and received from the DOJ a grant to target child solicitation and child pornography over the internet in Texas.

The City of Dallas agrees to reimburse the Lubbock Police Department a sum, not to exceed $20,000.00.

**Fiscal Impact**

None.

**Staff/Board Recommending**

Roger Ellis, Chief of Police

**Attachments**

Resolution & Agreement - PD

## RESOLUTION

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

THAT the Mayor of the City of Lubbock BE and is hereby authorized and directed to execute for and on behalf of the City of Lubbock an Interlocal Agreement by and between the City of Lubbock and the City of Dallas, Texas, regarding the Dallas Internet Crimes Against Children Task Force. Said Agreement is attached hereto and incorporated in this Resolution as if fully set forth herein and shall be included in the minutes of the Council.

Passed by the City Council this _____ day of _____, 2014.

GLEN C. ROBERTSON, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Roger Ellis, Police Chief

APPROVED AS TO FORM:

Amy L. Sims, Assistant City Attorney

as/Interlocal Agrmnt-City of Dallas & LPD.res
2.26.14

# INTERLOCAL AGREEMENT

## CITY OF DALLAS AND THE CITY OF LUBBOCK

**STATE OF TEXAS** §

**COUNTY OF DALLAS** §

**This INTERLOCAL AGREEMENT** is made and entered into by and between the City of Dallas, hereinafter called "City" and the City of Lubbock through the Lubbock Police Department, Texas, hereinafter called "Lubbock Police Department."

**WITNESSETH:**

**WHEREAS**, the Interlocal Cooperation Act, Chapter 791, Texas Government Code, provides authorization for any local government to contract with one or more local governments and with agencies of the State of Texas to perform governmental functions and services under the terms of this act; and

**WHEREAS**, the Internet Crimes Against Children Task Force is a grant program funded under an award by the United States Department of Justice, hereinafter called "DOJ" through their Office of Juvenile Justice and Delinquency Prevention, hereinafter called "OJJDP" under the Federal Missing and Exploited Children's Program; and

**WHEREAS**, City and the Lubbock Police Department desire to enter into an agreement regarding the Dallas Internet Crimes Against Children Task Force; and

**WHEREAS**, the City of Dallas, for its Police Department, has applied for and received from DOJ a grant to target child solicitation and child pornography over the Internet in the State of Texas, the grant period runs from July 1, 2013 through June 30, 2014; and

**WHEREAS**, the grant is entitled Internet Crimes Against Children (Grant Number 2013-MC-FX-K036), hereinafter called "Project", and

**WHEREAS**, the Dallas Police Department has asked the Lubbock Police Department to participate in fulfilling the purpose of the grant.

**NOW THEREFORE**, THIS INTERLOCAL AGREEMENT is hereby made and entered into by City and the Lubbock Police Department for the mutual consideration stated herein:

I.

For the consideration hereinafter agreed to the Lubbock Police Department undertakes, covenants and agrees to:

1. Provide staff and resources to prosecute Internet crimes against children within its jurisdiction so as to assist the Internet Crimes Against Children Grant Project in achieving its goals.

2. Accept criminal case referrals for prosecution as appropriate that may be forwarded from the Dallas Police Department.

3. On a quarterly basis provide the Dallas Police Department with an activity report describing cases prosecuted by personnel funded by this Grant.

4. Maintain documentation of all partial salary and overtime expenditures which are to be reimbursed by the Internet Crimes Against Children Grant. This documentation will include the name and title of the person earning the salary or overtime, the date(s) worked, the number of hours worked, the exact payment amount to be charged to the Grant, the employee's hourly and overtime pay rate as appropriate, and a brief explanation of the activity undertaken to earn the salary or overtime. This expenditure report must carry an original signature of a Lubbock Police Department official and be supported by departmental payroll records which correspond to the salary or overtime payments. This salary and overtime expenditure report and support documentation will be submitted to the Dallas Police Department at the time reimbursement is requested.

5. Maintain documentation of all travel and training expenditures which are to be reimbursed by the Internet Crimes Against Children Grant. This documentation will include the name and title of the person travelling or receiving training, the dates and location of travel or training, the exact payment amount to be charged to the Grant, and a brief explanation of the purpose of the travel or training. This expenditure report must carry the signature of a Lubbock Police Department official and be supported by receipts, invoices, or other appropriate documentation. This travel and training expenditure report and support documentation will be submitted to the Dallas Police Department at the time reimbursement is requested.

6. Maintain an up-to-date and itemized inventory list of all supplies, equipment, or services purchased by the Lubbock Police Department with funds from the Internet Crimes Against Children Grant. Inventory list entries of major hardware items such as computers, monitors, printers, FAX machines, and the like must also include the brand name and model, serial number, the Lubbock Police Department's property inventory tag number assigned to the specific item, and the current physical location of the property. This inventory list must be supported by receipts, invoices, or other appropriate documentation. The inventory list will be submitted to the Dallas Police Department when requested.

7. Allow the Internet Crimes Against Children Grant Manager or his designate to make one or more on-site visits for the purpose of assessing the compliance of the Lubbock Police Department with the provisions of this Interlocal Agreement and the provisions of Circular A-133 issued by the United States Office of Management and Budget regarding audits of states, local governments, and non-profit organizations.

8. When requested, provide the Dallas Police Department with a copy of the Lubbock Police Department's most recent Single Audit Report and, if appropriate, a written statement describing any necessary corrective action identified in that Audit Report.

II.

As consideration for the services contracted for herein, the City agrees to reimburse the Lubbock Police Department a sum not to exceed twenty thousand dollars ($20,000.00). This sum is to reimburse the Lubbock Police Department for expenses incurred for partial salary of a grant-sponsored position, overtime, training, travel, and/or equipment as deemed necessary and appropriate by the Lubbock Police Department for its operations to combat Internet-related crimes against children. The Lubbock Police Department may invoice the City for reimbursement of expenses under the terms of this agreement up to six times, but no reimbursement request will be accepted after June 30, 2014. Reimbursement for allowable expenses incurred shall be made by the Dallas Police Department to the Lubbock Police Department as quickly as possible after receipt of invoices detailing the expenses to be reimbursed. Reimbursement requests, with all supporting documentation, shall be mailed to:

Lt. A.F. Diorio
Dallas Police Department
1400 South Lamar Street, Room 3N061
Dallas, Texas 75215-1815

III.

During the performance of this Interlocal Agreement, the Lubbock Police Department agrees to the following:

1. It will, to the extent permitted by law, accept liability, under the Worker's Compensation Act, in the event personal injuries occur to its employee(s) while engaged in Project activities.

2. It shall, to the extent permitted by law and during the entire time of participation, maintain sufficient insurance to cover its obligation and liability for its employee(s). This will include, but is not limited to, coverage of the employee and vehicle, while operating a vehicle, where applicable.

3. It may, in lieu of purchasing liability insurance, elect to be self-insured but will be responsible for all risks of loss and actual loss as specified herein.

4. Any and all equipment and supplies purchased with Grant funds by the Lubbock Police Department will remain property of the Lubbock Police Department.

IV.

The term of this Agreement shall be from July 1, 2013 through June 30, 2014. This Agreement may be extended by mutual agreement of the parties hereto, or terminated by either party upon thirty (30) days prior written notice thereof to the other of its intention to terminate upon the date specified in such notice.

V.

Any notice, payment, statement, or demand required or permitted to be given hereunder by either party to the other may be affected by personal delivery in writing or by mail, postage prepaid. Mailed notices shall be addressed to the parties at the addresses appearing below, but each party may change its address by written notice in accordance with this section. Mailed notices shall be deemed communicated as of three days after mailing.

If intended for City, to:

David O. Brown
Chief of Police
Dallas Police Department
1400 South Lamar Street
Dallas, Texas 75215

Copy to:

A.C. Gonzalez
City Manager
City of Dallas
City Hall, Room 4/E/N
1500 Marilla Street
Dallas, Texas 75201

If intended for the
Lubbock Police Department, to:

Roger Ellis
Chief of Police
Lubbock Police Department
916 Texas Avenue
Lubbock, Texas 79401

Copy to:

James Loomis
City Manager
City of Lubbock
P.O. Box 2000
Lubbock, Texas 79401

VI.

This Agreement may be amended by the mutual agreement of the parties hereto in writing to be attached to and incorporated into this Agreement.

VII.

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

VIII.

This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other agreement, statement, or promise relating to the subject matter of this agreement, which is not contained herein, shall be valid or binding.

**EXECUTED** this ____ day of _____, 20__, by the CITY, by and through its duly authorized officials pursuant to City Council Resolution No. _____, and by the City of Lubbock Police Department by and through its duly authorized officials. However, the effective date of this Agreement is July 1, 2013.

Recommended By:

_____
David O. Brown
Chief of Police

**APPROVED AS TO FORM**
WARREN M.S. ERNST
City Attorney

By: _____
Assistant City Attorney

**CITY OF DALLAS**
A.C. GONZALEZ
City Manager

By: _____
Assistant City Manager

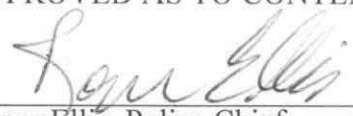
**CITY OF LUBBOCK:**

By:_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

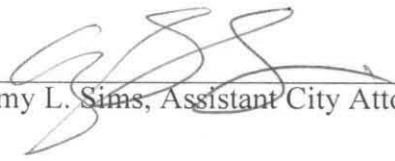
_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Roger Ellis, Police Chief

APPROVED AS TO FORM:



Amy L. Sims, Assistant City Attorney

Interlocal Agrmnt 2013-2014 ICAC MOU Lubbock PD
2.26.14

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

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

**Resolution – Public Works Engineering**: Consider a resolution authorizing the Mayor to execute a Professional Services contract 11840 with Freese and Nichols, Inc. for engineering services associated with Preliminary and Final Design of Pump Station 16.

**Item Summary**

The City's Pump Station 7 is located at 29th Drive and Marsha Sharp Freeway. This pump station was constructed in the early 1950s and has equipment that is out-dated and obsolete. In addition, the Public Works Engineering Department is currently constructing a new pipeline to supply this pump station from the Bailey County Well Field. Pump Station 7 provides water to west and central Lubbock and is a core pump station for the City's distribution system.

This contract is a continuation of the Bailey County Supply Line and Pumping System project and will allow for final design of a new Pump Station 16 to replace the aging infrastructure at pump station 7. The final design of the pump station includes a 60 Million Gallons per Day (MGD) pump station, 5 million gallon ground storage tank, pipeline tie-ins into the new Bailey County Well Field pipeline, chemical feed rooms and final demolition of the Low Head B Pump Station located at US 84 and Quaker Avenue. The design and construction of the new pump station is essential for the City to meet current and future water demands of the City.

**Fiscal Impact**

$26,500,000 is appropriated in Capital Improvement Project 92255, BCWF Supply Line/Pumping System, with $1,567,600 available for this purpose.

**Staff/Board Recommending**

R. Keith Smith, P.E., Director of Public Works

**Attachments**

Resolution
Contract
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 BE and is hereby authorized and directed to execute for and on behalf of the City of Lubbock a Professional Services Agreement, by and between the City of Lubbock and Freese and Nichols, Inc., and all related documents. Said Agreement is attached hereto and incorporated in this Resolution as if fully set forth herein and shall be included in the minutes of the Council.

Executed by the City Council this _____ day of _____ 2014.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
R. Keith Smith, P.E., Director of Public Works

APPROVED AS TO FORM:

_____
Richard K. Casner, Natural Resources and Utility Attorney

rc:Prof Srvs Agrmnt-Freese and Nichols, Inc.
3.19.14

# PROFESSIONAL SERVICES CONTRACT

STATE OF TEXAS §

COUNTY OF LUBBOCK §

This contract, (the "Contract" or "Agreement"), effective as of the ___ day of _____, 2014 (the "Effective Date"), is by and between the City of Lubbock, (the "City"), a Texas home rule municipal corporation, and Freese and Nichols, Inc., ("ENGINEER") a Texas professional corporation authorized to conduct business in Texas.

## WITNESSETH

**WHEREAS**, the City desires to obtain professional engineering services related to the Preliminary and Final Design of Pump Station Number 16 and Storage Tank (the "Activities"); and

**WHEREAS**, ENGINEER has a professional staff experienced and is qualified to provide professional engineering services related to Activities, and will provide the services, as defined below, for the price provided herein, said price stipulated by City and Engineer to be a fair and reasonable price; and

**WHEREAS**, the City desires to contract with ENGINEER to provide professional engineering services related to the Activities and Engineer desires to provide the Services related to same.

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

## ARTICLE I. TERM

The term of this Contract commences on the Effective Date and continues without interruption for a term of 575 days, as set forth in Exhibit "A", attached to and made a part of this Agreement for all purposes. If the Engineer determines that additional time is required to complete the Services, the City Engineer, may , but is not obligated to, in his discretion, execute an agreement to grant up to an additional six (6) months of time so long as the amount of the consideration does not increase. An amendment to this agreement resulting in an increase in the amount of the consideration must be approved by the City acting through its governing body.

## ARTICLE II. SERVICES AND COMPENSATION

A. Engineer shall conduct all activities and within such timeframes as set forth on Exhibit "A", attached hereto (the "Services").

B. ENGINEER shall receive as consideration to be paid for the performance of the Services set forth in General, Basic Services, and Special Services based on hourly rates, not to exceed $1,567,600.00, per Exhibit "A" and Exhibit "B".

## ARTICLE III. TERMINATION

A. General. City may terminate this Contract, for any reason or convenience, upon thirty (30) days written notice to ENGINEER. 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.

B. Termination and Remedies. In the event ENGINEER breaches any term and/or provision of this Contract, the City shall be entitled to exercise any right or remedy available to it by this Contract, at law, equity, or otherwise, including without limitation, termination of this Contract and assertion of an action for damages and/or injunctive relief. The exercise of any right or remedy shall not preclude the concurrent or subsequent exercise of any right or remedy and all other rights and remedies shall be cumulative.

## ARTICLE IV. 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 V. REPRESENTATIONS AND WARRANTIES

A. Existence. ENGINEER 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. ENGINEER 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 ENGINEER. This Contract constitutes legal, valid, and binding obligations of the ENGINEER and is enforceable in accordance with the terms thereof.

D. Engineer. ENGINEER maintains a professional staff and employs, as needed, other qualified specialists experienced in providing the Services, 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. ENGINEER will and shall conduct all activities contemplated by this Contract in accordance with the standard of care, skill and diligence normally provided by a professional person in performance of similar professional engineering services, and comply with all applicable laws, rules, and regulations, both state and federal, relating to professional engineering services, as contemplated hereby.

F. Use of Copyrighted Material. ENGINEER warrants that any materials provided by ENGINEER 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 law, statute, rule, order, regulation or ordinance relating to the use or reproduction of materials. ENGINEER shall be solely responsible for ensuring that any materials provided by ENGINEER pursuant to this Contract satisfy this requirement and ENGINEER agrees to indemnify and hold City harmless from all liability or loss caused to City or by to which City is exposed on account of ENGINEER's failure to perform this duty.

## ARTICLE VI. SCOPE OF WORK

ENGINEER shall accomplish the following:

Professional Engineering Services related to the Preliminary and Final Design of the Pump Station Number 16 and Ground Storage Tank, as defined and provided in Exhibit "A," "Scope of Work".

## ARTICLE VII. INDEPENDENT CONTRACTOR STATUS

ENGINEER and City agree that ENGINEER shall perform the duties under this Contract as an independent contractor and shall be considered as independent contractor under this Agreement and/or in its activities hereunder for all purposes. ENGINEER has the sole discretion to determine the manner in which the services are to be performed. During the performance of the Services under this Agreement, Engineer and Engineer's employees and/or subconsultants, 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 VIII. INSURANCE

Engineer shall procure and carry, at its sole cost and expense through the life of this Agreement, except as otherwise provided herein, 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. All policies will be written on per occurrence basis, subject to the following minimum limits of liability:

Commercial General Liability:

Per Occurrence Limit: $1,000,000

General Aggregate Limit: $2,000,000

Professional Liability:

Combined Single Limit: $1,000,000

Automobile Liability:

Combined Single Limit for any auto: $1,000,000 Per Occurrence

Engineer shall further cause any approved subcontractor or subconsultant 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 or subconsultant. The City shall be listed as a primary and noncontributory 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.

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.

Notwithstanding anything contained herein to the contrary, the professional liability policy shall be maintained, at Engineer's sole cost and expense. The retroactive date shall be no later than the commencement of the performance of this contract and the discovery period (possibly through tail coverage) shall be no less than ten (10) years after the completion of work specified in the contract. The provisions of this Article VIII shall survive the termination or expiration of this Agreement.

## ARTICLE IX. EMPLOYMENT OF AGENTS/RETAINING OF CONSULTANTS

ENGINEER may employ or retain consultants, contractors, or third parties (any of which are referred to herein as "Subconsultant"), to perform certain duties of ENGINEER, as set forth on Exhibit "A", attached hereto, under this Contract, provided that City approves the retaining of Subconsultants. ENGINEER is at all times responsible to City to perform the Services as provided in this Agreement and ENGINEER is in no event relieved of any obligation under this Contract upon retainage of any approved Subconsultant. Any agent and/or Subconsultant retained and/or employed by ENGINEER shall be required by ENGINEER to carry, for the protection and benefit of the City and ENGINEER and naming said third parties as additional insureds, insurance as described above in this Contract.

ENGINEER represents that such services are either under applicable value thresholds or are otherwise exempt from notice and/or bid requirements under Texas Law.

## ARTICLE X. CONFIDENTIALITY

ENGINEER 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 XI. INDEMNITY

ENGINEER SHALL INDEMNIFY AND SAVE HARMLESS THE CITY OF LUBBOCK AND ITS ELECTED OFFICIALS, OFFICERS, AGENTS, AND EMPLOYEES FROM ALL SUITS, ACTIONS, LOSSES, DAMAGES, CLAIMS, OR LIABILITY OF ANY KIND, 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, TO THE EXTENT ARISING OUT OF, RELATED TO OR OCCASIONED BY, THE NEGLIGENT ACTS OF ENGINEER, ITS AGENTS, EMPLOYEES, AND/OR SUBCONSULTANTS, RELATED TO THE PERFORMANCE, OPERATIONS OR OMISSIONS UNDER THIS CONTRACT AND/OR THE USE OF OCCUPATION OF CITY OWNED PROPERTY. THE INDEMNITY OBLIGATION PROVIDED HEREIN SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

## ARTICLE XII. COMPLIANCE WITH APPLICABLE LAWS

ENGINEER 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 XIII. NOTICE

A. General. Whenever notice from ENGINEER to City or City to ENGINEER 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 (in which case such notice shall be effective upon delivery); (2) facsimile (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. ENGINEER 's Address. ENGINEER 's address and numbers for the purposes of notice are:

Freese and Nichols, Inc.
Attn: Nick Lester, P.E.
4055 International Plaza, Suite 200
Fort Worth, Texas 76109
Telephone: (817) 735-7300
Facsimile: (817) 735-7491

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

City of Lubbock
Attn: John Turpin, P.E.
P. 0. Box 2000
1625 13th Street
Lubbock, Texas 79457
Telephone: (806) 775 – 2342
Facsimile: (806) 775 – 3344

D. Change of Address. Either party may change its address or numbers for purposes of notice by giving written notice to the other party as provided herein, 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 XIV. CITY-PROVIDED DATA

City shall furnish ENGINEER non-confidential studies, reports and other available data in the possession of the City pertinent to ENGINEER's Services, so long as City is entitled to rely on such studies, reports and other data for the performance of ENGINEER's Services under this Contract (the "Provided Data"). ENGINEER shall be entitled to use and rely, so long as such reliance is reasonable, upon all such Provided Data.

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

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

D. Assignability. ENGINEER 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 and ENGINEER, and in the case of City, its respective successors, legal representatives, and assigns, and in the case of ENGINEER, its permitted successors and assigns.

F. Construction and Venue.

THIS CONTRACT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. THIS CONTRACT IS PERFORMABLE IN LUBBOCK COUNTY, TEXAS. THE PARTIES HERETO HEREBY IRREVOCABLY CONSENT TO THE SOLE AND EXCLUSIVE JURISDICTION AND VENUE OF THE COURTS OF COMPETENT JURISDICTION 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 authorized and executed by ENGINEER and City.

I. Entire Agreement. This Contract, including Exhibits "A" & "B," attached hereto, contains the entire Contract between the City and ENGINEER, and there are no other written or oral promises, conditions, warranties, or representations relating to or affecting the matters contemplated herein.

J. No Joint Enterprise. Nothing contained herein shall be construed to imply a joint venture, joint enterprise, partnership or principal – agent relationship between ENGINEER and the City.

K. Documents Owned by City. 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 Article II, above. The ENGINEER shall make copies of any and all work products for its files.

L. Notice of Waiver. A waiver by either City or ENGINEER of a breach of this Agreement must be in writing and duly authorized 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.

M. Third Party Activities. Nothing in this Agreement shall be construed to provide any rights or benefits whatsoever to any party other than City and ENGINEER.

**EXECUTED** as of the Effective Date hereof.

**CITY OF LUBBOCK**

Glen C. Robertson, Mayor

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

L. Wood Franklin, P.E., City Engineer

John Turpin, P.E., Chief Water Utilities Engineer

APPROVED AS TO FORM:

Richard Casner, Natural Resources & Utilities Attorney

**FREESE AND NICHOLS, INC.**

By:

Name: Russell Gibson, P.E.

Title: Principal

**EXHIBIT A**

**SCOPE OF SERVICES FOR:**

**PUMP STATION NUMBER 16 AND STORAGE TANK**

**PRELIMINARY DESIGN AND FINAL DESIGN**

**GENERAL:**

A. Pump Station Number 16 (The "Project") includes the following facilities:

1. Pump Station Number 16 (PS16) with a capacity of 60 MGD
2. 3-5 million gallon ground storage tank
3. Suction and discharge tie-ins to existing pipelines
4. Restroom facilities inside PS16
5. A chemical feed room will be included. No chemical equipment will be designed.

B. The Project will be split into the following bid packages:

1. Bid Package A – PS #16 and 3-5 million gallon ground storage tank. Prepurchase of equipment is not anticipated for the Project.
2. Bid Package B – Low Head B Demolition and Tie-in

C. The following facilities are not part of the Project. If added to the Project, this Agreement may be amended to provide such facilities, and additional compensation may be granted to Engineer therein.

1. Electrical substations or power transmission lines to the sites, which will be designed and constructed by the electric utility company. The project will tie onto the secondary side of the substations and/or power service facilities.
2. Chemical facilities/equipment. A chemical room and taps in the pipe will be provided.
3. Demolition of the existing Pump Station Number 7
4. Offsite facility upgrades

**BASIC SERVICES:** The Basic Services include the project administration, preliminary investigations and reports, preparation of detailed design, as set forth herein, and construction documents. Construction bid

and award services, construction phase services, resident representation services during construction, operation and maintenance manuals, startup services, commissioning, and personnel training will be incorporated in subsequent amendments if desired by the City (Sometimes referred to as "OWNER"). Engineer sometimes referred to as "FNI" shall render the following professional services in connection with the development of the Project:

A. GENERAL SCOPE OF SERVICES TASKS: ENGINEER will provide the following as part of the preliminary and final design phase of The Project:

1. Attend a kick-off meeting to clarify OWNER'S requirements for the Project, review pertinent data, review Project staffing and organization, and present the initial work plan and schedule.
2. Provide administration and managements of The Project. Review ongoing activities. Monitor schedule and budget. Review progress with OWNER on a regular basis. Discuss issues with the OWNER as they are noted. Attend monthly coordination meetings with the OWNER. Prepare and distribute minutes of the meetings. Attend two meetings and make presentations to the Lubbock Water Advisory Committee for the Project. All meetings provided for in this Agreement shall occur at the offices of the OWNER, or other location determined by the OWNER.
3. Assist the OWNER with the public information program, including the preparation of exhibits and associated descriptive material. A total of two meetings in Lubbock are included.
4. Provide monthly update reports which include the following:
    - •Status of the work
    - •Major tasks to be completed in the next month
    - •Discussion of major issues
    - •Scope changes to project scope or Engineer's scope
    - •Project budget update (if major changes since the last update)
    - •Project schedule update (if major changes since the last update)
    - •Status of deliverables

B. PRELIMINARY DESIGN PHASE: ENGINEER will provide the following as part of the preliminary design phase:

1. Conduct a study of the system to verify system pumping capacity, phasing of the system, preliminary pump selection, and general operating requirements of the pump station.

2. Prepare load studies to support preliminary design of utility power systems by others and to assist in electric utility rate negotiations. Meet with the electric utility companies and OWNER to coordinate electric utility system design and power contracts.
3. Conduct a workshop with OWNER'S staff to discuss layouts, equipment selection, construction material options, operation and maintenance criteria, OWNER'S preferences, and alternatives to be studied. ENGINEER will bring lead designers from the major disciplines to the workshop.
4. Attend site trips with OWNER'S staff to similar pump station facilities in Texas for up to two days including travel for two people.
5. Evaluate alternatives and recommend designs for the project facilities, including conceptual pump station floor plan layouts, tank sizes and appurtenances, major equipment selections, piping and valves, flowmeters, surge control systems, building materials, bridge crane, HVAC systems, toilet and janitorial facilities, site road and grading plans, pipeline diameter, pipeline materials, pipeline appurtenances, preliminary power plan and one-line drawings, P & ID's, and equipment tagging schedules, and onsite generators.
6. Reconnaissance-level opinions of probable construction cost for the recommended facilities.
7. Prepare and submit 6 copies of a draft preliminary design report for review by the OWNER. The preliminary design report will include design criteria, codes and standards, evaluation of alternatives, layouts, equipment selections, and cost estimates as described above. The report will also include the project phasing, schedule, permitting requirements, and zoning requirements (if any).
8. Attend a meeting to present the draft preliminary design report. Attend another meeting to receive comments from the OWNER. Make modifications to the report to address the OWNER's comments, and submit 6 copies of the final draft of the preliminary design report.

C. FINAL DESIGN PHASE: FNI shall provide professional services in this phase as follows:

1. Obtain and review OWNER-furnished front end documents, general conditions, and special conditions for the construction contracts. Meet with OWNER to review comments, and revise OWNER's standard documents accordingly.
2. Prepare plans, specifications, contract documents, designs, and layouts of improvements to be constructed.
3. Advise OWNER of need for and recommend scope of additional subsurface investigations,

special analysis, and the retention of special consultants. The cost of any additional special services shall be paid by OWNER and are not included in the services performed by ENGINEER unless they are included pursuant to Exhibit A –Special Services.

4. Prepare applications for permits including but not limited to road and railroad crossing permits, building code permitting (if any). ENGINEER will provide supporting documents to the construction contractor(s) for their application of NPDES/TPDES Permitting. Any permitting effort required because of new regulations that become effective after the signing of this contract will be considered additional services.
5. Submit plans, specifications, and contract documents to the applicable federal and state agency(s) for approval, where required. Submittals will include TCEQ and TDLR.
6. Furnish necessary information to utility companies whose facilities may be affected or services may be required for the Project. Provide site civil design of the pump station sites to support the electric utilities site requirements, including site grading, roads, and fencing. The pump station power connection to the electric utility will be on the secondary side of the utility transformer.
7. Level 2 Review: Furnish OWNER six (6) copies of preliminary (60%) plans and specifications marked "Preliminary" for approval by OWNER. ENGINEER will meet with the OWNER to present the preliminary plans and specifications. After OWNER'S review, ENGINEER will meet with OWNER to receive comments. Level 2 review documents will include dimensional layout drawings, plans, sections and elevations of the facilities for all of the trades, typical details, and most special details. The drawings will be in sufficient development to show the overall layouts and design intent, but will lack many notes and minor details. The specifications will include the front end documents and draft specifications for major equipment items.
8. Level 3 Review: Furnish OWNER six (6) copies of preliminary (95%) plans, specifications, and bid proposals marked "Preliminary" for approval by OWNER. ENGINEER will meet with the OWNER to present the preliminary plans and specifications. After OWNER'S review, ENGINEER will meet with OWNER to receive comments. Upon final approval by OWNER, ENGINEER will complete the plans and specifications and provide OWNER ten (10) sets of copies of "Final" plans and specifications. Level 3 Review documents will include all drawing sheets and specifications with some minor corrections and notes still remaining.
9. Prepare bidder's proposal forms (project quantities) of the improvements to be constructed.
10. Prepare revised opinion of probable construction cost at the Level 2 and 3 Reviews.

**SPECIAL SERVICES:** FNI shall render the following special services in connection with The Project:

A. **Geotechnical Engineering:** FNI will provide geotechnical engineering services as follows:

1. Review the Geologic Atlas of Texas to study general subsurface conditions that are expected at the pump station site.
2. Visit the proposed pump station and ground storage tank site before drilling to select locations for exploratory borings. Engineer will stake the specific locations after checking underground utilities, other existing construction, and accessibility.
3. Subcontract with a drilling contractor to drill a total of 11 borings at the pump station and ground storage tank site. One (1) 60-foot boring and four (4) 40-foot borings will be drilled at the ground storage tank site and four (4) 65-foot borings and two (2) 35-foot borings will be drilled at the pump station site. Bedrock may be cored in some borings, if encountered. Samples will be collected intermittently using continuous flight augers and either split-spoon or tube samplers. Borings will be backfilled with auger cuttings.
4. Provide an engineer or geologist to direct the drilling, log the borings, record field test data, and handle and transport the samples.
5. Select samples for laboratory testing, assign tests, deliver samples to a subcontract Laboratory and review test results. Testing is expected to include classification tests (liquid and plastic limits and percent passing a #200 sieve or gradation), moisture content, and unconfined compression strength tests.
6. Prepare a technical memorandum summary report of the geotechnical investigation to include:
    a. Appendix with the boring locations, boring logs, laboratory test results, and a key to the symbols used.
    b. Discussion of subsurface conditions and soil properties found by the field and laboratory work and implications for design.
    c. Foundation and site preparation recommendations for the pump station and ground storage tank.
    d. General discussion of expected construction related issues.

B. **Hydraulic Modeling:** FNI will provide hydraulic modeling services as follows:

1. Kickoff Meeting: Attend kickoff meeting with City. FNI and the City will review assumptions for existing average day and maximum day demands. Discuss projected demands to use for 20-year system curves and overall assumptions (additional improvements constructed).

2. Develop 20-year Average Day & Maximum Day Model Scenarios: FNI will utilize the demands, water system improvements and supply assumptions determined at the kickoff meeting to develop 20-year average day and maximum day steady state scenarios in the water model.

3. Develop System Curves for Existing and 20-year Average Day & Maximum Day Demand Conditions: FNI will utilize the existing system and 20-year scenarios for average day and maximum day demand conditions to prepare system curves for Pump Station #7.

4. Prepare Technical Memorandum on System Curve Development: FNI will prepare a technical memorandum summarizing the assumptions used in calculating the system curves and submit three hard copies and a PDF to the City.

5. Meet with the City to Discuss Technical Memo & System Curves & Finalize Tech Memo: FNI will meet with the City to discuss comments on the technical memo and system curves. FNI will revise the system curves and technical memo and submit final copies to the City, including five hard copies and a PDF. The technical memo will be included as an appendix to the Preliminary Design Report.

C. **Asbestos Analysis of Existing PS # 16:** FNI will retain and monitor and direct, through a subcontract, the efforts of an asbestos survey firm (King Consultants) to provide the following services:

1. Conduct sampling of each suspect material in a random manner to accordance with TDSHS recommended protocol.
2. Quantify materials in a homogenous area.
3. Review any existing asbestos surveys or inspections.
4. Analyze all samples using Polarized Light Microscopy using EPA Method 600.
5. Provide information describing all local, state, and federal government laws as they apply to ACBM.
6. Provide homogeneous area report that includes asbestos containing building materials (ACBM), condition of materials, quantity of materials and estimated abatement cost.

D. **Physical Hydraulic Model:** FNI will retain and monitor and direct, through a subcontract the efforts of a physical hydraulic modeler (Clemson Engineering) to provide the following services:

1. Build a scaled (1:5 or 1:7) physical model of the pump cans
2. Provide results and design recommendations for the pump station.

**TIME OF PERFORMANCE:** FNI is authorized to commence work on The Project upon execution of this AGREEMENT and agrees to complete the services in accordance with the following schedule:

- Notice to Proceed from Owner – April 15, 2014
- Submit Draft Preliminary Design Report – August 15, 2014
- Submit Final Preliminary Design Report – October 1, 2014
- Submit 60% Level Plans – March 1, 2015
- Submit 95% Level Plans and Specifications – August 1, 2015
- Submit 100% Plans and Specifications – November 11, 2015

The above schedule is based upon OWNER review of the preliminary design report and other submittals within two weeks of submittal.

If FNI's services are delayed through no fault of FNI, FNI shall be entitled to adjust contract schedule consistent with the number of days of delay. In the event FNI asserts that it is entitled to additional time, it shall provide notice to the OWNER as soon as reasonably practicable after the event allegedly causing such delay shall occur ("Delay Event"), but in no event to exceed five (5) business days after the occurrence of the Delay Event. FNI shall use and exercise all diligence to promptly remove or remediate such Delay Event. In the event notice of the Delay Event shall not be provided as prescribed herein, FNI shall not be entitled to relief from schedule as provided in this AGREEMENT. These delays may include but are not limited to delays in OWNER or regulatory reviews, delays on the flow of information to be provided to FNI, except any delays occasioned by subcontracts or sub consultants of FNI, and governmental approvals. These delays may result in an adjustment to compensation.

**EXHBIT A, PART 2, ADDITIONAL SERVICES**

**PUMP STATION NUMBER 16 AND STORAGE TANK**

**PRELIMINARY DESIGN AND FINAL DESIGN**

**ADDITIONAL SERVICES:** Additional Services to be performed by FNI, if authorized by Owner, which are not included in the above described General Service, Basic Services, and Special Services, are, except as may otherwise provided to be performed by FNI, described as follows:

A. Field layouts or the furnishing of construction line and grade surveys.

B. Providing services to investigate existing conditions or facilities, or to make measured drawings thereof, or to verify the accuracy of drawings or other information furnished by Owner.

C. Providing renderings, model, and mock-ups requested by the Owner.

D. Making revisions to drawings, specifications or other documents when such revisions are 1) not consistent with approvals or instructions previously given by Owner or 2) due to other causes not solely within the control of FNI.

E. Providing consultation concerning the replacement of any Work damaged by fire or other cause during the construction, and providing services as may be required in connection with the replacement of such Work.

F. Investigations involving consideration of operation, maintenance and overhead expenses, and the preparation of rate schedules, earnings and expense statements, feasibility studies, appraisals, evaluations, assessment schedules, and material audits or inventories required for certification of force account construction performed by Owner.

G. Preparing applications and supporting documents for government grants, loans, or planning advances and providing data for detailed applications.

H. Providing shop, mill, field or laboratory inspection of materials and equipment. Observe factory tests of equipment at any site remote to the project or observing tests required as a result of

equipment failing the initial test.

I. Preparing Operation and Maintenance Manuals or conducting operator training.

J. Preparing data and reports for assistance to Owner in preparation for hearings before regulatory agencies, courts, arbitration panels or any mediator, giving testimony, personally or by deposition, and preparations therefore before any regulatory agency, court, arbitration panel or mediator.

K. Furnishing the services of a Resident Project Representative to act as Owner's on-site representative during the Construction Phase. The Resident Project Representative will act as directed by FNI in order to provide more extensive representation at the Project site during the Construction Phase. Through more extensive on-site observations of the work in progress and field checks of materials and equipment by the Resident Project Representative and assistants, FNI shall endeavor to provide further protection for Owner against defects and deficiencies in the work. Furnishing the services of a Resident Project Representative is subject to the provisions of Article I, D and Attachment RPR.

If Owner provides personnel to support the activities of the Resident Project Representative who is FNI or FNI's agent or employee, the duties, responsibilities and limitations of authority of such personnel will be set forth in an Attachment attached to and made a part of this AGREEMENT before the services of such personnel are begun. It is understood and agreed that such personnel will work under the direction of and be responsible to the Resident Project Representative. Owner agrees that whenever FNI informs him in writing that any such personnel provided by the Owner are, in his opinion, incompetent, unfaithful or disorderly, such personnel shall be replaced.

L. Assisting Owner in preparing for, or appearing at litigation, mediation, arbitration, dispute review boards, or other legal and/or administrative proceedings in the defense or prosecution of claims disputes with Contractor(s).

M. Performing investigations, studies and analyses of substitutions of equipment and/or materials or deviations from the drawings and specifications.

N. Assisting Owner in the defense or prosecution of litigation in connection with or in addition to those services contemplated by this AGREEMENT. Such services, if any, shall be furnished by FNI on a fee basis negotiated by the respective parties outside of and in addition to this AGREEMENT. This provision shall not apply to any expense related to a legal action to which FNI is a party.

O. Providing environmental support services including the design and implementation of ecological baseline studies, environmental monitoring, impact assessment and analyses, permitting assistance, and other assistance required to address environmental issues.

P. Performing investigations, studies, and analysis of work proposed by construction contractors to correct defective work.

Q. Design, contract modifications, studies or analysis required to comply with local, State, Federal or other regulatory agencies that become effective after the date of this agreement.

R. Services required to resolve bid protests or to rebid the projects for any reason other than fault of any type or degree of FNI.

S. Visits to the site in excess of the number of trips included in the General Services, Basic Services, or Special Services for periodic site visits, coordination meetings, or contract completion activities.

T. Providing basic or additional services on an accelerated time schedule. The scope of this service include cost for overtime wages of employees and consultants, inefficiencies in work sequence and plotting or reproduction costs directly attributable to an accelerated time schedule directed by the Owner.

U. Providing services made necessary because of unforeseen, concealed, or differing site conditions or due to the presence of hazardous substances in any form, except as noted in the scope of services.

V. Providing value engineering studies or reviews of cost savings proposed by others.

W. Prepurchase or preselection or any alternate contract structure or number of contracts other than

stipulated in Exhibit A – Basic Services.

X. Provide any services after the satisfactory conclusion and completion of the General Services, Basic Services, and Special Services of the Project.

**EXHBIT A, PART 3, RESPONSIBILITIES OF THE OWNER**

**PUMP STATION NUMBER 16 AND STORAGE TANK**

**PRELIMINARY DESIGN AND FINAL DESIGN**

**RESPONSIBILITIES OF OWNER:** Owner shall perform the following in a timely manner so as not to delay the services of FNI:

A. Owner recognizes and expects that certain Change Orders, herein so called, may be required.

Any responsibility of Engineer for the costs of Covered Changed Orders will be determined on the basis of applicable contractual obligations and professional liability standards. For purposes of this paragraph, the responsibility of Engineer for the costs of Change Orders will not include:

- any costs that Owner would have incurred if the Change Order work had been included originally in the Contract Documents and its lack of inclusion was not due, in whole or in part, to any fault, error, or omission of Engineer related thereto,
- Any costs that are due to unforeseen site conditions, or
- Any costs that are due to changes made by the Owner.
- Any costs that are incurred due to the negligence of the construction contractor

Wherever used in this document, the term Engineer includes Engineer's officers, directors, partners, employees, agents, and Engineers Consultants.

B. Designate in writing a person to act as Owner's representative with respect to the services to be rendered under this AGREEMENT. Such person shall have contract authority to transmit instructions, receive information, interpret and define Owner's policies and decisions with respect to FNI's services for the Project.

C. Provide all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which Owner will require to be included in the drawings and specifications.

D. Assist FNI by placing at FNI's disposal all available information pertinent to the Project including previous reports and any other data relative to design or construction of the Project as provided in this AGREEMENT.

E. Arrange for access to and make all provisions for FNI to enter upon public and private property as required for FNI to perform services under this AGREEMENT.

F. Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by FNI, obtain advice of an attorney, insurance counselor and other consultants as Owner deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of FNI.

G. Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project, except as otherwise the responsibility of FNI as provided in this AGREEEMENT.

H. Give prompt written notice to FNI whenever Owner observes or otherwise becomes aware of any development that affects the scope or timing of FNI's services.

I. Furnish, or direct FNI to provide, Additional Services as stipulated in Exhibit "A," Part 2, if deemed necessary by Owner.

J. Bear all costs incident to compliance with the requirements of this Exhibit "A", Part 3.

K. Provide the following services, unless provided specifically otherwise in this Agreement:

a. Provide land acquisition services.
b. Pay all permits fees and mitigation cost.
c. Provide land title research and title policy.
d. Provide advertisement for bids in local publications as required.

**EXHIBIT B – BUDGET**

**PUMP STATION NUMBER 16 AND STORAGE TANK**

**PRELIMINARY DESIGN AND FINAL DESIGN**

CITY and ENGINEER have established a not-to-exceed budget of $1,567,600.00 to complete all services under this AGREEMENT. This amount will not be exceeded without a contract amendment. CITY will pay the ENGINEER hourly, for services identified in Exhibit A, based on ENGINEERS Fee Schedule presented as EXHIBIT C. Subconsultant services will be billed at cost to ENGINEER with a 10 percent handling fee. The Budget is presented for the services of ENGINEER under this AGREEMENT are provided in this Exhibit B. CITY and ENGINEER agree to allow redistribution of funds between Tasks as appropriate to allow flexibility in providing the needed services within the not-to-exceed budget.

ENGINEER agrees to complete these services as delineated above. Should there be a Change in Scope of Work or Time of Performance, then this can result in an amendment to this contract which shall be negotiated at that time.

The budget assumes that all work will be completed within 575 calendar days from the Notice to Proceed.

## COMPENSATION

Compensation to Freese and Nichols shall be based on the following Schedule of Charges: Not to Exceed The total fee for Gneral Services, Basic Services, and Special Services shall be computed on the basis of the Schedule of Charges, but shall not exceed One million, five hundred and sixty seven thousand, six hundred ($1,567,600.00). If FNI sees the Scope of Services changing so that Additional Services are needed, including but not limited to those services described as Additional Services in Exhbit A, Part 2, FNI will notify OWNER for OWNER's approval before proceeding. Additional Services shall be computed based on the Schedule of Charges.

**Schedule of Charges:**

| Position | Rate | Position | Rate |
|---|---|---|---|
| PRINCIPAL | 388.50 | 3D VISUALIZATION COORDINATOR | 178.50 |
| GROUP MANAGER | 247.00 | ENVIRONMENTAL SCIENTIST VII | 228.90 |
| ENGINEER VIII | 269.85 | ENVIRONMENTAL SCIENTIST VI | 199.50 |
| ENGINEER VII | 263.55 | ENVIRONMENTAL SCIENTIST V | 168.00 |
| ENGINEER VI | 236.25 | ENVIRONMENTAL SCIENTIST IV | 147.00 |
| ENGINEER V | 185.00 | ENVIRONMENTAL SCIENTIST III | 126.00 |
| ENGINEER IV | 169.05 | ENVIRONMENTAL SCIENTIST II | 88.20 |
| ENGINEER III | 150.15 | ENVIRONMENTAL SCIENTIST I | 87.15 |
| ENGINEER II | 141.75 | ARCHITECT VI | 201.60 |
| ENGINEER I | 116.55 | ARCHITECT V | 182.70 |
| ELECTRICAL ENGINEER VI | 222.60 | ARCHITECT IV | 147.00 |
| ELECTRICAL ENGINEER V | 182.70 | ARCHITECT III | 140.70 |
| ELECTRICAL ENGINEER IV | 144.90 | ARCHITECT II | 113.40 |
| ELECTRICAL ENGINEER III | 136.50 | ARCHITECT I | 97.65 |
| ELECTRICAL ENGINEER II | 132.30 | PLANNER VI | 213.15 |
| ELECTRICAL ENGINEER I | 124.95 | PLANNER V | 163.80 |
| MECHANICAL ENGINEER VI | 215.25 | PLANNER IV | 129.15 |
| MECHANICAL ENGINEER V | 191.10 | PLANNER III | 117.60 |
| MECHANICAL ENGINEER IV | 166.95 | PLANNER I | 96.60 |
| MECHANICAL ENGINEER III | 147.00 | HYDROLOGIST V | 184.80 |
| PROGRAM MANAGER II | 222.60 | HYDROLOGIST IV | 144.90 |
| CONSTRUCTION CONTRACT ADMIN III (QC) | 184.28 | HYDROLOGIST III | 133.35 |
| CONSTRUCTION CONTRACT ADMIN III (Spec. Insp) | 147.26 | HYDROLOGIST II | 121.80 |
| CONSTRUCTION CONTRACT ADMIN III (CM) | 136.50 | SENIOR GEOLOGIST | 142.80 |
| CONSTRUCTION CONTRACT ADMIN III (Sr. RPR) | 105.00 | GEOTECHNICAL ENGINEER VI | 236.25 |
| CONSTRUCTION CONTRACT ADMIN II (PS RPR) | 126.00 | PUBLIC INVOLVEMENT COORDINATOR | 134.40 |
| CONSTRUCTION CONTRACT ADMIN I (DCS II) | 111.30 | WEB SERVICES ADMINISTRATOR | 157.50 |
| CONSTRUCTION CONTRACT ADMIN I (RPR) | 99.75 | WORD PROCESSING/SECRETARIAL | 80.85 |
| CONSTRUCTION CONTRACT ADMIN I (JR PS RPR) | 115.50 | OPERATIONS ANALYST | 145.95 |
| DOCUMENT CONTROL CLERK | 106.05 | CONTRACT ADMINISTRATOR | 92.40 |
| SR DESIGNER | 196.35 | INFORMATION SERVICES ADMINISTRATOR | 79.80 |
| DESIGNER II | 158.55 | INFORMATION SERVICES CLERK III | 63.00 |
| DESIGNER I | 136.50 | INFORMATION SERVICES CLERK II | 58.80 |
| CADD DESIGNER | 168.00 | INFORMATION SERVICES CLERK I | 57.75 |
| TECHNICIAN IV | 142.80 | CO-OP | 70.35 |
| TECHNICIAN III | 114.45 | | |
| TECHNICIAN II | 95.55 | | |
| TECHNICIAN I | 73.50 | | |
| GIS COORDINATOR | 144.90 | | |
| GIS ANALYST IV | 131.25 | | |
| GIS ANALYST III | 108.15 | | |
| GIS ANALYST II | 96.60 | | |
| GIS ANALYST I | 72.45 | | |

**Rates for In-House Services**

| Technology Charge | Bulk Printing and Reproduction | |
|---|---|---|
| $8.50 per hour | Black and White | $0.10 per copy |
| | Color | $0.50 per copy |
| **Travel** | Plot - Bond | $2.50 per plot |
| Standard IRS Rates | Plot - Color | $5.75 per plot |
| | Plot - Other | $5.00 per plot |
| | Binding | $5.75 per book |

**OTHER DIRECT EXPENSES:**

Other direct expenses are reimbursed at actual cost times a multiplier of 1.10. They include outside printing and reproduction expense, communication expense, travel, transportation and subsistence away from the FNI office and other miscellaneous expenses directly related to the work, including costs of laboratory analysis, test, and other work required to be done by independent persons other than staff members. .

FNI _____
OWNER _____

**City of Lubbock, TX**
**Capital Project**
**Project Cost Detail**
**April 10, 2014**

| | |
|---|---|
| Capital Project Number: | 92255 |
| Capital Project Name: | BCWF Supply Line/ Pumping System |

| | | Budget |
|---|---|---|
| *Encumbered/Expended* | | |
| City of Lubbock Staff Time | $ | 37,203 |
| Advertisement | | 146 |
| Misc. Services | | 51,000 |
| Freese & Nichols - LHB Assessment Professional Services | | 378,200 |
| Freese & Nichols - BCWF Supply Line Preliminary Engineering | | 274,129 |
| Freese & Nichols - BCWF Amendment #1: Supply Line Final Design and Bid Phase Services | | 2,163,829 |
| Freese & Nichols - BCWF Amendment #2: Contract A Construction Phase Services | | 690,367 |
| Freese & Nichols - BCWF Amendment #3 Time - Construction Phase | | - |
| Western Summit Constructors, Inc. - BCWF Supply Pipeline Construction Contract A | | 6,167,173 |
| Western Summit Constructors, Inc. BCWF Supply Pipeline Construction Contract A Change Order 1 | | (46,194) |
| Pump Station 7 Land Acquisition | | 708,471 |
| Pipeline Land Acquisition | | 220,493 |
| Garney Construction - BCWF Supply Pipeline Construction Contract B | | 9,144,464 |
| *Current Agenda Items- April 10, 2014* | | |
| Freese and Nichols - Pump Station 16 Preliminary and Final Design | | 1,567,600 |
| Western Summit Constructors, Inc. Contract A Change Order 2 - BCWF Supply Pipeline Constrction | | (101,499) |
| **Encumbered/Expended to Date** | | 21,255,382 |
| *Estimated Costs for Remaining Appropriation* | | |
| Construction | | 5,244,618 |
| ***Remaining Appropriation*** | | 5,244,618 |
| **Total Appropriation To Date** | $ | 26,500,000 |

*Managing Department* **Pumping & Control**

*Project Manager* **Bruce Blalack**

*Project Classification* **Replacement Infrastructure**

*Project Status* **Approved**

*Project Scope*

The following work will be performed with this project as supported by a recent engineering evaluation of the Low Head B pump station, pump station No. 9, pump station No. 7 and the Bailey County Well Field (BCWF) supply line.

1. Add a new branch to the BCWF supply line to relocate the main system connection directly to pump station No. 7 and by-pass the aged Low Head B pump station.

2. Demolish the Low Head B pump station.

3. Rehabilitate or Relocate and replace pump station No. 7

4. Rehabilitate pump station No. 9

*Project Justification*

Replacing aging infrastructure  insures reliable continuous water service to Lubbock citizens and reduces annual maintenance costs, system failures, and utility expenses.

*Project History*

$1.0 million was appropriated in FY 2010-11 Budget Amendment No. 7, Ord. No. 2011-O0035, April 14, 2011.
$9.5 million was appropriated in the FY 2011-12 Budget, Ord. No. 2011-O0080, September 8, 2011.
$16.0 was appropriated in the FY 2013-14 Budget, Ord. No. 2013-O0087, September 10, 2013.

| | | | Unappropriated Planning Years | | | | | |
|---|---|---|---|---|---|---|---|---|
| *Appropriation Detail* | Appropriation to Date | FY 2013-14 | FY 2014-15 | FY 2015-16 | FY 2016-17 | FY 2017-18 | FY 2018-19 | Total Project Amount |
| Construction | 10,500,000 | 16,000,000 | 12,000,000 | 1,000,000 | 0 | 0 | 0 | 39,500,000 |
| **Total Project Appropriation** | 10,500,000 | 16,000,000 | 12,000,000 | 1,000,000 | 0 | 0 | 0 | 39,500,000 |

| | | | Unappropriated Planning Years | | | | | |
|---|---|---|---|---|---|---|---|---|
| *Funding Detail* | Funding to Date | FY 2013-14 | FY 2014-15 | FY 2015-16 | FY 2016-17 | FY 2017-18 | FY 2018-19 | Total Funding |
| FY 2011 10-year Water Revenue CO's | 1,000,000 | 0 | 0 | 0 | 0 | 0 | 0 | 1,000,000 |
| FY 2012 Water Revenue CO's | 9,500,000 | 0 | 0 | 0 | 0 | 0 | 0 | 9,500,000 |
| FY 2014 Water Revenue CO's | 0 | 16,000,000 | 0 | 0 | 0 | 0 | 0 | 16,000,000 |
| FY 2015 Water Revenue CO's | 0 | 0 | 12,000,000 | 0 | 0 | 0 | 0 | 12,000,000 |
| FY 2016 Water Revenue CO's | 0 | 0 | 0 | 1,000,000 | 0 | 0 | 0 | 1,000,000 |
| **Total Funding Sources** | 10,500,000 | 16,000,000 | 12,000,000 | 1,000,000 | 0 | 0 | 0 | 39,500,000 |

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

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

**Resolution – Public Works Engineering:** Consider a resolution authorizing the Mayor to execute a Developer Agreement contract 11841, for construction of a portion of Kewanee Avenue and associated drainage improvements, West End Addition, between the City and MRXNO, LLC.

**Item Summary**

The Developer of West End Addition has requested that the City participate in the cost associated with the paving of approximately 1,625 feet of Kewanne Avenue between 29th Street and 34th Street along with the drainage improvements associated with the paving of Kewanne Avenue.

Development along the west half of Kewanne Avenue was platted prior to annexation into the City of Lubbock. Paving the west portion of Kewanne Avenue was not a requirement at the time the land was developed in Lubbock County. The Developer along the east half of Kewanne Avenue is developing his property and will be paving the east portion of Kewanee Avenue. The Developer of West End Addition has requested the City to participate in the cost of paving the east half of Kewanee Avenue and the required drainage improvements associated with the paving.

**Fiscal Impact**

$37,644,368 is appropriated in Capital Improvement Project 92248, Street Maintenance Program, with $175,000 available for this purpose.

**Staff/Board Recommending**

R. Keith Smith, P.E., Director of Public Works

**Attachments**

Resolution
Agreement
Budget Detail 2
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 Developer Agreement for construction of a portion of Kewanee Avenue and drainage improvements, West End Addition, by and between the City of Lubbock and MRXNO, LLC, 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., Director of Public Works

APPROVED AS TO FORM:

_____
Chad Weaver, Assistant City Attorney

vw:ccdocs/RES.Agrmt-MRXNO, LLC
March 24, 2014

STATE OF TEXAS §

COUNTY OF LUBBOCK §

**DEVELOPMENT AGREEMENT**
**FOR CONSTRUCTION OF**
**A PORTION OF KEWANEE AVENUE &**
**DRAINAGE IMPROVEMENTS, WEST END ADDITION**

This Development Agreement ("Agreement") is entered into this ___ day of _____, 2014, by and between the City of Lubbock, Texas, a Texas home rule municipal corporation (the "City") and MRXNO, LLC, (the "Developer").

WITNESSETH:

WHEREAS, Developer is the developer of certain real property adjacent to Kewanee Avenue, located within the corporate limits of the City;

WHEREAS, Developer is required, pursuant to Chapter 38 of the Code of Ordinances of the City, to participate in the paving of Kewanee Avenue from 29th Street to 34th Street, and to bear the cost of such participation;

WHEREAS, a portion of Kewanee Avenue is related to the Developer's development and is unpaved (the "Unpaved Portion"), said Unpaved Portion of Kewanee Avneue being depicted on Exhibit "A", attached hereto, and is not the responsibility of Developer to participate in such paving;

WHEREAS, certain Drainage Improvements (the "Drainage Improvements" are related to the Developer's development and are depicted on Exhibit "A" attached hereto;

WHEREAS, the Unpaved Portion and Drainage Improvements are less than thirty percent (30%) of the Contract Price that the Developer will enter into related to the West End Addition paving project and drainage improvements;

WHEREAS, the City desires that such Unpaved Portion now be paved and Drainage Improvements be made;

WHEREAS, the City, to realize cost savings due to economies of scale, now desires that Developer perform such paving of the Unpaved Portion of Kewanee Avenue and install Drainage Improvements, and that the City reimburse Developer of such costs; and

WHEREAS, the City and Developer now desire to enter into this Agreement wherein City agrees to pay Developer a portion (not to exceed $175,000) of the costs related to the paving of the Unpaved Portion of Kewanee Avenue and Drainage Improvements associated with this paving.

NOW, THEREFORE, in consideration of the mutual covenants, promises and obligations set forth herein, the sufficiency of which is hereby acknowledged, the City and Developer hereby agree as follows:

SECTION 1 Developer Activities

1.01 Developer shall proceed in a diligent manner to completion of the Unpaved Portion and Drainage Improvements associated with the improvements of Kewanee Avenue in accordance with all applicable laws, City of Lubbock Code of Ordinances, and City of Lubbock policies. Completion of such improvements shall occur on or before December 31, 2014. Completion of the Unpaved Portion and Drainage Improvements

associated with the improvements of Kewanee Avenue shall not be deemed to have occurred unless and until the City shall have accepted such improvements as being in compliance with the terms of this Agreement.

1.02 Developer shall comply with applicable laws related to private performance of public improvements, including without limitation, Subchapter C of Chapter 212 of the Local Government Code.

SECTION 2 City Participation

2.01 The City shall, subject to the terms hereof, participate in the Unpaved Portion and Drainage Improvements associated with the improvements of Kewanee Avenue to an amount not to exceed, one hundred seventy-five thousand and NO/100 Dollars ($175,000.00), based on the actual bid prices of the Unpaved Portion and Drainage Improvements. It is expressly hereby represented and warranted by Developer to City that the total Contract Price regarding this project is estimated to be Eight Hundred Eleven Thousand Four Hundred Sixty Two and 23/100 Dollars ($811,462.23).

2.02 The City shall pay to Developer the actual bid price amount, as limited herein not to exceed $175,000.00 upon completion of the Unpaved Portion and Drainage Improvements associated with the improvements of Kewanee Avenue, and inspection and acceptance thereof by the City. It is expressly stipulated that the City shall owe no funds to Developer unless and until the Unpaved Portion and Drainage Improvements associated

with the improvements of Kewanee Avenue is completed in accordance with all laws, City of Lubbock Code of Ordinance provisions, and City of Lubbock policies.

2.03 Under no circumstance or event shall the participation of the City exceed thirty percent (30%) of the total contract price contemplated by subchapter C of Chapter 212 of the Texas Local Government Code. In the event such participation, as computed and limited herein by the "not to exceed" sum provided in Section 2.01, above, shall so exceed thirty percent (30%) of the Contract Price, the City shall be obligated to pay only thirty percent (30%) of the Contract Price, but never more than the "not to exceed" sum provided in Section 2.01, above.

SECTION 3 Performance Bond

3.01 Developer shall execute a Performance Bond for the construction of the Unpaved Portion and Drainage Improvements associated with the improvements of Kewanee Avenue to insure completion of the project. The bond must be executed by a corporate surety in accordance with Chapter 2253, Government Code, State of Texas. The bond shall be submitted to the City Engineer of the City of Lubbock on or before beginning any work on the Unpaved Portion and Drainage Improvements. In the event such performance bond is not so submitted, this Contract shall be null and void and of no force and effect.

SECTION 4 Additional Safeguards

4.01 All of Developer's books and other records related to the Developer's Paving and Drainage Improvements associated with Kewanee Avenue shall be available for inspection by the City at the offices of Developer at 5412 68th Street, Lubbock, Texas, upon and during business hours thereof. Developer shall furnish actual contract documentation to the City that depicts the actual costs of paving of Kewanee Avenue and Drainage Improvement prior to request for payment from the City.

SECTION 5 Term

5.01 The term of this Agreement shall begin on the date of execution of this Agreement by City and end upon the complete performance of all obligations by each party to this Agreement.

SECTION 6 Indemnity

6.01 Developer agrees to defend, indemnify, and hold City, its officers, agents, employees, and elected officials, harmless from and against any and all claims, lawsuits, liabilities, judgments, costs and expenses for any harm for which recovery of damages is sought that may arise out of, be occasioned by or related to Developer's breach of any of the terms or provisions of this Agreement.

SECTION 7 Events of Default / Remedies

7.01 A default shall exist if either party fails to perform or observe any material covenant or obligation contained in this Agreement, or if any material representation and/or warranty provided for herein is not true or correct. The non-defaulting party shall notify the defaulting party in writing upon

becoming aware of any event that constitutes a default. Such notice shall specify the nature of the default and what action, if any, the non-defaulting party requires or proposes to require with respect to curing the default.

7.02 If a default shall occur and be continuing, after ten (10) days written notice to cure such default, the non-defaulting party may pursue any and all remedies it may be entitled to at law, contract, equity, or otherwise, including without limitation, termination of this Agreement. It is agreed that failure to declare this Agreement terminated upon the default of Developer for any of the reasons set forth above shall not be construed as a waiver of any of the City's rights hereunder or otherwise bar or preclude City from declaring this Agreement terminated as a result of any subsequent violation of any of the terms or conditions of this Agreement. All of such remedies are expressly cumulative and the exercise of one or more remedies shall not preclude the simultaneous or subsequent exercise of different or additional remedies.

SECTION 8 Miscellaneous

8.01 This Agreement is performable in Lubbock County, Texas, and venue for any action arising out of this Agreement shall be exclusively in Lubbock County, Texas. This Agreement shall governed by and construed in accordance with the laws of the State of Texas.

8.02 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, (4) days after depositing such notice in the United States mail, as set forth above.

For City:

James Loomis, City Manager
City of Lubbock
P. O. Box 2000
Lubbock, Texas 79457
Facsimile No. 806-775-2051

with copy to:

R. Keith Smith, P.E., Director of Public Works
City of Lubbock
P.O. Box 2000
Lubbock, Texas 79457
Facsimile No. 806-775-3074

For Developer:

Marvin Crossnoe
MRXNO, LLC
5214 68th Street, Suite 200
Lubbock, TX 79424
Facsimile: 806-687-8570
Email: mcrossnoe@XNODevelopment.com

8.03 In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, except as may otherwise be provided herein, such invalidity, illegality or unenforceability shall not in any way affect any other provision hereof and this Agreement shall be considered as if such invalid,

illegal or unenforceable provision had never been contained in this Agreement.

8.04 City and Developer each bind themselves and their successors and assigns to the other parties of this Agreement. Developer represents and warrants to City that it (i) possesses the requisite power and authority to execute, deliver and perform this Agreement; (ii) has taken all actions and formalities necessary to authorize Developer to execute, deliver and perform this Agreement; and (iii) the party executing for and on behalf of Developer has been duly authorized to act in such behalf for Developer.

8.05 City and Developer herein recognize that the continuation of any agreement at the close of any given fiscal year of the City of Lubbock, Texas, which fiscal year ends on September 30 of each year, shall be subject to Council budget approval of the City, providing for or covering such agreement item as an expenditure therein. The City does not represent that said budget item will actually be adopted as this determination is within the sole discretion of the City Council.

8.06 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.

The parties enter into this Agreement on the _____ day of _____, 2014.

DEVELOPER: MRXNO, LLC

By: _____
MARVIN CROSSNOE, DEVELOPER

CITY OF LUBBOCK:

_____
GLEN C. ROBERSTON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
R. Keith Smith, P.E.
Director of Public Works

APPROVED AS TO FORM:

_____
Chad Weaver
Assistant City Attorney

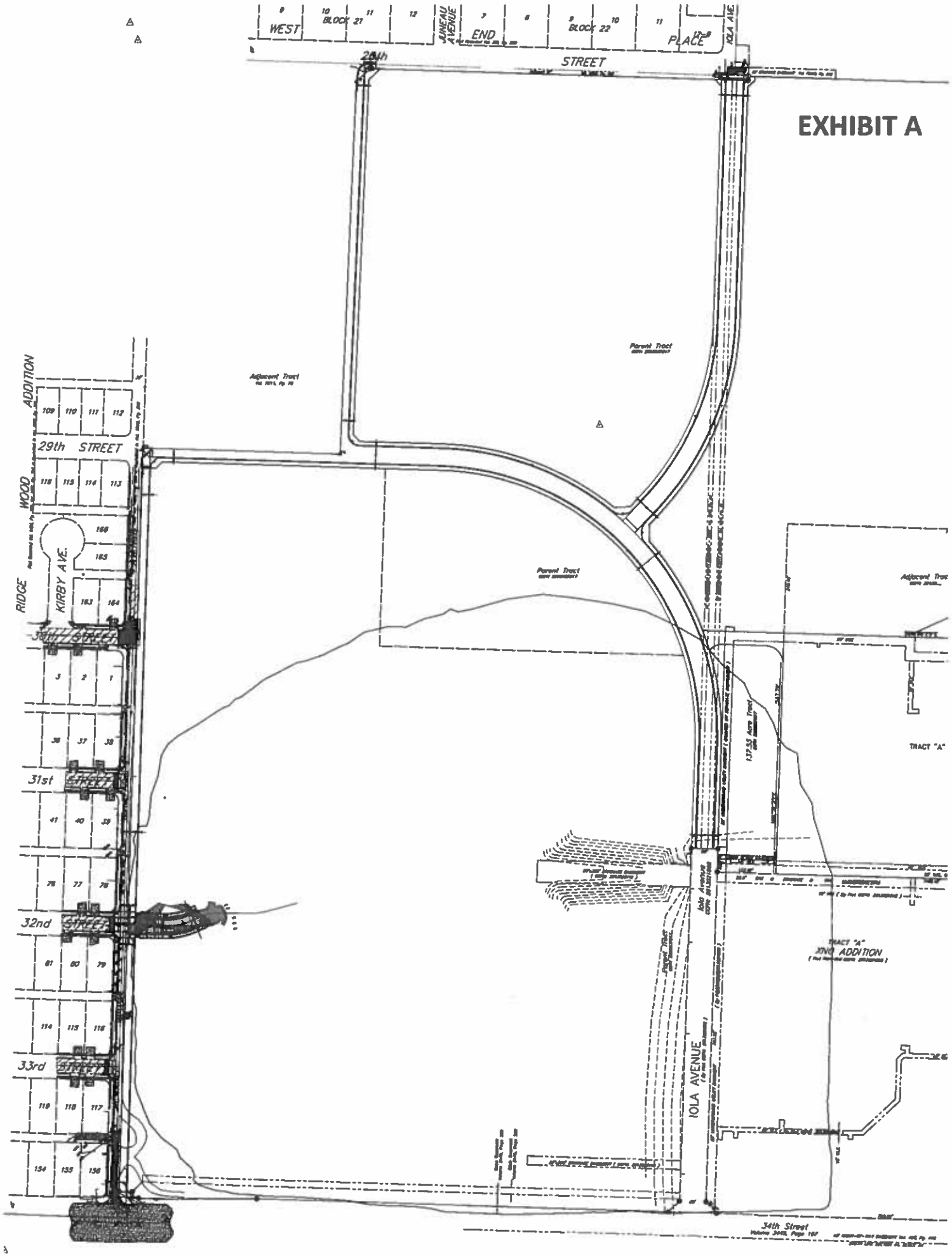


EXHIBIT A
WEST
BLOCK 21
JUNEAU AVENUE
END
BLOCK 22
PLACE
IOLA AVE
28th
STREET
ADDITION
29th STREET
WOOD
RIDGE
KIRBY AVE.
30th STREET
31st STREET
32nd STREET
33rd STREET
Parent Tract
Adjacent Tract
TRACT "A"
IOLA AVENUE
34th Street

**City of Lubbock, TX**
**Capital Project**
**Project Cost Detail**
**April 10, 2014**

| | |
|---|---|
| Capital Project Number: | 92248 |
| Capital Project Name: | Street Maintenance Program |

| | Budget |
|---|---|
| Capital Project Number: | |
| *Encumbered/Expended* | |
| FY 2010-11 Street Maintenance and Construction | $ 7,958,621 |
| Lone Star Dirt & Paving (Asphalt Patching) | 1,742,563 |
| Lone Star Dirt & Paving (Concrete Repairs) | 916,344 |
| Ballou Pavement Solutions (2012 Micro-Surfacing Project) | 4,513,837 |
| Pavement Restoration | 197,252 |
| Bee Equipment Sales (Lease Asphalt Paver) | 45,000 |
| Water System Improvements | 396 |
| Admin Cost | 2,066 |
| Asphalt | 922,227 |
| Mac Davis Lane Design | 45,731 |
| 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) | 844,401 |
| Intermountain Slurry Seal (2013 Micro-Surfacing Project) | 5,406,731 |
| Pavement Restoration (Asphalt Rejuvenation) | 500,000 |
| Lubbock Interstate Hotels Agreement (Ave J Street Paving) | 16,968 |
| West Construction (Asphalt and Concrete Patching) | 640,187 |
| Lone Star Dirt and Paving (ADA Ramp Project) | 165,095 |
| Lone Star Dirt & Paving (Asphalt Patching) | 981,800 |
| Lone Star Dirt & Paving (Concrete Patching) | 648,060 |
| Allen Butler Construction, Inc. - Mac Davis Lane | 356,256 |
| Bee Equipment Sales (Lease Asphalt Paver) | 45,000 |
| HJV Associates | 3,364 |
| *Agenda Item April 10, 2014* | |
| Developers Agreement for West End Addition | 175,000 |
| ***Encumbered/Expended To Date*** | 27,026,566 |
| *Estimated Costs for Remaining Appropriation* | |
| Construction | 10,617,802 |
| ***Remaining Appropriation*** | 10,617,802 |
| **Total Appropriation** | $ 37,644,368 |

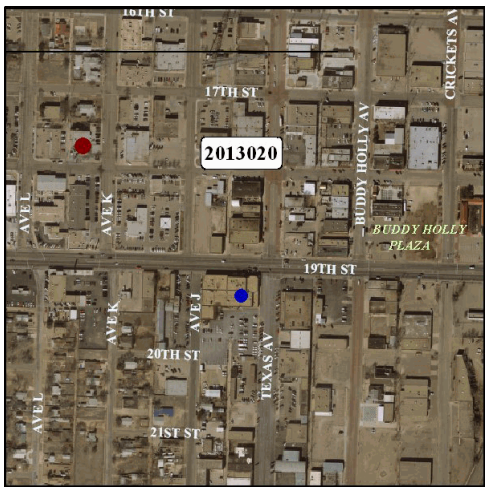
*Project Name* **New Fire Station #1** *Project Number* **92348**

*Managing Department* **Facilities Management**

*Project Manager* **George Lisenbe**

*Project Classification* **New Facility**

*Project Status* **Approved**




*Project Scope*

Construction of a new Fire Station #1 at 1902 Texas Avenue. The new station will be similar in size to the existing Fire Station no. 1 that is located at 1202 18th, but will be a single story station instead of a 2-story station.

*Project Justification*

The current station is out dated and does not allow for the proper housing of modern engines the fire department now incorporates in its fleet. The City now uses pull through stations in all of its new stations as opposed to backing the engines into the station. The two story layout is not as efficient as a one story station. The apparatus bay door heights do not accommodate a modern ladder truck. The size of the site is smaller than other stations resulting in insufficient parking for staff. The marblecrete exterior walls and joints have deteriorated beyond reasonable repair and contributes to a water penetration issue with the building.

*Project History*

This station was built in 1979 and has not aged well. The changes in the design of firefighting equipment has made it difficult to upgrade the equipment for the station due to the design of the building. It has outlived it useful life.

$330,000 was appropriated in the FY 2013-14 Budget, Ord. No. 2013-O0087, September 10, 2013.

| | | | Unappropriated Planning Years | | | | | |
|---|---|---|---|---|---|---|---|---|
| *Appropriation Detail* | Appropriation to Date | FY 2013-14 | FY 2014-15 | FY 2015-16 | FY 2016-17 | FY 2017-18 | FY 2018-19 | Total Project Amount |
| Land Acquisition | 0 | 0 | 231,000 | 0 | 0 | 0 | 0 | 231,000 |
| Construction | 0 | 0 | 3,300,000 | 0 | 0 | 0 | 0 | 3,300,000 |
| Construction Management Support | 0 | 0 | 165,000 | 0 | 0 | 0 | 0 | 165,000 |
| Design and Engineering | 0 | 330,000 | 0 | 0 | 0 | 0 | 0 | 330,000 |
| Furnishings | 0 | 0 | 200,000 | 0 | 0 | 0 | 0 | 200,000 |
| **Total Project Appropriation** | 0 | 330,000 | 3,896,000 | 0 | 0 | 0 | 0 | 4,226,000 |

| | | | Unappropriated Planning Years | | | | | |
|---|---|---|---|---|---|---|---|---|
| *Funding Detail* | Funding to Date | FY 2013-14 | FY 2014-15 | FY 2015-16 | FY 2016-17 | FY 2017-18 | FY 2018-19 | Total Funding |
| FY 2014 General Fund Pay-As-You-Go | 0 | 330,000 | 0 | 0 | 0 | 0 | 0 | 330,000 |
| FY 2015 Tax Supported Revenue CO's | 0 | 0 | 3,896,000 | 0 | 0 | 0 | 0 | 3,896,000 |
| **Total Funding Sources** | 0 | 330,000 | 3,896,000 | 0 | 0 | 0 | 0 | 4,226,000 |

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

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

**Resolution – Public Works Engineering**: Consider a resolution authorizing the Mayor to execute Change Order 1 and 2 of contract 11288 with Western Summit Constructors for Contract A of the Bailey County Well Field Supply Pipeline, RFP 13-11288-MA.

**Item Summary**

The City contracted with Freese and Nichols, Inc. (FNI) in 2011 to perform a facilities assessment on the Low Head B Pump Station (LHBPS) located at 2610 North Quaker Avenue. The sole function of this facility is to transport water from the existing Bailey County Well Field Transmission Pipeline to Pump Station 7 located at 4902 Marsha Sharp Freeway. The study determined that the LHBPS was nearing the end of its serviceable life and would need to be replaced. FNI prepared a set of alternatives and performed a series of hydraulic modeling scenerios for each alternative. Upon evaluation by the City, it was determined that the most practical alternative is to eliminate the LHBPS and replace it with a gravity pipeline.

Western Summit Constructors of Englewood, Colorado holds the contract for the construction of the first phase of the Bailey County Well Field Supply Pipeline. This contract was approved for an original amount of $6,167,173 and a completion time of 169 Calendar Days. Change order No. 1 was a deduction to the construction amount of $46,194. Change Order No. 2 is a second deduction to the overall construction for the amount of $101,499, which brings the total cost of the project to $6,019,480.

Change Order 2 involves the construction, installation, and removal of the following items: additional trench safety, deletion of an access manhole, reduction in the amount of concrete encasement, deletion of steel gates, deletion of 12-inch flexible road base replacement at LCU, reduction in the amount of asphalt paving, deletion of extra course gravel, reduction of required curb and gutter, reduction in the seeding quantities, addition of 36 feet C303 pipe, reduction of corrosion monitoring stations, addition of paving necessary to extend 25th Street to Loop 289 frontage road, deletion of disinfection, addition of 6-inch flexbase roadway, remobilization for property west of Loop 289.

**Fiscal Impact**

Change Order 2 reduces the contract by $101,499, from $6,120,979 to $6,019,480.

**Staff/Board Recommending**

R. Keith Smith, P.E., Director of Public Works

**Attachments**

Resolution & Change Order 1 & Change Order 2

Backup 1

Budget Detail

CIP Detail

# RESOLUTION

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

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Change Order No. 1 and 2 to that certain Contract No. 11288 by and between the City of Lubbock and Western Summit Constructors of Englewood, Colorado, for the Bailey County Well Field Supply Line Contract A, and related documents. Said Change Order No. 1 and 2 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., Director of Public Works

APPROVED AS TO FORM:

_____
Chad Weaver, Assistant City Attorney

RES.ChgOrd 1,2 Contract-Western Summit
4.1.14

**CITY OF LUBBOCK**
**CHANGE ORDER**

| | | | |
|---|---|---|---|
| Change Order #: | 1 | Contractor: | Western Summit Constructors |
| Date: | 02/12/2014 | BID/ITB #: | 13-11288-MA |
| Contract #: | 11288 | Project Name: | Bailey County Well Field Supply Line, Contract A |

Change Order within the scope of the contract means a Change Order that DOES NOT ALTER THE NATURE OF THE THING TO BE CONSTRUCTED AND THAT IS AN INTEGRAL PART OF THE PROJECT OBJECTIVE. After performance of a construction contract begins, Change Orders may be approved if necessary to 1) make changes in plans or specifications; or 2) decrease or increase the quantity of work to be performed or materials, equipment, or supplies to be furnished. This DOES NOT mean that a department can redefine the project. All work that alters the nature of the thing to be constructed or that is not an integral part of the project objective must be let out for public bid by the Purchasing Department. **Description of change (alteration, deviation, addition, or deletion) caused by conditions encountered during construction not covered by the specifications and drawings of the project** ***(attach additional pages if necessary)*****:**

Change order number one is a pipeline grade revision along Chicago Ave for the Bailey County Well Field Supply Pipeline Contract A. The Change order revised approximately 800 LF of pipeline that was buried deep due to utility conflicts. After utility locates and digups, the pipeline was raised resulting in $46,194 in cost savings to the City.

Change Orders must either be negotiated in the best interest of the City of Lubbock or put out for public bid by the Purchasing Department. Where the Change Order is negotiated, the Change Order must be fully documented and itemized as to costs, including material quantities, material costs, taxes, insurance, employee benefits, other related costs, profit and overhead. Where certain unit prices are contained in the initial contract, no deviations are allowed in computing negotiated change order costs.

**ITEMIZED COSTS MUST BE FULLY DOCUMENTED AND ATTACHED TO THIS FORM.**

| ITEM | DESCRIPTION | AMOUNT |
|---|---|---|
| A. | ORIGINAL CONTRACT VALUE: | $6167173.00 |
| B. | AMOUNT OF THIS CHANGE ORDER: *Council approval required if over $25,000* | $-46194.00 |
| C. | PERCENT OF CONTRACT VALUE THIS CHANGE ORDER (B/A): | 0 % |
| D. | AMOUNT OF PREVIOUS CHANGE ORDERS: | $0 |
| E. | TOTAL AMOUNT OF ALL CHANGE ORDERS (B+D): | $-46194 |
| F. | PERCENT OF CONTRACT OF ALL CHANGE ORDERS (E/A): *25% Maximum* | 0% |
| G. | NEW CONTRACT AMOUNT (A+E): | $6120979.00 |

It is mutually agreed that the above dollar amount and the time extension, as applicable, as set forth in this Change Order constitutes full compensation to the Contractor for all costs, expenses and damages to the Contractor, whether direct, consequential or otherwise, in anyway incident to, or arising out of or resulting directly or indirectly; from the work performed or modified by the Contractor under this Change Order.

**This Change Order is not valid without the following signatures** ***(please sign in order and return 3 originals with Contract Cover Sheet to Purchasing and Contract Management Department)*****:**

| | | | |
|---|---|---|---|
| 2/14/14 | | Nicholas Lester | 2/14/14 |
| (1) CONTRACTOR | Date | (2) PROJECT ARCHITECT/ENGINEER | Date |
| Approved as to Content: | | Approved as to Form: | |
| John Jurgens | 2/14/14 | Karl Brown | 2/20/14 |
| (3) OWNER'S REPRESENTATIVE | Date | (4) CITY ATTORNEY | Date |
| Cheryl Broce | 2/19/14 | M. Wilson 2/20/14 | |
| (5) CAPITAL PROJECTS MANAGER | Date | (6) PURCHASING AND CONTRACT MANAGER | Date |

***Change Orders over $25,000 require a Contract Cover Sheet and the following signatures:***

| | | | |
|---|---|---|---|
| CITY OF LUBBOCK | | ATTEST: | |
| (7) MAYOR | Date | (8) CITY SECRETARY | Date |

Council Date:_____ Agenda Item #:_____ Resolution #:_____

PUR-045 (Rev 02/06)

Freese and Nichols

CHANGE ORDER (4.43)

| | | |
|---|---|---|
| **PROJECT:** | **Bailey County Well Field Supply Pipeline - Contract A** | **PROJECT NUMBER** |
| **OWNER:** | **City of Lubbock** | LUB12311 |
| **CONTRACTOR:** | **Western Summit Constructors** | |
| **ENGINEER:** | **Freese and Nichols, Inc.** | |

**CHANGE ORDER NO.:** 1 **DATE:** 7/8/2013

Make the following additions, modifications or deletions to the work described in the Contract Documents:

| | | | |
|---|---|---|---|
| 1) | Modification - Vertical pipe raising of Chicago Avenue between Station 525+50 and Station 533+50 - See attached Plan and Profile sheet. | $ | (46,194.00) |

*The compensation agreed upon in this Change Order is full, complete and final payment for all costs the Contractor may incur as a result of or relating to this change whether said costs are known, unknown, foreseen or unforseen at this time, including without limitation, any cost for delay, extended overhead, ripple or impact cost, or any other effect on changed or unchanged work as a result of this Change Order.*

| | | |
|---|---|---|
| Original Contract Amount | $ | 6,167,173.00 |
| Previously Approved Change Order Amount | $ | - |
| Adjusted Contract Amount | $ | 6,167,173.00 |
| Proposed Change Order Amount | $ | (46,194.00) |
| Revised Contract Amount | $ | 6,120,979.00 |
| Previous Contract Time | | 169 days |
| Previous Substantial Completion Date | | December 3, 2013 |
| Previous Final Completion Date | | January 2, 2014 |
| Net Change in Contract Time | | 0 |
| Revised Contract Time | | 169 days |
| Revised Substantial Completion Date | | December 3, 2013 |
| Revised Final Completion Date | | January 2, 2014 |

**Recommended by**
**FREESE AND NICHOLS, INC.**

By Nicholas Foster 7/9/13
Date

Approved by
**Western Summit Constructors**

By 7/10/13
Date

**Approved by**
**City of Lubbock**

By John Fuqua 7/10/13
Date

CITY OF LUBBOCK, TEXAS
BAILEY COUNTY WELL FIELD SUPPLY PIPELINE
CONTRACT A
PIPELINE
STA. 523+00 TO STA. 534+00
PL-6
NOTES:
1. CONTRACTOR SHALL VERIFY LOCATION AND DEPTH OF ALL UTILITIES PRIOR TO MANUFACTURING PIPE AND CONSTRUCTION.
2. WORK LIMITS SHOWN ON THIS SHEET AND PAVEMENT REPLACEMENT LIMITS SHOWN ON PLAN AND PROFILE SHEETS CONTRACTOR DAMAGES ASPHALT PAVING OUTSIDE THE LIMITS, NO EXTRA PAYMENT WILL BE MADE.
3. CONCRETE CURB AND GUTTER IS NOT TO BE DAMAGED. IF CONTRACTOR DAMAGES THE CURB AND GUTTER IT WILL BE THE RESPONSIBILITY OF THE CONTRACTOR TO ELIMINATE DAMAGES AT NO EXTRA PAYMENT WILL BE MADE.
4. CONTRACTOR TO RAISE MH'S TO GRADE TO ACCOMMODATE 24" CLEARANCE OF TOP OF PIPE TO A MINIMUM CLEARANCE OF 12" TO FINISH GROUND OR TO APPROXIMATE ELEVATION OF 3342.80
5. CONTRACTOR IS REQUIRED TO HAVE A MINIMUM OF 2 FOOT SEPARATION BETWEEN TOP OF OUTER WATER PIPE OF EXISTING 8" SEWER LINE AND ADJUST GRADE AS NECESSARY TO MAINTAIN 2 FOOT SEPARATION.
6. CONTRACTOR IS STILL REQUIRED TO REPLACE EXISTING 8" SEWER LINES THE FULL WIDTH OF THE STREET AS NOTED IN THE PLAN VIEW AND CONCRETE ENCASE THE TRANSMISSION PIPELINE.
7. THE 10" WATER LINE MAY REQUIRE VERTICAL ADJUSTMENT. THE CONTRACTOR SHALL MAINTAIN A MINIMUM OF 2 FOOT OF VERTICAL AND HORIZONTAL DISTANCE FROM PIPE AND THE DIRECTION OF PIPE. CONTRACTOR SHALL RAISE THE LINE PER THE CITY OF LUBBOCK STANDARDS AT NO COST TO THE OWNER.
8. THIS CHANGE IN VERTICAL ALIGNMENT MAY RESULT IN UTILITY CONFLICTS. THE CONTRACTOR SHALL RESOLVE ALL CONFLICTS AND MAINTAIN THE REQUIRED 2 FOOT SEPARATION BETWEEN THE NEW PIPELINE AND EXISTING UTILITIES AT NO COST TO THE OWNER.
MATCH LINE STA 534+00
MATCH LINE STA 523+00
WORK LIMITS
VENT PIPING
SCALE IN FEET
HORIZONTAL
VERTICAL
STA. 534+00
STA. 533+00
STA. 532+00
STA. 531+00
STA. 530+00
STA. 529+00
STA. 528+00
STA. 527+00
STA. 526+00
STA. 525+00
STA. 524+00
STA. 523+00
TOP OF PIPE
STA. 532+56.00
4" AC WATER
EL. 3336.86±
STA. 532+62.00
8" VCT SEWER
EL. 3317.63±
STA. 532+66.00
2" ATMOS GAS
EL. 3319.43±
STA. 529+31.00
2" ATMOS GAS
EL. 3313.72±
STA. 529+22.00
6" AC WATER
EL. 3340.62±
STA. 529+27.00
8" VCT SEWER
EL. 3317.72±
STA. 527+80.00
10" WATER
SEE NOTE 7
EL. 3327.07±
STA. 527+88.00
8" PVC SEWER
SEE NOTE 5, 6
EL. 3315.17±
STA. 527+56.00
2-2" MTS TO CABLE
SEE NOTE 4
EL. 3338.34±

**Project** Baily County Well Field Pipeline Contract A — **WSCI Project # 350023**

**Date Prepared:** 6/11/2013

**PREPARED BY:** MW

**TITLE :** Chicago Pipe Raise Deduct

| COMMENTS (SPEC/DWG) | DESCRIPTION | UN | QTY | TOTAL MH | MH/U | LABOR UNIT | LABOR TOTAL | MTRL UNIT | MTRL TOTAL | EQUIP UNIT | EQUIP TOTAL | SUB UNIT | SUB TOTAL | OTHER UNIT | OTHER TOTAL | TOTAL COST |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | **Pipe Raise Deduct** | | | | | | | | | | | | | | | |
| | CAT 320 | D | 2.5 | 0 | - | | 0 | | 0 | 905.00 | 2,263 | | 0 | 362.00 | 905 | 3,168 |
| | CAT 345 Excavator | D | 2.5 | 0 | - | | 0 | | 0 | 1,180.00 | 2,950 | | 0 | 672.60 | 1,682 | 4,632 |
| | CAT 330 | D | 2.5 | 0 | - | | 0 | | 0 | 1,435.00 | 3,588 | | 0 | 674.45 | 1,686 | 5,274 |
| | CAT 950 Loader | D | 2.5 | 0 | - | | 0 | | 0 | 415.00 | 1,038 | | 0 | 253.15 | 633 | 1,670 |
| | CAT 950 Loader | D | 2.5 | 0 | - | | 0 | | 0 | 415.00 | 1,038 | | 0 | 124.50 | 311 | 1,349 |
| | Water Truck | D | 2.5 | 0 | - | | 0 | | 0 | 300.00 | 750 | | 0 | 90.00 | 225 | 975 |
| | Labor (Crew of 10) | EA | 2.5 | 250 | 1.000 | 21.00 | 5,250 | | 0 | | 0 | | 0 | | 0 | 5,250 |
| | Trench Safety | LF | 600.0 | | | | | | 0 | 1.00 | 600 | | 0 | | 0 | 600 |
| | Blowoff Stucture height (shortened) | Ft | 10.0 | 0 | - | | 0 | 150.00 | 1,500 | | 0 | | 0 | | 0 | 1,500 |
| | | | | | | | | | | | | | | | | |
| | **Flow Fill** | | | | | | | | | | | | | | | |
| | Flow Fill | CY | 155.0 | 54 | 0.350 | 21.00 | 1,139 | 81.00 | 12,555 | | 0 | | 0 | | 0 | 13,694 |
| | | | | | | | | | | | | | | | | |
| | **Supervision** | | | | | | | | | | | | | | | |
| | Project Manager | HR | 0.0 | 0 | 1.000 | 0.00 | 0 | | 0 | | 0 | | 0 | | 0 | 0 |
| | Superintendent | HR | 12.0 | 12 | 1.000 | 45.00 | 540 | | 0 | | 0 | | 0 | | 0 | 540 |
| | Project Coordinator | HR | 0.0 | 0 | 1.000 | 0.00 | 0 | | 0 | | 0 | | 0 | | 0 | 0 |
| | Field Engineer - Layout/As-Builts | HR | 12.0 | 12 | 1.000 | 30.00 | 360 | | 0 | | 0 | | 0 | | 0 | 360 |
| | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | |
| | SUBTOTAL | | | 328 | HR | | 7,289 | | 14,055 | | 12,225 | | 0 | | 5,442 | 39,011 |
| | FUEL & OIL (40% Equipment Total) | | | | | | | | | | 0 | | | | | 0 |
| | SMALL & MISC TOOLS, & EXPEND ($2.00/MH) | | | | | | | | | | | | | | 657 | 657 |
| | MINOR RENTAL ($0.32/MH) | | | | | | | | | | | | | | 105 | 105 |
| | SAFETY EQUIPMENT ($0.45/MH) | | | | | | | | | | | | | | 148 | 148 |
| | CLEAN-UP ($1.50/MH) | | | | | | 492 | | | | | | | | | 492 |
| | PT&I (51%) | | | | | | 3,718 | | | | | | | | | 3,718 |
| | | | | | | | | | | | | | | | | |
| | SUBTOTAL | | | | | | 11,499 | | 14,055 | | 12,225 | | 0 | | 6,351 | 44,130 |
| | | | | | | | | | | | | | | | | |
| | Contingency Risk (0%) | | | | | | | | | | | | | | 0 | 0 |
| | LABOR/MATERIAL MARKUP (6%) | | | | | | | | | | | | | | 1,914 | 1,914 |
| | SUBCONTRACT MARKUP (6%) | | | | | | | | | | | | | | 0 | 0 |
| | | | | | | | | | | | | | | | | |
| | SUBTOTAL | | | | | | 11,499 | | 14,055 | | 12,225 | | 0 | | 8,265 | 46,044 |
| | | | | | | | | | | | | | | | | |
| | WSCI Bond $3.00 / $1,000.00 Change | | | | | | | | | | | | | | 150 | 150 |
| | | | | | | | | | | | | | | | | |
| | SUBTOTAL | | | | | | | | | | | | | | | 46,194 |
| | LESS CREDITS | | | | | | | | | | | | | | | 0 |
| | NET CHANGE | | | | | | | | | | | | | | | 46,194 |

Notes

1 ITEMS NOT SPECIFICALLY LISTED IN THIS PROPOSAL ARE NOT INCLUDED.

2 Schedule impacts will be addressed upon entering the activity into the schedule

3 See back-up for additional details

**CITY OF LUBBOCK**
**CHANGE ORDER**

| | | | |
|---|---|---|---|
| Change Order #: | 2 | Contractor: | Western Summit Constructors |
| Date: | 03/18/2014 | BID/ITB #: | 13-11288-MA |
| Contract #: | 11288 | Project Name: | Bailey County Well Field Supply Line, Contract A |

Change Order within the scope of the contract means a Change Order that DOES NOT ALTER THE NATURE OF THE THING TO BE CONSTRUCTED AND THAT IS AN INTEGRAL PART OF THE PROJECT OBJECTIVE. After performance of a construction contract begins, Change Orders may be approved if necessary to 1) make changes in plans or specifications; or 2) decrease or increase the quantity of work to be performed or materials, equipment, or supplies to be furnished. This DOES NOT mean that a department can redefine the project. All work that alters the nature of the thing to be constructed or that is not an integral part of the project objective must be let out for public bid by the Purchasing Department. **Description of change (alteration, deviation, addition, or deletion) caused by conditions encountered during construction not covered by the specifications and drawings of the project** ***(attach additional pages if necessary)*****:**

Change order number two encompasses multiple additions and deductions to original contract, please see the attached PCM's for a detailed reference. This change order will add a remobilization fee to install the additional 147.4 linear feet of C303 pipe and trench safety for the pipe. It will also add, blind flanges, the relocation of a butterfly valve, the street extension of 25th street to provided residents access to the west Loop 289, and add flex base. This change order will also included the deduction of one access manhole, seven concrete encasements, removal of permanent steel gates, the removal of the flexible base road replacement, a deduct of asphalt road replacement, coarse gravel, extra curb and gutter work, removal of seeding due to 25th street extension, and finally the removal of six corrosion monitoring test stations.

Change Orders must either be negotiated in the best interest of the City of Lubbock or put out for public bid by the Purchasing Department. Where the Change Order is negotiated, the Change Order must be fully documented and itemized as to costs, including material quantities, material costs, taxes, insurance, employee benefits, other related costs, profit and overhead. Where certain unit prices are contained in the initial contract, no deviations are allowed in computing negotiated change order costs.

**ITEMIZED COSTS MUST BE FULLY DOCUMENTED AND ATTACHED TO THIS FORM.**

| ITEM | DESCRIPTION | AMOUNT |
|---|---|---|
| A. | ORIGINAL CONTRACT VALUE: | $6167173.00 |
| B. | AMOUNT OF THIS CHANGE ORDER: *Council approval required if over $25,000* | $-101,499.20 |
| C. | PERCENT OF CONTRACT VALUE THIS CHANGE ORDER (B/A): | -1.64% |
| D. | AMOUNT OF PREVIOUS CHANGE ORDERS: | $-46194 |
| E. | TOTAL AMOUNT OF ALL CHANGE ORDERS (B+D): | $-147693.20 |
| F. | PERCENT OF CONTRACT OF ALL CHANGE ORDERS (E/A): *25% Maximum* | -2.39% |
| G. | NEW CONTRACT AMOUNT (A+E): | $6,019,479.80 |

It is mutually agreed that the above dollar amount and the time extension, as applicable, as set forth in this Change Order constitutes full compensation to the Contractor for all costs, expenses and damages to the Contractor, whether direct, consequential or otherwise, in anyway incident to, or arising out of or resulting directly or indirectly; from the work performed or modified by the Contractor under this Change Order.

**This Change Order is not valid without the following signatures** ***(please sign in order and return 3 originals with Contract Cover Sheet to Purchasing and Contract Management Department)*****:**

| | | | |
|---|---|---|---|
| (1) CONTRACTOR | Date 3/18/14 | (2) PROJECT ARCHITECT/ENGINEER | Date 3/18/14 |
| Approved as to Content: | | Approved as to Form: | |
| (3) OWNER'S REPRESENTATIVE | Date 3/18/14 | (4) CITY ATTORNEY | Date 3/26/14 |
| (5) CAPITAL PROJECTS MANAGER | Date 3/27/14 | (6) PURCHASING AND CONTRACT MANAGER | Date 3/28/14 |

PUR-045 (Rev 02/06)

***Change Orders over $25,000 require a Contract Cover Sheet and the following signatures:***

| CITY OF LUBBOCK | | ATTEST: | |
|---|---|---|---|
| (7) MAYOR | Date | (8) CITY SECRETARY | Date |

Council Date:_____ Agenda Item #:_____ Resolution #:_____

Freese and Nichols

**CHANGE ORDER (4.43)**

| | | |
|---|---|---|
| **PROJECT:** | **Bailey County Well Field Supply Pipeline - Contract A** | **PROJECT NUMBER** |
| **OWNER:** | **City of Lubbock** | LUB12311 |
| **CONTRACTOR:** | **Western Summit Constructors** | |
| **ENGINEER:** | **Freese and Nichols, Inc.** | |

**CHANGE ORDER NO.:** 2 **DATE:** 3/13/2014

Make the following additions, modifications or deletions to the work described in the Contract Documents:

| Bid Item | Description | Quantity | Total | Add/Deduct |
|---|---|---|---|---|
| C1 | Trench Safety (add 147.4 LF for PCM 006) revise to 11,876.4 | 147.4 | $ 294.80 | Add |
| C5 | Access Manhole - Delete in entirety | 1 | $ (8,500.00) | Deduct |
| C6 | Concrete Encasement (Revise from 140 to 133 CY) | 7 | $ (567.00) | Deduct |
| C7 | Permanent Steel Gates - Delete in entirety | 2 | $ (8,000.00) | Deduct |
| C8 | Flexible Base Road Replacement - Delete in entirety | 11,750 | $ (117,500.00) | Deduct |
| C9 | Asphalt Road replacement - Revised Bid Quantity from 36,100 to 34,995 per CV-1-3 (-1105 SY); Per PCM 003 Revised - Delete 692 SY on 29th street and add 670 SY on 25th Street Extension - Net decrease of 22 SY - New Quantity is 34,973 | 1,127 | $ (55,223.00) | Deduct |
| C14 | Extra 2,000 PSI Concrete - Delete in entirety | 250 | $ (25,000.00) | Deduct |
| C15 | Extra Course Gravel - Delete in entirety | 250 | $ (250.00) | Deduct |
| C16 | Extra Curb and Gutter revise QTY from 500 to 344 (PCM003 - 314LF and PCM006 - 30LF) | 156 | $ (2,964.00) | Deduct |
| C21 | Seeding - revise QTY from 1,700 to 1,460 (1,440 LF west of loop and 20 LF at PS 7 Site) | 240 | $ (1,680.00) | Deduct |
| A1 | 36" AWWA C303 Pipe - Quantity Change 147.4 LF for PCM 6 | 147.4 | $ 25,795.00 | Add |
| A2 | Corrosion Monitoring Test Station (revise from 20 to 14) | 6 | $ (4,680.00) | Deduct |
| PCM001 | Delete Disinfection / Add blind flanges | 1 | $ 3,385.00 | Add |
| PCM002 | Relocate Butterfly valve | 1 | $ 19,114.00 | Add |
| PCM003 | 25th Street Extension | 1 | $ 28,949.00 | Add |
| PCM004 | Add Bid Item C23 LCU Flexbase Road - $4.50 per SY | 5,074 | $ 22,833.00 | Add |
| PCM005 | Remobilization for property west of Loop | 1 | $ 20,000.00 | Add |
| PCM006 | Pipe Revisions west of Loop (note 147.4 LF pipe increase added above) | 1 | $ 2,494.00 | Add |
| | **SUBTOTAL:** | | **$ (101,499.20)** | **Deduct** |

*The compensation agreed upon in this Change Order is full, complete and final payment for all costs the Contractor may incur as a result of or relating to this change whether said costs are known, unknown, foreseen or unforeseen at this time, including without limitation, any cost for delay, extended overhead, ripple or impact cost, or any other effect on changed or unchanged work as a result of this Change Order.*

| | |
|---|---|
| Original Contract Amount | $ 6,167,173.00 |
| Previously Approved Change Order Amount | $ (46,194.00) |
| Adjusted Contract Amount | $ 6,120,979.00 |
| Proposed Change Order Amount | $ (101,499.20) |
| Revised Contract Amount | $ 6,019,479.80 |
| Previous Contract Time | 169 days |
| Previous Substantial Completion Date | December 3, 2013 |
| Previous Final Completion Date | January 2, 2014 |
| Net Change in Contract Time | 69 days |

| | |
|---|---|
| Revised Contract Time | 238 days |
| Revised Substantial Completion Date | February 10, 2014 |
| Revised Final Completion Date | February 24, 2014 |

**Recommended by**
**FREESE AND NICHOLS, INC.**

By Nicholas Lester 3/18/14
Nicholas Lester Date

**Approved by**
**Western Summit Constructors**

By 3/18/14
Date

**Approved by**
**City of Lubbock**

By 3/18/14
Date

# Western Summit Constructors, Inc.
9780 Mt. Pyramid Court, Suite 100, Englewood, CO. 80112


August 28, 2013

Nick Lester
Freese and Nichols, Inc.
4055 International Plaza
Suite 200
Fort Worth, TX. 76109

RE: PCM 001 – Delete Disinfection and Add Blind Flanges at Standpipe

Mr. Lester

WSCI is proposing an additional cost of $3,385.00 for the deletion of the pipeline disinfection and the addition of the blind flanges on the standpipe. A detailed breakdown of the costs is attached. WSCI is not requesting any additional time for this PCM.

Sincerely,

Matthew M. Wojtkiewicz
Project Manager

CC: PCM 001

# PROPOSED CONTRACT MODIFICATION

FREESE AND NICHOLS

Innovative approaches
Practical results
Outstanding service

4055 International Plaza, Suite 200 • Fort Worth, Texas 76109 • 817-735-7300 • fax 817-735-7491 www.freese.com

| | | | |
|---|---|---|---|
| **PROJECT:** | Bailey County Pipeline – Contract A | **PROJECT NO.:** | LUB12311 |
| **OWNER:** | City of Lubbock | | |
| **CONTRACTOR:** | Western Summit Constructors, Inc. | | |
| **ENGINEER:** | Freese and Nichols, Inc. | | |
| **DESCRIPTION:** | Disinfection | **PCM NO.:** | 001 |

**NOTIFICATION TO CONTRACTOR:**

The Owner proposes to make the additions, modifications or deletions to the Work described in the Contract Documents as shown in Attachment "A". We request that you take the following action within 10 calendar days:

- ☐ Notify us that you concur that this change does not require a change in Contract time or amount. A Field Order will be issued.
- ☑ Submit a Price/Credit Proposal with detailed cost breakdown of labor, materials, equipment and all other costs related to this change. Impacts on Contract Time shall be shown in a revised schedule, included with the submitted proposal.
- ☐ Proceed with the change. Payment will be made at the unit price bid.
- ☐ Proceed with the change under the time and materials provisions of the Contract.

Authorization to proceed with changes must be approved by the Owner through Change Order in accordance with the Contract Documents.

**BY:** NCL **DATE:** 08/13/2013

**CONTRACTOR'S RESPONSE:**

We respond to your request as follows:

- ☐ We propose that this is a no cost or time change. Issue Field Order.
- ☑ We submit the attached Price/Credit Proposal with detailed cost breakdown and revised schedule for performing the described change.
- ☐ We are proceeding with the change at the unit price bid.
- ☐ We are proceeding with the change under the time and materials provisions of the Contract.

**BY:** MMW **DATE:** 8/28/13

**ACTION TAKEN:**

- ☐ Proposed Contract Modification rejected. See comments.
- ☐ Field Order will be issued.
- ☐ Change Order will be issued.

**BY:** _____ **DATE:** _____

**ATTACHMENT A**

*The Owner proposes to make the following additions, modifications or deletions to the work described in the Contract Documents. Authorization to proceed with these changes must be approved by Field Order or Change Order in accordance with the Contract Documents, prior to commencing the work involved.*

Reference Specification 01656 – "Disinfecting of Water Utility Distribution" and Drawings sheet DT-11 – "P.S. No. 7 Connection Details".

1. Delete disinfection from the entire pipeline **except** where pipe is in contact with the tank (see below) and the tank itself as described in note number 4 on Sheet DT-11.
2. After fitting and testing of the tank connection piping, remove the 90 degree elbow at the intersection of the vertical riser pipe and the horizontal pipe (note: it is the only 90 degree elbow on the detail sheet that has the note, "epoxy coated steel pipe") and store onsite as directed by the Owner. Provide and install two 36-inch blind flanges, one for the horizontal pipe and one for the vertical pipe. On the vertical blind flange, install a 4-inch outlet with a gate valve for filling and draining. After blind flange installation disinfect the pipe and tank.

**BY:** NCL **DATE:**08/13/2013

**Project** Baily County Well Field Pipeline Contract A — **WSCI Project # 350023**

**Date Prepared:** 8/15/2013

**PREPARED BY:** MW

**TITLE :** PCM001 - Delete Disinfection

| COMMENTS (SPEC/DWG) | DESCRIPTION | UN | QTY | TOTAL MH | MH/U | LABOR UNIT | LABOR TOTAL | MTRL UNIT | MTRL TOTAL | EQUIP UNIT | EQUIP TOTAL | SUB UNIT | SUB TOTAL | OTHER UNIT | OTHER TOTAL | TOTAL COST |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | | | | | | |
| | **Delete Disinfecting Pipeline** | | | | | | | | | | | | | | | |
| | Sodium Hypochlorite 10% Solution (55 GAL) 330 Total | G | (6.0) | 0 | - | | 0 | 205.00 | (1,230) | | 0 | | 0 | | 0 | (1,230) |
| | Sodium Bisulfite 12% Solution (55 Gal) 300 Total | G | (6.0) | 0 | - | | 0 | 250.00 | (1,500) | | 0 | | 0 | | 0 | (1,500) |
| | Freight on Chemicals | LS | (1.0) | 0 | - | | 0 | 750.00 | (750) | | 0 | | 0 | | 0 | (750) |
| | Labor to Disinfect | HR | (120.0) | (120) | 1.000 | 20.00 | (2,400) | | 0 | | 0 | | 0 | | 0 | (2,400) |
| | BAC-T Tests | EA | (26.0) | 0 | - | | 0 | | 0 | | 0 | | 0 | 100.00 | (2,600) | (2,600) |
| | | | 0.0 | 0 | - | | 0 | | 0 | | 0 | | 0 | | 0 | 0 |
| | | | 0.0 | 0 | - | | 0 | | 0 | | 0 | | 0 | | 0 | 0 |
| | | | 0.0 | 0 | - | | 0 | | 0 | | 0 | | 0 | | 0 | 0 |
| | **Remove Elbow and Blind Flange** | | 0.0 | 0 | - | | 0 | | 0 | | 0 | | 0 | | 0 | 0 |
| | Labor | HR | 24.0 | 24 | 1.000 | 20.00 | 480 | | 0 | | 0 | | 0 | | 0 | 480 |
| | Blind Flange | EA | 1.0 | 0 | - | | 0 | 3,608.00 | 3,608 | | 0 | | 0 | | 0 | 3,608 |
| | Blind Flange with 4" Outlet | EA | 1.0 | 0 | - | | 0 | 4,005.00 | 4,005 | | 0 | | 0 | | 0 | 4,005 |
| | 36" Bolt Kit w/ Gasket | EA | 0.0 | 0 | - | | 0 | 0.00 | 0 | | 0 | | 0 | | 0 | 0 |
| | 4" Gate Valve | EA | 1.0 | 0 | - | | 0 | 1,435.00 | 1,435 | | 0 | | 0 | | 0 | 1,435 |
| | Crane Rental to Install BF / Remove 90 | HR | 4.0 | 0 | - | | 0 | 250.00 | 1,000 | | 0 | | 0 | | 0 | 1,000 |
| | Scissor Lift | D | 1.0 | 0 | - | | 0 | | 0 | 200.00 | 200 | | 0 | | 0 | 200 |
| | Field Paint Flanges | LS | 1.0 | 0 | - | | 0 | | 0 | | 0 | 1,000.00 | 1,000 | | 0 | 1,000 |
| | | | 0.0 | 0 | - | | 0 | | 0 | | 0 | | 0 | | 0 | 0 |
| | | | | | | | | | | | | | | | | |
| | **Research and Pricing** | | | | | | | | | | | | | | | |
| | Project Manager | HR | 0.0 | 0 | 1.000 | 40.00 | 0 | | 0 | | 0 | | 0 | | 0 | 0 |
| | Superintendent | HR | 0.0 | 0 | 1.000 | 55.00 | 0 | | 0 | | 0 | | 0 | | 0 | 0 |
| | Project Coordinator | HR | 0.0 | 0 | 1.000 | 25.00 | 0 | | 0 | | 0 | | 0 | | 0 | 0 |
| | Field Engineer - Layout/As-Builts | HR | 0.0 | 0 | 1.000 | 0.00 | 0 | | 0 | | 0 | | 0 | | 0 | 0 |
| | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | |
| | SUBTOTAL | | | (96) | HR | | 0 | | 6,568 | | 200 | | 1,000 | | (2,600) | 3,248 |
| | FUEL & OIL (50% Equipment Total) | | | | | | | | | | 100 | | | | | 100 |
| | SMALL & MISC TOOLS, & EXPEND ($2.00/MH) | | | | | | | | | | | | | | (192) | (192) |
| | MINOR RENTAL ($0.32/MH) | | | | | | | | | | | | | | (31) | (31) |
| | SAFETY EQUIPMENT ($0.45/MH) | | | | | | | | | | | | | | (43) | (43) |
| | CLEAN-UP ($1.50/MH) | | | | | | (144) | | | | | | | | | (144) |
| | PT&I (51%) | | | | | | 0 | | | | | | | | | 0 |
| | | | | | | | | | | | | | | | | |
| | SUBTOTAL | | | | | | (144) | | 6,568 | | 300 | | 1,000 | | (2,866) | 2,938 |
| | | | | | | | | | | | | | | | | |
| | Contingency/Risk (0%) | | | | | | | | | | | | | | 0 | 0 |
| | LABOR/MATERIAL MARKUP (15%) | | | | | | | | | | | | | | 441 | 441 |
| | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | |
| | SUBTOTAL | | | | | | (144) | | 6,568 | | 300 | | 1,000 | | (2,425) | 3,379 |
| | | | | | | | | | | | | | | | | |
| | WSCI Bond $3.00 / $1,000.00 Change | | | | | | | | | | | | | | 6 | 6 |
| | | | | | | | | | | | | | | | | |
| | SUBTOTAL | | | | | | | | | | | | | | | 3,385 |
| | LESS CREDITS | | | | | | | | | | | | | | | 0 |
| | NET CHANGE | | | | | | | | | | | | | | | **3,385** |

Notes:
1. ITEMS NOT SPECIFICALLY LISTED IN THIS PROPOSAL ARE NOT INCLUDED.
2. Schedule impacts will be addressed upon entering the activity into the schedule.
3. See back-up for additional details.

50 PPM Residual Chlorine = 50 Gallons of 10% solution for every 100,000 Gallons of Water
10,670 LF of 36" Pipe = 75,421 CFT = 564,150 Gallons = 282 Gallons SHC

62.6 LBS SBS per 100,000 Gallons at 50PPM = 1.33 LBS / Gallon = 46 Gallons / 100,000 Gallons of Water
10,670 LF of 36" Pipe = 75,421 CFT = 564,150 Gallons = 259 Gallons SBS

FERGUSON ENTERPRISES, INC.®

FERGUSON WW #1933
4411 WOODS AVE.
LOVELAND, CO 80538-4411

Deliver To: steven.kilpatrick@ferguson.com
From: Steven Kilpatrick
Comments:

18:02:21 AUG 19 2013

FERGUSON WW #1933
Price Quotation
Phone : 970-278-0944
Fax : 970-278-0955



***Bid No.....:*** B142285
***Bid Date....:*** 08/19/13
***Quoted By.:*** SBK

***Cust*** 877-808-4227
***Terms.....:*** NET 10TH PROX

***Customer:*** WESTERN SUMMIT CONSTRUCTOR INC
ATTN: AP
9780 MT PYRAMID COURT
SUITE 100
ENGLEWOOD, CO 80112

***Ship To:*** WESTERN SUMMIT CONSTRUCTOR INC
ATTN: AP
9780 MT PYRAMID COURT
SUITE 100
ENGLEWOOD, CO 80112

***Cust PO#...:*** SODIUM

***Job Name:***

| Item | Description | Quantity | Net Price | UM | Total |
|---|---|---|---|---|---|
| SP-K10SHS55 | 55G 10% SODIUM HYPOCHLORITE | 6 | 205.000 | EA | 1230.00 |
| SP-K12SBS55 | 55G 12% SODIUM BISULFITE | 6 | 250.000 | EA | 1500.00 |

| | |
|---|---|
| **Net Total:** | $2730.00 |
| **Tax:** | $129.68 |
| **Freight:** | $0.00 |
| **Total:** | $2859.68 |

Quoted prices are based upon receipt of the total quantity for immediate shipment (48 hours). SHIPMENTS BEYOND 48 HOURS SHALL BE AT THE PRICE IN EFFECT AT TIME OF SHIPMENT UNLESS NOTED OTHERWISE. Seller not responsible for delays, lack of product or increase of pricing due to causes beyond our control, and/or based upon Local, State and Federal laws governing type of products that can be sold or put into commerce. This quote is offered contingent upon the buyer's acceptance of Seller's terms and conditions, which are incorporated by reference and found either following this document, or on the web at http://wolseleyna.com/terms_conditionsSale.html.
Govt Buyers: All items are open market unless noted otherwise.

## Matt.Wojtkiewicz

**From:** Whiteley, Pat (Grand Prairie) USA <Pat.Whiteley@LehighHanson.com>
**Sent:** Thursday, August 15, 2013 3:12 PM
**To:** Matt.Wojtkiewicz
**Cc:** Johnson, Katherine (Grand Prairie) NAM
**Subject:** RE: Change Order Hanson job no. 130234

Matt, please see our pricing below, will you follow-up with an official change order?

PCM001
36" Blind Flange (CL E) w/Accessories (Carbon Steel) - **$3,608.00 per each**
36" Blind Flange (CL E) w/Accessories (Carbon Steel) w/4" Flange Outlet (CL E) - **$4,005.00 per each**

PCM002
36" Flange (CL E) w/Nipple - **$1,733.00 per each**
36" Blind Flange (CL E) w/Accessories (Carbon Steel) (Epoxy Coated) - **$3,987.00 per each**

Call with any questions, at this time I do not have any lead time or delivery information.

Thanks

Pat Whiteley

**From:** Matt.Wojtkiewicz@westernsummit.com [mailto:Matt.Wojtkiewicz@westernsummit.com]
**Sent:** Thursday, August 15, 2013 10:53 AM
**To:** Whiteley, Pat (Grand Prairie) USA
**Subject:** Change Order

Pat,
Please price these up. Please call me to discuss if you have any questions. We would like a price by tomorrow if possible. Thanks.

PCM001 – We need to get 2 class E blind flanges, epoxy coated, one with a welded on 4" flanged outlet. Please also include 36" bolt kits and gaskets. This is not pipe but I wanted a price to compare to our sub so we can see what the price difference is and try to save the owner some money if you guys are lower.

PCM002 – We need to get 2 flanges, shipped loose and we will weld them on in the field. Also one blind flange, epoxy coated, 36" bolt kits and gaskets.

WESTERN SUMMIT

**MATTHEW M. WOJTKIEWICZ**
Project Manager

**WESTERN SUMMIT CONSTRUCTORS, INC.**
9780 Mt. Pyramid Ct., Suite 100, Englewood, CO. 80112
(303) 298-9500 Ext. 0382 (303) 728-4851 cell
(303) 325-3034 fax
westernsummit.com

# Western Summit Constructors, Inc.
9780 Mt. Pyramid Court, Suite 100, Englewood, CO. 80112


August 28, 2013

Nick Lester
Freese and Nichols, Inc.
4055 International Plaza
Suite 200
Fort Worth, TX. 76109

RE: PCM 002 – Butterfly Valve Relocation

Mr. Lester

WSCI is proposing an additional cost of $19,114.00 for moving the butterfly valve as directed by PCM 002. A detailed breakdown of the costs is attached. WSCI is not requesting any additional time for this PCM.

Sincerely,

Matthew M. Wojtkiewicz
Project Manager

CC: PCM 002

# PROPOSED CONTRACT MODIFICATION

FREESE AND NICHOLS

Innovative approaches
Practical results
Outstanding service

4055 International Plaza, Suite 200 • Fort Worth, Texas 76109 • 817-735-7300 • fax 817-735-7491 www.freese.com

| | | | |
|---|---|---|---|
| **PROJECT:** | Bailey County Pipeline – Contract A | **PROJECT NO.:** | LUB12311 |
| **OWNER:** | City of Lubbock | | |
| **CONTRACTOR:** | Western Summit Constructors, Inc. | | |
| **ENGINEER:** | Freese and Nichols, Inc. | | |
| **DESCRIPTION:** | Butterfly Valve Relocation | **PCM NO.:** | 002 |

**NOTIFICATION TO CONTRACTOR:**

The Owner proposes to make the additions, modifications or deletions to the Work described in the Contract Documents as shown in Attachment "A". We request that you take the following action within 10 calendar days:

- ☐ Notify us that you concur that this change does not require a change in Contract time or amount. A Field Order will be issued.
- ☑ Submit a Price/Credit Proposal with detailed cost breakdown of labor, materials, equipment and all other costs related to this change. Impacts on Contract Time shall be shown in a revised schedule, included with the submitted proposal.
- ☐ Proceed with the change. Payment will be made at the unit price bid.
- ☐ Proceed with the change under the time and materials provisions of the Contract.

Authorization to proceed with changes must be approved by the Owner through Change Order in accordance with the Contract Documents.

**BY:** NCL **DATE:** 08/14/2013

**CONTRACTOR'S RESPONSE:**

We respond to your request as follows:

- ☐ We propose that this is a no cost or time change. Issue Field Order.
- ☑ We submit the attached Price/Credit Proposal with detailed cost breakdown and revised schedule for performing the described change.
- ☐ We are proceeding with the change at the unit price bid.
- ☐ We are proceeding with the change under the time and materials provisions of the Contract.

**BY:** MMW **DATE:** 8/28/13

**ACTION TAKEN:**

- ☐ Proposed Contract Modification rejected. See comments.
- ☐ Field Order will be issued.
- ☐ Change Order will be issued.

**BY:** _____ **DATE:** _____

**ATTACHMENT A**

*The Owner proposes to make the following additions, modifications or deletions to the work described in the Contract Documents. Authorization to proceed with these changes must be approved by Field Order or Change Order in accordance with the Contract Documents, prior to commencing the work involved.*

Reference Drawings sheet PL-10 – "Pipeline Station 567+00 to END".

1. Remove the 36-inch butterfly valve that is located on branch pipeline at station 571+50. Install a blind flange at the location of the removed butterfly valve.
2. Install the 36-inch butterfly valve from above at pipe joints 252 and 253 at Station 570+76.84. This installation will include two new flanges that are rated for the size and pressure of the pipe and to match the butterfly valves. These new flanges shall be accomplished by utilizing two, 2-foot special pieces (one bell by flange and one spigot by flange). Revise thrust calculations and weld joints that are necessary for this valve addition. Revise overall pipe length is subsequent joints for this adjustment. Revise lay sheets and submit to the Engineer for approval.

**BY:** NCL **DATE:**08/14/2013

**Project** Baily County Well Field Pipeline Contract A

**WSCI Project # 350023**

**Date Prepared:** 8/15/2013

**PREPARED BY:** MW

**TITLE :** PCM002 - Move Butterfly Valve

| COMMENTS (SPEC/DWG) | DESCRIPTION | UN | QTY | TOTAL MH | MH/U | LABOR UNIT | LABOR TOTAL | MTRL UNIT | MTRL TOTAL | EQUIP UNIT | EQUIP TOTAL | SUB UNIT | SUB TOTAL | OTHER UNIT | OTHER TOTAL | TOTAL COST |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | | | | | | |
| | **Move Butterfly Valve** | | | | | | | | | | | | | | | |
| | Rework 36" Pipe w/ Flanges at Hanson | EA | 1.0 | 0 | - | | 0 | 6,126.00 | 6,126 | | 0 | | 0 | | 0 | 6,126 |
| | 36" Blind Flange | EA | 1.0 | 0 | - | | 0 | 3,608.00 | 3,608 | | 0 | | 0 | | 0 | 3,608 |
| | 36" Bolt Kit w/ Gasket | EA | 1.0 | 0 | - | | 0 | 750.00 | 750 | | 0 | | 0 | | 0 | 750 |
| | Additional Welding for Thrust Restraint | EA | 15.0 | 0 | - | | 0 | | 0 | | 0 | 190.00 | 2,850 | | 0 | 2,850 |
| | Additional Weld Testing | D | 3.0 | 0 | - | | 0 | | 0 | | 0 | 600.00 | 1,800 | | 0 | 1,800 |
| | Slow in Production for Welding Joints | J | 0.0 | 0 | 4.000 | 20.00 | 0 | | 0 | 480.00 | 0 | | 0 | | 0 | 0 |
| | Additional Bedding at Weld Boxes | T | 80.0 | 0 | - | | 0 | 18.00 | 1,440 | | 0 | | 0 | | 0 | 1,440 |
| | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | |
| | **Research and Pricing** | | | | | | | | | | | | | | | |
| | Project Manager | HR | 0.0 | 0 | 1.000 | 40.00 | 0 | | 0 | | 0 | | 0 | | 0 | 0 |
| | Superintendent | HR | 0.0 | 0 | 1.000 | 55.00 | 0 | | 0 | | 0 | | 0 | | 0 | 0 |
| | Project Coordinator | HR | 0.0 | 0 | 1.000 | 25.00 | 0 | | 0 | | 0 | | 0 | | 0 | 0 |
| | Field Engineer - Layout/As-Builts | HR | 0.0 | 0 | 1.000 | 0.00 | 0 | | 0 | | 0 | | 0 | | 0 | 0 |
| | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | |
| | SUBTOTAL | | | 0 | HR | | 0 | | 11,924 | | 0 | | 4,650 | | 0 | 16,574 |
| | FUEL & OIL (50% Equipment Total) | | | | | | | | | | 0 | | | | | 0 |
| | SMALL & MISC TOOLS, & EXPEND ($2.00/MH) | | | | | | | | | | | | | | 0 | 0 |
| | MINOR RENTAL ($0.32/MH) | | | | | | | | | | | | | | 0 | 0 |
| | SAFETY EQUIPMENT ($0.45/MH) | | | | | | | | | | | | | | 0 | 0 |
| | CLEAN-UP ($1.50/MH) | | | | | | 0 | | | | | | | | | 0 |
| | PT&I (51%) | | | | | | 0 | | | | | | | | | 0 |
| | | | | | | | | | | | | | | | | |
| | SUBTOTAL | | | | | | 0 | | 11,924 | | 0 | | 4,650 | | 0 | 16,574 |
| | | | | | | | | | | | | | | | | |
| | Contingency/Risk (0%) | | | | | | | | | | | | | | 0 | 0 |
| | LABOR/MATERIAL MARKUP (15%) | | | | | | | | | | | | | | 2,486 | 2,486 |
| | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | |
| | SUBTOTAL | | | | | | 0 | | 11,924 | | 0 | | 4,650 | | 2,486 | 19,060 |
| | | | | | | | | | | | | | | | | |
| | WSCI Bond $3.00 / $1,000.00 Change | | | | | | | | | | | | | | 54 | 54 |
| | | | | | | | | | | | | | | | | |
| | SUBTOTAL | | | | | | | | | | | | | | | 19,114 |
| | LESS CREDITS | | | | | | | | | | | | | | | 0 |
| | NET CHANGE | | | | | | | | | | | | | | | **19,114** |

Notes:

1. ITEMS NOT SPECIFICALLY LISTED IN THIS PROPOSAL ARE NOT INCLUDED.
2. Schedule impacts will be addressed upon entering the activity into the schedule.
3. See back-up for additional details.

## Matt.Wojtkiewicz

**From:** Johnson, Katherine (Grand Prairie) NAM <Katherine.Johnson@LehighHanson.com>
**Sent:** Tuesday, August 20, 2013 5:57 AM
**To:** Matt.Wojtkiewicz; William.Bohlen
**Cc:** Whiteley, Pat (Grand Prairie) USA
**Subject:** RE: 130234 - Lubbock, TX - Pricing bending
**Attachments:** 130234_Rev_8-19-13.pdf

Matt,

Please find attached revised drawings for the new vale area.

Adaptor – bs/dflg - A400 = $2936.00
Adaptor – dflg/bb - A401 = $2936.00
Short pipe - BX252 = $254.00

**Cordially,**
**Katherine Johnson**
Project Coordinator
Hanson Pressure Pipe
Tel: 972 266-7456

Western Summit Constructors, Inc.
9780 Mt. Pyramid Court, Suite 100, Englewood, CO. 80112

October 3, 2013

Nick Lester
Freese and Nichols, Inc.
4055 International Plaza
Suite 200
Fort Worth, TX. 76109

RE: PCM 003 – Paving on 25th Street

Mr. Lester

WSCI is proposing an additional cost of $28,949.00 for the added road construction requested in PCM 003. This additional cost does not include the unit price bid items for asphalt paving (bid item C9), curb and gutter (bid item C16), and seeding (bid item C21). It is assumed that these items will be paid for at the contract unit prices, based on the amount of each installed. Included in the additional costs is:

1. Demo and installation of the valley gutter at the Frontage Road.
2. Demo and installation of the two alley returns.
3. Proof roll subgrade as needed to get compaction for road installation. WSCI is assuming that the material will need minimal work to get compaction. This does not include removal of any unsuitable materials.
4. Cost to change the manhole at station 486+60 to a traffic rated manhole. The manhole will stay a 60" manhole but will have a traffic rated cover. The Type A non-traffic rated manhole cover will be turned over to the city at the end of the project.

No additional time is being requested for this PCM.

Sincerely,

Matthew M. Wojtkiewicz
Project Manager

CC: PCM 003

# PROPOSED CONTRACT MODIFICATION

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Practical results
Outstanding service

4055 International Plaza, Suite 200 • Fort Worth, Texas 76109 • 817-735-7300 • fax 817-735-7491 www.freese.com

| | | | |
|---|---|---|---|
| **PROJECT:** | Bailey County Pipeline – Contract A | **PROJECT NO.:** | LUB12311 |
| **OWNER:** | City of Lubbock | | |
| **CONTRACTOR:** | Western Summit Constructors, Inc. | | |
| **ENGINEER:** | Freese and Nichols, Inc. | | |
| **DESCRIPTION:** | 25th Street Extension | **PCM NO.:** | 003-REV 1 |

**NOTIFICATION TO CONTRACTOR:**

The Owner proposes to make the additions, modifications or deletions to the Work described in the Contract Documents as shown in Attachment "A". We request that you take the following action within 10 calendar days:

- ☐ Notify us that you concur that this change does not require a change in Contract time or amount. A Field Order will be issued.
- ☑ Submit a Price/Credit Proposal with detailed cost breakdown of labor, materials, equipment and all other costs related to this change. Impacts on Contract Time shall be shown in a revised schedule, included with the submitted proposal.
- ☐ Proceed with the change. Payment will be made at the unit price bid.
- ☐ Proceed with the change under the time and materials provisions of the Contract.

Authorization to proceed with changes must be approved by the Owner through Change Order in accordance with the Contract Documents.

**BY:**NCL **DATE:**01/16/2014

**CONTRACTOR'S RESPONSE:**

We respond to your request as follows:

- ☐ We propose that this is a no cost or time change. Issue Field Order.
- ☐ We submit the attached Price/Credit Proposal with detailed cost breakdown and revised schedule for performing the described change.
- ☐ We are proceeding with the change at the unit price bid.
- ☐ We are proceeding with the change under the time and materials provisions of the Contract.

**BY:** _____ **DATE:**_____

**ACTION TAKEN:**

- ☐ Proposed Contract Modification rejected. See comments.
- ☐ Field Order will be issued.
- ☐ Change Order will be issued.

**BY:** _____ **DATE:**_____

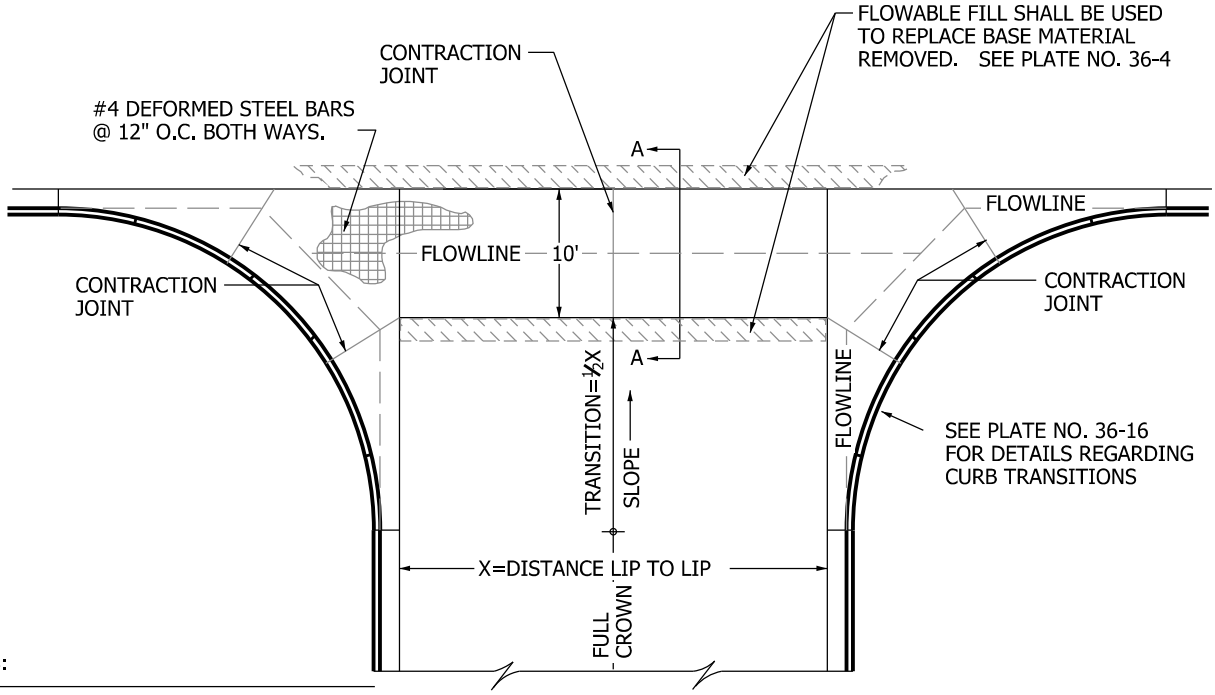
**ATTACHMENT A**

*The Owner proposes to make the following additions, modifications or deletions to the work described in the Contract Documents. Authorization to proceed with these changes must be approved by Field Order or Change Order in accordance with the Contract Documents, prior to commencing the work involved.*

Reference Drawings sheet CV-4, "25th ST Extension" (Attached), CV-3, "Paving", DT-5, "Manhole Cover Details", and Figure 1.

1. Extend 25th Street with new asphalt, curb and gutter, alley returns, and valley gutter per attached sheet CV-4. The curb and gutter will be utilized under bid item, C16-Extra Curb and Gutter. The Contractor is to build the flex/base and asphalt road per detail "Residential Asphalt Street Section" on Plan Sheet CV-3. The contractor is to provide a price to construct the 85 SY of Valley Gutter per the City Standards (plate 36-11) and the 97 SY of Alley Return per the City Standards (plate 36-7). The Contractor will be required to demo and remove some existing alley returns and curb and gutter as shown on Plan Sheet CV-4.
2. Revise the 8" BOV manhole at Station 486+60 to a type "B", traffic rated manhole and set it to match the top of pavement.
3. Revise Paving area on 29th street between Slide Road and tank tie-in per attached Figure 1.
4. The 25th Street extension adds 670 SY of asphalt paving. The revision on 29th street deletes 692 SY. A net difference of (-22) SY of asphalt paving.

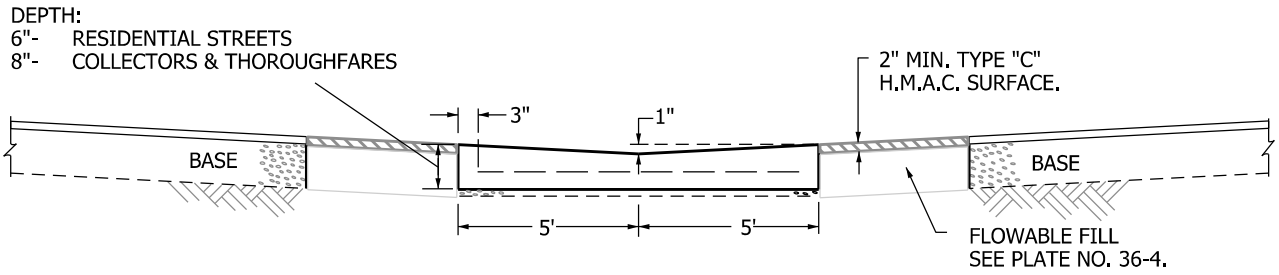
**BY:** NCL **DATE:**01/16/2014




NOTES:

1. CLASS "B" CONCRETE 3,000 P.S.I. @ 7 DAYS
2. MAINTAIN LIP UP GUTTER SECTION WITH 1" INVERT TO VALLEY GUTTER
3. TRANSITION FLOWLINE AND MAINTAIN 1" INVERT FOR POSITIVE DRAINAGE THROUGH VALLEY GUTTER

PLAN VIEW



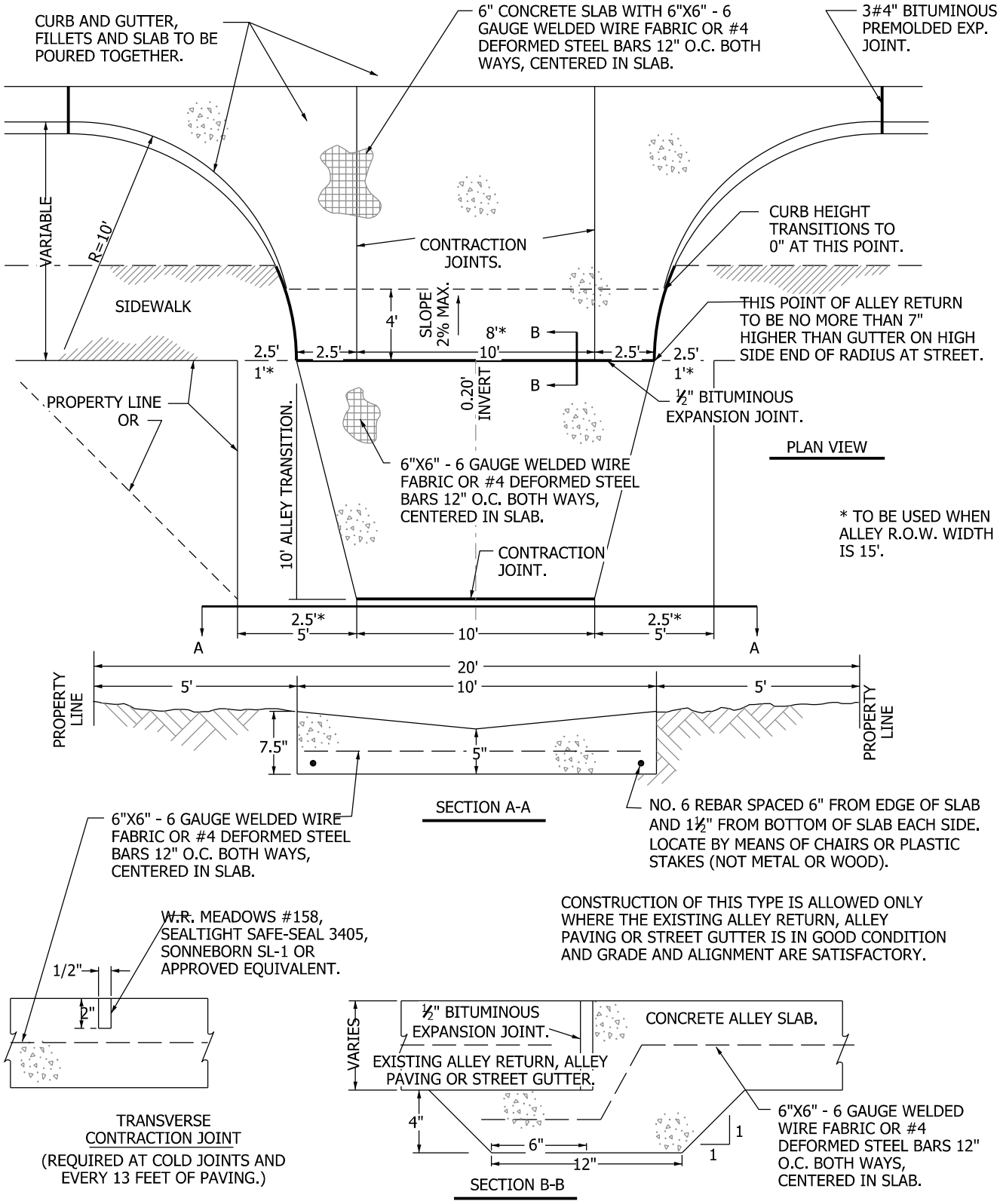

SECTION A-A

# CONCRETE VALLEY GUTTER & FILLET DETAIL

city of lubbock TEXAS

REVISED
DEC. 2012

PLATE NO.
36-11




# TYPICAL ALLEY RETURN

city of lubbock TEXAS

REVISED
DEC. 2012

PLATE NO.
36-7

**Project** **Baily County Well Field Pipeline Contract A** **WSCI Project # 350023**
**Date Prepared:** **8/29/2013**
**PREPARED BY:** **MW**
**TITLE :** **PCM003 - Paving**

| COMMENTS (SPEC/DWG) | DESCRIPTION | UN | QTY | TOTAL MH | MH/U | LABOR UNIT | LABOR TOTAL | MTRL UNIT | MTRL TOTAL | EQUIP UNIT | EQUIP TOTAL | SUB UNIT | SUB TOTAL | OTHER UNIT | OTHER TOTAL | TOTAL COST |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | | | | | | |
| | **Pipe Installation** | | | | | | | | | | | | | | | |
| | 180 LF Change Trench Detail 4 to Detail 1 | TN | 123.0 | 0 | - | | 0 | 19.08 | 2,347 | | 0 | | 0 | | 0 | 2,347 |
| | Manhole at Station 486+60 | EA | 1.0 | 0 | - | | 0 | | 0 | | 0 | 1,575.00 | 1,575 | | 0 | 1,575 |
| | Shipping on Additional Manhole | EA | 1.0 | 0 | - | | 0 | | 0 | | 0 | 250.00 | 250 | | 0 | 250 |
| | | | | | | | | | | | | | | | | |
| | **Paving** | | | | | | | | | | | | | | | |
| | Subgrade Preparation at Curb, Gutters, and Returns | LF | 200.0 | 20 | 0.100 | 23.00 | 460 | | 0 | 5.00 | 1,000 | | 0 | 2.00 | 400 | 1,860 |
| | 670 SY Paving | SY | 670.0 | 0 | - | | 0 | | 0 | | 0 | | 0 | | 0 | 0 |
| | | | | | | | | | | | | | | | | |
| | **Curb and Gutter** | | | | | | | | | | | | | | | |
| | Curb and Gutter | LF | 314.0 | 0 | - | | 0 | | 0 | | 0 | | 0 | | 0 | 0 |
| | | | | | | | | | | | | | | | | |
| | **Valley Gutter at Frontage Rd.** | | | | | | | | | | | | | | | |
| | Sawcut at Frontage Rd | LF | 86.0 | 0 | - | | 0 | | 0 | | 0 | 0.30 | 26 | | 0 | 26 |
| | Demo C/G at Frontage Rd. | LF | 86.0 | 17 | 0.200 | 23.00 | 396 | | 0 | | 0 | | 0 | 6.00 | 516 | 912 |
| | Valley Gutter at Frontage Rd | SY | 85.0 | 0 | - | | 0 | | 0 | | 0 | 71.24 | 6,055 | | 0 | 6,055 |
| | | | | | | | | | | | | | | | | |
| | **Alley Return** | | | | | | | | | | | | | | | |
| | Sawcut | LF | 80.0 | 0 | - | | 0 | | 0 | | 0 | 0.30 | 24 | | 0 | 24 |
| | Demo 50 SY at Alley Return | SY | 50.0 | 10 | 0.200 | 23.00 | 230 | | 0 | | 0 | | 0 | 6.00 | 300 | 530 |
| | Alley Return w/ Sidewalk | SY | 97.0 | 0 | - | | 0 | | 0 | | 0 | 71.24 | 6,910 | | 0 | 6,910 |
| | Relocate Water Valve Cover | EA | 1.0 | 0 | - | | 0 | 100.00 | 100 | | 0 | | 0 | | 0 | 100 |
| | Utility Protection | EA | 1.0 | 0 | - | | 0 | | 0 | | 0 | | 0 | 250.00 | 250 | 250 |
| | | | | | | | | | | | | | | | | |
| | **Common Items** | | | | | | | | | | | | | | | |
| | Seding | LF | 320.0 | 0 | - | | 0 | | 0 | | 0 | | 0 | | 0 | 0 |
| | | | | | | | | | | | | | | | | |
| | **Research and Pricing** | | | | | | | | | | | | | | | |
| | Project Manager | HR | 0.0 | 0 | 1.000 | 40.00 | 0 | | 0 | 4.38 | 0 | | 0 | | 0 | 0 |
| | Superintendent | HR | 0.0 | 0 | 1.000 | 55.00 | 0 | | 0 | 11.97 | 0 | | 0 | | 0 | 0 |
| | Project Coordinator | HR | 0.0 | 0 | 1.000 | 25.00 | 0 | | 0 | | 0 | | 0 | | 0 | 0 |
| | Field Engineer - Layout/As-Builts | HR | 40.0 | 40 | 1.000 | 35.00 | 1,400 | | 0 | 11.97 | 479 | | 0 | | 0 | 1,879 |
| | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | |
| | SUBTOTAL | | | 87 | HR | | 2,486 | | 2,447 | | 1,479 | | 14,840 | | 1,466 | 22,718 |
| | FUEL & OIL (50% Equipment Total) | | | | | | | | | | 739 | | | | | 739 |
| | SMALL & MISC TOOLS, & EXPEND ($2.00/MH) | | | | | | | | | | | | | | 174 | 174 |
| | MINOR RENTAL ($0.32/MH) | | | | | | | | | | | | | | 28 | 28 |
| | SAFETY EQUIPMENT ($0.45/MH) | | | | | | | | | | | | | | 39 | 39 |
| | CLEAN-UP ($1.50/MH) | | | | | | 131 | | | | | | | | | 131 |
| | PT&I (51%) | | | | | | 1,268 | | | | | | | | | 1,268 |
| | | | | | | | | | | | | | | | | |
| | SUBTOTAL | | | | | | 3,884 | | 2,447 | | 2,218 | | 14,840 | | 1,708 | 25,097 |
| | | | | | | | | | | | | | | | | |
| | Contingency/Risk (0%) | | | | | | | | | | | | | | 0 | 0 |
| | LABOR/MATERIAL MARKUP (15%) | | | | | | | | | | | | | | 3,765 | 3,765 |
| | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | |
| | SUBTOTAL | | | | | | 3,884 | | 2,447 | | 2,218 | | 14,840 | | 5,472 | 28,862 |
| | | | | | | | | | | | | | | | | |
| | WSCI Bond $3.00 / $1,000.00 Change | | | | | | | | | | | | | | 87 | 87 |

| | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | SUBTOTAL | | | | | | | | | | | | | | | 28,949 |
| | LESS CREDITS | | | | | | | | | | | | | | | 0 |
| | NET CHANGE | | | | | | | | | | | | | | | **28,949** |

Notes:
1. See back-up for additional details.
2. 60" Manhole at Sta. 486+60 has been fabricated and is not returnable. Will be turned over to COL at end of project.
3. Pricing does not include unit price items for Curb and Gutter and Paving. Those items will be paid at contract unit prices.

## Matt.Wojtkiewicz

**From:** Saul Hernandez <saulh@mh-civil.com>
**Sent:** Wednesday, September 04, 2013 3:10 PM
**To:** Matt.Wojtkiewicz
**Subject:** RE: Curb and Gutter Work

Hi Matt,

The cost for the additional work is as follows:

Curb and Gutter – 314 LF, $4,710
Valley Gutter at Frontage Road – 85 SY, $ 6,055
Alley Return (2) – 97 SY, $6,910

**Total – $17,675**

Let me know if you have any questions. Have a great day.

Saul

MH Civil Constructors, Inc.
Saul Hernandez, P.E.
1113 N. McMasters St., Suite C
Amarillo, TX 79106
Tel 806.367.6043
Fax: 806.374.3277
www.mh-civil.com
[website] [facebook]

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**From:** Matt.Wojtkiewicz@westernsummit.com [mailto:Matt.Wojtkiewicz@westernsummit.com]
**Sent:** Tuesday, August 27, 2013 3:37 PM
**To:** saulh@mh-civil.com
**Subject:** Curb and Gutter Work

Saul,
Attached are the drawings for the additional curb and gutter on 25th street. Thanks.

**MATTHEW M. WOJTKIEWICZ**
Project Manager

**WESTERN SUMMIT CONSTRUCTORS, INC.**
9780 Mt. Pyramid Ct., Suite 100, Englewood, CO. 80112
(303) 298-9500 Ext. 0382 (303) 728-4851 cell
(303) 325-3034 fax
westernsummit.com

# Western Summit Constructors, Inc.
9780 Mt. Pyramid Court, Suite 100, Englewood, CO. 80112


August 28, 2013

Nick Lester
Freese and Nichols, Inc.
4055 International Plaza
Suite 200
Fort Worth, TX. 76109

RE: PCM 004 – LCU Flexbase

Mr. Lester

WSCI is offering a credit of $5.50 for the use of the existing flexible road base from 29th Street at the LCU campus installed at a depth of 6" per the attached drawing in PCM 004. This credit brings the unit price for the flexible road base at the LCU campus to $4.50 per Square Yard. WSCI is not requesting any additional time for this PCM.

Sincerely,

Matthew M. Wojtkiewicz
Project Manager

CC: PCM 004

# PROPOSED CONTRACT MODIFICATION

FREESE AND NICHOLS
Innovative approaches
Practical results
Outstanding service

4055 International Plaza, Suite 200 • Fort Worth, Texas 76109 • 817-735-7300 • fax 817-735-7491 www.freese.com

| | | | |
|---|---|---|---|
| **PROJECT:** | Bailey County Pipeline – Contract A | **PROJECT NO.:** | LUB12311 |
| **OWNER:** | City of Lubbock | | |
| **CONTRACTOR:** | Western Summit Constructors, Inc. | | |
| **ENGINEER:** | Freese and Nichols, Inc. | | |
| **DESCRIPTION:** | LCU Flexbase | **PCM NO.:** | 004 |

**NOTIFICATION TO CONTRACTOR:**

The Owner proposes to make the additions, modifications or deletions to the Work described in the Contract Documents as shown in Attachment "A". We request that you take the following action within 10 calendar days:

- ☐ Notify us that you concur that this change does not require a change in Contract time or amount. A Field Order will be issued.
- ☑ Submit a Price/Credit Proposal with detailed cost breakdown of labor, materials, equipment and all other costs related to this change. Impacts on Contract Time shall be shown in a revised schedule, included with the submitted proposal.
- ☐ Proceed with the change. Payment will be made at the unit price bid.
- ☐ Proceed with the change under the time and materials provisions of the Contract.

Authorization to proceed with changes must be approved by the Owner through Change Order in accordance with the Contract Documents.

**BY:** NCL **DATE:** 08/26/2013

**CONTRACTOR'S RESPONSE:**

We respond to your request as follows:

- ☐ We propose that this is a no cost or time change. Issue Field Order.
- ☑ We submit the attached Price/Credit Proposal with detailed cost breakdown and revised schedule for performing the described change.
- ☐ We are proceeding with the change at the unit price bid.
- ☐ We are proceeding with the change under the time and materials provisions of the Contract.

**BY:** MMW **DATE:** 8/28/13

**ACTION TAKEN:**

- ☐ Proposed Contract Modification rejected. See comments.
- ☐ Field Order will be issued.
- ☐ Change Order will be issued.

**BY:** _____ **DATE:** _____

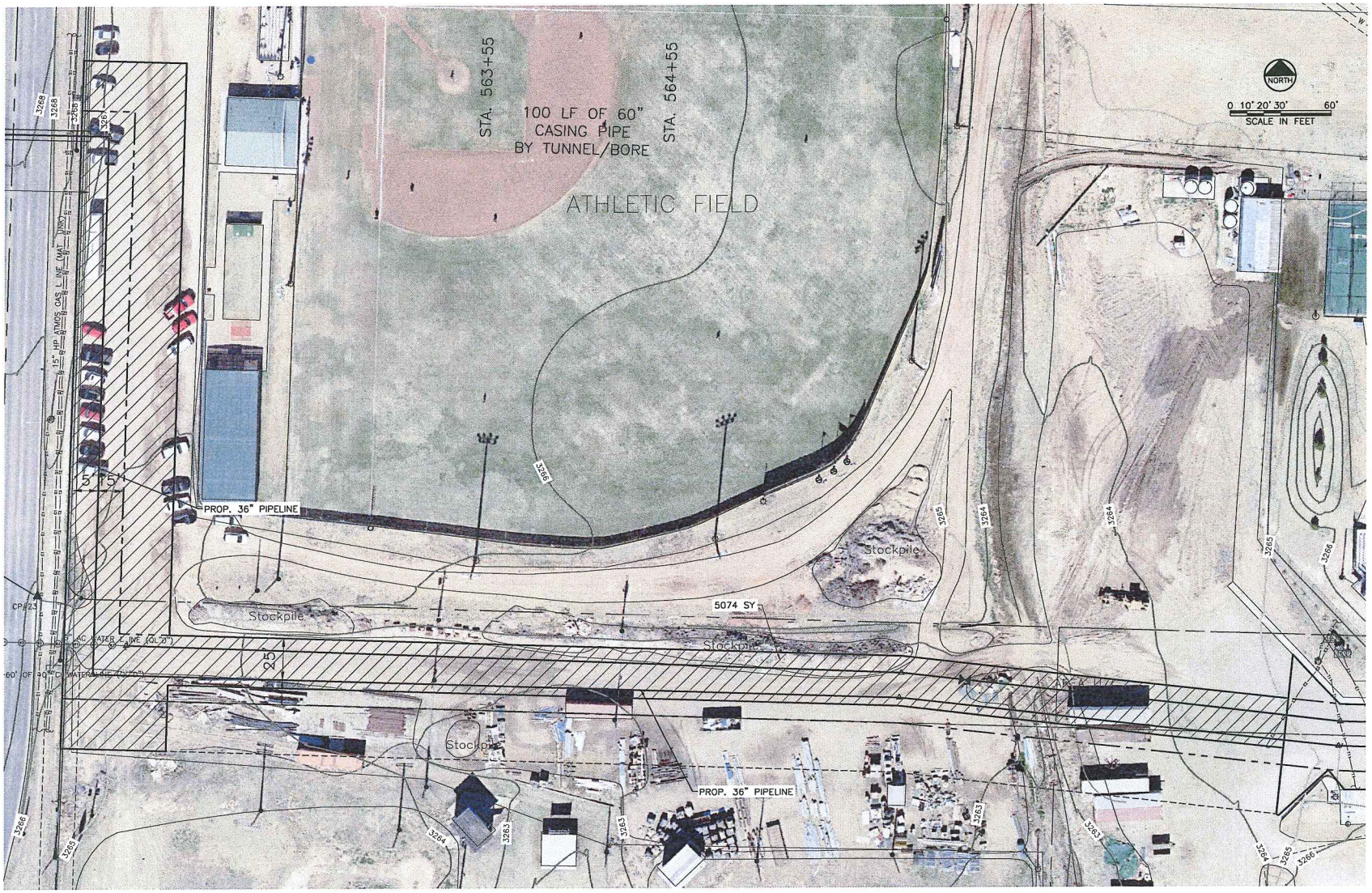
**ATTACHMENT A**

*The Owner proposes to make the following additions, modifications or deletions to the work described in the Contract Documents. Authorization to proceed with these changes must be approved by Field Order or Change Order in accordance with the Contract Documents, prior to commencing the work involved.*

Reference Drawings sheet Attached Flexible Base Paving area sheet.
Reference Bid Item C-8 Flexible Base Road Replacement

1. Contractor to install 5,074 SY of flexbase pavement on LCU per attached drawing. The current bid Item C-8 Flexible Base Road Replacement is for 12-inches of new flexbase paving installation. Contractor to provide credit pricing for using existing flexbase that is milled from existing City Streets and only installing the recycled flexbase to 6-inches. The current bid item is $10 per SY. Provide a revised price per SY for this work.

**BY:** NCL **DATE:**08/26/2013


STA. 563+55
100 LF OF 60" CASING PIPE BY TUNNEL/BORE
STA. 564+55
ATHLETIC FIELD
NORTH
0 10' 20' 30' 60'
SCALE IN FEET
PROP. 36" PIPELINE
Stockpile
5074 SY
Stockpile
Stockpile
Stockpile
PROP. 36" PIPELINE
5' 15'
25'
3268
3267
3266
3265
3264
3263

Western Summit Constructors, Inc.
9780 Mt. Pyramid Court, Suite 100, Englewood, CO. 80112

August 29, 2013

Nick Lester
Freese and Nichols, Inc.
4055 International Plaza
Suite 200
Fort Worth, TX. 76109

RE: PCM 005 – Time Change

Mr. Lester

WSCI is proposing an additional cost of $20,000 for completing the work from station 470+00 – 483+40 after November 16, 2013. Due to scheduling conflicts WSCI will not start pipe installation in this area until December 2, 2013 (see attached schedule). WSCI is requesting a revised Substantial Completion date of February 3, 2013 and a revised Final Completion date of February 17, 2013.

The additional time being asked for is conditional on the 28 day waiting period for testing the pipeline being waived so that testing can start once the pipeline is complete.

Sincerely,

Matthew M. Wojtkiewicz
Project Manager

CC: PCM 004

# PROPOSED CONTRACT MODIFICATION

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Practical results
Outstanding service

4055 International Plaza, Suite 200 • Fort Worth, Texas 76109 • 817-735-7300 • fax 817-735-7491 www.freese.com

| | | | |
|---|---|---|---|
| **PROJECT:** | Bailey County Pipeline – Contract A | **PROJECT NO.:** | LUB12311 |
| **OWNER:** | City of Lubbock | | |
| **CONTRACTOR:** | Western Summit Constructors, Inc. | | |
| **ENGINEER:** | Freese and Nichols, Inc. | | |
| **DESCRIPTION:** | Time Change | **PCM NO.:** | 005 |

**NOTIFICATION TO CONTRACTOR:**

The Owner proposes to make the additions, modifications or deletions to the Work described in the Contract Documents as shown in Attachment "A". We request that you take the following action within 10 calendar days:

- ☐ Notify us that you concur that this change does not require a change in Contract time or amount. A Field Order will be issued.
- ☑ Submit a Price/Credit Proposal with detailed cost breakdown of labor, materials, equipment and all other costs related to this change. Impacts on Contract Time shall be shown in a revised schedule, included with the submitted proposal.
- ☐ Proceed with the change. Payment will be made at the unit price bid.
- ☐ Proceed with the change under the time and materials provisions of the Contract.

Authorization to proceed with changes must be approved by the Owner through Change Order in accordance with the Contract Documents.

**BY:**NCL **DATE:**08/26/2013

**CONTRACTOR'S RESPONSE:**

We respond to your request as follows:

- ☐ We propose that this is a no cost or time change. Issue Field Order.
- ☐ We submit the attached Price/Credit Proposal with detailed cost breakdown and revised schedule for performing the described change.
- ☐ We are proceeding with the change at the unit price bid.
- ☐ We are proceeding with the change under the time and materials provisions of the Contract.

**BY:** _____ **DATE:**_____

**ACTION TAKEN:**

- ☐ Proposed Contract Modification rejected. See comments.
- ☐ Field Order will be issued.
- ☐ Change Order will be issued.

**BY:** _____ **DATE:**_____

*The Owner proposes to make the following additions, modifications or deletions to the work described in the Contract Documents. Authorization to proceed with these changes must be approved by Field Order or Change Order in accordance with the Contract Documents, prior to commencing the work involved.*

**Reference Drawings sheet DT-11 PS NO 7 Connection Details.**

1. Revise the first sentence on General Note number 1 to read, "No construction or related modification activities may occur from June 1st through October 1st."

**Reference Specifications, General Instructions to Offerors, Page 4.**

1. **Reference Paragraph 13.3 –** Construction activities are release effective 08/17/2013 for work from Station 483+40 to Station 488+25. See the attached letter agreement for access to the property on the East side of Loop 289.
2. **Reference Paragraph 13.3 –** Construction activities from Station 470+00 to 483+40 cannot be started before November 16, 2013 unless notified otherwise. A price proposal for this change is requested. The Substantial Completion and Final Completion dates will be extended for this change. Provide revised schedule for this work and requested change in Substantial Completion and Final Completion dates for review.

**BY:** NCL **DATE:**08/26/2013

DEE W. HART, JR.
Post Office Box 3697
Lubbock, Texas 79452-3697
(806) 789-6798

August 15, 2013

HAND DELIVERY

ATTN: Mr. Russell McGuire
McGUIRE REAL ESTATE, INC.
5102 60th Street
Suite G
Lubbock, Texas 79414

RE: Bailey County Waterline Project;
Parcel No 4.

Dear Mr. McGuire:

As discussed in our recent meeting, attached is a Street and Public Use Dedication Deed for your review and execution. In exchange for the rights therein granted, the City of Lubbock will pay for all costs associated for the one time construction of 25th Street, as reflected on attached Exhibit "A", including the installation of paving and curbs in accordance with the City's current specifications and guidelines. It is understood and agreed that McGuire Real Estate, Inc. will not receive damage amounts or compensation for any taking referenced within this document and/or attached dedication deed. Such road construction activity for 25th Street shall commence as soon as is practicable upon completion of the installation of the Bailey County Water Supply Pipeline. It is understood and agreed that the City of Lubbock will allow for two (2) separate curb cuts, subject to final approval by the City; one along the North line of 25th Street and the other along the South line of 25th Street, at locations yet to be determined by McGuire Real Estate, Inc. Also, McGuire Real Estate, Inc. hereby grants, approves, authorizes and lets unto the City of Lubbock, its contractors, agents and representatives immediate access over, upon and across the subject property limited to the purposes and intents described in said Street and Public Use Dedication Deed.

Should the above reflect your clear understanding as to the total value of this transaction in exchange for the delivery of the properly executed Street and Public Use Dedication Deed attached, please sign in acknowledgment below and retain a copy for your records. As you know, the terms and conditions described herein shall be subject to (i) final approval by City Council, (ii) approval of title and (iii) approval by Texas Department of Public Transportation and/or Texas Department of Public Safety.

Sincerely,

Dee W. Hart, Jr.

DWH/s

attachment

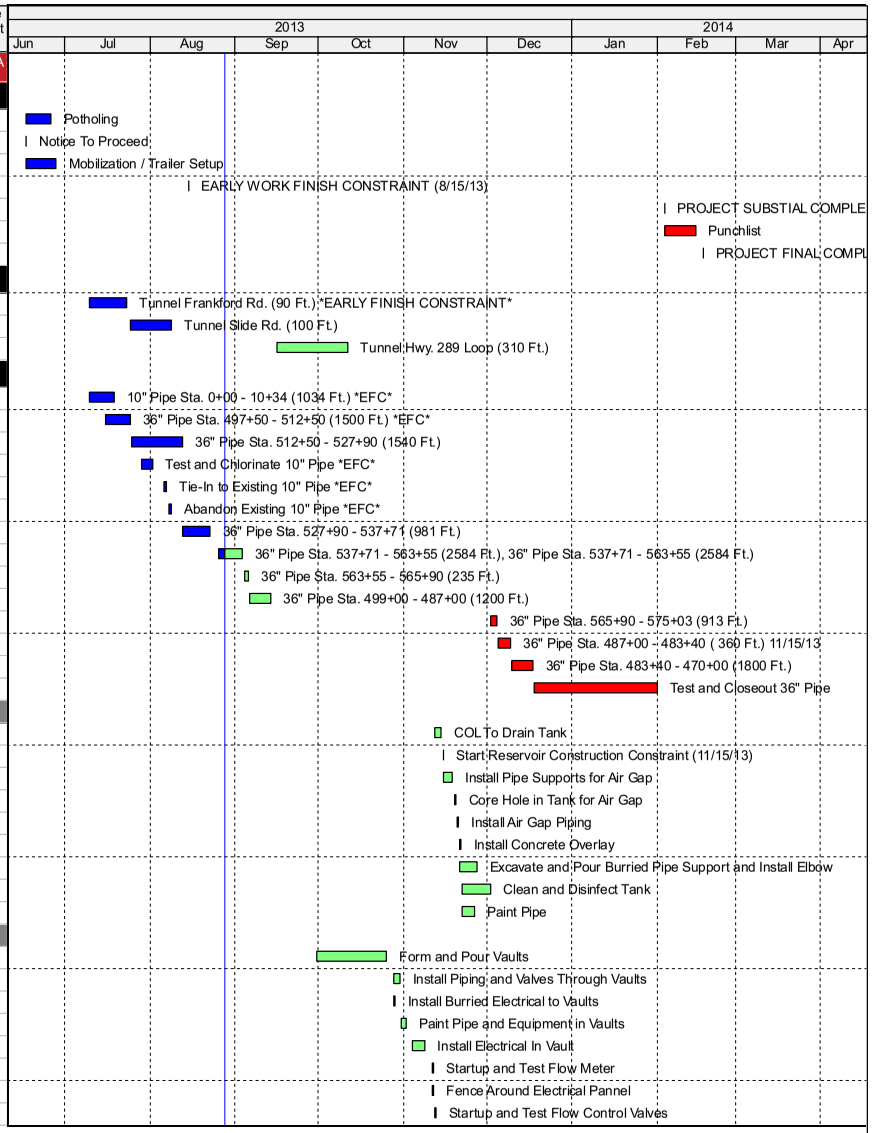
EXECUTION EVIDENCING CONCURRENCE:

McGUIRE REAL ESTATE, INC.

By: Russell McGuire
Russell McGuire

AGREED TO AND ACCEPTED THIS 15th day of August, 2013.

| Activity ID | Activity Name | Original Duration | Total Float | Activity % Complete | Start | Finish | Late Start |
|---|---|---|---|---|---|---|---|
| **Bailey County Contract A** | | 167 | -41 | | 17-Jun-13 A | 17-Feb-14 | 29-A |
| **General Conditions** | | 167 | -41 | | 17-Jun-13 A | 17-Feb-14 | 29- |
| 00-01.000010 | Potholing | 10 | | 100% | 17-Jun-13 A | 26-Jun-13 | 09- |
| 00-00.000000 | Notice To Proceed | 0 | | 100% | 17-Jun-13 A | 17-Jun-13 | 29- |
| 00-01.000000 | Mobilization / Trailer Setup | 10 | | 100% | 17-Jun-13 A | 28-Jun-13 | 29- |
| 00-10.000010 | EARLY WORK FINISH CONSTRAINT (8/15/13) | 0 | | 100% | 15-Aug-13 A | 15-Aug-13 | 17- |
| 00-90.999999 | PROJECT SUBSTIAL COMPLETION (169 Days) | 0 | -41 | 0% | 03-Feb-14 | 03-Feb-14* | 02- |
| 00-99.000000 | Punchlist | 10 | -41 | 0% | 03-Feb-14 | 14-Feb-14 | 03- |
| 00-99.999999 | PROJECT FINAL COMPLETION (179 Days) | 0 | -41 | 0% | 17-Feb-14 | 17-Feb-14 | 16- |
| **Tunnels** | | 69 | -5 | | 10-Jul-13 A | 11-Oct-13 | 09- |
| 10-01.000000 | Tunnel Frankford Rd. (90 Ft.) *EARLY FINISH CONSTRAINT* | 10 | | 100% | 10-Jul-13 A | 23-Jul-13 | 09- |
| 10-02.000000 | Tunnel Slide Rd. (100 Ft.) | 10 | | 100% | 25-Jul-13 A | 09-Aug-13 | 09- |
| 10-03.000000 | Tunnel Hwy. 289 Loop (310 Ft.) | 20 | -5 | 0% | 16-Sep-13* | 11-Oct-13 | 09- |
| **Pipeline Installation** | | 144 | -31 | | 10-Jul-13 A | 31-Jan-14 | 29- |
| 20-02.000000 | 10" Pipe Sta. 0+00 - 10+34 (1034 Ft.) *EFC* | 5 | | 100% | 10-Jul-13 A | 19-Jul-13 | 17- |
| 20-01.000000 | 36" Pipe Sta. 497+50 - 512+50 (1500 Ft.) *EFC* | 6 | | 100% | 16-Jul-13 A | 25-Jul-13 | 21- |
| 20-03.000000 | 36" Pipe Sta. 512+50 - 527+90 (1540 Ft.) | 6 | | 100% | 25-Jul-13 A | 13-Aug-13 | 21- |
| 20-90.000010 | Test and Chlorinate 10" Pipe *EFC* | 5 | | 100% | 29-Jul-13 A | 02-Aug-13 | 17- |
| 20-02.000010 | Tie-In to Existing 10" Pipe *EFC* | 1 | | 100% | 06-Aug-13 A | 07-Aug-13 | 17- |
| 20-02.000020 | Abandon Existing 10" Pipe *EFC* | 1 | | 100% | 08-Aug-13 A | 09-Aug-13 | 17- |
| 20-04.000000 | 36" Pipe Sta. 527+90 - 537+71 (981 Ft.) | 8 | | 100% | 13-Aug-13 A | 23-Aug-13 | 21- |
| 20-05.000000 | 36" Pipe Sta. 537+71 - 563+55 (2584 Ft.) | 8 | 37 | 50% | 26-Aug-13 A | 03-Sep-13 | 21- |
| 20-05.000010 | 36" Pipe Sta. 563+55 - 565+90 (235 Ft.) | 2 | 44 | 0% | 04-Sep-13 | 05-Sep-13 | 05- |
| 20-08.000000 | 36" Pipe Sta. 499+00 - 487+00 (1200 Ft.) | 6 | 44 | 0% | 06-Sep-13 | 13-Sep-13 | 07- |
| 20-06.000000 | 36" Pipe Sta. 565+90 - 575+03 (913 Ft.) | 3 | -41 | 0% | 02-Dec-13* | 04-Dec-13 | 02- |
| 20-08.000010 | 36" Pipe Sta. 487+00 - 483+40 ( 360 Ft.) 11/15/13 | 3 | -41 | 0% | 05-Dec-13* | 09-Dec-13 | 07- |
| 20-09.000000 | 36" Pipe Sta. 483+40 - 470+00 (1800 Ft.) | 6 | -41 | 0% | 10-Dec-13 | 17-Dec-13 | 10- |
| 20-90.000020 | Test and Closeout 36" Pipe | 30 | -41 | 0% | 18-Dec-13 | 31-Jan-14 | 18- |
| **Reservoir Connection** | | 13 | 0 | | 12-Nov-13 | 02-Dec-13 | 12- |
| 21-10.000010 | COL To Drain Tank | 3 | 0 | 0% | 12-Nov-13 | 14-Nov-13 | 12- |
| 21-10.000000 | Start Reservoir Construction Constraint (11/15/13) | 0 | 0 | 0% | 15-Nov-13* | 15-Nov-13 | 14- |
| 21-10.000020 | Install Pipe Supports for Air Gap | 2 | 0 | 0% | 15-Nov-13 | 18-Nov-13 | 15- |
| 21-10.000030 | Core Hole in Tank for Air Gap | 1 | 0 | 0% | 19-Nov-13 | 19-Nov-13 | 19- |
| 21-10.000040 | Install Air Gap Piping | 1 | 0 | 0% | 20-Nov-13 | 20-Nov-13 | 20- |
| 21-10.000050 | Install Concrete Overlay | 1 | 0 | 0% | 21-Nov-13 | 21-Nov-13 | 21- |
| 21-00.000010 | Excavate and Pour Burried Pipe Support and Install Elbow | 5 | 1 | 0% | 21-Nov-13 | 27-Nov-13 | 22- |
| 21-10.000060 | Clean and Disinfect Tank | 5 | 0 | 0% | 22-Nov-13 | 02-Dec-13 | 22- |
| 21-10.000070 | Paint Pipe | 3 | 2 | 0% | 22-Nov-13 | 26-Nov-13 | 26- |
| **Flow and Meter Valve Vault** | | 32 | 22 | | 30-Sep-13 | 12-Nov-13 | 29- |
| 22-10.000010 | Form and Pour Vaults | 20 | -21 | 0% | 30-Sep-13* | 25-Oct-13 | 29- |
| 22-10.000030 | Install Piping and Valves Through Vaults | 3 | -21 | 0% | 28-Oct-13 | 30-Oct-13 | 27- |
| 22-10.000020 | Install Burried Electrical to Vaults | 1 | 33 | 0% | 28-Oct-13 | 28-Oct-13 | 16- |
| 22-10.000040 | Paint Pipe and Equipment in Vaults | 2 | 12 | 0% | 31-Oct-13 | 01-Nov-13 | 18- |
| 22-10.000050 | Install Electrical In Vault | 5 | 12 | 0% | 04-Nov-13 | 08-Nov-13 | 20- |
| 22-10.000060 | Startup and Test Flow Meter | 1 | 12 | 0% | 11-Nov-13 | 11-Nov-13 | 27- |
| 22-10.000080 | Fence Around Electrical Pannel | 1 | 13 | 0% | 11-Nov-13 | 11-Nov-13 | 02- |
| 22-10.000070 | Startup and Test Flow Control Valves | 1 | 12 | 0% | 12-Nov-13 | 12-Nov-13 | 02- |

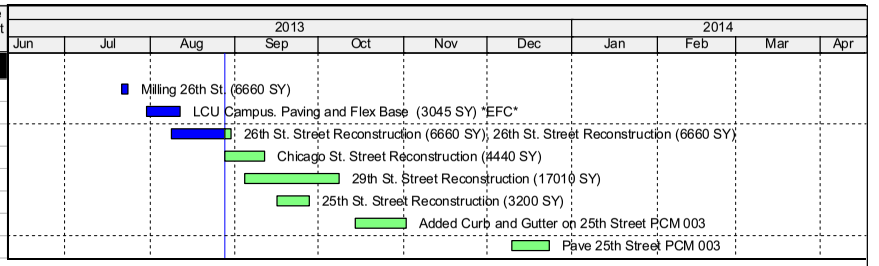



Remaining Level of Effort | Actual Work | Critical Remaining W...
Actual Level of Effort | Remaining Work | Milestone

Bailey County Contract A

WESTERN SUMMIT

| Activity ID | Activity Name | Original Duration | Total Float | Activity % Complete | Start | Finish | Late Start |
|---|---|---|---|---|---|---|---|
| **Paving and Restoration** | | 105 | -5 | | 22-Jul-13 A | 23-Dec-13 | 21- |
| 30-02.000000 | Milling 26th St. (6660 SY) | 3 | | 100% | 22-Jul-13 A | 24-Jul-13 | 21- |
| 30-01.000010 | LCU Campus. Paving and Flex Base (3045 SY) *EFC* | 10 | | 100% | 31-Jul-13 A | 12-Aug-1 | 17- |
| 30-02.000010 | 26th St. Street Reconstruction (6660 SY) | 15 | 64 | 85% | 09-Aug-13 A | 30-Aug-13 | 26- |
| 30-03.000010 | Chicago St. Street Reconstruction (4440 SY) | 10 | 56 | 0% | 28-Aug-13 | 11-Sep-13 | 15- |
| 30-04.000010 | 29th St. Street Reconstruction (17010 SY) | 25 | 37 | 0% | 04-Sep-13 | 08-Oct-13 | 25- |
| 30-05.000010 | 25th St. Street Reconstruction (3200 SY) | 10 | 44 | 0% | 16-Sep-13 | 27-Sep-13 | 15- |
| 30-05.000020 | Added Curb and Gutter on 25th Street PCM 003 | 15 | 9 | 0% | 14-Oct-13 | 01-Nov-13 | 25- |
| 30-05.000030 | Pave 25th Street PCM 003 | 10 | -15 | 0% | 10-Dec-13 | 23-Dec-13 | 15- |




Remaining Level of Effort | Actual Work | Critical Remaining W...
Actual Level of Effort | Remaining Work | Milestone

Bailey County Contract A

WESTERN SUMMIT

# PROPOSED CONTRACT MODIFICATION

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| | | | |
|---|---|---|---|
| **PROJECT:** | Bailey County Pipeline – Contract A | **PROJECT NO.:** | LUB12311 |
| **OWNER:** | City of Lubbock | | |
| **CONTRACTOR:** | Western Summit Constructors, Inc. | | |
| **ENGINEER:** | Freese and Nichols, Inc. | | |
| **DESCRIPTION:** | Pipeline Adjustment | **PCM NO.:** | 006 |

**NOTIFICATION TO CONTRACTOR:**

The Owner proposes to make the additions, modifications or deletions to the Work described in the Contract Documents as shown in Attachment "A". We request that you take the following action within 10 calendar days:

- ☐ Notify us that you concur that this change does not require a change in Contract time or amount. A Field Order will be issued.
- ☑ Submit a Price/Credit Proposal with detailed cost breakdown of labor, materials, equipment and all other costs related to this change. Impacts on Contract Time shall be shown in a revised schedule, included with the submitted proposal.
- ☐ Proceed with the change. Payment will be made at the unit price bid.
- ☐ Proceed with the change under the time and materials provisions of the Contract.

Authorization to proceed with changes must be approved by the Owner through Change Order in accordance with the Contract Documents.

**BY:**NCL **DATE:**09/25/2013

**CONTRACTOR'S RESPONSE:**

We respond to your request as follows:

- ☐ We propose that this is a no cost or time change. Issue Field Order.
- ☐ We submit the attached Price/Credit Proposal with detailed cost breakdown and revised schedule for performing the described change.
- ☐ We are proceeding with the change at the unit price bid.
- ☐ We are proceeding with the change under the time and materials provisions of the Contract.

**BY:** _____ **DATE:**_____

**ACTION TAKEN:**

- ☐ Proposed Contract Modification rejected. See comments.
- ☐ Field Order will be issued.
- ☐ Change Order will be issued.

**BY:** _____ **DATE:**_____

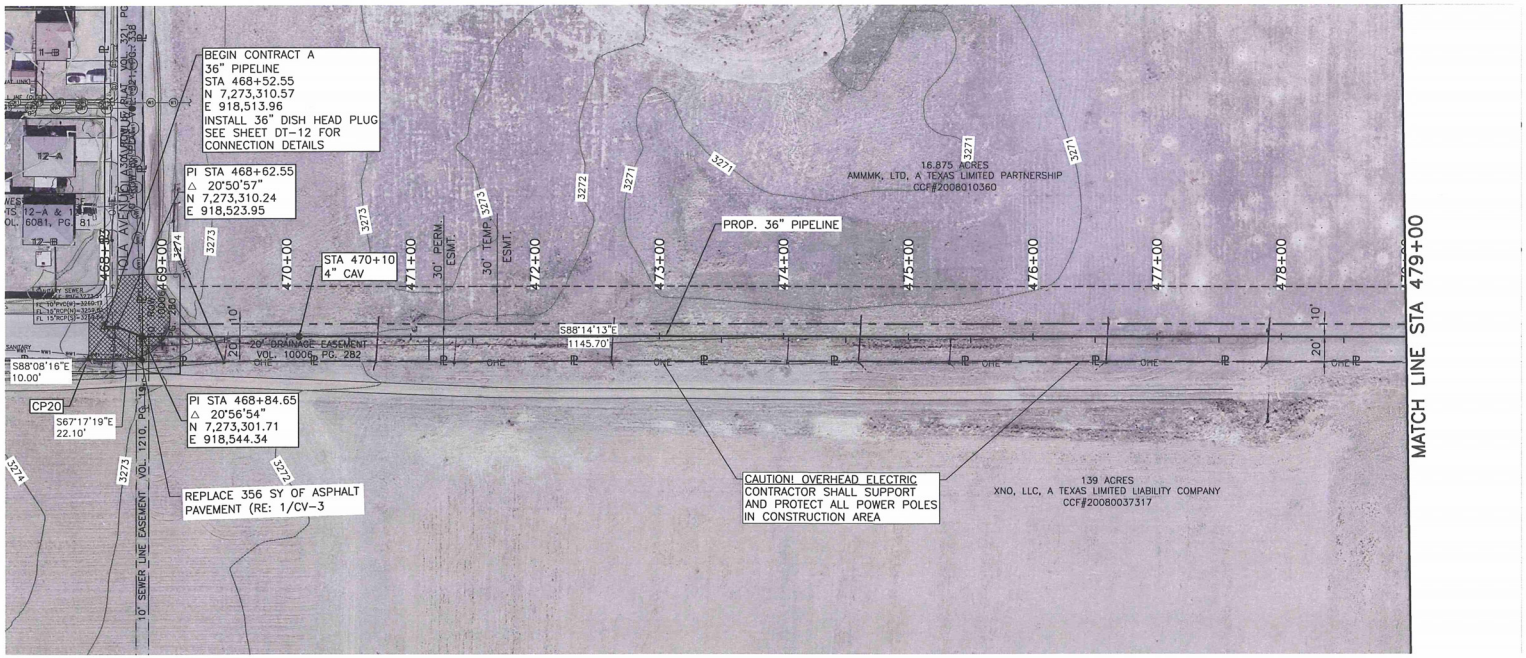
**ATTACHMENT A**

*The Owner proposes to make the following additions, modifications or deletions to the work described in the Contract Documents. Authorization to proceed with these changes must be approved by Field Order or Change Order in accordance with the Contract Documents, prior to commencing the work involved.*

Reference Drawings sheet PL-1 and PL-2.

1. Delete existing plan sheets PL-1 and PL-2 and replace with attached PL-1 and PL-2. The pipeline alignment and easement was adjusted on the AMMMK property. The pipeline was extended into Iola/26th Street. The additional length is 115.35 linear feet. This length will be an overrun of unit price for pipe installation.
2. Revise the manhole at 470+10 to be traffic rated. The 60-inch manhole can be utilized in lieu of the 72-inch required in traffic rated details. The no-traffic rated lid that is fabricated can be delivered to the City at the end of the project.
3. Replace 30 LF of curb and gutter (width of permanent easement at crossing). Utilize bid quantity, "Extra Curb and Gutter".
4. Remove and replace 356 SY of asphalt paving at Iola/26th Street. This quantity will be an overrun of unit price for asphalt paving installation.

**BY:** NCL **DATE:**09/25/2013



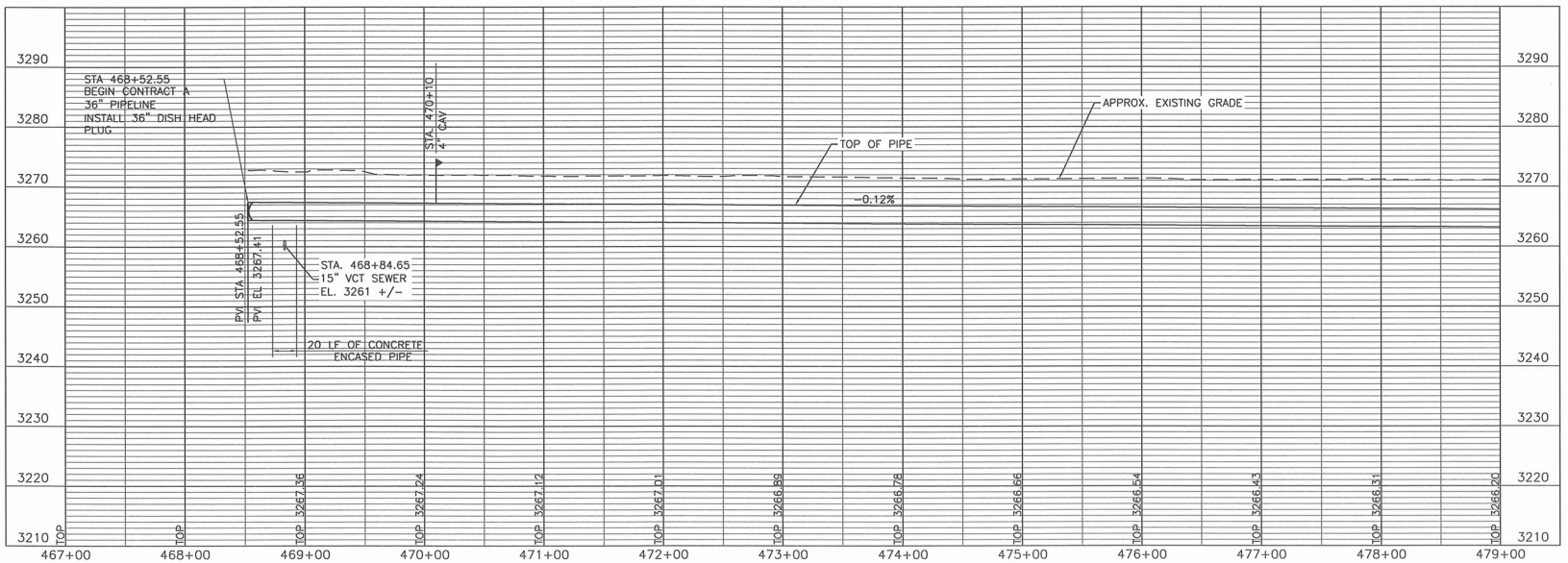

NOTES:

1. CONTRACTOR SHALL VERIFY LOCATION AND DEPTH OF ALL UTILITIES PRIOR TO MANUFACTURING PIPE AND CONSTRUCTION.

NORTH

0 50' 100'
SCALE IN FEET
HORIZONTAL

0 10' 20'
SCALE IN FEET
VERTICAL




Freese and Nichols, Inc.
Texas Registered Engineering Firm F-2144

STATE OF TEXAS
NICHOLAS LESTER
97265
LICENSED
PROFESSIONAL ENGINEER
9/20/13

FREESE NICHOLS
4055 International Plaza, Suite 200
Fort Worth, Texas 76109-4895
Phone (817) 735-7300
Fax (817) 735-7491

CITY OF LUBBOCK, TEXAS
BAILEY COUNTY WELL FIELD SUPPLY PIPELINE
CONTRACT A
CIVIL
PIPELINE
STA. 468+52.55 TO STA. 479+00

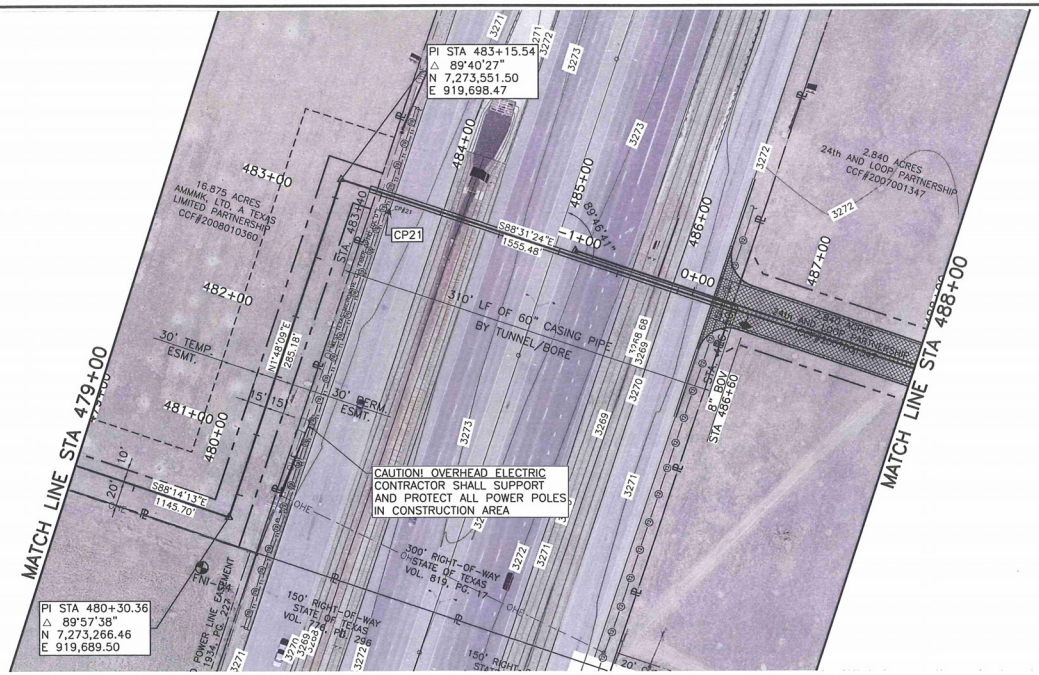
| NO. | ISSUE | BY | DATE |
|---|---|---|---|
| 1 | PCM NO. 006 | NCL | 08-19-13 |
| 2 | ISSUED FOR CONSTRUCTION | NCL | 09-14-13 |

VERIFY SCALE Bar is one inch on original drawing. If not one inch on this sheet, adjust scale.

FAN JOB NO. LUB12311
DATE 05/01/13
DESIGNED NCL
DRAWN AAL
REVIEWED
CHECKED
FILE NAME CV-PP-PIPL01.dwg

SHEET PL-1
SEQ. 6

Date: Sep 20, 2013 - 1:12pm User: mdc File: N:\wr\WRT\Contract A\PP Sheets\CV-PP-PIPL01.dwg



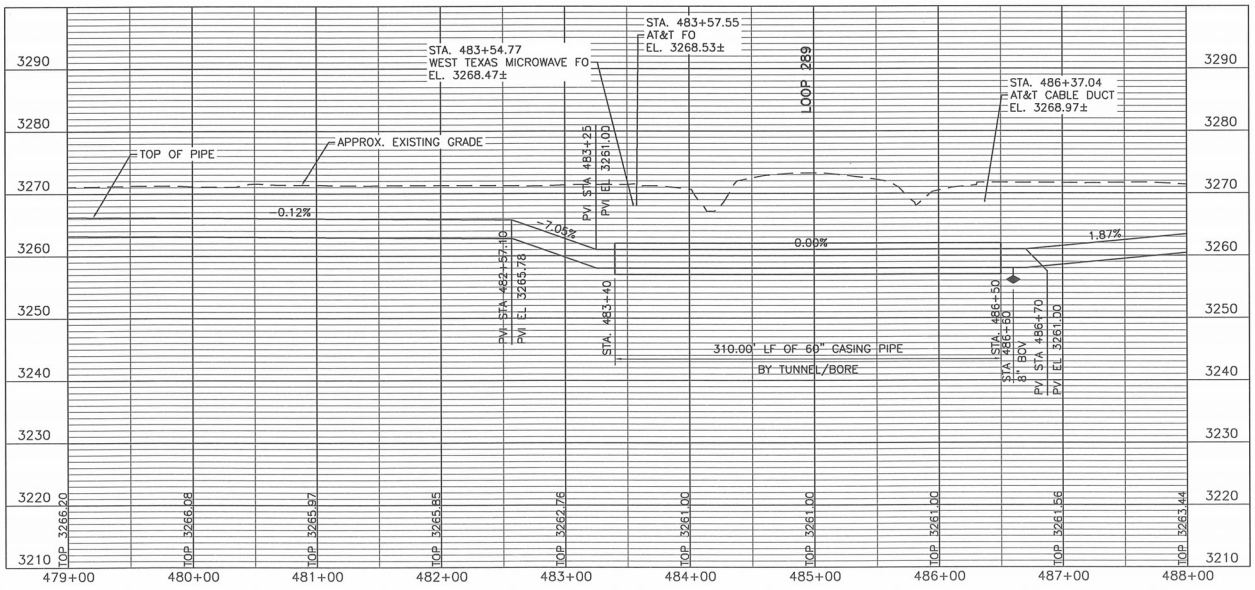

NOTES:

1. CONTRACTOR SHALL VERIFY LOCATION AND DEPTH OF ALL UTILITIES PRIOR TO MANUFACTURING PIPE, BORE/TUNNELING ACTIVITIES AND CONSTRUCTION.

NORTH

0 50' 100'
SCALE IN FEET
HORIZONTAL

0 10' 20'
SCALE IN FEET
VERTICAL




2

Freese and Nichols, Inc.
Texas Registered Engineering Firm F-2144

9/20/13
NICHOLAS LESTER
97265
LICENSED PROFESSIONAL ENGINEER
Nicholas Lester

FREESE NICHOLS
4055 International Plaza, Suite 200
Fort Worth, Texas 76109-4895
Phone (817) 735-7300
Fax (817) 735-7491

CITY OF LUBBOCK, TEXAS
BAILEY COUNTY WELL FIELD SUPPLY PIPELINE
CONTRACT A
CIVIL
PIPELINE
STA. 479+00 TO STA. 488+00

| NO. | ISSUE | BY | DATE |
|---|---|---|---|
| 1 | PCM NO. 006 | NCL | 09-19-13 |
| 2 | ISSUED FOR CONSTRUCTION | NCL | 06-14-13 |

VERIFY SCALE Bar is one inch on original drawing. If not one inch on this sheet, adjust scale.

FAN JOB NO. LUB12311
DATE 05/01/13
DESIGNED NCL
DRAWN AAL
REVISED -
CHECKED -
FILE NAME CV-PP-PIPL02.dwg

SHEET PL-2
SEQ. 7

Date: Sep 20, 2013 - 1:14pm User: mdc File: N:\wr\WRT\Contract A\PP Sheets\CV-PP-PIPL02.dwg

**Project** **Baily County Well Field Pipeline Contract A** **WSCI Project # 350023**
**Date Prepared:** **10/3/2013**
**PREPARED BY:** **MW**
**TITLE :** **PCM006 - Piping Adjustment**

| COMMENTS (SPEC/DWG) | DESCRIPTION | UN | QTY | TOTAL MH | MH/U | LABOR UNIT | LABOR TOTAL | MTRL UNIT | MTRL TOTAL | EQUIP UNIT | EQUIP TOTAL | SUB UNIT | SUB TOTAL | OTHER UNIT | OTHER TOTAL | TOTAL COST |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | | | | | | |
| | **Piping Adjustment** | | | | | | | | | | | | | | | |
| | Additional Pipe | LF | 115.4 | 0 | - | | 0 | | 0 | | 0 | | 0 | | 0 | 0 |
| | Manhole 470+10 to Traffic Rated | EA | 1.0 | 0 | - | | 0 | 1,575.00 | 1,575 | | 0 | | 0 | | 0 | 1,575 |
| | Curb and Gutter | LF | 30.0 | 0 | - | | 0 | | 0 | | 0 | | 0 | | 0 | 0 |
| | Paving | SY | 356.0 | 0 | - | | 0 | | 0 | | 0 | | 0 | | 0 | 0 |
| | Concrete Encasement | LF | 20.0 | | | | | | 0 | | 0 | | | | 0 | |
| | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | |
| | **Research and Pricing** | | | | | | | | | | | | | | | |
| | Project Manager | HR | 2.0 | 2 | 1.000 | 40.00 | 80 | | 0 | | 0 | | 0 | | 0 | 80 |
| | Superintendent | HR | 0.0 | 0 | 1.000 | 55.00 | 0 | | 0 | | 0 | | 0 | | 0 | 0 |
| | Project Coordinator | HR | 0.0 | 0 | 1.000 | 25.00 | 0 | | 0 | | 0 | | 0 | | 0 | 0 |
| | Field Engineer - Layout/As-Builts | HR | 8.0 | 8 | 1.000 | 35.00 | 280 | | 0 | | 0 | | 0 | | 0 | 280 |
| | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | |
| | SUBTOTAL | | | 10 | HR | | 360 | | 1,575 | | 0 | | 0 | | 0 | 1,935 |
| | FUEL & OIL (50% Equipment Total) | | | | | | | | | | 0 | | | | | 0 |
| | SMALL & MISC TOOLS, & EXPEND ($2.00/MH) | | | | | | | | | | | | | | 20 | 20 |
| | MINOR RENTAL ($0.32/MH) | | | | | | | | | | | | | | 3 | 3 |
| | SAFETY EQUIPMENT ($0.45/MH) | | | | | | | | | | | | | | 5 | 5 |
| | CLEAN-UP ($1.50/MH) | | | | | | 15 | | | | | | | | | 15 |
| | PT&I (51%) | | | | | | 184 | | | | | | | | | 184 |
| | | | | | | | | | | | | | | | | |
| | SUBTOTAL | | | | | | 559 | | 1,575 | | 0 | | 0 | | 28 | 2,161 |
| | | | | | | | | | | | | | | | | |
| | Contingency/Risk (0%) | | | | | | | | | | | | | | 0 | 0 |
| | LABOR/MATERIAL MARKUP (15%) | | | | | | | | | | | | | | 324 | 324 |
| | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | |
| | SUBTOTAL | | | | | | 559 | | 1,575 | | 0 | | 0 | | 352 | 2,485 |
| | | | | | | | | | | | | | | | | |
| | WSCI Bond $3.00 / $1,000.00 Change | | | | | | | | | | | | | | 9 | 9 |
| | | | | | | | | | | | | | | | | |
| | SUBTOTAL | | | | | | | | | | | | | | | 2,494 |
| | LESS CREDITS | | | | | | | | | | | | | | | 0 |
| | NET CHANGE | | | | | | | | | | | | | | | **2,494** |

Notes:
1. ITEMS NOT SPECIFICALLY LISTED IN THIS PROPOSAL ARE NOT INCLUDED.
2. Schedule impacts will be addressed upon entering the activity into the schedule.
3. See back-up for additional details.

**City of Lubbock, TX**
**Capital Project**
**Project Cost Detail**
**April 10, 2014**

| | |
|---|---|
| Capital Project Number: | 92255 |
| Capital Project Name: | BCWF Supply Line/ Pumping System |

| | | Budget |
|---|---|---|
| *Encumbered/Expended* | | |
| City of Lubbock Staff Time | $ | 37,203 |
| Advertisement | | 146 |
| Misc. Services | | 51,000 |
| Freese & Nichols - LHB Assessment Professional Services | | 378,200 |
| Freese & Nichols - BCWF Supply Line Preliminary Engineering | | 274,129 |
| Freese & Nichols - BCWF Amendment #1: Supply Line Final Design and Bid Phase Services | | 2,163,829 |
| Freese & Nichols - BCWF Amendment #2: Contract A Construction Phase Services | | 690,367 |
| Freese & Nichols - BCWF Amendment #3 Time - Construction Phase | | - |
| Western Summit Constructors, Inc. - BCWF Supply Pipeline Construction Contract A | | 6,167,173 |
| Western Summit Constructors, Inc. BCWF Supply Pipeline Construction Contract A Change Order 1 | | (46,194) |
| Pump Station 7 Land Acquisition | | 708,471 |
| Pipeline Land Acquisition | | 220,493 |
| Garney Construction - BCWF Supply Pipeline Construction Contract B | | 9,144,464 |
| *Current Agenda Items- April 10, 2014* | | |
| Freese and Nichols - Pump Station 16 Preliminary and Final Design | | 1,567,600 |
| Western Summit Constructors, Inc. Contract A Change Order 2 - BCWF Supply Pipeline Constrction | | (101,499) |
| **Encumbered/Expended to Date** | | 21,255,382 |
| *Estimated Costs for Remaining Appropriation* | | |
| Construction | | 5,244,618 |
| ***Remaining Appropriation*** | | 5,244,618 |
| **Total Appropriation To Date** | $ | 26,500,000 |

*Managing Department* **Pumping & Control**

*Project Manager* **Bruce Blalack**

*Project Classification* **Replacement Infrastructure**

*Project Status* **Approved**

*Project Scope*

The following work will be performed with this project as supported by a recent engineering evaluation of the Low Head B pump station, pump station No. 9, pump station No. 7 and the Bailey County Well Field (BCWF) supply line.

1. Add a new branch to the BCWF supply line to relocate the main system connection directly to pump station No. 7 and by-pass the aged Low Head B pump station.

2. Demolish the Low Head B pump station.

3. Rehabilitate or Relocate and replace pump station No. 7

4. Rehabilitate pump station No. 9

*Project Justification*

Replacing aging infrastructure  insures reliable continuous water service to Lubbock citizens and reduces annual maintenance costs, system failures, and utility expenses.

*Project History*

$1.0 million was appropriated in FY 2010-11 Budget Amendment No. 7, Ord. No. 2011-O0035, April 14, 2011.
$9.5 million was appropriated in the FY 2011-12 Budget, Ord. No. 2011-O0080, September 8, 2011.
$16.0 was appropriated in the FY 2013-14 Budget, Ord. No. 2013-O0087, September 10, 2013.

| | | | Unappropriated Planning Years | | | | | |
|---|---|---|---|---|---|---|---|---|
| *Appropriation Detail* | Appropriation to Date | FY 2013-14 | FY 2014-15 | FY 2015-16 | FY 2016-17 | FY 2017-18 | FY 2018-19 | Total Project Amount |
| Construction | 10,500,000 | 16,000,000 | 12,000,000 | 1,000,000 | 0 | 0 | 0 | 39,500,000 |
| **Total Project Appropriation** | 10,500,000 | 16,000,000 | 12,000,000 | 1,000,000 | 0 | 0 | 0 | 39,500,000 |

| | | | Unappropriated Planning Years | | | | | |
|---|---|---|---|---|---|---|---|---|
| *Funding Detail* | Funding to Date | FY 2013-14 | FY 2014-15 | FY 2015-16 | FY 2016-17 | FY 2017-18 | FY 2018-19 | Total Funding |
| FY 2011 10-year Water Revenue CO's | 1,000,000 | 0 | 0 | 0 | 0 | 0 | 0 | 1,000,000 |
| FY 2012 Water Revenue CO's | 9,500,000 | 0 | 0 | 0 | 0 | 0 | 0 | 9,500,000 |
| FY 2014 Water Revenue CO's | 0 | 16,000,000 | 0 | 0 | 0 | 0 | 0 | 16,000,000 |
| FY 2015 Water Revenue CO's | 0 | 0 | 12,000,000 | 0 | 0 | 0 | 0 | 12,000,000 |
| FY 2016 Water Revenue CO's | 0 | 0 | 0 | 1,000,000 | 0 | 0 | 0 | 1,000,000 |
| **Total Funding Sources** | 10,500,000 | 16,000,000 | 12,000,000 | 1,000,000 | 0 | 0 | 0 | 39,500,000 |

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

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

**Ordinance 2nd Reading – Right-of-Way**: Consider Ordinance 2014-O0054 abandoning and closing a temporary drainage easement located in Section 28, Block AK, Lubbock County, Texas.

**Item Summary**

On March 27, 2014, the City Council approved the first reading of the ordinance.

This ordinance abandons and closes a temporary drainage easement located west of the intersection of Justice Avenue and 95th Street. The easement is no longer needed due to new lots being platted in this area of Day Estates.

Storm Water Management Engineering Department is in agreement with the easement closure.

**Fiscal Impact**

None.

**Staff/Board Recommending**

R. Keith Smith, Chief Operating Officer

**Attachments**

Ordinance - Section 28, Block AK

ORDINANCE NO. _____

AN ORDINANCE ABANDONING AND CLOSING A TEMPORARY DRAINAGE EASEMENT, LOCATED IN SECTION 28, BLOCK AK, LUBBOCK COUNTY, TEXAS AND MORE PARTICULARLY DESCRIBED IN THE BODY OF THIS ORDINANCE; DIRECTING THE CITY ENGINEER TO MARK THE OFFICIAL MAPS OF THE CITY TO REFLECT SAID ABANDONMENT AND CLOSING; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR PUBLICATION.

WHEREAS, the City Council finds that the easement as hereinafter described in the body of this Ordinance is no longer needed for easement purposes and for public use; and it would be in the public interest to close, vacate and abandon the same for easement purposes and for public use, and it would be in the public interest to close, vacate and abandon the same; NOW THEREFORE:

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

SECTION 1. THAT the easement as hereinafter described shall BE and the same is hereby closed, vacated and abandoned for easement purposes and for public use, such easement being more particularly described in the attached Exhibit "A".

SECTION 2. THAT the City Engineer is hereby authorized and directed to mark the official maps of the City of Lubbock to reflect said abandonment and closing, showing the number of this Ordinance and the date of its final passage.

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

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

AND IT IS SO ORDERED.

Passed by the City Council on first reading this _____, 2014.

Passed by the City Council on second reading this _____, 2014.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Dave Booher
Dave Booher, Right-of-Way Agent

APPROVED AS TO FORM:

Chad Weaver
Chad Weaver, Assistant City Attorney

A&C-DEasement, Section 28, Blk AK.ord
3.5.14

LAND SURVEYORS
CIVIL ENGINEERS

HUGO REED AND ASSOCIATES, INC.
/ LUBBOCK, TEXAS 79401 / 806-763-5642 / FAX 806-763-3891
TEXAS REGISTERED ENGINEERING FIRM F-760
TEXAS LICENSED SURVEYING FIRM 100676-00

EXHIBIT "A"

## Temporary Drainage Easement

METES AND BOUNDS DESCRIPTION for a 1.449 acre tract of land located in Section 28, Block AK, Lubbock County, Texas, being further described as follows:

BEGINNING at a 1/2" iron rod with cap set, which bears N. 01°43'58" E., a distance of 513.06 feet and S. 88°06'09" E., a distance of 1049.09 feet from the Southwest corner of Section 28, Block AK, Lubbock County, Texas;

THENCE N. 01°53'51" E., a distance of 56.00 feet to a 1/2" iron rod with cap set;

THENCE S. 88°06'09" E., a distance of 170.00 feet to a 1/2" iron rod with cap set;

THENCE N. 01°53'51" E., a distance of 145.00 feet to a 1/2" iron rod with cap set at a point of curvature;

THENCE Northwesterly, along a curve to the left, said curve having a radius of 174.00 feet, a central angle of 21°09'56", tangent lengths of 32.51 feet and a chord distance of 63.91 feet to a 1/2" iron rod with cap set at a point of tangency;

THENCE N. 19°16'05" W., a distance of 105.28 feet to a 1/2" iron rod with cap set;

THENCE S. 88°06'09" E., a distance of 296.58 feet to a 1/2" iron rod with cap found;

THENCE S. 01°53'51" W., a distance of 52.00 feet to a 1/2" iron rod with cap found;

THENCE N. 88°06'09" W., a distance of 220.68 feet to a 1/2" iron rod with cap set;

THENCE S. 19°16'05" E., a distance of 29.38 feet to a 1/2" iron rod with cap set at a point of curvature;

THENCE Southeasterly, along a curve to the right, said curve having a radius of 226.00 feet, a central angle of 21°09'56", tangent lengths of 42.22 feet and a chord distance of 83.01 feet to a 1/2" iron rod with cap set at a point of tangency;

THENCE S. 01°53'51" W., a distance of 145.00 feet to a 1/2" iron rod with cap set;

THENCE S. 88°06'09" E., a distance of 250.00 feet to a 1/2" iron rod with cap set;

THENCE N. 01°53'51" E., a distance of 105.00 feet to a 1/2" iron rod with cap found;

THENCE S. 88°06'09" E., a distance of 52.00 feet to a 1/2" iron rod with cap found;

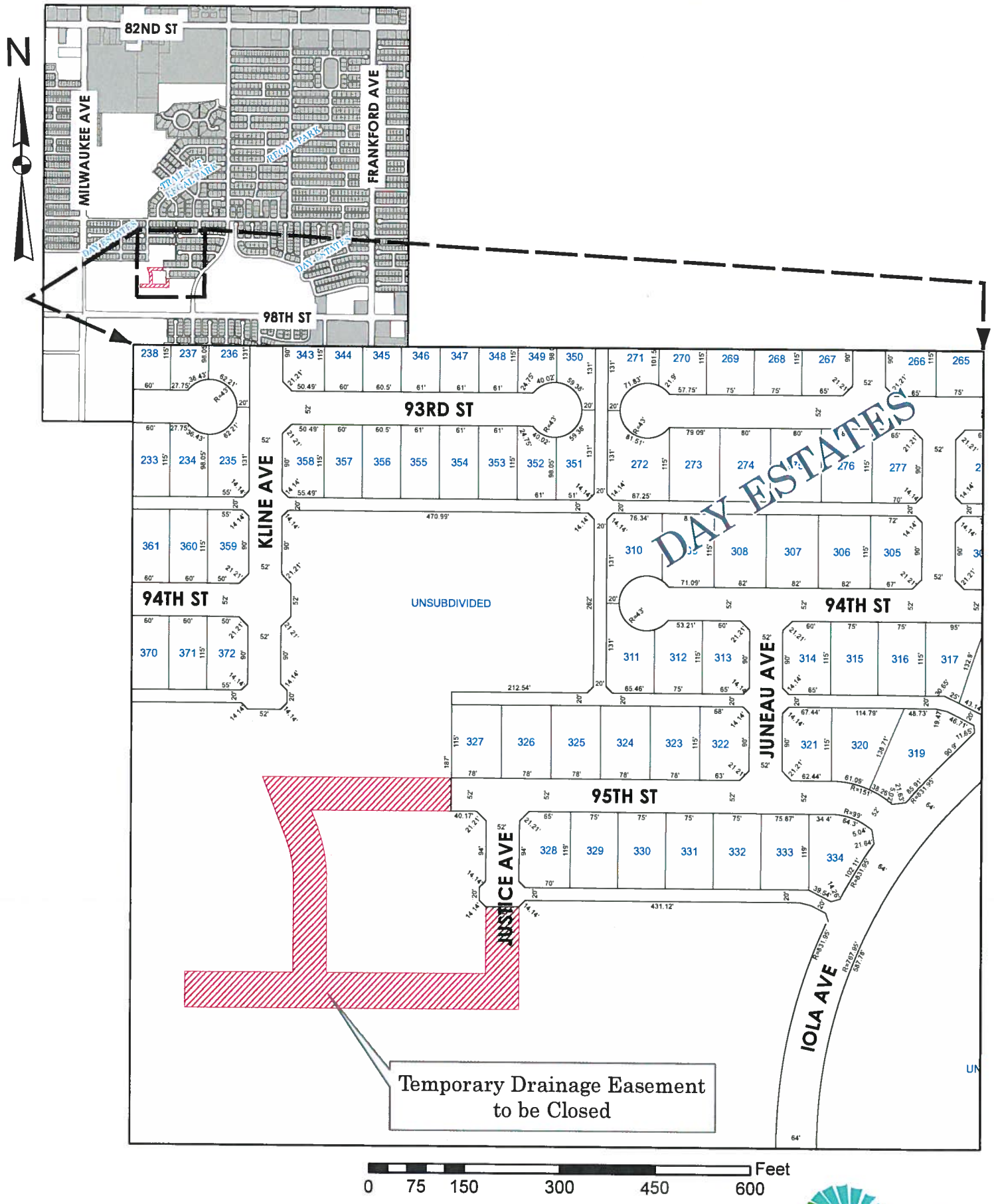
THENCE S. 01°53'51" W., a distance of 161.00 feet to a 1/2" iron rod with cap set;

THENCE N. 88°06'09" W., a distance of 524.00 feet to the Point of Beginning.

Bearings relative to Grid North, NAD 83, Texas Coordinate System, North-Central Zone, City of Lubbock Geodetic Network and Aerial Control. Distances are Surface, U.S. Survey Feet.

Brent Carroll
Registered Professional
Land Surveyor No. 5410
State of Texas
March 26, 2013

# Proposed Closing of a Temporary Drainage Easement (CCFN 2013016232) Located West of the Intersection of Justice Avenue & 95th Street, Section 28, Block AK




As required by SECTION 1, Chapter 2051, SUBCHAPTER D. GEOSPATIAL DATA PRODUCTS of the Government Code, the City of Lubbock hereby provides notice that the data on this map was created by the City of Lubbock. Any data that appears to represent property boundaries is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

City of Lubbock TEXAS

**Regular City Council Meeting** **5. 7.**

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

**Ordinance 1st Reading – Right-of-Way**: Consider an ordinance abandoning and closing a portion of a 15-foot utility easement located in Lot 2, Hoop Addition, Lubbock County, Texas, 302 North University.

**Item Summary**

This ordinance abandons and closes a portion of a 15-feet utility easement located in Lot 2 Hoop Addition, which is located just east of North University and north of Baylor Street. A new easement will be dedicated to replace the closure. Public Works Engineering and all utility companies are in agreement with the easement closures.

**Fiscal Impact**

None.

**Staff/Board Recommending**

R. Keith Smith, P.E., Director of Public Works

**Attachments**

Ordinance - Hoop Addition

ORDINANCE NO. _____

AN ORDINANCE ABANDONING AND CLOSING A PORTION OF A 15-FOOT WIDE UTILITY EASEMENT, LOCATED IN LOT 2, HOOP ADDITION, LUBBOCK COUNTY, TEXAS AND MORE PARTICULARLY DESCRIBED IN THE BODY OF THIS ORDINANCE; DIRECTING THE CITY ENGINEER TO MARK THE OFFICIAL MAPS OF THE CITY TO REFLECT SAID ABANDONMENT AND CLOSING; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR PUBLICATION.

WHEREAS, the City Council finds that the easement as hereinafter described in the body of this Ordinance is no longer needed for easement purposes and for public use; and it would be in the public interest to close, vacate and abandon the same for easement purposes and for public use, and it would be in the public interest to close, vacate and abandon the same; NOW THEREFORE:

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

SECTION 1. THAT the easement as hereinafter described shall BE and the same is hereby closed, vacated and abandoned for purposes and for public use, such easement being more particularly described in attached Exhibit "A".

SECTION 2. THAT the City Engineer is hereby authorized and directed to mark the official maps of the City of Lubbock to reflect said abandonment and closing, showing the number of this Ordinance and the date of its final passage.

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

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

AND IT IS SO ORDERED.

Passed by the City Council on first reading this _____, 2014.

Passed by the City Council on second reading this _____, 2014.

_____
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

Ord.UEasement-Lot 2, Hoop Addn
3.28.14

EXHIBIT
"A"

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

"Count on it"

FIELD NOTES on a portion of a 15 feet wide utility easement out of Lot 2, Hoop Addition according to the map, plat, and/or dedication deed thereof recorded in Volume 4748, Page 294, Lubbock County Real Property Records, proposed for closure and further described as follows:

BEGINNING 60 feet West and 8 feet South of the Northeast corner of Lot 2, Hoop Addition;

THENCE South, 57 feet to the Southeast corner of this tract;

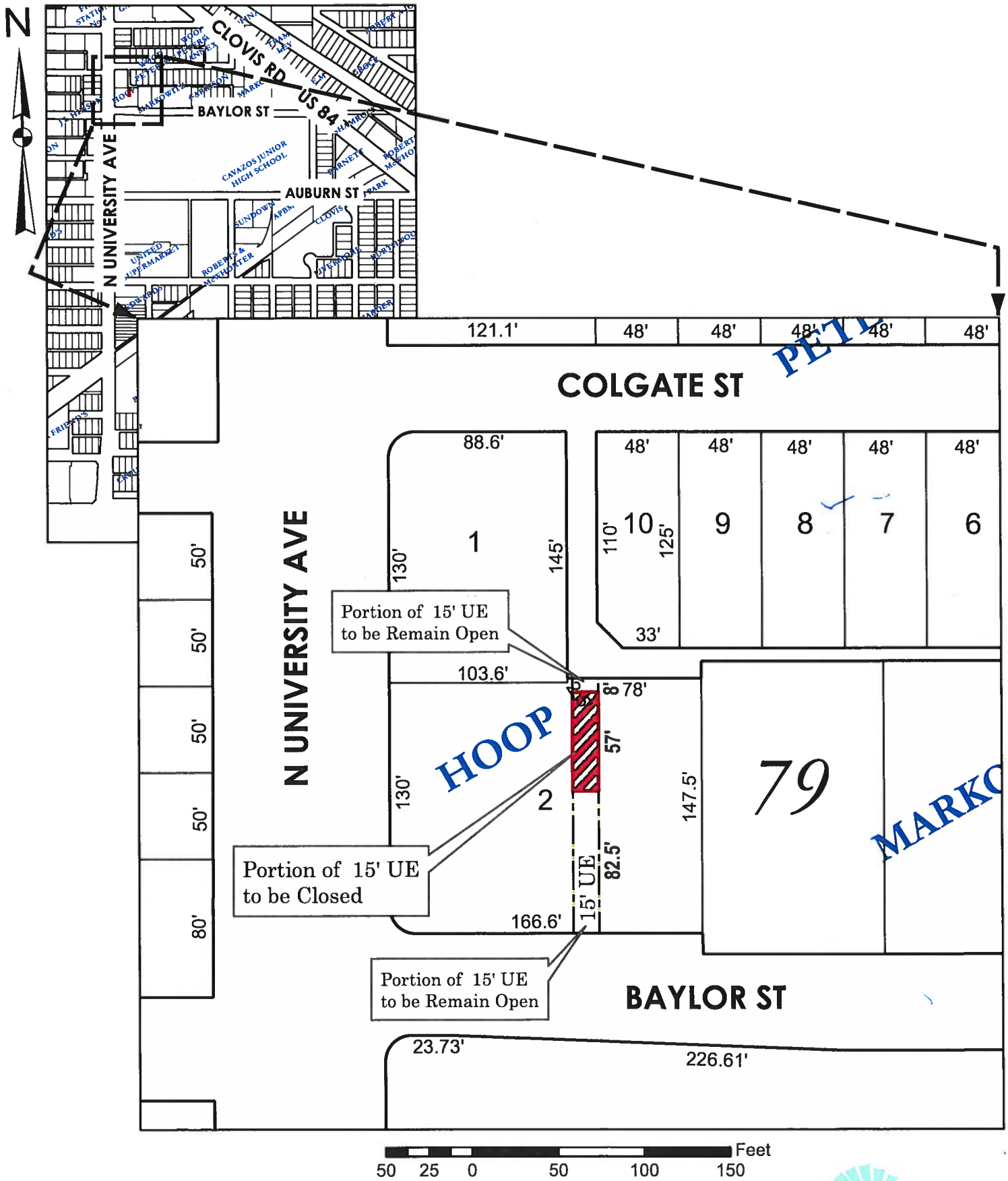
THENCE West, 15 feet to the Southwest corner of this tract;

THENCE North, 57 feet to the Northwest corner of this tract;

THENCE East, 15 feet to the PLACE of BEGINNING containing 855 square feet.

These Notes are based on a survey made on the ground.
November 4, 2013
J. M. Cieszinski RPLS # 4460
Bearings relative to the Final Plat of Lots 1 and 2 Hoop Addition

# Proposed Closing of a Portion of a 15' wide Utility Easement Located in Lot 2, Hoop Addition

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City of Lubbock TEXAS

**Regular City Council Meeting** **5. 8.**

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

**Resolution - Right-of-Way**: Consider a resolution authorizing the City Council to accept on behalf of the City an easement from Attebury Grain, LLC regarding the acquisition of right-of-way for the South Lubbock Sanitary Sewer Extension Phase 1, out of Section 4 Block B, Lubbock County, Texas.

**Item Summary**

The City has experienced significant growth in the south and southwest regions of the existing wastewater collection system. Population growth in south and southwest Lubbock created a need for additional conveyance capacity from 98th Street and Avenue P to the Water Reclamation Plant. These improvements were first recommended in the 2009 Wastewater Master Plan. The City is acquiring right-of-way for construction of a large diameter sanitary sewer associated with the South Lubbock Sanitary Sewer Extension Phase 1.

The purchase price is $2,316.00 plus closing cost with West Texas Title Company.

**Fiscal Impact**

$26,500,000.00 is appropriated in Capital Improvement Project 92178, South Lubbock Sanitary Sewer Extension Phase 1, with $2,316.00 available for this purpose.

**Staff/Board Recommending**

R. Keith Smith, P.E., Director of Public Works

**Attachments**

Resolution & Easement - Attebury Grain

# RESOLUTION

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

THAT the City Council hereby accepts on behalf of the City of Lubbock an Easement as described on Exhibit "A" attached hereto and incorporated herein by reference, located in Section 4, Block B, Lubbock, Lubbock County, Texas, and related documents. Said Easement is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

THAT the consideration for the Easement shall be $2,316.00 and that any closing costs shall also be paid in connection with the purchase of the property, said payments approved herein.

Passed by the City Council on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
R. Keith Smith, P.E., Director of Public Works

_____
Dave Booher, Right-of-Way Agent

APPROVED AS TO FORM:

_____
Chad Weaver, Assistant City Attorney

RES.Easement.attebary Grain-Parcel 12&12A
3.25.14

**EASEMENT**

STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS, THAT:
COUNTY OF LUBBOCK §

GRANTOR, Attebury Grain, LLC, a Texas Limited Liability Company with street address of 3905 Bell Street, Suite B, Amarillo, Texas 79109, for a valuable consideration, to it paid by The City of Lubbock, Texas (the "Grantee") with offices at 1625 13th Street, Lubbock, Texas 79401, the receipt and sufficiency of which are hereby acknowledged, has granted and does by these presents grant unto Grantee the following described perpetual exclusive easement, servitude and right-of-way, as described herein (hereinafter called the "Easement") through, over, under, upon, across and within the lands, described in Exhibit A (hereinafter called the "Lands" or "Easement Lands") situated in Lubbock County, Texas.

**Pipelines and Equipment**

Grantor hereby grants to Grantee a perpetual exclusive Easement to install transmission lines and to survey, construct, reconstruct, install, operate, inspect, maintain, alter, relocate, replace, repair, and remove (hereinafter called "Permitted Uses") pipelines, conduits, drain (blow-off) valves, valve boxes, meters, meter boxes, vents, manholes, manhole covers, corrosion monitoring test stations, pipeline markers, fence gates, impressed current deep well anode stations with power supplies, flow meters, system communication lines and splice boxes, pipeline trail road on non cultivated areas, and all other equipment and facilities related thereto, or any part thereof (hereinafter collectively called the "Pipeline System"), for and/or related to the transportation of water and/or waste water through, under, upon, over, across and within the Lands. Such perpetual exclusive Easement shall be as described herein and on Exhibit A attached hereto and incorporated herein, and hereby made a part hereof by reference to describe the Easement and the Lands. Further, Grantor hereby grants unto Grantee a temporary construction easement (the "Temporary Easement") for the construction and installation of the Pipeline System through, over, under, upon, across and within the lands located adjacent to, and abutting, the Easement (the "Temporary Easement Area") as more specifically described on Exhibit B as well as for all other purposes identified in 13 below. The Temporary Easement shall terminate and expire upon the completion of all construction activities related to that portion of the Pipeline System situated within the Easement.

For Ten Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, this Easement is specifically made by Grantor and accepted by Grantee subject to the following terms, covenants, obligations and conditions:

1. Grantee may use and occupy the Easement for the sole purpose of: (a) the right to perform Permitted Uses related to the Pipeline System; (b) the right (for men, material, and equipment) of ingress and egress and regress to and from and access on and along said Easement granted herein, with the right to ingress and egress and regress to and from and access on and along said Easement, for the Permitted Uses; and (c) the right

to locate the Pipeline System through, under, across and within the Easement for the purpose of water transportation.

2. Grantee covenants and agrees that its use of the Easement and its operations conducted thereon shall, to the best of Grantee's ability, at all times comply with all applicable local, state and federal laws, orders, rules, regulations, standards, licensing, permitting and other legal requirements including, without limitation, all environmental laws, orders, rules, regulations, standards, licensing and permitting (the "Legal Requirements"). Grantee agrees to construct the Pipeline System in a prudent manner, in compliance with all Legal Requirements, and with due care for Grantor's property, business and operations. In the event it is discovered that Grantee is in violation of any portion of the Legal Requirements, Grantee agrees to commence, upon receipt of written notice of such violation, the process of curing such violation so that Grantee will be in compliance with this subparagraph.

3. The Easement granted herein shall be for the transportation of water and/or waste water, regardless of source, and shall continue in full force and effect unless Grantee should abandon the Pipeline System as identified herein. The rights granted to Grantee herein may be abandoned solely by a formal resolution of its governing body that authorizes the abandonment of the Pipeline System. Any such abandonment will not be effective until it is evidenced by notice in writing, signed by the Grantee's official representative, and filed of record in the county where the Lands are located.

4. The Easement Term is hereby defined as the period of time beginning with the granting of the Easement and continuing until such time that the Easement is abandoned by Grantee.

5. Grantor and Grantee agree that during construction related to the Pipeline System, any and all trees, dirt, raw materials, timber, spoil piles, excess dirt, wood, bushes, shrubs and brush, and other debris materials shall, be removed by Grantee from Grantor's property.

6. Grantee shall keep the Easement in good order, condition and repair following any work related to Permitted Uses on the Pipeline System.

7. Grantee shall be responsible for obtaining all permits necessary to construct and operate the Pipeline System on the Easement. Without limiting the foregoing, and to the extent required, Grantee will secure and maintain any and all environmental permits required by the Texas Commission on Environmental Quality covering the Easement.

8. During construction of the Pipeline System, Grantee shall provide reasonable access to Grantor's property. Within the Easement, Grantee shall have the right to cut fences and install gates to enable Permitted Uses for the Pipeline System.

9. This grant of Easement shall not preclude the right of Grantor to cultivate, use, and enjoy the Lands for any purposes which will not constitute an interference with the Easement, rights and privileges herein granted to Grantee, or endanger any of Grantee's property at the sole discretion of the Grantee.

10. Grantee shall exercise due care and diligence in the use of the rights and privileges herein granted to it. In case of abandonment of said Easement as provided in 3 above, the title and interest herein granted shall end, cease, and terminate, and title to the Easement, pipeline, equipment and facilities shall revert to the then owner of the Lands.

11. Grantor warrants and represents that the title to the Lands described herein are vested in the Grantor, free and clear of any liens and/or encumbrances. Grantor shall provide to Grantee an executed release from any lien holder, tenant, lessee, or other party having an interest in the Lands.

12. Grantor shall procure and have recorded without cost to Grantee all assurances of title and affidavits which the Grantor may be advised by Grantee are necessary and proper to show in Grantor title sufficient to grant the above easement free and clear of encumbrances other than those encumbrances expressly defined herein. Abstracts or certificates of title or title insurance may be procured by the Grantee at its expense. The expense of recording this Easement shall be borne by Grantor. Grantee agrees to cooperate and aid Grantor, if necessary, to obtain any curative documents needed.

13. Grantee shall have the right to use Grantor's property located immediately adjacent to the Easement and as described on Exhibit B attached hereto and incorporated herein as thought set forth verbatim for the following:

A. detouring around natural impediments within the Easement; or

B. the construction, maintenance, repair and removal of the Pipeline System within the Easement.

14. "Grantee" when used in this instrument, shall include The City of Lubbock's officers, agents, servants, employees, representatives, contractors, independent contractors, subcontractors, and/or their equipment or vehicles.

15. Words of any gender used in this agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.

16. It is understood and agreed that this Easement is not a conveyance of the fee estate for any of the Lands covered hereunder, but is only an easement through, over, under, upon, across and within the Lands to perform the Permitted Uses as set forth in Paragraph 1 herein.

17. The provisions of this Easement shall be binding upon and inure to the benefit of the successors and assigns of the respective parties hereto.

18. This Easement contains the final and complete expression of the parties with respect to any matter mentioned herein. No prior agreement or understanding pertaining to any such matter shall be effective. This Easement may be modified in writing only, signed by the parties in interest at the time of the modification.

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

20. Any notices or demands provided to be given herein by the parties shall be in writing and mailed by certified or registered mail to the other party at the address set forth above. Any notice or demand shall be deemed to have been received the earlier of five (5) days after the date of mailing or the date of actual delivery as shown by the addressee's certification or registry receipt.

21. Neither party shall be liable to the other party or any of such party's affiliates in any action or claim, including without any limitation, any action or claim for loss of profit, loss of product, loss of use, or for indirect, consequential, punitive, exemplary, special or other similar types of damages, regardless of how caused and regardless of the underlying theory of recovery, and even if caused by the sole or concurrent negligence of the responsible party.

A. To the extent that Grantor owns any portion of any mineral estate, leasehold estate and/or royalty interest of any kind or character under the Lands defined herein, Grantor surrenders and releases its surface drilling rights and all other rights of surface use of the Easement and Lands incident to the production of oil, gas, hydrocarbons, minerals, wind energy, and water production subject to the following exception and limitation:

i) Grantor reserves and excepts from this release and retains for itself, its successors and its successors-in-interest, all rights to explore for, to drill and produce oil, gas and other hydrocarbons underlying or situated beneath the Easement and Lands by any means whatsoever, including wells directionally drilled from surface location on nearby lands so long as no surface operations are performed on the Easement and so long as such operations will not interfere with or endanger the operations or integrity of the Pipeline System and Permitted Uses.

ii) Grantor shall include the surface use restrictions and covenants provided herein in any subsequent lease or conveyance of the oil, gas and/or mineral estate, wind rights or interests and water rights or interests.

22. Grantee shall have the right to approve the location and means of future third-party pipelines which will cross Grantee's pipeline system and come within the Easement. Grantee will not withhold reasonable crossing requests, but will act in a manner to protect the Grantee's Pipeline System and Grantee's Easement.

23. All requirements and obligations of Grantor and Grantee relating to the Easement shall also apply in all respects to the property described in Exhibit B.

24. Notwithstanding anything herein to the contrary, Grantee agrees that the City of Lubbock shall bore underneath the existing railway located within the Easement Lands to install any pipelines necessary for operation of the Pipeline System. Any boring contemplated herein shall be in accordance with previously approved Burlington Northern Santa Fe Railway boring guidelines and/or standards.

TO HAVE AND TO HOLD said Easement unto Grantee, its successors and assigns for so long as the same shall be used for the purposes aforesaid subject to the terms and conditions hereof.

[*Signatures of the Parties on Next Page*]

EXECUTED this 20th day of March, 2014 ("Effective Date").

GRANTOR:

ATTEBURY GRAIN, LLC, a Texas Limited Liability Company

By: Ed Laur

Name: Ed Laur

Title: Vice-President

GRANTEE:

The City of Lubbock

By: _____

Name: _____

Title: _____

ATTEST:

_____
Rebecca Garza, City Secretary

[Acknowledgements *of the Parties on Next Page]*

APPROVED AS TO CONTENT:

R. Kent Smith
DIRECTOR OF PUBLIC WORKS

APPROVED AS TO FORM:

_____
Ryan J. Bigbee, Attorney

STATE OF TEXAS §
§
COUNTY OF Randall §

This instrument was acknowledged before me on March 20, 2014, by Ed Law, Vice President, Attebury Grain, LLC on behalf of Attebury Grain, LLC, a Texas Limited Liability Company.

Lorena Ann Green
Notary Public, State of Texas

LORENA ANN GREER
Notary Public, State of Texas
My Commission Expires
February 06, 2017

Lorena Ann Greer
Printed Name of Notary
My commission expires: 02/06/2017

STATE OF TEXAS §
COUNTY OF LUBBOCK §

This instrument was acknowledged before me on _____, 2014, by GLEN ROBERTSON on behalf of the City of Lubbock, a Texas Home Rule Corporation on behalf of said Texas Home Rule Corporation.

_____
Notary Public, State of _____

_____
Printed Name of Notary
My commission expires: _____

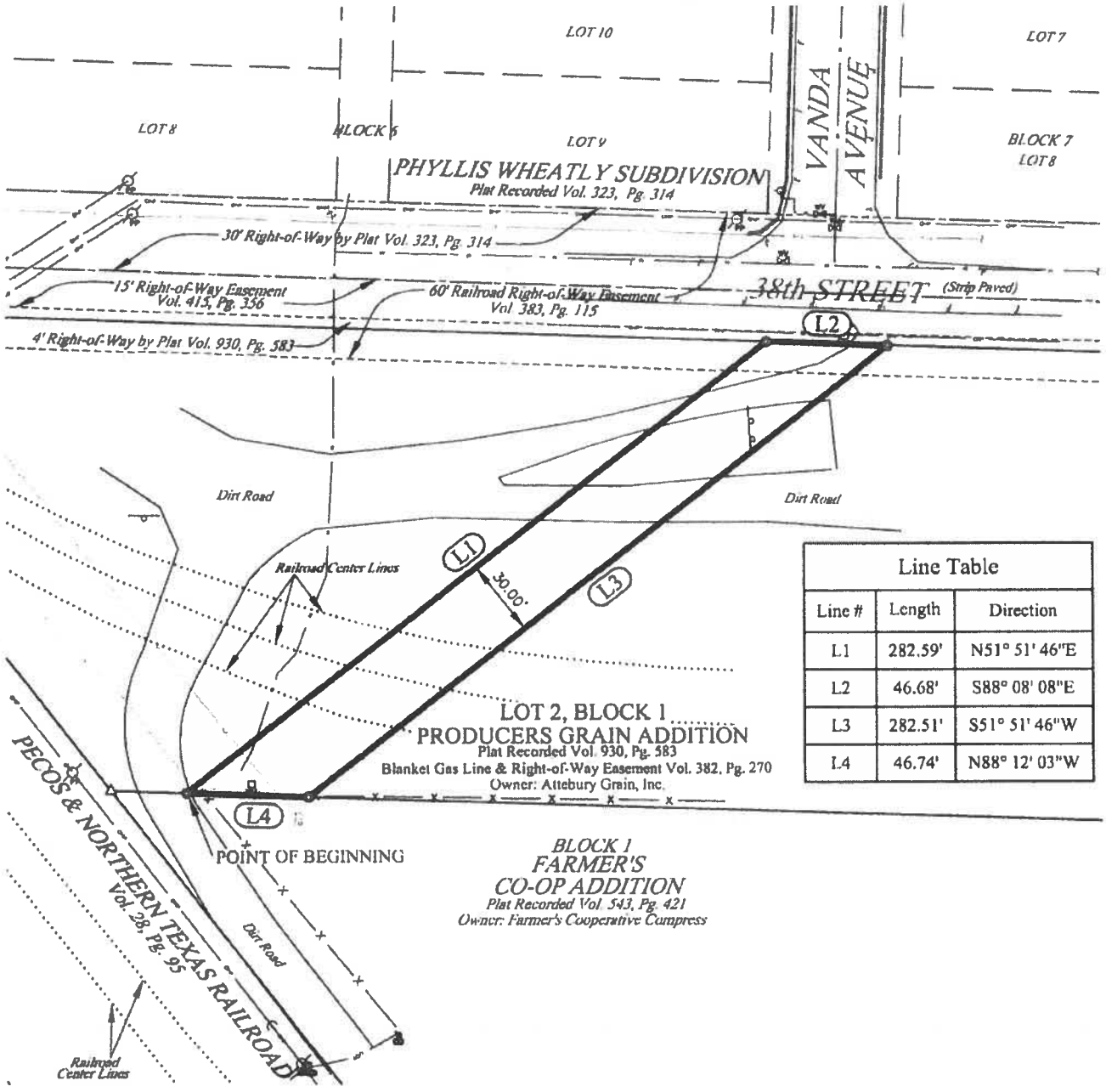
**Exhibit A**
Legal Description of the Perpetual Exclusive Easement

South Lubbock Sanitary Sewer Extension
Parcel No. 12
PERIMETER SURVEY OF A 0.195 ACRE TRACT LOCATED IN

# SECTION 4, BLOCK B

LUBBOCK COUNTY, TEXAS

SCALE : 1"=60'




| Line Table | | |
|---|---|---|
| Line # | Length | Direction |
| L1 | 282.59' | N51° 51' 46"E |
| L2 | 46.68' | S88° 08' 08"E |
| L3 | 282.51' | S51° 51' 46"W |
| L4 | 46.74' | N88° 12' 03"W |

Bearings are relative to the Texas Coordinate System of 1983, North Central Zone, CORS 96, Epoch 2002.0
Distances are surface, U.S. Survey feet.
Combined Scale Factor: 1.00024

Surveyed on the ground.
July 25, 2012

John E. Allen
Registered Professional
Land Surveyor No. 5895
State of Texas

STATE OF TEXAS
REGISTERED
JOHN E. ALLEN
5895
PROFESSIONAL
LAND SURVEYOR

NOTES:
HEAVY LINES INDICATE PLAT LIMITS.
Δ - FOUND 3/4" IRON PIPE
● - SET 1/2" IRON ROD WITH CAP

A legal description of even survey date herewith accompanies this plat of survey.

Sheet 1 of 2


HUGO REED AND ASSOCIATES, INC.
LAND SURVEYORS
CIVIL ENGINEERS
TEXAS LICENSED SURVEYING FIRM 100676-00
TEXAS REGISTERED ENGINEERING FIRM F-780
1601 AVENUE N
LUBBOCK, TEXAS 79401
PHONE: 806 / 763-5642
FAX: 806 / 763-3891



Copyright 2012, Hugo Reed and Associates, Inc. for the sole use of Title Co. for GF # and any other identifiers as indicated in the certificate shown hereon.

South Lubbock Sanitary Sewer Extension
Parcel No. 12
PERIMETER SURVEY OF A 0.195 ACRE TRACT LOCATED IN

# SECTION 4, BLOCK B

LUBBOCK COUNTY, TEXAS

METES AND BOUNDS DESCRIPTION of a 0.195 acre parcel located in Lot 2, Block 1, Producers Grain Addition, to the City of Lubbock, Texas, a subdivision of tracts out of Section 4, Block B, Lubbock County, Texas, according to the map, plat and/or dedication deed thereof recorded in Volume 930, Page 583, Deed Records, Lubbock County, Texas being further described as follows:

BEGINNING at a 1/2" iron rod set in the South line of said Lot 2, Block 1, Producers Grain Addition and in the North line of Block 1, Farmers Co-Op Addition, out of Section 4, Block B, Lubbock County, Texas, according to the map, plat and/or dedication deed thereof recorded in Volume 543, Page 421, Deed Records, Lubbock County, Texas, and for the Southwest corner of this parcel, which bears S. 88°12'03" E. a distance of 28.78 feet from a 3/4" iron pipe found at the Southwest corner of said Lot 2, Block 1, Producers Grain Addition and the Northwest corner of said Block 1, Farmers Co-Op Addition;

THENCE N. 51°51'46" E. a distance of 282.59 feet to a 1/2" iron rod with cap set in the North line of said Lot 2, Block 1, Producers Grain Addition also being in the South line of a 15 foot right-of-way easement described in Volume 383, Page 115, Deed Records, Lubbock County, Texas, for the Northwest corner of this parcel;

THENCE S. 88°08'08" E. along the North line of said Lot 2, Block 1, Producers Grain Addition and the South line of said 15 foot right-of-way easement a distance of 46.68 feet to a 1/2" iron rod with cap set for the Northeast corner of this parcel;

THENCE S. 51°51'46" E. a distance of 282.51 feet to a 1/2" iron rod with cap set in the South line of said Lot 2, Block 1, Producers Grain Addition and the North line of said Block 1, Farmers Co-Op Addition, for the Southeast corner of this parcel;

THENCE N. 88°12'03" W. along the common line of said Lot 2, Block 1, Producers Grain Addition and said Block 1, Farmers Co-Op Addition, a distance of 46.74 feet to the Point of Beginning.

Bearings relative to Grid North, NAD 83, Texas Coordinate System, North-Central Zone. Distances are Surface, U. S. Survey Feet. Combined Scale Factor: 1.00024

A plat of even survey date herewith accompanies this legal description.

Surveyed on the ground
July 25, 2012

John E. Allen

John E. Allen
Registered Professional
Land Surveyor No. 5895
State of Texas

HUGO REED AND ASSOCIATES, INC.
LAND SURVEYORS
CIVIL ENGINEERS
TEXAS LICENSED SURVEYING FIRM 100676-00
TEXAS REGISTERED ENGINEERING FIRM F-760
1601 AVENUE N
LUBBOCK, TEXAS 79401
PHONE: 806 / 763-5642
FAX: 806 / 763-3891

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F-2

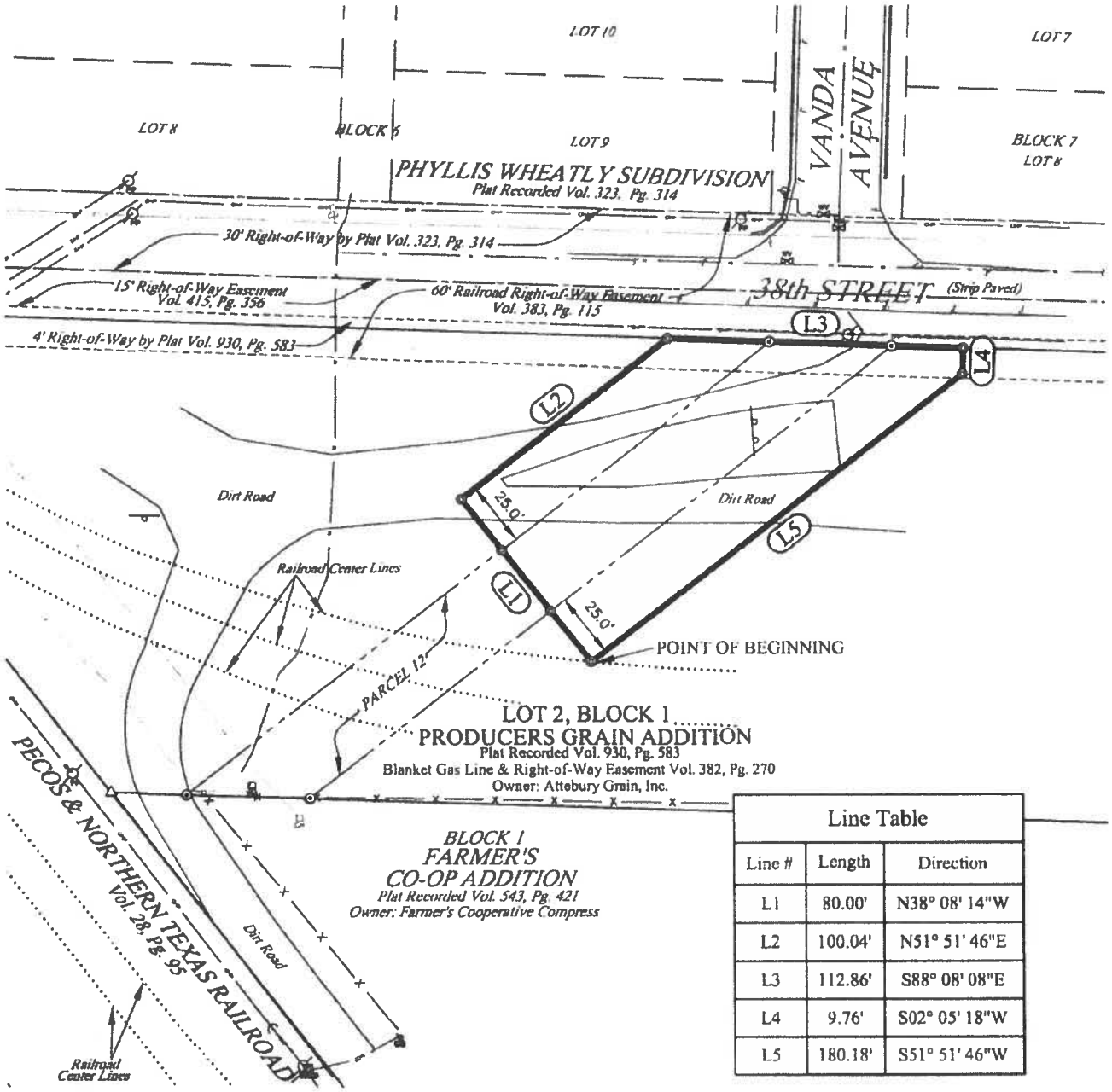
**Exhibit B**
Legal Description of the Temporary Easement

South Lubbock Sanitary Sewer Extension
Parcel No. 12-A
PERIMETER SURVEY OF A 0.270 ACRE TRACT LOCATED IN

# SECTION 4, BLOCK B

LUBBOCK COUNTY, TEXAS

SCALE : 1"=60'




| Line Table | | |
|---|---|---|
| Line # | Length | Direction |
| L1 | 80.00' | N38° 08' 14"W |
| L2 | 100.04' | N51° 51' 46"E |
| L3 | 112.86' | S88° 08' 08"E |
| L4 | 9.76' | S02° 05' 18"W |
| L5 | 180.18' | S51° 51' 46"W |

Bearings are relative to the Texas Coordinate System of 1983, North Central Zone, CORS 96, Epoch 2002.0
Distances are surface, U.S. Survey feet.
Combined Scale Factor: 1.00024

Surveyed on the ground.
July 25, 2012

John E. Allen
Registered Professional
Land Surveyor No. 5895
State of Texas

STATE OF TEXAS
REGISTERED
JOHN E. ALLEN
5895
PROFESSIONAL
LAND SURVEYOR

NOTES:
HEAVY LINES INDICATE PLAT LIMITS.
△- FOUND 3/4" IRON PIPE
●- SET 1/2" IRON ROD WITH CAP
⊙- FOUND 1/2" IRON ROD WITH CAP

A legal description of even survey date herewith accompanies this plat of survey.

Sheet 1 of 2


HUGO REED AND ASSOCIATES, INC.
LAND SURVEYORS
CIVIL ENGINEERS
TEXAS LICENSED SURVEYING FIRM 100676-00
TEXAS REGISTERED ENGINEERING FIRM F-760
1601 AVENUE N
LUBBOCK, TEXAS 79401
PHONE: 806 / 763-5642
FAX: 806 / 763-3891



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South Lubbock Sanitary Sewer Extension
Parcel No. 12-A
PERIMETER SURVEY OF A 0.270 ACRE TRACT LOCATED IN

# SECTION 4, BLOCK B

LUBBOCK COUNTY, TEXAS

METES AND BOUNDS DESCRIPTION of a 0.270 acre parcel located in Lot 2, Block 1, Producers Grain Addition, to the City of Lubbock, Texas, a subdivision of tracts out of Section 4, Block B, Lubbock County, Texas, according to the map, plat and/or dedication deed thereof recorded in Volume 930, Page 583, Deed Records, Lubbock County, Texas being further described as follows:

BEGINNING at a 1/2" iron rod set for the Southwest corner of this parcel, which bears S. 88°12'03" E. a distance of 181.23 feet and N. 01°47'57" E. a distance of 55.89 feet from a 3/4" iron pipe found at the Southwest corner of said Lot 2, Block 1, Producers Grain Addition and the Northwest corner of Block 1, Farmers Co-Op Addition, out of Section 4, Block B, Lubbock County, Texas, according to the map, plat and/or dedication deed thereof recorded in Volume 543, Page 421, Deed Records, Lubbock County, Texas;

THENCE N. 38°08'14" W. a distance of 80.00 feet to a 1/2" iron rod with cap set for the Southernmost Northwest corner of this parcel;

THENCE N. 51°51'46" E. a distance of 100.04 feet to a 1/2" iron rod with cap set in the North line of said Lot 2, Block 1, Producers Grain Addition also being in the South line of a 15 foot right-of-way easement described in Volume 383, Page 115, Deed Records, Lubbock County, Texas, for the Northernmost Northwest corner of this parcel;

THENCE S. 88°08'08" E. along the North line of said Lot 2, Block 1, Producers Grain Addition and the South line of said 15 foot right-of-way easement a distance of 112.86 feet to a 1/2" iron rod with cap set for the Northernmost Northeast corner of this parcel;

THENCE S. 02°05'18" W. a distance of 9.76 feet to a 1/2" iron rod with cap set for the Southernmost Northeast corner of this parcel;

THENCE S. 51°51'46" W. a distance of 180.18 feet to the Point of Beginning.

Bearings relative to Grid North, NAD 83, Texas Coordinate System, North-Central Zone. Distances are Surface, U. S. Survey Feet. Combined Scale Factor: 1.00024

A plat of even survey date herewith accompanies this legal description.

Surveyed on the ground
July 25, 2012

John E. Allen

John E. Allen
Registered Professional
Land Surveyor No. 5895
State of Texas

HUGO REED AND ASSOCIATES, INC.
LAND SURVEYORS
CIVIL ENGINEERS
TEXAS LICENSED SURVEYING FIRM 100676-00
TEXAS REGISTERED ENGINEERING FIRM F-760
1601 AVENUE N
LUBBOCK, TEXAS 79401
PHONE: 806 / 763-5842
FAX: 806 / 763-3891

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EZ

**Regular City Council Meeting** **5. 9.**

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

**Resolution - Right-of-Way**: Consider a resolution authorizing the City Council to accept on behalf of the City an easement from D.R. Bush Family Partners, Ltd., a Texas Limited Partnership, regarding the acquisition of right-of-way for the Bailey County Well Field Supply Line/Pumping System, located in Section 33, Block JS, Lubbock County, Texas.

**Item Summary**

In 2012 the City completed a Low head B Pump Station Facilities evaluation. This engineering evaluation recommended construction of a new Bailey County Well Field Supply Pipeline and abandonment of the Low Head B Pump Station. The City of Lubbock is acquiring right-of-way for construction of a large diameter water supply pipeline associated with the proposed Bailey County Well Field Supply Pipeline/Pumping System. This pipeline is located in west Lubbock and will supply Pump Station 7 in central Lubbock with a water supply from the Bailey County Well Field.

The total consideration of $47,500.00 which includes $42,103 for easement, an estimate of $5,397.00 for loss in utility, usefulness and inconvenience for three months.

The purchase price is $47,500.00 plus closing cost with West Texas Title Company.

**Fiscal Impact**

$26,500,000.00 is appropriated in Capital Improvement Project 92255, Bailey County Well Field Supply Line/Pumping System, with $47,500.00 available for this purpose.

**Staff/Board Recommending**

R. Keith Smith, P.E., Director of Public Works

**Attachments**

Resolution & Easement - Bush Family Partners

# RESOLUTION

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

THAT the City Council hereby accepts on behalf of the City of Lubbock an Easement as described on Exhibit "A" attached hereto and incorporated herein by reference, located in Section 43, Block AK, Lubbock, Lubbock County, Texas, and related documents. Said Easement is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

THAT the consideration for the Easement shall be $47,500.00 and that closing costs shall also be paid in connection with the purchase of the property, said payments approved herein.

Passed by the City Council on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
R. Keith Smith, P.E., Director of Public Works

_____
Dave Booher, Right-of-Way Agent

APPROVED AS TO FORM:

_____
Chad Weaver, Assistant City Attorney

RES.Easement.D.R. Bash Family
March 25, 2014

**EASEMENT**

STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS, THAT:
COUNTY OF LUBBOCK §

D.R. Bush Family Partners, Ltd., a Texas Limited Partnership, with street address of 934 Green Tree Lane, Duncanville, Texas 75137, hereinafter referred to as GRANTOR, for a valuable consideration, to it paid by The City of Lubbock, Texas (the "Grantee") with offices at 1625 13th Street, Lubbock, Texas 79401, the receipt and sufficiency of which are hereby acknowledged, has granted and does by these presents grant unto Grantee the following described perpetual exclusive easement, servitude and right-of-way, as described herein (hereinafter called the "Easement") through, over, under, upon, across and within the lands, described in Exhibit A (hereinafter called the "Lands" or "Easement Lands") situated in Lubbock County, Texas.

**Pipelines and Equipment**

Grantor hereby grants to Grantee a perpetual exclusive Easement to install transmission lines and to survey, construct, reconstruct, install, operate, inspect, maintain, alter, relocate, replace, repair, and remove (hereinafter called "Permitted Uses") pipelines, conduits, drain (blow-off) valves, valve boxes, meters, meter boxes, vents, manholes, manhole covers, corrosion monitoring test stations, pipeline markers, fence gates, impressed current deep well anode stations with power supplies, flow meters, system communication lines and splice boxes, pipeline trail road on non cultivated areas, and all other equipment and facilities related thereto, or any part thereof (hereinafter collectively called the "Pipeline System"), for and/or related to the transportation of water and/or waste water through, under, upon, over, across and within the Lands. Such perpetual exclusive Easement shall be as described herein and on Exhibit A attached hereto and incorporated herein, and hereby made a part hereof by reference to describe the Easement and the Lands. Further, Grantor hereby grants unto Grantee a temporary construction easement (the "Temporary Easement") for the construction and installation of the Pipeline System through, over, under, upon, across and within the lands located adjacent to, and abutting, the Easement (the "Temporary Easement Area") as more specifically described on Exhibit B as well as for all other purposes identified in 13 below. The Temporary Easement shall terminate and expire upon the completion of all construction activities related to that portion of the Pipeline System situated within the Easement.

For Ten Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, this Easement is specifically made by Grantor and accepted by Grantee subject to the following terms, covenants, obligations and conditions:

1. Grantee may use and occupy the Easement for the sole purpose of: (a) the right to perform Permitted Uses related to the Pipeline System; (b) the right (for men, material, and equipment) of ingress and egress and regress to and from and access on and along said Easement granted herein, with the right to ingress and egress and regress to

and from and access on and along said Easement, for the Permitted Uses; and (c) the right to locate the Pipeline System through, over, under, upon, across and within the Easement for the purpose of water/waste water transportation.

2. Grantee covenants and agrees that its use of the Easement and its operations conducted thereon shall, to the best of Grantee's ability, at all times comply with all applicable local, state and federal laws, orders, rules, regulations, standards, licensing, permitting and other legal requirements including, without limitation, all environmental laws, orders, rules, regulations, standards, licensing and permitting (the "Legal Requirements"). Grantee agrees to construct the Pipeline System in a prudent manner, in compliance with all Legal Requirements, and with due care for Grantor's property, business and operations. In the event it is discovered that Grantee is in violation of any portion of the Legal Requirements, Grantee agrees to commence, upon receipt of written notice of such violation, the process of curing such violation so that Grantee will be in compliance with this subparagraph.

3. The Easement granted herein shall be for the transportation of water and/or waste water, regardless of source, and shall continue in full force and effect unless Grantee should abandon the Pipeline System as identified herein. The rights granted to Grantee herein may be abandoned solely by a formal resolution of its governing body that authorizes the abandonment of the Pipeline System. Any such abandonment will not be effective until it is evidenced by notice in writing, signed by the Grantee's official representative, and filed of record in the county where the Lands are located.

4. The Easement Term is hereby defined as the period of time beginning with the granting of the Easement and continuing until such time that the Easement is abandoned by Grantee.

5. Grantor and Grantee agree that during construction related to the Pipeline System, any and all trees, dirt, raw materials, timber, spoil piles, excess dirt, wood, bushes, shrubs and brush, and other debris materials shall, be removed by Grantee from Grantor's property.

6. Grantee shall keep the Easement in good order, condition and repair following any work related to Permitted Uses on the Pipeline System.

7. Grantee shall be responsible for obtaining all permits necessary to construct and operate the Pipeline System on the Easement. Without limiting the foregoing, and to the extent required, Grantee will secure and maintain any and all environmental permits required by the Texas Commission on Environmental Quality covering the Easement.

8. During construction of the Pipeline System, Grantee shall provide reasonable access to Grantor's property. Within the Easement, Grantee shall have the right to cut fences and install gates to enable Permitted Uses for the Pipeline System.

9. This grant of Easement shall not preclude the right of Grantor to cultivate, use, and enjoy the Lands for any purposes which will not constitute an interference with the Easement, rights and privileges herein granted to Grantee, or endanger any of Grantee's property at the sole discretion of the Grantee.

10. Grantee shall exercise due care and diligence in the use of the rights and privileges herein granted to it. In case of abandonment of said Easement as provided in 3 above, the title and interest herein granted shall end, cease, and terminate, and title to the Easement, pipeline, equipment and facilities shall revert to the then owner of the Lands.

11. Grantor warrants and represents that the title to the Lands described herein are vested in the Grantor, free and clear of any liens and/or encumbrances. Grantor shall provide to Grantee an executed release from any lien holder, tenant, lessee, or other party having an interest in the Lands.

12. Grantor shall procure and have recorded without cost to Grantee all assurances of title and affidavits which the Grantor may be advised by Grantee are necessary and proper to show in Grantor title sufficient to grant the above easement free and clear of encumbrances other than those encumbrances expressly defined herein. Abstracts or certificates of title or title insurance may be procured by the Grantee at its expense. The expense of recording this Easement shall be borne by Grantor. Grantee agrees to cooperate and aid Grantor, if necessary, to obtain any curative documents needed.

13. Grantee shall have the right to use Grantor's property located immediately adjacent to the Easement and as described on Exhibit B attached hereto and incorporated herein as thought set forth verbatim for the following:

A. detouring around natural impediments within the Easement; or

B. the construction, maintenance, repair and removal of the Pipeline System within the Easement.

14. "Grantee" when used in this instrument, shall include The City of Lubbock's officers, agents, servants, employees, representatives, contractors, independent contractors, subcontractors, and/or their equipment or vehicles.

15. Words of any gender used in this agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.

16. It is understood and agreed that this Easement is not a conveyance of the fee estate for any of the Lands covered hereunder, but is only an easement through, over, under, upon, across and within the Lands.

17. The provisions of this Easement shall be binding upon and inure to the benefit of the successors and assigns of the respective parties hereto.

18. This Easement contains the final and complete expression of the parties with respect to any matter mentioned herein. No prior agreement or understanding pertaining to any such matter shall be effective. This Easement may be modified in writing only, signed by the parties in interest at the time of the modification.

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

20. Any notices or demands provided to be given herein by the parties shall be in writing and mailed by certified or registered mail to the other party at the address set forth above. Any notice or demand shall be deemed to have been received the earlier of five (5) days after the date of mailing or the date of actual delivery as shown by the addressee's certification or registry receipt.

21. Neither party shall be liable to the other party or any of such party's affiliates in any action or claim, including without any limitation, any action or claim for loss of profit, loss of product, loss of use, or for indirect, consequential, punitive, exemplary, special or other similar types of damages, regardless of how caused and regardless of the underlying theory of recovery, and even if caused by the sole or concurrent negligence of the responsible party.

A. To the extent that Grantor owns any portion of any mineral estate, leasehold estate and/or royalty interest of any kind or character under the Lands defined herein, Grantor surrenders and releases its surface drilling rights and all other rights of surface use of the Easement and Lands incident to the production of oil, gas, hydrocarbons, minerals, wind energy, and water production subject to the following exception and limitation:

i) Grantor reserves and excepts from this release and retains for itself, its successors and its successors-in-interest, all rights to explore for, to drill and produce oil, gas and other hydrocarbons underlying or situated beneath the Easement and Lands by any means whatsoever, including wells directionally drilled from surface location on nearby lands so long as no surface operations are performed on the Easement and so long as such operations will not interfere with or endanger the operations or integrity of the Pipeline System and Permitted Uses.

ii) Grantor shall include the surface use restrictions and covenants provided herein in any subsequent lease or conveyance of the oil, gas and/or mineral estate, wind rights or interests and water rights or interests.

22. Grantee shall have the right to approve the location and means of future third-party pipelines which will cross Grantee's pipeline system and come within the Easement. Grantee will not withhold reasonable crossing requests, but will act in a manner to protect the Grantee's Pipeline System and Grantee's Easement.

23. Unless determined by an outside engineer to be impractical due to the existence of rock or material elevation change, all ditching shall be in accordance with the "double ditch" method whereby the top twelve inches (12") of soil (the "Top Soil") shall be removed from the Pipeline System trench (the "Trench") and stored in a pile that is segregated from all other material and debris, and the remaining soil (the "Bottom Soil") shall be removed from the Trench and stored in a pile that is segregated from the Top Soil. When the Trench is refilled after the Pipeline System has been laid and the Pipeline Equipment installed, the Bottom Soil shall be placed in the trench first leaving room to fill the uppermost twelve inches (12") of the Trench to be filled with Top Soil. Top Soil shall be used to fill the remainder of the Trench. Any Bottom Soil remaining after filling the Trench shall be removed from the Easement and disposed of off of the property of Grantor. As stated above, single ditching shall be allowed in all areas where "double ditching" is impractical (as determined by an outside engineer) due to the existence of rock or material elevation change.

24. All requirements and obligations of Grantor and Grantee relating to the Easement shall also apply in all respects to the property described in Exhibit B.

TO HAVE AND TO HOLD said Easement unto Grantee, its successors and assigns for so long as the same shall be used for the purposes aforesaid subject to the terms and conditions hereof.

[ *Signatures of the Parties on Next Page* ]

EXECUTED this 20th day of March, 2014 ("Effective Date").

GRANTOR: D.R. Bush Family Partners, Ltd.

By: Herman W. Bush, Jr.
General Partner

GRANTEE:

The City of Lubbock

By:_____

Name:_____

Title: _____

ATTEST:

_____
Rebecca Garza, City Secretary

[Acknowledgements *of the Parties on Next Page]*

APPROVED AS TO CONTENT:

_____
DIRECTOR OF PUBLIC WORKS

APPROVED AS TO FORM:

_____
Ryan J. Bigbee, Attorney

STATE OF TEXAS §
§
COUNTY OF LUBBOCK §

This instrument was acknowledged before me on March 20, 2014, by _____, on behalf of D.R. Bush Family Partners, Ltd., a Texas Limited Partnership.

Notary Public, State of Texas
Randall T Cotton
Printed Name of Notary
My commission expires: 3/15/2016

STATE OF TEXAS §
COUNTY OF LUBBOCK §

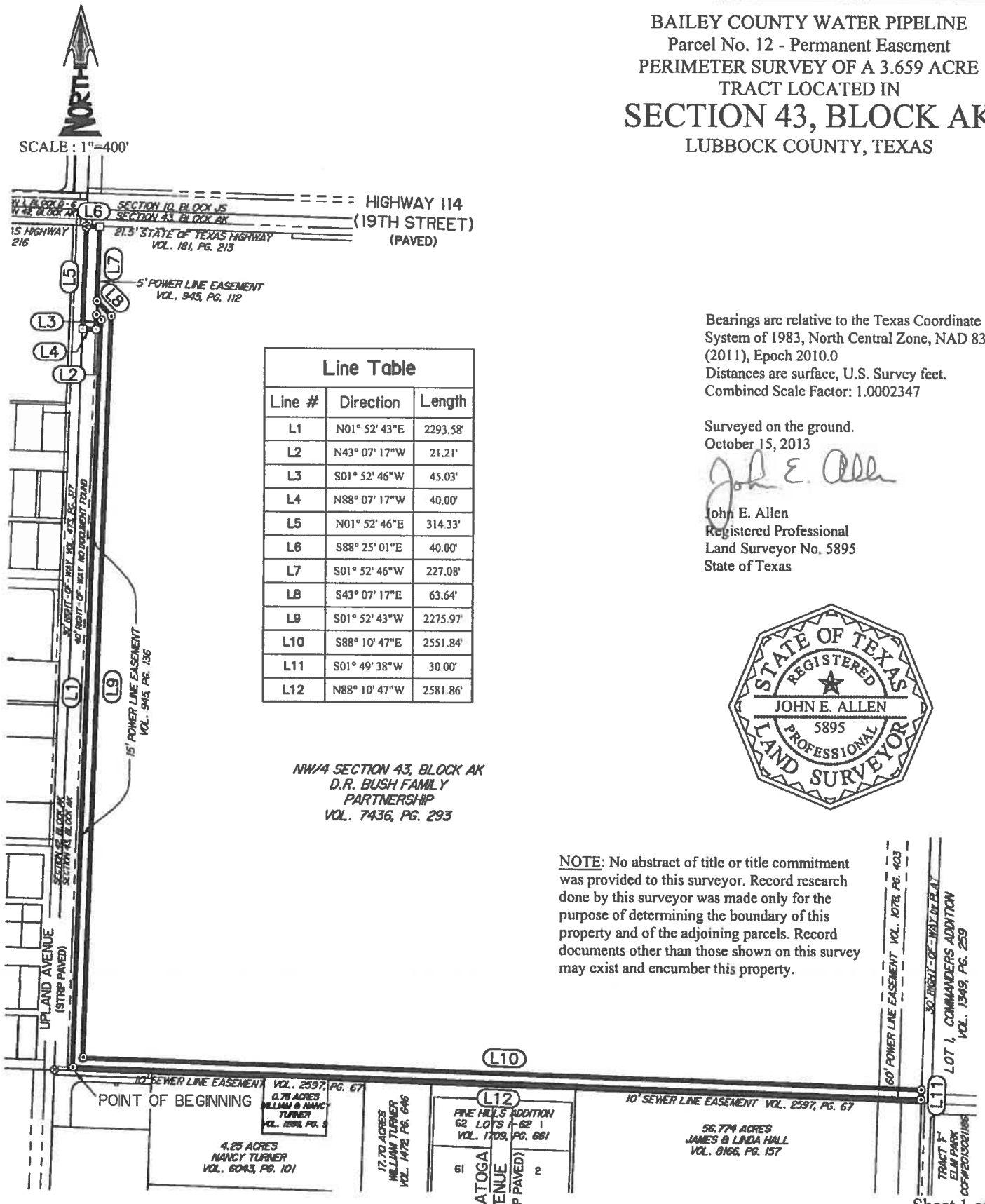
This instrument was acknowledged before me on March 20, 2014, by GLEN ROBERTSON on behalf of the City of Lubbock, a Texas Home Rule Corporation on behalf of said Texas Home Rule Corporation.

_____
Notary Public, State of _____

_____
Printed Name of Notary
My commission expires: _____

**Exhibit A**
Legal Description of the Perpetual Exclusive Easement

BAILEY COUNTY WATER PIPELINE
Parcel No. 12 - Permanent Easement
PERIMETER SURVEY OF A 3.659 ACRE
TRACT LOCATED IN
# SECTION 43, BLOCK AK
LUBBOCK COUNTY, TEXAS




| Line Table | | |
|---|---|---|
| Line # | Direction | Length |
| L1 | N01° 52' 43"E | 2293.58' |
| L2 | N43° 07' 17"W | 21.21' |
| L3 | S01° 52' 46"W | 45.03' |
| L4 | N88° 07' 17"W | 40.00' |
| L5 | N01° 52' 46"E | 314.33' |
| L6 | S88° 25' 01"E | 40.00' |
| L7 | S01° 52' 46"W | 227.08' |
| L8 | S43° 07' 17"E | 63.64' |
| L9 | S01° 52' 43"W | 2275.97' |
| L10 | S88° 10' 47"E | 2551.84' |
| L11 | S01° 49' 38"W | 30.00' |
| L12 | N88° 10' 47"W | 2581.86' |

Bearings are relative to the Texas Coordinate System of 1983, North Central Zone, NAD 83 (2011), Epoch 2010.0
Distances are surface, U.S. Survey feet.
Combined Scale Factor: 1.0002347

Surveyed on the ground.
October 15, 2013

John E. Allen
Registered Professional
Land Surveyor No. 5895
State of Texas

STATE OF TEXAS
REGISTERED
JOHN E. ALLEN
5895
PROFESSIONAL
LAND SURVEYOR

NOTE: No abstract of title or title commitment was provided to this surveyor. Record research done by this surveyor was made only for the purpose of determining the boundary of this property and of the adjoining parcels. Record documents other than those shown on this survey may exist and encumber this property.

NOTES:
HEAVY LINES INDICATE PLAT LIMITS.
⊙ - SET 1/2" IRON ROD WITH CAP
⊡ - SET MAG NAIL WITH WASHER
⊗ - FOUND COTTON SPINDLE
◉ - FOUND 1/2" IRON ROD WITH CAP
⊙ - FOUND 5/8" IRON ROD
⊛ - FOUND CROWS FOOT IN CONCRETE

A legal description of even survey date herewith accompanies this plat of survey.



HUGO REED AND ASSOCIATES, INC.
LAND SURVEYORS
CIVIL ENGINEERS
TEXAS LICENSED SURVEYING FIRM 100676-00
TEXAS REGISTERED ENGINEERING FIRM F-760
1601 AVENUE N
LUBBOCK, TEXAS 79401
PHONE: 806 / 763-5642
FAX: 806 / 763-3891

Copyright 2013, Hugo Reed and Associates, Inc. for the sole use of Title Co. for GF # and any other identifiers as indicated in the certificate shown hereon.

BAILEY COUNTY WATER PIPELINE
Parcel No. 12 - Permanent Easement
PERIMETER SURVEY OF A 3.659 ACRE TRACT LOCATED IN

# SECTION 43, BLOCK AK

LUBBOCK COUNTY, TEXAS

METES AND BOUNDS DESCRIPTION of a 3.659 acre parcel located in Section 43, Block AK, Lubbock County, Texas, being a portion of the Northwest Quarter of Section 43, Block AK, described in Volume 7436, Page 293, Official Public Records, Lubbock County, Texas, being further described as follows:

BEGINNING at a 1/2" iron rod with cap set (North: 7273544.12', East: 910688.49') in the East line of a 15.00 foot power line easement as described in Volume 945, Page 136, Deed Records of Lubbock County, Texas, and in the North line of a 10.00 foot sewer line easement as described in Volume 2597, Page 67, Real Property Records, Lubbock County, Texas, which bears S. 88°10'47" E. a distance of 40.00 feet and N. 01°52'43" E. a distance of 10.00 feet from a cotton spindle found at the Southwest corner of said Northwest Quarter of Section 43, Block AK, for the Southwest corner of this parcel;

THENCE N. 01°52'43" E. along the East line of said 15.00 power line easement at 2263.54 feet pass the Northeast corner of said 15.00 foot power line easement, continuing for a total distance of 2293.58 feet to a 1/2" iron rod with cap set for a corner of this parcel;

THENCE N. 43°07'17" W. at 14.14 feet pass the East line of a 5.00 foot power line easement as described in Volume 945, Page 112, Deed Records, Lubbock County, Texas, continuing for a total distance of 21.21 feet to a 1/2" iron rod with cap set in the West line of said 5.00 foot power line easement and in the East line of a 40.00 foot right-of-way occupied as Upland Avenue, for a corner of this parcel;

THENCE S. 01°52'46" W. along the common line of said 5.00 foot power line easement and said right-of-way line of Upland Avenue a distance of 45.03 feet to a 5/8" iron rod found at the Southwest corner of said 5.00 foot power line easement and the Northwest corner of said 15.00 power line easement, for a corner of this parcel;

THENCE N. 88°07'17" W. a distance of 40.00 feet to a mag nail with washer set in the common line of Sections 42 and 43, Lubbock County, Texas, and in the East line of a 30.00 foot right-of-way described in Volume 473, Page 317, Deed Records, Lubbock County, Texas, for a corner of this parcel;

THENCE N. 01°52'46" E. along the East line of said 30.00 foot right-of-way also being said common line of Sections 42 and 43, Block AK, a distance of 314.33 feet to a crows foot found in the South line of State of Texas Highway 114 (19th Street) as occupied on the ground, which bears S. 01°52'02" E. a distance of 51.63 feet from the common corner of Sections 42 and 43, Block AK, Section 10, Block JS, and Section 1, Block D-6, Lubbock County, Texas, for the Northwest corner of this parcel;

THENCE S. 88°25'01" E. at 16.53 feet pass the Southwest corner of a 21.50 foot State of Texas highway as described in Volume 181, Page 213, Deed Records, Lubbock County, Texas, continuing along the South line of said 21.50 foot State of Texas highway for a total distance of 40.00 feet to a mag nail with washer set in the West line of a 5.00 foot power line easement described in Volume 945, Page 112, Deed Records, Lubbock County, Texas, and in the East right-of-way line of said Upland Avenue, for the Northeast corner of this parcel;

THENCE S. 01°52'46" W. along the common line of said 5.00 foot power line easement and said East right-of-way line of said Upland Avenue a distance of 227.08 feet to a 1/2" iron rod with cap set for a corner of this parcel;

THENCE S. 43°07'17" E. at 7.07 feet pass the East line of said 5.00 foot power line easement, continuing for a total distance of 63.64 feet to a 1/2" iron rod with cap set for a corner of this parcel;

THENCE S. 01°52'43" W. a distance of 2275.97 feet to a 1/2" iron rod with cap set for an 'ell' corner of this parcel;

THENCE S. 88°10'47" E. a distance of 2551.84 feet to a 1/2" iron rod with cap set in the West line of Quincy Avenue and the West line of 26th Street, according to the map, plat and/or dedication deed thereof recorded in Volume 1349, Page 259, Deed Records of Lubbock County, Texas, and the East line of said Northwest Quarter of Section 43, Block AK, for the Northeast corner of this parcel;

THENCE S. 01°49'38" W. along the West line of said Quincy Avenue and the West line of said 26th Street and the East line of said Northwest Quarter of Section 43, Block AK, a distance of 30.00 feet to a 1/2" iron rod with cap set in the North line of said 10.00 foot sewer line easement which bears N. 01°49'38" E. a distance of 10.00 feet from a 5/8" iron rod found at the Southeast corner of said Northwest Quarter of Section 43, Block AK, for the Southeast corner of this parcel;

THENCE N. 88°10'47" W. along the North line of said 10.00 sewer line easement a distance of 2581.86 feet to the Point of Beginning.

Bearings relative to Grid North, NAD 83 (2011), Texas Coordinate System, North-Central Zone. Distances and coordinates are Surface, U. S. Survey Feet. Combined Scale Factor: 1.0002347

A plat of even survey date herewith accompanies this legal description.

Surveyed on the ground
October 15, 2013

John E. Allen
Registered Professional
Land Surveyor No. 5895
State of Texas

HUGO REED AND ASSOCIATES, INC.
LAND SURVEYORS
CIVIL ENGINEERS
TEXAS LICENSED SURVEYING FIRM 100676-00
TEXAS REGISTERED ENGINEERING FIRM F-760
1601 AVENUE N
LUBBOCK, TEXAS 79401
PHONE: 806 / 763-5642
FAX: 806 / 763-3891

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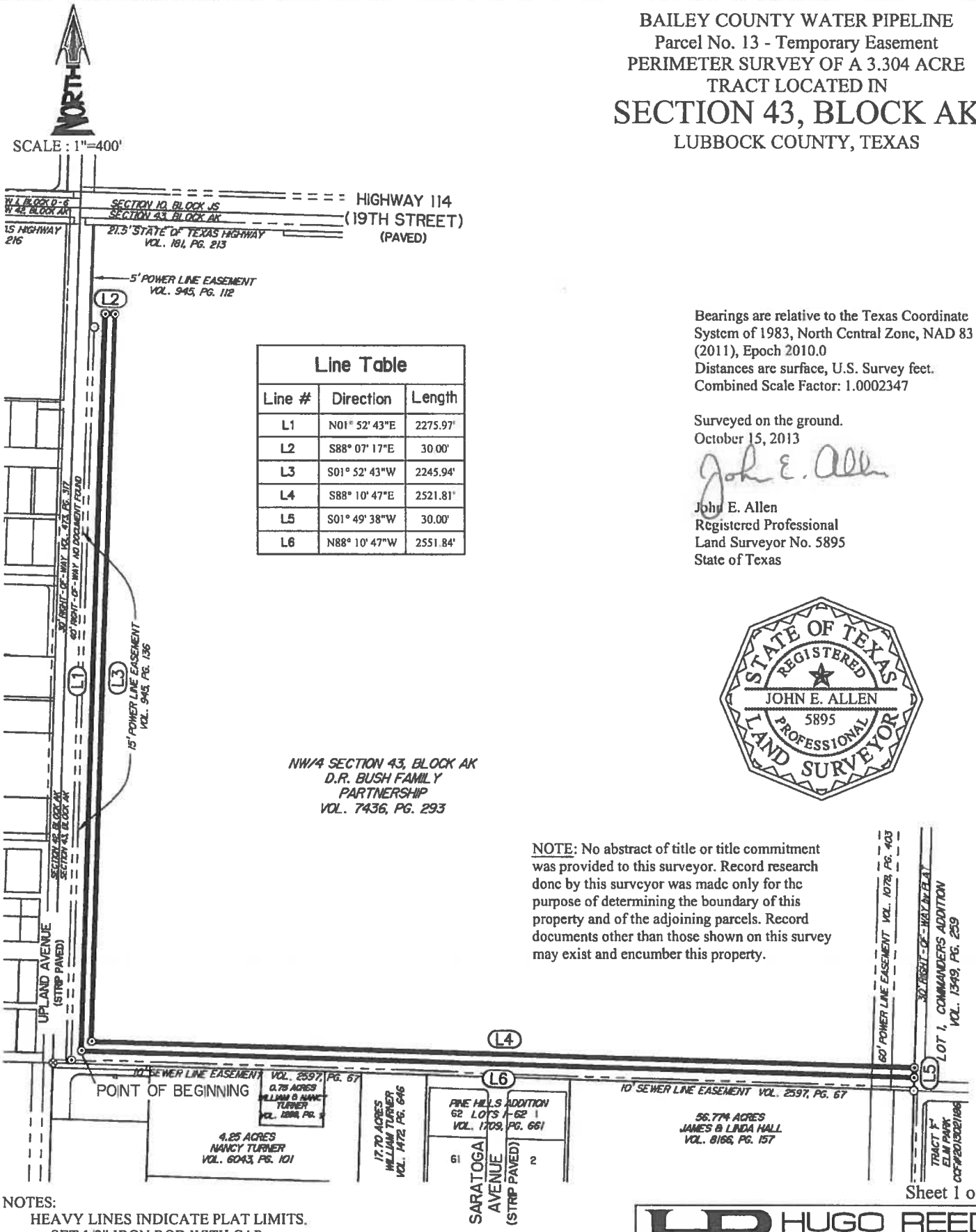
**Exhibit B**
Legal Description of the Temporary Easement

BAILEY COUNTY WATER PIPELINE
Parcel No. 13 - Temporary Easement
PERIMETER SURVEY OF A 3.304 ACRE
TRACT LOCATED IN

# SECTION 43, BLOCK AK

LUBBOCK COUNTY, TEXAS




| Line Table | | |
|---|---|---|
| Line # | Direction | Length |
| L1 | N01° 52' 43"E | 2275.97' |
| L2 | S88° 07' 17"E | 30.00' |
| L3 | S01° 52' 43"W | 2245.94' |
| L4 | S88° 10' 47"E | 2521.81' |
| L5 | S01° 49' 38"W | 30.00' |
| L6 | N88° 10' 47"W | 2551.84' |

Bearings are relative to the Texas Coordinate System of 1983, North Central Zone, NAD 83 (2011), Epoch 2010.0
Distances are surface, U.S. Survey feet.
Combined Scale Factor: 1.0002347

Surveyed on the ground.
October 15, 2013

John E. Allen
Registered Professional
Land Surveyor No. 5895
State of Texas

STATE OF TEXAS
REGISTERED
JOHN E. ALLEN
5895
PROFESSIONAL
LAND SURVEYOR

NOTE: No abstract of title or title commitment was provided to this surveyor. Record research done by this surveyor was made only for the purpose of determining the boundary of this property and of the adjoining parcels. Record documents other than those shown on this survey may exist and encumber this property.

NOTES:
HEAVY LINES INDICATE PLAT LIMITS.
⊙ - SET 1/2" IRON ROD WITH CAP
⊗ - FOUND COTTON SPINDLE
⊛ - FOUND 1/2" IRON ROD WITH CAP
○ - FOUND 5/8" IRON ROD

A legal description of even survey date herewith accompanies this plat of survey.

Sheet 1 of 2


HUGO REED AND ASSOCIATES, INC.
LAND SURVEYORS
CIVIL ENGINEERS
TEXAS LICENSED SURVEYING FIRM 100676-00
TEXAS REGISTERED ENGINEERING FIRM F-760
1601 AVENUE N
LUBBOCK, TEXAS 79401
PHONE: 806 / 763-5642
FAX: 806 / 763-3891



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BAILEY COUNTY WATER PIPELINE
Parcel No. 13 - Temporary Easement
PERIMETER SURVEY OF A 3.304 ACRE TRACT LOCATED IN

# SECTION 43, BLOCK AK

LUBBOCK COUNTY, TEXAS

METES AND BOUNDS DESCRIPTION of a 3.304 acre parcel located in Section 43, Block AK, Lubbock County, Texas, being a portion of the Northwest Quarter of Section 43, Block AK, described in Volume 7436, Page 293, Official Public Records, Lubbock County, Texas, being further described as follows:

BEGINNING at a 1/2" iron rod with cap set (North: 7273573.16', East: 910719.46') which bears S. 88°10'47" E. a distance of 85.00 feet and N. 01°52'43" E. a distance of 40.00 feet from a cotton spindle found at the Southwest corner of said Northwest Quarter of Section 43, Block AK, for the Southwest corner of this parcel;

THENCE N. 01°52'43" E. a distance of 2275.97 feet to a 1/2" iron rod with cap set for the Northwest corner of this parcel;

THENCE S. 88°07'17" E. a distance of 30.00 feet to a 1/2" iron rod with cap set for the Northeast corner of this parcel;

THENCE S. 01°52'43" W. a distance of 2245.94 feet to a 1/2" iron rod with cap set for an 'ell' corner of this parcel;

THENCE S. 88°10'47" E. a distance of 2521.81 feet to a 1/2" iron rod with cap set in the in the West line of Quincy Avenue, according to the map, plat and/or dedication deed thereof recorded in Volume 1349, Page 259, Deed Records of Lubbock County, Texas, and the East line of said Northwest Quarter of Section 43, Block AK, for a corner of this parcel;

THENCE S. 01°49'38" W. along the West line of said Quincy Avenue and the East line of said Northwest Quarter of Section 43, Block AK, a distance of 30.00 feet to a 1/2" iron rod with cap set for the Southeast corner of this parcel;

THENCE N. 88°10'47" W. a distance of 2551.84 feet to the Point of Beginning.

Bearings relative to Grid North, NAD 83 (2011), Texas Coordinate System, North-Central Zone. Distances and coordinates are Surface, U. S. Survey Feet. Combined Scale Factor: 1.0002347

A plat of even survey date herewith accompanies this legal description.

Surveyed on the ground
October 15, 2013

John E. Allen
Registered Professional
Land Surveyor No. 5895
State of Texas

HUGO REED AND ASSOCIATES, INC.
LAND SURVEYORS
CIVIL ENGINEERS
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**Regular City Council Meeting** **5. 10.**

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

**Resolution - Right-of-Way**: Consider a resolution authorizing the City Council to accept on behalf of the City a Street and Public Use Dedication Deed from Walter Buchanan regarding the acquisition of right-of-way for the South Lubbock Sanitary Sewer Extension Phase 1, out of Section 8 Block E, Lubbock County, Texas.

**Item Summary**

The City has experienced significant growth in the south and southwest regions of the existing wastewater collection system. Population growth in south and southwest Lubbock created a need for additional conveyance capacity from 98th Street and Avenue P to the Water Reclamation Plant. These improvements were first recommended in the 2009 Wastewater Master Plan. The City is acquiring right-of-way for construction of a large diameter sanitary sewer associated with the South Lubbock Sanitary Sewer Extension Phase 1.

The total consideration of $25,075.00 which includes $2,075 for easement, and $22,500.00 for replacement value of existing fence, block wall and gates, plus $500.00 for replacement value of cactus.

**Fiscal Impact**

$26,500,000.00 is appropriated in Capital Improvement Project 92178, South Lubbock Sanitary Sewer Extension Phase 1, with $25,075.00 available for this purpose.

**Staff/Board Recommending**

R. Keith Smith, P.E., Director of Public Works

**Attachments**

Resolution & Easement - Walter Buchanan

# RESOLUTION

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

THAT the City Council hereby accepts on behalf of the City of Lubbock a Street and Public Use Dedication Deed, as described on Exhibit "A" attached hereto and incorporated herein by reference, located in Section 8, Block E, Lubbock, Lubbock County, Texas, and related documents. Said Deed is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

THAT the purchase price for the Street and Public Use Dedication Deed shall be $25,075.00 and that closing costs shall also be paid in connection with the purchase of the property, said payments approved herein.

Passed by the City Council on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
R. Keith Smith, P.E., Director of Public Works

_____
Dave Booher, Right-of-Way Agent

APPROVED AS TO FORM:

_____
Chad Weaver, Assistant City Attorney

gs/ccdocs/RES.Dedication Deed-Wallace
March 14.14

# STREET AND PUBLIC USE DEDICATION DEED

THE STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF LUBBOCK §

THAT Walter Buchanan, herein called "Grantor", for and in consideration of the sum of TEN AND NO/100 ($10.00) DOLLARS and other good and valuable consideration, to it in hand paid by the **CITY OF LUBBOCK, TEXAS**, a Home Rule Municipal Corporation, does hereby dedicate to the public for public use forever and for street purposes, the following described tract of land situated in Lubbock County, Texas, as more particularly described in the attached Exhibit "A".

TO HAVE AND TO HOLD this above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said public forever so long as said premises are used for public purposes.

WITNESS MY HAND this 13 day of March, 2014.

Walter Buchanan

THE STATE OF TEXAS §

COUNTY OF LUBBOCK §

BEFORE ME, the undersigned authority, a Notary Public in and for said County, Texas, on this day personally appeared Walter Buchanan, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 13 day of March, 2014.

Notary Public in and for the State of Texas

My Commission Expires: 2/28/2018

WILLIAM BALDWIN
Notary Public, State of Texas
My Commission Expires
February 28, 2018

THE STATE OF TEXAS §

THE COUNTY OF LUBBOCK §

That _____duly organized and existing under the laws of the State of Texas, for and in consideration of the sum of TEN AND NO/100 DOLLARS ($10.00) paid in cash, and for other good and valuable consideration, the receipt of which is hereby acknowledged and confessed, being a lien holder on the property described herein, does hereby consent and agree to the foregoing Dedication and does hereby subordinate its rights in the above described property to the above dedication, as shown on the attached plat.

IN WITNESS WHEREOF, the said _____has caused these presents to be signed by its duly authorized officer at Lubbock, Lubbock County, Texas, on _____, 2014.

_____

By: _____
Printed Name: _____

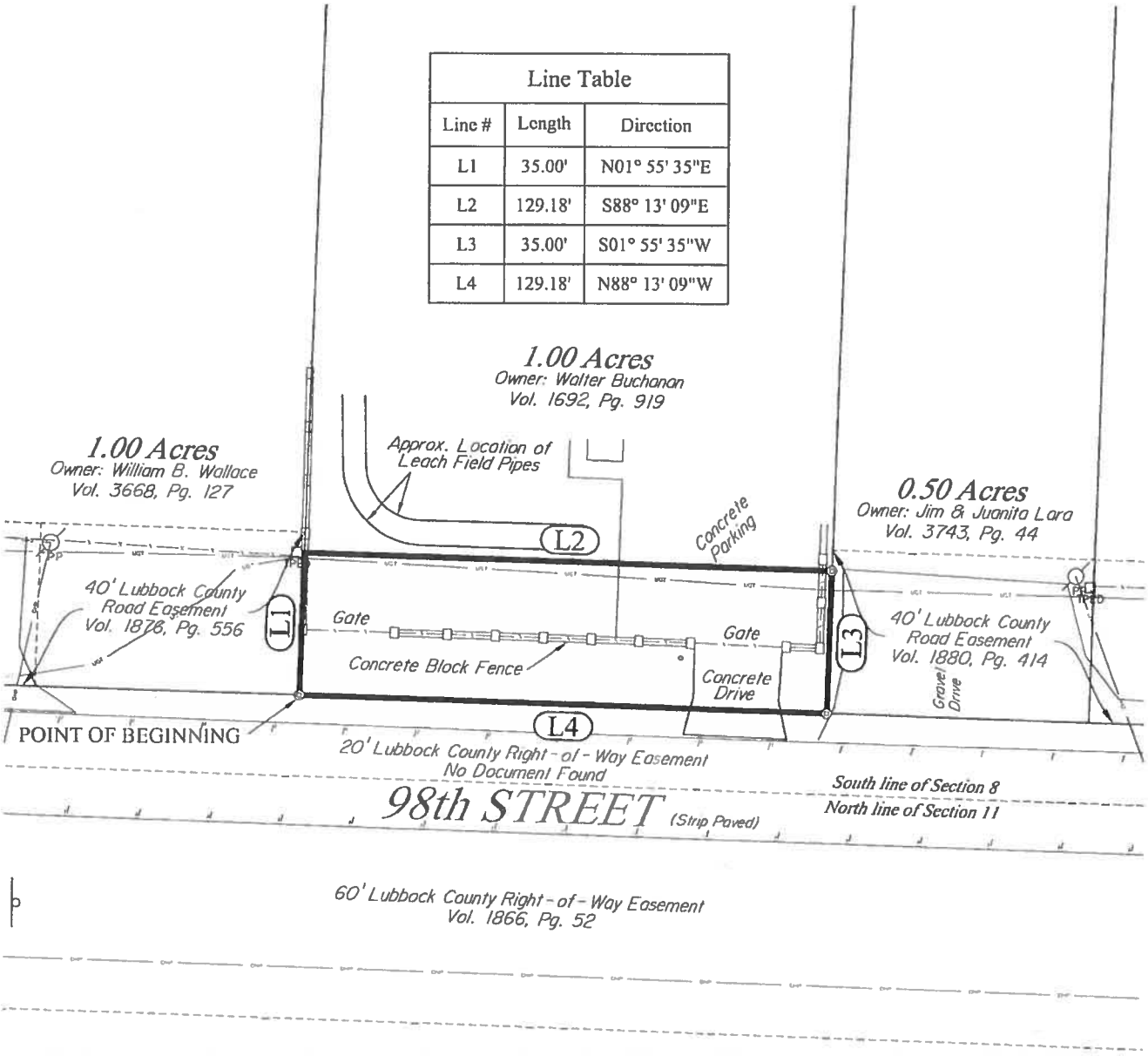
This instrument was acknowledged before me on _____, 2014, by _____, as _____of _____, and in the capacity therein stated.

_____
Notary Public, State of Texas

South Lubbock Sanitary Sewer Extension
Parcel No. 46
PERIMETER SURVEY OF A 0.104 ACRE TRACT LOCATED IN
# SECTION 8, BLOCK E
LUBBOCK COUNTY, TEXAS

SCALE : 1"=30'

| Line Table | | |
|---|---|---|
| Line # | Length | Direction |
| L1 | 35.00' | N01° 55' 35"E |
| L2 | 129.18' | S88° 13' 09"E |
| L3 | 35.00' | S01° 55' 35"W |
| L4 | 129.18' | N88° 13' 09"W |




Bearings are relative to the Texas State Plane Coordinate System, North Central Zone, CORS 96, Epoch 2002.0
Distances are surface, U.S. Survey feet.
Combined Scale Factor: 1.00024

Surveyed on the ground.
October 15, 2012

John E. Allen
Registered Professional
Land Surveyor No. 5895
State of Texas

STATE OF TEXAS
REGISTERED
JOHN E. ALLEN
5895
PROFESSIONAL
LAND SURVEYOR

NOTES:
HEAVY LINES INDICATE PLAT LIMITS.
● - FOUND 1/2" ROD W/CAP

A legal description of even survey date herewith accompanies this plat of survey.

Sheet 1 of 2


HUGO REED AND ASSOCIATES, INC.
LAND SURVEYORS
CIVIL ENGINEERS
TEXAS LICENSED SURVEYING FIRM 100678-00
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PHONE: 806 / 763-5642
FAX: 806 / 763-3891



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South Lubbock Sanitary Sewer Extension
Parcel No. 46
PERIMETER SURVEY OF A 0.104 ACRE TRACT LOCATED IN

# SECTION 8, BLOCK E

LUBBOCK COUNTY, TEXAS

METES AND BOUNDS DESCRIPTION of a 0.104 acre tract located in Sections 8, Block E, Lubbock County, Texas, being a portion of a 1.00 acre tract described in Volume 1692, Page 919, Deed Records, Lubbock County, Texas, and being further described as follows:

BEGINNING at a 1/2" iron rod with cap found for the Southwest corner of said 1.000 acre tract and for the Southeast corner of a 1.00 acre tract described in Volume 3668, Page 127, Real Property Records, Lubbock County, Texas, and for the Southeast corner of a 40 foot road easement to Lubbock County described in Volume 1876, Page 556, Deed Records, Lubbock County, Texas, which bears S. 88°13'09" E. a distance of 447.17 feet and N. 01°46'51" E. a distance of 20.00 feet from the Southwest corner of Section 8, Block E, Lubbock County, Texas, for the Southwest corner of this parcel;

THENCE N. 01°55'35" E. along the common line of said 1.00 acre tract and said 1.00 acre tract a distance of 35.00 feet to a point in a concrete block fence, the Northwest corner of this parcel;

THENCE S. 88°13'09" E. a distance of 129.18 feet to a 1/2" iron rod with cap found in the East line of said 1.00 acre tract and the West line of a 0.50 acre tract described in Volume 3743, Page 44, Real Property Records , Lubbock County, Texas, and in the East line of 40 foot road easement to Lubbock County described in Volume 1880, Page 414, Deed Records, Lubbock County, Texas, for the Northeast corner of this parcel;

THENCE S. 01°55'35" W. along the common line of said 1.00 acre tract and said 0.50 acre tract and along the West line of said 40 foot road easement, a distance of 35.00 feet to a 1/2" iron rod with cap found for the Southeast corner of said 1.00 acre tract and for the Southwest corner of said 0.50 acre tract and for the Southwest corner of said 40 foot road easement, for the Southeast corner of this parcel;

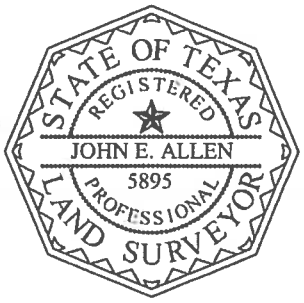
THENCE N. 88°13'09" W. along the South line of said 1.00 acre tract a distance of 129.18 feet to the Point of Beginning.

Bearings relative to Grid North, NAD 83, Texas Coordinate System, North-Central Zone. Distances are Surface, U. S. Survey Feet. Combined Scale Factor: 1.00024

A plat of even survey date herewith accompanies this legal description.

Surveyed on the ground
October 15, 2012

John E. Allen
Registered Professional
Land Surveyor No. 5895
State of Texas






HUGO REED AND ASSOCIATES, INC.
LAND SURVEYORS
CIVIL ENGINEERS
TEXAS LICENSED SURVEYING FIRM 100678-00
TEXAS REGISTERED ENGINEERING FIRM F-760
1601 AVENUE N
LUBBOCK, TEXAS 79401
PHONE: 806 / 763-5642
FAX: 806 / 763-3891

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**Regular City Council Meeting** **5. 11.**

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

**Resolution - Purchasing and Contract Management:** Consider a resolution authorizing the City to reject all bids for security guard services, ITB 14-11752-TS.

**Item Summary**

This contract provides security guard services for City sponsored events on an as needed basis.

Bids were received from the following companies:

Blue Shield Security Protection Inc. of Dallas, TX* NQAS
Vets Securing America of San Antonio, TX
Thomas Protective Service, Inc. of Kaufman, TX
Universal Protection Service, LLC of Lubbock, TX

*Not Quoted As Specified

Blue Shield Security Protection Inc. of Dallas, Tx advised that they would need a price increase at the time the contract renewed. Bids subject to price increases are not to be considered, therefore, Blue Shield Security Protection, Inc. was deemed not quoted as specified. The regular hourly rates from the other bidders ranged from $13 to $17. Staff recommends that all bids submitted for ITB 14-11752-TS be rejected. A bid tabulation is provided.

**Fiscal Impact**

None

**Staff/Board Recommending**

Pamela Moon, Executive Director Finance

**Attachments**

Resolution - Security Guard Services
Bid Tabulation - Guard Services

# RESOLUTION

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

THAT the City Council of the City of Lubbock hereby rejects any and all bids received for the Security Guard Services pursuant to ITB-14-11752-TS and orders that no contract be entered into pursuant to said invitation to bid.

Passed by the City Council on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Pamela Moon
_____
Pamela Moon, Executive Director of Finance

APPROVED AS TO FORM:

_____
Chad Weaver, Assistant City Attorney

vw:ccdocs/RES.Rejection of Bids-Security Guard Services
March 17, 2014

City of Lubbock, TX
Purchasing and Contract Management
Bid Tabulation
April 10, 2014

**ITB 14-11752-TS**
**Security Guard Services**

| Item | Qty | U/M | Description/Vendor | Location | Hourly Rate | Extended Cost |
|---|---|---|---|---|---|---|
| 1 | 1,600 | Hrs | Security Guard Services Regular Rate | | | |
| | | | Blue Shield Security Protection, Inc. | Dallas, TX | $ 13 | NQAS |
| | | | Vets Securing America | San Antonio, TX | 13 | 20,704 |
| | | | Thomas Protective Services, Inc. | Kaufman, TX | 16 | 25,520 |
| | | | Universal Protection Service, LLC | Lubbock, TX | 17 | 26,400 |
| 2 | 400 | Hrs | Security Guard Services Holiday Rate | | | |
| | | | Blue Shield Security Protection, Inc. | Dallas, TX | 13 | NQAS |
| | | | Vets Securing America | San Antonio, TX | 18 | 7,248 |
| | | | Universal Protection Service, LLC | Lubbock, TX | 23 | 9,240 |
| | | | Thomas Protective Services, Inc. | Kaufman, TX | 24 | 9,572 |
| | | | **Overall:** | | | |
| | | | Vets Securing America | San Antonio, TX | | $ 27,952 |
| | | | Thomas Protective Services, Inc. | Kaufman, TX | | 35,092 |
| | | | Universal Protection Service, LLC | Lubbock, TX | | 35,640 |
| | | | Blue Shield Security Protection, Inc. | Dallas, TX | | NQAS |

NQAS - Not Quoted As Specified

**Regular City Council Meeting** **5. 12.**

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

**Resolution - Purchasing and Contract Management:** Consider three resolutions authorizing the Mayor to execute contract 11741 with Overhead Door Company of Lubbock, contract 11829 with West Texas Door and Construction and contract 11830 with Brem Inc., dba Action Doors for garage door repair for various departments, ITB 14-11741-DG.

**Item Summary**

The contracts provide maintenance and repair services on an as-needed basis for garage door repair for City facilities.

Bids were received from the following companies:

West Texas Door and Construction of Lubbock, TX
Overhead Door Company of Lubbock, TX
Brem Inc., dba Action Doors of Lubbock, TX

Staff recommends contract award to West Texas Door and Construction, Lubbock, Texas, Overhead Door Company of Lubbock, Texas and Brem Inc., dba Action Doors, Lubbock, Texas. Awarding multiple contracts will ensure that a contractor can be scheduled for repairs a in timely manner.

The contract term is for one year with the option of four, one year extensions, said date of term beginning upon formal approval. The contracts are awarded by hourly rate. Actual expenditures will vary depending on actual usage. A bid tabulation is provided.

**Fiscal Impact**

Maintenance repairs are funded through individual department operating budgets.

**Staff/Board Recommending**

Pamela Moon, Executive Director of Finance

**Attachments**

Resolution & Contract - Overhead Door Company
Resolution & Contract - West Texas Door and Construction
Resolution & Contract - Brem Inc., dba Action Doors
Tab Sheet

# 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. 11741 for garage door repair services for various departments, by and between the City of Lubbock and Overhead Door Company of Lubbock, 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:

Pamela Moon
Pamela Moon, Executive Director of Finance

APPROVED AS TO FORM:

Chad Weaver
Chad Weaver, Assistant City Attorney

vw:ccdocs/RES.Contract-Overhead Door
March 12, 2014

CITY OF LUBBOCK, TX
Garage Door Repair Services for Various Departments

**THIS CONTRACT** made and entered into this **27TH** day of **March, 2014**, by and between the City of Lubbock ("City"), and **Overhead Door Company of Lubbock, Inc**, ("Contractor").

**WITNESSETH:**

WHEREAS, the City of Lubbock duly advertised for bids for Garage Door Repair Services for Various Departments 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 Garage Door Repair Services for Various Departments.

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, Garage Door Repair Services for Various Departments and more specifically referred to as per Exhibit A 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. The rates may be adjusted upward or downward at this time at a percentage not to exceed the effective change in the Consumer Price Index (CPI) for the specific contract for the previous 12-months. 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 thirty (30) day written notice. Such written notice must state the reason for cancellation. The City of Lubbock reserves the right to award the canceled contract to the next lowest and best bidder as it deems to be in the best interest of the city.

5. Contractor shall at all times be an independent contractor and not an agent or representative of City with regard to performance of the Services. Contractor shall not represent that it is, or hold itself out as, an agent or representative of City. In no event shall Contractor be authorized to enter into any agreement or undertaking for or on behalf of City.

6. The contractor shall obtain and maintain in full force and effect during the term of the contract, commercial general liability coverage with insurance carriers admitted to do business in the State of Texas. The insurance companies must carry a Best's Rating of A- VII or better. The policies will be written on an occurrence basis, subject to the following minimum limits of liability:

| TYPE | AMOUNT |
|---|---|
| General Liability<br>Commercial General Liability<br>General Aggregate<br>Products-Comp/OP AGG<br>Personal & Adv. Injury<br>Contractual Liability<br>Products of Complete Operation<br>Endorsements | 500,000 |
| Automotive Liability<br>Combined Single Limit<br>Any Auto | 500,000 |
| Workers Compensation | Statutory Amounts |

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

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

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

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

7. Neither the City nor the Contractor shall assign, transfer or encumber any rights, duties or interests accruing from this Contract without the written consent of the other.

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. All funds for payment by the City under this contract are subject to the availability of an annual appropriation for this purpose by the City. In the event of nonappropriation of funds by the City Council of the City of Lubbock for the goods or services provided under the contract, the City will terminate the contract, without termination charge or other liability, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the goods or services covered by this contract is spent, whichever event occurs first. If at any time funds are not appropriated for the continuance of this contract, cancellation shall be accepted by the Seller on 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 contract beyond the date of termination.

11. This Contract consists of the following documents set forth herein; Invitation to Bid No. 14-11741-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

Glen C. Robertson, Mayor

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Marta Alvarez, Director of Purchasing & Contract Management

APPROVED AS TO FORM:

Assistant City Attorney

CONTRACTOR

BY

Authorized Representative

Joe Rodriguez

Print Name

4912 Frankford

Address

Lubbock Texas 79424

City, State, Zip Code

City of Lubbock, TX
ITB 14-11741-DG
Overhead Door of Lubbock, Inc., Lubbock, Tx
Exhibit A

| | Garage Door Repairs for Various Departments | | Hourly Labor Rate |
|---|---|---|---|
| 1 | Regular Labor Rate | $ | 90 |
| 2 | Emergency Labor Rate | | 180 |

**Bid Form**
**Garage Door Repair Services for Various Departments**
**City of Lubbock, Texas**
**ITB 14-11741-DG**

In compliance with the **Invitation to Bid 14-11741-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 **14-11741-DG** is by reference incorporated in this contract. The Bid Form **must** be **completed** in blue or black **ink** or by typewriter.

| | |
|---|---|
| 1. What is your labor rate per hour for a repair/service call?<br>*(Billed in increments of full, half and ¼ hours)* | $ 89.50 per hour |
| 2. Is there an associated service fee? If s o, what is the service fee charge? | Service Fee $ 0 |
| 3. What is your labor rate per hour for an emergency call?<br>*(Billed in increments of full, half and ¼ hours)* | $ 179.50 per hour |
| 4. Is there an associated emergency service fee? If so, what is the service fee charge? | Service Fee $ 0 |
| 5. Is a mileage charge included in the bid price?<br>If not, what is your mileage fee? | $ 0 per mile |

***PRICE: F.O.B. Destination, Freight Pre-Paid and Allowed** **Days After Receipt of Order (ARO)

**Unless otherwise specified herein, the City may award the bid either item-by–item or on an all-or-none basis for any item or group of items shown on the bid.**

**The City of Lubbock is seeking a contract for Garage Door Repair Services for Various Departments 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 10 calendar days. Discounts will not be considered in determining low bid. Unless otherwise indicated on the Bid Form, payment terms will be NET THIRTY DAYS. The City will pay the successful bidder within thirty days after the receipt of a correct invoice or after the date of acceptance, whichever event occurs later. Discounts for prompt payment requiring payment by the City within a stipulated number of days will be interpreted as applying within the stipulated number of calendar days after the date of receipt by the City of a correct invoice or after the date of acceptance that meets contract requirements, whichever event occurs later. Discounts for payment in less than ten days will not be considered.

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

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

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

YES ✓ NO _____

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

THIS BID IS SUBMITTED BY Overhead Door Co of Lubbock Inc a corporation organized under the laws of the State of Texas, or a partnership consisting of _____ or individual trading as _____ of the City of Lubbock

Firm: Overhead Door Company of Lubbock Inc.
Address: P.O. Box 116624
City: Lubbock State: TX Zip 79490

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) |

By _____ Date: 2/26/14
*Authorized Representative - must sign by hand*

Officer Name and Title: Alan Haton President
*Please Print*

Business Telephone Number 797-4141 FAX: 797-8051

E-mail Address: saran@overheaddoorlubbock.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. 11829 for garage door repair services for various departments, by and between the City of Lubbock and West Texas Door and Construction, 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:

_____
Pamela Moon, Executive Director of Finance

APPROVED AS TO FORM:

_____
Chad Weaver, Assistant City Attorney

vw:ccdocs/RES.Contract-West Texas Door
March 12, 2014

**CONTRACT NO. 11829**

**CITY OF LUBBOCK, TX**
Garage Door Repair Services for Various Departments

**THIS CONTRACT** made and entered into this **27TH** day of **March, 2014**, by and between the City of Lubbock ("City"), and **West Texas Door and Construction**, ("Contractor").

**WITNESSETH**:

WHEREAS, the City of Lubbock duly advertised for bids for Garage Door Repair Services for Various Departments 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 Garage Door Repair Services for Various Departments .

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, Garage Door Repair Services for Various Departments and more specifically referred to as per Exhibit A 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. The rates may be adjusted upward or downward at this time at a percentage not to exceed the effective change in the Consumer Price Index (CPI) for the specific contract for the previous 12-months. 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 thirty (30) day written notice. Such written notice must state the reason for cancellation. The City of Lubbock reserves the right to award the canceled contract to the next lowest and best bidder as it deems to be in the best interest of the city.

5. Contractor shall at all times be an independent contractor and not an agent or representative of City with regard to performance of the Services. Contractor shall not represent that it is, or hold itself out as, an agent or representative of City. In no event shall Contractor be authorized to enter into any agreement or undertaking for or on behalf of City.

6. The contractor shall obtain and maintain in full force and effect during the term of the contract, commercial general liability coverage with insurance carriers admitted to do business in the State of Texas. The insurance companies must carry a Best's Rating of A- VII or better. The policies will be written on an occurrence basis, subject to the following minimum limits of liability:

| TYPE | AMOUNT |
|---|---|
| General Liability<br>Commercial General Liability<br>General Aggregate<br>Products-Comp/OP AGG<br>Personal & Adv. Injury<br>Contractual Liability<br>Products of Complete Operation<br>Endorsements | 500,000 |
| Automotive Liability<br>Combined Single Limit<br>Any Auto | 500,000 |
| Workers Compensation | Statutory Amounts |

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

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

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

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

7. Neither the City nor the Contractor shall assign, transfer or encumber any rights, duties or interests accruing from this Contract without the written consent of the other.

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. All funds for payment by the City under this contract are subject to the availability of an annual appropriation for this purpose by the City. In the event of nonappropriation of funds by the City Council of the City of Lubbock for the goods or services provided under the contract, the City will terminate the contract, without termination charge or other liability, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the goods or services covered by this contract is spent, whichever event occurs first. If at any time funds are not appropriated for the continuance of this contract, cancellation shall be accepted by the Seller on 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 contract beyond the date of termination.

11. This Contract consists of the following documents set forth herein; Invitation to Bid No. 14-11741-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

_____
Glen C. Robertson, Mayor

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Marta Alvarez, Director of Purchasing & Contract Management

APPROVED AS TO FORM:

_____
Assistant City Attorney

CONTRACTOR

BY Jana Williams
Authorized Representative

Jana Williams
Print Name

511 E. 82nd
Address

Lubbock, TX 79414
City, State, Zip Code

City of Lubbock, TX
ITB 14-11741-DG
West Texas Door and Construction., Lubbock, Tx
Exhibit A

| | Garage Door Repairs for Various Departments | | Hourly Labor Rate |
|---|---|---|---|
| 1 | Regular Labor Rate | $ | 49 |
| 2 | Emergency Labor Rate | | 69 |

**Bid Form**
**Garage Door Repair Services for Various Departments**
**City of Lubbock, Texas**
**ITB 14-11741-DG**

In compliance with the **Invitation to Bid 14-11741-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 **14-11741-DG** is by reference incorporated in this contract. The Bid Form **must** be **completed** in blue or black **ink** or by typewriter.

| | |
|---|---|
| 1. What is your labor rate per hour for a repair/service call? *(Billed in increments of full, half and ¼ hours)* | $ 49.00 per hour |
| 2. Is there an associated service fee? If s o, what is the service fee charge? No | Service Fee $ 0 |
| 3. What is your labor rate per hour for an emergency call? *(Billed in increments of full, half and ¼ hours)* | $ 69.00 per hour |
| 4. Is there an associated emergency service fee? If so, what is the service fee charge? No | Service Fee $ _____ |
| 5. Is a mileage charge included in the bid price? No If not, what is your mileage fee? .50¢/mile outside greater Lbk | $ .50¢ per mile |

***PRICE: F.O.B. Destination, Freight Pre-Paid and Allowed** **Days After Receipt of Order (ARO)

**Unless otherwise specified herein, the City may award the bid either item-by–item or on an all-or-none basis for any item or group of items shown on the bid.**

**The City of Lubbock is seeking a contract for Garage Door Repair Services for Various Departments 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 3 %, net 10 calendar days. Discounts will not be considered in determining low bid. Unless otherwise indicated on the Bid Form, payment terms will be NET THIRTY DAYS. The City will pay the successful bidder within thirty days after the receipt of a correct invoice or after the date of acceptance, whichever event occurs later. Discounts for prompt payment requiring payment by the City within a stipulated number of days will be interpreted as applying within the stipulated number of calendar days after the date of receipt by the City of a correct invoice or after the date of acceptance that meets contract requirements, whichever event occurs later. Discounts for payment in less than ten days will not be considered.

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

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

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

YES ✓ NO _____

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

THIS BID IS SUBMITTED BY West Texas Door & Construction a corporation organized under the laws of the State of Texas, or a partnership consisting of _____ or individual trading as West Texas Door & Construction of the City of Lubbock

Firm: West Texas Door & Construction
Address: 511 E. 82nd
City: Lubbock State: TX Zip 79404

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) |

By William G Williams Date: 2-25-2014
*Authorized Representative - must sign by hand*

Officer Name and Title: William G. Williams
*Please Print*

Business Telephone Number (806) 771-4450 FAX: _____

E-mail Address: jwilliams@wtxdoor.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. 11830 for garage door repair services for various departments, by and between the City of Lubbock and Brem Inc., dba Action Doors, 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:

_____
Pamela Moon, Executive Director of Finance

APPROVED AS TO FORM:

_____
Chad Weaver, Assistant City Attorney

vw:ccdocs/RES.Contract-Brem Inc.
March 12, 2014

**CITY OF LUBBOCK, TX**
Garage Door Repair Services for Various Departments

**THIS CONTRACT** made and entered into this **27TH** day of **March, 2014**, by and between the City of Lubbock ("City"), and **Brem Inc., dba Action Doors** ("Contractor").

**WITNESSETH:**

WHEREAS, the City of Lubbock duly advertised for bids for Garage Door Repair Services for Various Departments 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 Garage Door Repair Services for Various Departments .

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, Garage Door Repair Services for Various Departments and more specifically referred to as per Exhibit A 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. The rates may be adjusted upward or downward at this time at a percentage not to exceed the effective change in the Consumer Price Index (CPI) for the specific contract for the previous 12-months. 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 thirty (30) day written notice. Such written notice must state the reason for cancellation. The City of Lubbock reserves the right to award the canceled contract to the next lowest and best bidder as it deems to be in the best interest of the city.

5. Contractor shall at all times be an independent contractor and not an agent or representative of City with regard to performance of the Services. Contractor shall not represent that it is, or hold itself out as, an agent or representative of City. In no event shall Contractor be authorized to enter into any agreement or undertaking for or on behalf of City.

6. The contractor shall obtain and maintain in full force and effect during the term of the contract, commercial general liability coverage with insurance carriers admitted to do business in the State of Texas. The insurance companies must carry a Best's Rating of A- VII or better. The policies will be written on an occurrence basis, subject to the following minimum limits of liability:

| TYPE | AMOUNT |
|---|---|
| General Liability<br>Commercial General Liability<br>General Aggregate<br>Products-Comp/OP AGG<br>Personal & Adv. Injury<br>Contractual Liability<br>Products of Complete Operation<br>Endorsements | 500,000 |
| Automotive Liability<br>Combined Single Limit<br>Any Auto | 500,000 |
| Workers Compensation | Statutory Amounts |

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

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

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

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

7. Neither the City nor the Contractor shall assign, transfer or encumber any rights, duties or interests accruing from this Contract without the written consent of the other.

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. All funds for payment by the City under this contract are subject to the availability of an annual appropriation for this purpose by the City. In the event of nonappropriation of funds by the City Council of the City of Lubbock for the goods or services provided under the contract, the City will terminate the contract, without termination charge or other liability, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the goods or services covered by this contract is spent, whichever event occurs first. If at any time funds are not appropriated for the continuance of this contract, cancellation shall be accepted by the Seller on 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 contract beyond the date of termination.

11. This Contract consists of the following documents set forth herein; Invitation to Bid No. 14-11741-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

_____
Glen C. Robertson, Mayor

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Marta Alvarez, Director of Purchasing & Contract Management

APPROVED AS TO FORM:

_____
Assistant City Attorney

CONTRACTOR

BY _____
Authorized Representative

Jon David Bruegel
Print Name

10720 Louisville Ave.
Address

Lubbock TX 79423
City, State, Zip Code

City of Lubbock, TX
ITB 14-11741-DG
Brem, Inc., dba Action Doors., Lubbock, Tx
Exhibit A

| | Garage Door Repairs for Various Departments | | Hourly Labor Rate |
|---|---|---|---|
| 1 | Regular Labor Rate | $ | 100 |
| 2 | Emergency Labor Rate | | 150 |

## Bid Form
## Garage Door Repair Services for Various Departments
## City of Lubbock, Texas
## ITB 14-11741-DG

In compliance with the **Invitation to Bid 14-11741-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 **14-11741-DG** is by reference incorporated in this contract. The Bid Form **must** be **completed** in blue or black **ink** or by typewriter.

| | |
|---|---|
| 1. What is your labor rate per hour for a repair/service call?<br>*(Billed in increments of full, half and ¼ hours)* | $ 100 per hour |
| 2. Is there an associated service fee? If s o, what is the service fee charge? | Service Fee $ N/a |
| 3. What is your labor rate per hour for an emergency call?<br>*(Billed in increments of full, half and ¼ hours)* | $ 150 per hour |
| 4. Is there an associated emergency service fee? If so, what is the service fee charge? | Service Fee $ N/a |
| 5. Is a mileage charge included in the bid price?<br>If not, what is your mileage fee? | $ N/a per mile |

***PRICE: F.O.B. Destination, Freight Pre-Paid and Allowed** **Days After Receipt of Order (ARO)

**Unless otherwise specified herein, the City may award the bid either item-by–item or on an all-or-none basis for any item or group of items shown on the bid.**

**The City of Lubbock is seeking a contract for Garage Door Repair Services for Various Departments 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 _____%, net __ calendar days. Discounts will not be considered in determining low bid. Unless otherwise indicated on the Bid Form, payment terms will be NET THIRTY DAYS. The City will pay the successful bidder within thirty days after the receipt of a correct invoice or after the date of acceptance, whichever event occurs later. Discounts for prompt payment requiring payment by the City within a stipulated number of days will be interpreted as applying within the stipulated number of calendar days after the date of receipt by the City of a correct invoice or after the date of acceptance that meets contract requirements, whichever event occurs later. Discounts for payment in less than ten days will not be considered.

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

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

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

YES 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 Brem, Inc. a corporation organized under the laws of the State of Texas, or a partnership consisting of _____ or individual trading as _____ of the City of _____

Firm: Brem Inc. dba Action Doors
Address: 10720 Louisville Ave.
City: Lubbock State: Tx Zip 79423

Bidder acknowledges receipt of the following addenda:

| Addenda No. _____ | Addenda No. _____ | Addenda No. _____ | Addenda No. _____ |
|---|---|---|---|
| Date _____ | Date _____ | Date _____ | Date _____ |

| **M/WBE** Firm: | | | | | | |
|---|---|---|---|---|---|---|
| X | Woman | | Black American | | Native American |
| | Hispanic American | | Asian Pacific American | | Other (Specify) |

By Kimberly Bruegel Date: 2-26-14
*Authorized Representative - must sign by hand*
Officer Name and Title: Kimberly Bruegel, president
*Please Print*
Business Telephone Number 806-745-0303 FAX: 806-748-7454
E-mail Address: jpkimb@gmail.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.**

**City of Lubbock, TX**
**Purchasing and Contract Management**
**Bid Tabulation**
**March 27, 2014**

ITB 14-11741-DG
Garage Door Repairs for Various Departments

| Item | Qty | U/M | Description/Vendor | Location | Hourly Rate | Extended Cost |
|---|---|---|---|---|---|---|
| 1 | 1 | HR | Regular Labor Rate | | | |
| | | | West Texas Door | Lubbock, TX | 49 | $ 49 |
| | | | Overhead Door Lubbock | Lubbock, TX | 90 | 90 |
| | | | Brem Inc., dba Action Door | Lubbock, TX | 100 | 100 |
| 2 | 1 | HR | Emergency Labor Rate | | | |
| | | | West Texas Door | Lubbock, TX | 69 | 69 |
| | | | Brem Inc., dba Action Door | Lubbock, TX | 150 | 150 |
| | | | Overhead Door Lubbock | Lubbock, TX | 180 | 180 |

**Regular City Council Meeting** **5. 13.**

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

**Resolution - Purchasing and Contract Management**: Consider twelve resolutions authorizing the Mayor to execute contract 11681 with Tim Johns Heating & Air Conditioning, contract 11818 with Stewart/Finn, Inc dba Roto-Rooter, contract 11819 with Amco Electric Inc., contract 11822 with Anthony Mechanical Inc., contract 11821 with Rieken Electric, Inc., contract 11823 with Brandon and Clark, contract 11824 with Tecta America-CS, LLC, contract 11825 with Dent Electric, Inc., contract 11826 with Lydick-Hooks Roofing Co, contract 11828 with GRG Sanders and Co. dba Hub City Plumbing & Mechanical, contract 11827 with ABF Commercial Roofing, and contract 11836 with Anthony Mechanical Services, Inc., for minor repair service contracts, ITB 14-11681-MA.

**Item Summary**

The contracts will provide minor repair services on an as-needed basis for City facilities. Awarding multiple contracts will ensure that a contractor can be scheduled for repairs a in timely manner.

Bids were received from the following companies for their prospective sections:

**Section I - Roof Repair Services**
Lydick-Hooks Roofing Co. of Lubbock, TX
Tecta American CS, LLC of Lubbock, TX
ABF Roofing Company, of Lubbock, TX

**Section II - Heating and Ventilation Air Conditioning Repair Service**s
Anthony Mechanical Services, Inc. of Lubbock, TX
GRG Sanders and Co. dba Hub City Plumbing & Mechanical of Lubbock, TX
Tim Johns Heating & Air Conditioning of Lubbock, TX

**Section III - Electrical Services**
Amco Electric Inc. of Lubbock, TX
Dent Electric, Inc. of Lubbock, TX
Rieken Electric, Inc. of Lubbock, TX
Brandon and Clark of Lubbock, TX

**Section IV - Plumbing Services**
Stewart/Finn, Inc dba Roto-Rooter of Lubbock, TX
Anthony Mechanical Inc. of Lubbock, TX
GRG Sanders and Co. dba Hub City Plumbing & Mechanical of Lubbock, TX

Staff recommends contracts be awarded to Lydick-Hooks Roofing Co. of Lubbock, TX, Tecta American CS, LLC of Lubbock, TX, Anthony Mechanical Inc. of Lubbock, TX, GRG Sanders and Co. dba Hub City Plumbing & Mechanical of Lubbock, TX Tim Johns Heating & Air Conditioning of Lubbock, TX, Amco Electric Inc. of Lubbock, TX, Dent Electric, Inc. of Lubbock, TX, Rieken Electric, Inc. of Lubbock, TX, Brandon and Clark of

Lubbock, TX, and Stewart/Finn, Inc dba Roto-Rooter of Lubbock, TX. The contract term is for one year with the option of four, one year extensions, said date of term beginning upon formal approval. The contracts are awarded by hourly rate. Actual expenditures will vary depending on actual usage. A bid tabulation is provided.

**Fiscal Impact**

Maintenance repairs are funded through individual department operating budgets.

**Staff/Board Recommending**

Pamela Moon, Executive Director of Finance

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**Attachments**

Resolution & Contract - Lydick-Hooks Roofing Co

Resolution & Contract - Tecta America-CS, LLC

Resolution & Contract - ABF Commercial Roofing

Resolution & Contract - Anthony Mechanical Services, Inc

Resolution & Contract - GRG Sanders and Co. dba Hub City Plumbing and Mechanical

Resolution & Contract - Tim Johns Heating and Air Conditioning

Resolution & Contract - Amco Electric, Inc

Resolution & Contract - Dent Electric, Inc

Resolution & Contract - Rieken Electric, Inc

Resolution & Contract - Brandon and Clark, Inc

Resolution & Contract - Stewart/Finn, Inc dba Roto-Rooter

Resolution & Contract - Anthony Mechanical, Inc

Tab Sheet

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**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. 11826 for minor repair services-Section I Roofing Services per ITB #14-11681-MA, by and between the City of Lubbock and Lydick-Hooks Roofing Co., 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:

Pamela Moon
Pamela Moon, Executive Director of Finance

APPROVED AS TO FORM:

Chad Weaver
Chad Weaver, Assistant City Attorney

vw:ccdocs/RES.Contract-Lydick Hooks
March 13, 2014

## CITY OF LUBBOCK, TX
## Minor Repair Service Contracts

**THIS CONTRACT** made and entered into this ____ day of _____, 2014, by and between the City Lubbock ("City"), and **Lydick-Hooks Roofing Co.** , of Lubbock, Texas ("Contractor").

**WITNESSETH**:

WHEREAS, the City of Lubbock duly advertised for bids for Minor Repair Service Contracts 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 Minor Repair Service Contracts.

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, Minor Repair Service Contracts and more specifically referred to as Section I – Roofing Repair Services on the Bid Form submitted by the Contractor and General Requirements 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 general requirements, offer, and terms and conditions contained herein.

3. The Contractor shall perform the work according to the procedures outlined in the Bid Form and general requirements 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. The rates may be adjusted upward or downward at this time at a percentage not to exceed the effective change in the Consumer Price Index (CPI) for the contract for the previous 12-months. 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 thirty (30) day written notice. Such written notice must state the reason for cancellation. The City of Lubbock reserves the right to award the canceled contract to the next lowest and best bidder as it deems to be in the best interest of the city.

5. Contractor shall at all times be an independent contractor and not an agent or representative of the City with regard to performance of the Services. Contractor shall not represent that it is, or hold itself out as, an agent or representative of City. In no event shall Contractor be authorized to enter into any agreement or undertaking for or on behalf of City.

6. The contractor shall obtain and maintain in full force and effect during the term of the contract, commercial general liability coverage with insurance carriers admitted to do business in the State of Texas. The insurance companies must carry a Best's Rating of A- VII or better. The

policies will be written on an occurrence basis, subject to the following minimum limits of liability:

| TYPE | AMOUNT |
|---|---|
| General Liability<br>Commercial General Liability<br>General Aggregate<br>Products – Comp/OP AGG<br>Personal & Adv. Injury | $1,000,000 |
| Automotive Liability<br>Combined Single Limit<br>Any Auto | $1,000,000 |
| Workers Compensation | Statutory Amounts |

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

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

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

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

7. Neither the City nor the Contractor shall assign, transfer or encumber any rights, duties or interests accruing from this Contract without the written consent of the other.

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. All funds for payment by the City under this contract are subject to the availability of an annual appropriation for this purpose by the City. In the event of nonappropriation of funds by the City Council of the City of Lubbock for the goods or services provided under the contract, the City will terminate the contract, without termination charge or other liability, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the goods or services covered by this contract is spent, whichever event occurs first. If at any time funds are not appropriated for the continuance of this contract, cancellation shall be accepted by the Seller on 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 contract beyond the date of termination.

11. This Contract consists of the following documents set forth herein; Invitation to Bid No. 14-11681-MA, Bid Form and General Requirements.

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

CITY OF LUBBOCK

_____
Glen C. Robertson, Mayor

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Marta Alvarez, Director of Purchasing & Contract Management

APPROVED AS TO FORM:

_____
Assistant City Attorney

CONTRACTOR

BY Randy Hooks
Authorized Representative

RANDY HOOKS
Print Name

P.O. Box 2605
Address

Lubbock, Tx 79408
City, State, Zip Code

**City of Lubbock, Texas**
**ITB 14-11681-MA**
**Minor Repair Service Contracts**

## General Requirements

**Intent -** The purpose of this bid is to provide the City of Lubbock with qualified contractors to perform minor repairs for the following services: Roofing, HVAC, Electrical, Plumbing and Fence Repair. The bidder hereby agree to furnish all labor, materials, and supplies and to provide the service in accordance with the bid document. This bid is broken down into four sections: Section I for Roofing Services; Section II for HVAC Services Section III for Electrical; and Section IV for Plumbing Services and Section V for Fence Repair Services.

**Multiple Award** – The City may award up to three vendors (primary, secondary, tertiary), as available, by services. The City will endeavor to utilize vendors in order of award, however, the City may utilize any contract awarded that is in the best interest of the City to do so regardless of reason.

**Estimates -** The City reserves the right to secure pricing prior to commencement of work and solicit competitive bidding, if in the opinion of the City; pricing received is determined to be unreasonable compared to industry standards.

**Repairs and New Installations Firm Quotes** - The City will request price quotes for new installation and repair projects. These quotes shall be firm pricing and are not to exceed the specified amount quoted for any specific project unless the scope of the project changes and the change order(s) are approved in writing by the respective City department. Prior to the City issuing a notice to proceed, Contractor shall provide the City with a written proposal detailing the scope of services and providing the cost for the proposed work. **These quotes must utilize the contracted labor rates and contracted materials cost plus markup in order to utilize this contract.**

The omission, within a bid submittal, of specific reference to any equipment, materials, or labor necessary for performance of contract per specifications, shall not relieve contractor of responsibility for furnishing such equipment, materials or labor. The Contractor shall assign only the necessary personnel to complete the required work. The City Department representative reserves the right to question and audit the number of personnel assigned to a particular job and the number of hours that are being billed. At the time the work order is issued, Contractor must inform the requesting City Department representative of the approximate start-time and estimated job completion time. Contractor must handle any call-backs at no additional charges unless charges are authorized by the requesting City Department representative. Contractor's work must be completed to the satisfaction of the using department. Payment may be withheld until work is done in a satisfactory manner.

**Tools/Equipment** - All tools and equipment necessary to perform contract work shall be provided by the Contractor.

**Equipment Rental/Lease** - No separate charges shall be allowed for rental/lease of equipment unless specifically approved by the City Department representative.

**Scheduling/Response Time** - The Contractor will be required to give free written job estimates for specific projects within one (1) work day upon request. On an emergency basis, the Contractor shall

respond within a maximum of two (2) hours to arrange a same-day inspection and provide a written estimate. Upon receipt of the Notice to Proceed, completion of repairs to remedy the emergency situation must be completed within 24-72 hours. The definition of an emergency is as follows:

> **An emergency** is a situation or condition that occurred without warning within two (2) weeks, is detrimental to life, health or safety and requires immediate action. Immediate action is defined as 24-72 hours. Contractor must provide a mobile phone, pager, or answering service so that the City has a 24- hour a day access to the Contractor.

**Permits** – All work shall comply with all applicable state and local codes and ordinances, as well as any other authorities that may have lawful jurisdiction pertaining to the work specified. The contractor shall procure all necessary permits or licenses to carry out his work, and shall pay
any applicable fees for permits or inspections. There is no charge for City permits for services being performed on City property.

**Licenses/Certifications** – Current State licenses/Certifications must be provided with bid.

**Similar Experience** – Bidder shall demonstrate previous experience in regard to the requirements of this solicitation for a period of no less than (5) years.

**Term of Contract** -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. The rates may be adjusted upward or downward at this time at a percentage not to exceed the effective change in the Consumer Price Index (CPI) for the contract for the previous 12-months. The City does not guarantee any specific amount of compensation, volume, minimum or maximum amount of services under this contract.

**References** - Bidder shall submit with the bid, the name, address, telephone number and point of contact of at least three companies, for which the bidder has provided commercial services within the preceding 12 months.

**Contact Person** - The Contractor shall designate one of its employees to function in the role of primary contact person. The contact person shall be the liaison for the Contractor for the term of the agreement, and shall handle issues, problems, or questions arising from the performance of services.

**Warranties** - All work shall be guaranteed a minimum of thirty (30) days after final acceptance by the department of any of the services, including any and all installations, repairs, additions, components or parts thereof;

- The City will use its best efforts to notify the Contractor during the warranty period if any repair or installation is not in good working order;
- For new installations, Contractor shall provide full manufactures warranty to the City.
- The Contractor shall provide and bear the cost of all labor, material, cost of transportation, and insurance required to meet its obligations under this warranty;
- The Contractor shall either repair or replace at the City's sole option any installation, equipment, or component part not in good working order, at no additional cost to the City;

**City of Lubbock, Texas**
**ITB 14-11681-MA**
**Minor Repair Service Contracts**

# Additional Requirements

**Labor** - Based on contracted hourly rate, time invoiced shall be for actual time worked subject to verification/documentation approved by the City Department. **Contractor may not exceed contracted hourly rate.** Should after hours/holiday hours be necessary or indicated, it shall be performed only after obtaining specific authorization from the respective City Department. Unauthorized after hours/holiday pay will not be paid.

**Materials** – Materials are to be quoted on a cost-plus basis; percentage of markup to be based on net cost to Contractor, allowing for full credit for trade and/or cash discounts to the City. On any single item in which the cost equals or exceeds $100.00, a copy of the supplier's invoice – which must be dated and marked paid - shall be submitted as an attachment to the Contractor's invoice. All other invoices for less amounts must be retained, by the Contractor, for at least the warranty period, for City inspection upon written request. Copies of invoices for less than $100.00 shall be supplied to the City Department representative when requested for any reason, within ten calendar days of the request.

**No Additional Charges Allowed** - No charges, such as miscellaneous charges, environmental charges,fees, etc. will be paid by the City of if not listed in your bid response. However, charges imposed by the State of Texas or Federal Government after the bid award will be honored. Any additional charges listed in your bid response will be taken in consideration as part of the award evaluation.

**Travel Time:** The City will not compensate the contractor for travel or time between job sites.

**Disposal of Refuse -** Contractor shall clean the site and dispose of all refuse at a Texas Commission on Environmental Quality (TCEQ) approved.

# BID FORM
## Minor Repair Service Contracts
## City of Lubbock, Texas
## ITB 14-11681-MA

### Section I - Roofing Repair

| Item | Description | Est. Number of Hours | Hourly Rate | Total Price |
|---|---|---|---|---|
| 1 | Labor – Regular (8-5) | 200 | 56.31 | 11,262.00 |
| 2 | Labor – After Hours/Holiday | 50 | 70.39 | 3,519.50 |
| 3 | Labor – Emergency | 50 | 70.39 | 3,519.50 |
| 4 | Material/Parts – Percentage of markup on estimated $15,000 parts/material based on actual cost to contractor. 15.0 % Markup. If no markup is intended, write the word "None" in the space provided. $15,000 x 15.0 % markup equals $15,000 + 2,250.00 | | | 17,250.00 |
| | **Grand Total of Section I – Roofing Services (Items 1-4)** | | | $ 35,551.00 |

For reimbursement of rental of equipment, prior approval must be authorized by the City Department representative. If applicable: 15.0 % markup. A copy of the receipt for the rental of the equipment must be attached to the invoice. Will you comply? Yes ☒ No ☐

Materials are to be quoted on a cost-plus basis; percentage of markup to be based on net cost to Contractor, allowing for full credit for trade and/or cash discounts to the, prior approval must be authorized by City Department representative. Use Attachment A for approval. Will you comply? Yes ☒ No ☐

Did you meet the requirement to submit a copy of your state license with your bid? Yes ☐ No ☒

How long has your company been in this business? 122 years

How many consecutive years of experience do you have in providing these services? 44 years

Do you have a local service shop? Yes ☒ No ☐
Adddress: 1924 Clovis Road - Lubbock, TX 79415
If emergency service is required at night or on weekends, can you respond? Yes ☒ No ☐
What is your response time for an emergency? 90 min.
What is your response time for calls other than emergency? varies - usually within 2 days
What is your response time to begin a project after receipt of order? varies - usually within 2 days
List any additional information to be considered in evaluating your bid.

**Vendor's Signature** Randy Hooks **Company's Name** Lydick-Hooks Roofing Co. of Lubbock, Inc.

# RESOLUTION

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

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Contract No. 11824 for minor repair services-Section I Roofing Repair Services per ITB 14-11681-MA, by and between the City of Lubbock and Tecta America-CS, LLC, 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:

Pamela Moon
_____
Pamela Moon, Executive Director of Finance

APPROVED AS TO FORM:

_____
Chad Weaver, Assistant City Attorney

vw:ccdocs/RES.Contract-Tecta America
March 12, 2014

**CITY OF LUBBOCK, TX**
**Minor Repair Service Contracts**

**THIS CONTRACT** made and entered into this ____ day of _____, 2014, by and between the City Lubbock ("City"), and **Tecta America – CS, LLC**, of Lubbock, Texas ("Contractor").

**WITNESSETH:**

WHEREAS, the City of Lubbock duly advertised for bids for Minor Repair Service Contracts 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 Minor Repair Service Contracts.

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, Minor Repair Service Contracts and more specifically referred to as Section I – Roofing Repair Services on the Bid Form submitted by the Contractor and General Requirements 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 general requriments, offer, and terms and conditions contained herein.

3. The Contractor shall perform the work according to the procedures outlined in the Bid Form and General Requirements 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. The rates may be adjusted upward or downward at this time at a percentage not to exceed the effective change in the Consumer Price Index (CPI) for the contract for the previous 12-months. 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 thirty (30) day written notice. Such written notice must state the reason for cancellation. The City of Lubbock reserves the right to award the canceled contract to the next lowest and best bidder as it deems to be in the best interest of the city.

5. Contractor shall at all times be an independent contractor and not an agent or representative of the City with regard to performance of the Services. Contractor shall not represent that it is, or hold itself out as, an agent or representative of City. In no event shall Contractor be authorized to enter into any agreement or undertaking for or on behalf of City.

6. The contractor shall obtain and maintain in full force and effect during the term of the contract, commercial general liability coverage with insurance carriers admitted to do business in the State of Texas. The insurance companies must carry a Best's Rating of A- VII or better. The

policies will be written on an occurrence basis, subject to the following minimum limits of liability:

| TYPE | AMOUNT |
|---|---|
| General Liability<br>Commercial General Liability<br>General Aggregate<br>Products – Comp/OP AGG<br>Personal & Adv. Injury | $1,000,000 |
| Automotive Liability<br>Combined Single Limit<br>Any Auto | $1,000,000 |
| Workers Compensation | Statutory Amounts |

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

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

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

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

7. Neither the City nor the Contractor shall assign, transfer or encumber any rights, duties or interests accruing from this Contract without the written consent of the other.

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. All funds for payment by the City under this contract are subject to the availability of an annual appropriation for this purpose by the City. In the event of nonappropriation of funds by the City Council of the City of Lubbock for the goods or services provided under the contract, the City will terminate the contract, without termination charge or other liability, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the goods or services covered by this contract is spent, whichever event occurs first. If at any time funds are not appropriated for the continuance of this contract, cancellation shall be accepted by the Seller on 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 contract beyond the date of termination.

11. This Contract consists of the following documents set forth herein; Invitation to Bid No. 14-11681-MA, Bid Form and General Requirements.

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

CITY OF LUBBOCK

_____
Glen C. Robertson, Mayor

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Marta Alvarez, Director of Purchasing & Contract Management

APPROVED AS TO FORM:

_____
Assistant City Attorney

CONTRACTOR

BY Lara Vaughan
Authorized Representative

Lara Vaughan
Print Name

5401 Acuff Rd
Address

Lubbock, TX 79403
City, State, Zip Code

# BID FORM
## Minor Repair Service Contracts
## City of Lubbock, Texas
## ITB 14-11681-MA

### Section I - Roofing Repair

| Item | Description | Est. Number of Hours | Hourly Rate | Total Price |
|---|---|---|---|---|
| 1 | Labor – Regular (8-5) | 200 | 68.00 | 13,600.00 |
| 2 | Labor – After Hours/Holiday | 50 | 120.00 | 6,000.00 |
| 3 | Labor – Emergency | 50 | 120.00 | 6,000.00 |
| 4 | Material/Parts – Percentage of markup on estimated $15,000 parts/material based on actual cost to contractor. _____ % Markup. If no markup is intended, write the word "None" in the space provided. $15,000 x 12 % markup equals $15,000 + 1,800.00 | | | 16,800.00 |
| | **Grand Total of Section I – Roofing Services (Items 1-4)** | | | $ 42,400.00 |

For reimbursement of rental of equipment, prior approval must be authorized by the City Department representative. If applicable: 15 % markup. A copy of the receipt for the rental of the equipment must be attached to the invoice. Will you comply? Yes ☑ No ☐

Materials are to be quoted on a cost-plus basis; percentage of markup to be based on net cost to Contractor, allowing for full credit for trade and/or cash discounts to the, prior approval must be authorized by City Department representative. Use Attachment A for approval. Will you comply? Yes ☑ No ☐

Did you meet the requirement to submit a copy of your state license with your bid? Yes ☐ No ☑ N/A

How long has your company been in this business? 54 yrs

How many consecutive years of experience do you have in providing these services? 22

Do you have a local service shop? Yes ☑ No ☐
Adddress: 5401 Acuff Road, Lubbock, Tx 79403
If emergency service is required at night or on weekends, can you respond? Yes ☑ No ☐
What is your response time for an emergency? within 8 hours
What is your response time for calls other than emergency? within 36 hours
What is your response time to begin a project after receipt of order? within 72 hours
List any additional information to be considered in evaluating your bid.

**Vendor's Signature** _____ **Company's Name** Tecta America-CS

**City of Lubbock, Texas**
**ITB 14-11681-MA**
**Minor Repair Service Contracts**

## General Requirements

**Intent** - The purpose of this bid is to provide the City of Lubbock with qualified contractors to perform minor repairs for the following services: Roofing, HVAC, Electrical, Plumbing and Fence Repair. The bidder hereby agree to furnish all labor, materials, and supplies and to provide the service in accordance with the bid document. This bid is broken down into four sections: Section I for Roofing Services; Section II for HVAC Services Section III for Electrical; and Section IV for Plumbing Services and Section V for Fence Repair Services.

**Multiple Award** – The City may award up to three vendors (primary, secondary, tertiary), as available, by services. The City will endeavor to utilize vendors in order of award, however, the City may utilize any contract awarded that is in the best interest of the City to do so regardless of reason.

**Estimates** - The City reserves the right to secure pricing prior to commencement of work and solicit competitive bidding, if in the opinion of the City; pricing received is determined to be unreasonable compared to industry standards.

**Repairs and New Installations Firm Quotes** - The City will request price quotes for new installation and repair projects. These quotes shall be firm pricing and are not to exceed the specified amount quoted for any specific project unless the scope of the project changes and the change order(s) are approved in writing by the respective City department. Prior to the City issuing a notice to proceed, Contractor shall provide the City with a written proposal detailing the scope of services and providing the cost for the proposed work. **These quotes must utilize the contracted labor rates and contracted materials cost plus markup in order to utilize this contract.**

The omission, within a bid submittal, of specific reference to any equipment, materials, or labor necessary for performance of contract per specifications, shall not relieve contractor of responsibility for furnishing such equipment, materials or labor. The Contractor shall assign only the necessary personnel to complete the required work. The City Department representative reserves the right to question and audit the number of personnel assigned to a particular job and the number of hours that are being billed. At the time the work order is issued, Contractor must inform the requesting City Department representative of the approximate start-time and estimated job completion time. Contractor must handle any call-backs at no additional charges unless charges are authorized by the requesting City Department representative. Contractor's work must be completed to the satisfaction of the using department. Payment may be withheld until work is done in a satisfactory manner.

**Tools/Equipment** - All tools and equipment necessary to perform contract work shall be provided by the Contractor.

**Equipment Rental/Lease** - No separate charges shall be allowed for rental/lease of equipment unless specifically approved by the City Department representative.

**Scheduling/Response Time** - The Contractor will be required to give free written job estimates for specific projects within one (1) work day upon request. On an emergency basis, the Contractor shall

respond within a maximum of two (2) hours to arrange a same-day inspection and provide a written estimate. Upon receipt of the Notice to Proceed, completion of repairs to remedy the emergency situation must be completed within 24-72 hours. The definition of an emergency is as follows:

> **An emergency** is a situation or condition that occurred without warning within two (2) weeks, is detrimental to life, health or safety and requires immediate action. Immediate action is defined as 24-72 hours. Contractor must provide a mobile phone, pager, or answering service so that the City has a 24- hour a day access to the Contractor.

**Permits** – All work shall comply with all applicable state and local codes and ordinances, as well as any other authorities that may have lawful jurisdiction pertaining to the work specified. The contractor shall procure all necessary permits or licenses to carry out his work, and shall pay
any applicable fees for permits or inspections. There is no charge for City permits for services being performed on City property.

**Licenses/Certifications** – Current State licenses/Certifications must be provided with bid.

**Similar Experience** – Bidder shall demonstrate previous experience in regard to the requirements of this solicitation for a period of no less than (5) years.

**Term of Contract** -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. The rates may be adjusted upward or downward at this time at a percentage not to exceed the effective change in the Consumer Price Index (CPI) for the contract for the previous 12-months. The City does not guarantee any specific amount of compensation, volume, minimum or maximum amount of services under this contract.

**References** - Bidder shall submit with the bid, the name, address, telephone number and point of contact of at least three companies, for which the bidder has provided commercial services within the preceding 12 months.

**Contact Person** - The Contractor shall designate one of its employees to function in the role of primary contact person. The contact person shall be the liaison for the Contractor for the term of the agreement, and shall handle issues, problems, or questions arising from the performance of services.

**Warranties** - All work shall be guaranteed a minimum of thirty (30) days after final acceptance by the department of any of the services, including any and all installations, repairs, additions, components or parts thereof;

- The City will use its best efforts to notify the Contractor during the warranty period if any repair or installation is not in good working order;
- For new installations, Contractor shall provide full manufactures warranty to the City.
- The Contractor shall provide and bear the cost of all labor, material, cost of transportation, and insurance required to meet its obligations under this warranty;
- The Contractor shall either repair or replace at the City's sole option any installation, equipment, or component part not in good working order, at no additional cost to the City;

**City of Lubbock, Texas**
**ITB 14-11681-MA**
**Minor Repair Service Contracts**

# Additional Requirements

**Labor** - Based on contracted hourly rate, time invoiced shall be for actual time worked subject to verification/documentation approved by the City Department. **Contractor may not exceed contracted hourly rate.** Should after hours/holiday hours be necessary or indicated, it shall be performed only after obtaining specific authorization from the respective City Department. Unauthorized after hours/holiday pay will not be paid.

**Materials** – Materials are to be quoted on a cost-plus basis; percentage of markup to be based on net cost to Contractor, allowing for full credit for trade and/or cash discounts to the City. On any single item in which the cost equals or exceeds $100.00, a copy of the supplier's invoice – which must be dated and marked paid - shall be submitted as an attachment to the Contractor's invoice. All other invoices for less amounts must be retained, by the Contractor, for at least the warranty period, for City inspection upon written request. Copies of invoices for less than $100.00 shall be supplied to the City Department representative when requested for any reason, within ten calendar days of the request.

**No Additional Charges Allowed** - No charges, such as miscellaneous charges, environmental charges,fees, etc. will be paid by the City of if not listed in your bid response. However, charges imposed by the State of Texas or Federal Government after the bid award will be honored. Any additional charges listed in your bid response will be taken in consideration as part of the award evaluation.

**Travel Time:** The City will not compensate the contractor for travel or time between job sites.

**Disposal of Refuse** - Contractor shall clean the site and dispose of all refuse at a Texas Commission on Environmental Quality (TCEQ) approved.

# 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. 11827 for minor repair services-Section I Roofing Repairs Services per ITB 14-11681-MA, by and between the City of Lubbock and ABF Commercial Roofing, 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:

_____
Pamela Moon, Executive Director of Finance

APPROVED AS TO FORM:

_____
Chad Weaver, Assistant City Attorney

vw:ccdocs/RES.Contract-ABF Commercial
March 20, 2014

**CITY OF LUBBOCK, TX**
**Minor Repair Service Contracts**

**THIS CONTRACT** made and entered into this ____ day of _____, 2014, by and between the City of Lubbock ("City"), and **ABF Commercial Roofing**, of Lubbock, Texas ("Contractor").

**WITNESSETH:**

WHEREAS, the City of Lubbock duly advertised for bids for Minor Repair Service Contracts 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 Minor Repair Service Contracts.

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, Minor Repair Service Contracts and more specifically referred to as Section I – Roofing Repair Services on the Bid Form submitted by the Contractor and General Requirements 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. The rates may be adjusted upward or downward at this time at a percentage not to exceed the effective change in the Consumer Price Index (CPI) for the contract for the previous 12-months. 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 thirty (30) day written notice. Such written notice must state the reason for cancellation. The City of Lubbock reserves the right to award the canceled contract to the next lowest and best bidder as it deems to be in the best interest of the city.

5. Contractor shall at all times be an independent contractor and not an agent or representative of the 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

State of Texas. The insurance companies must carry a Best's Rating of A- VII or better. The policies will be written on an occurrence basis, subject to the following minimum limits of liability:

| TYPE | AMOUNT |
|---|---|
| General Liability<br>Commercial General Liability<br>General Aggregate<br>Products – Comp/OP AGG<br>Personal & Adv. Injury | $1,000,000 |
| Automotive Liability<br>Combined Single Limit<br>Any Auto | $1,000,000 |
| Workers Compensation | Statutory Amounts |

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

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

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

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

7. Neither the City nor the Contractor shall assign, transfer or encumber any rights, duties or interests accruing from this Contract without the written consent of the other.

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. All funds for payment by the City under this contract are subject to the availability of an annual appropriation for this purpose by the City. In the event of nonappropriation of funds by the City Council of the City of Lubbock for the goods or services provided under the contract, the City will terminate the contract, without termination charge or other liability, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the goods or services covered by this contract is spent, whichever event occurs first. If at any time funds are not appropriated for the continuance of this contract, cancellation shall be accepted by the Seller on 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 contract beyond the date of termination.

11. This Contract consists of the following documents set forth herein; Invitation to Bid No. 14-11681-MA, Bid Form and General Requirements.

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

CITY OF LUBBOCK

Glen C. Robertson, Mayor

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Marta Alvarez, Director of Purchasing & Contract Management

APPROVED AS TO FORM:

Assistant City Attorney

CONTRACTOR

BY

Authorized Representative

Kyle Sherman

Print Name

702 Woodrow Rd

Address

Lubbock TX 79424

City, State, Zip Code

**BID FORM**
**Minor Repair Service Contracts**
**City of Lubbock, Texas**
**ITB 14-11681-MA**

**Section I - Roofing Repair**

| Item | Description | Est. Number of Hours | Hourly Rate | Total Price |
|---|---|---|---|---|
| 1 | Labor – Regular (8-5) | 200 | 100 | 20,000 |
| 2 | Labor – After Hours/Holiday | 50 | 200 | 10,000 |
| 3 | Labor – Emergency | 50 | 400 | 20,000 |
| 4 | Material/Parts – Percentage of markup on estimated $15,000 parts/material based on actual cost to contractor. 40 % Markup. If no markup is intended, write the word "None" in the space provided. $15,000 x 40 % markup equals $15,000 + 6000 | | | 21 000 |
| | **Grand Total of Section I – Roofing Services (Items 1-4)** | | | $ 71,000 |

For reimbursement of rental of equipment, prior approval must be authorized by the City Department representative. If applicable: 40 % markup. A copy of the receipt for the rental of the equipment must be attached to the invoice. Will you comply? Yes ☑ No ☐

Materials are to be quoted on a cost-plus basis; percentage of markup to be based on net cost to Contractor, allowing for full credit for trade and/or cash discounts to the, prior approval must be authorized by City Department representative. Use Attachment A for approval. Will you comply? Yes ☑ No ☐

Did you meet the requirement to submit a copy of your state license with your bid? Yes ☑ No ☐

How long has your company been in this business? 5 years

How many consecutive years of experience do you have in providing these services? 5 years

Do you have a local service shop? Yes ☑ No ☐
Adddress: 702 Woodrow Road
If emergency service is required at night or on weekends, can you respond? Yes ☑ No ☐
What is your response time for an emergency? 24 - 48 hours
What is your response time for calls other than emergency? 72 hours
What is your response time to begin a project after receipt of order? 2-3 weeks
List any additional information to be considered in evaluating your bid.

**Vendor's Signature** [signature] **Company's Name** ABF Commercial

**City of Lubbock, Texas**
**ITB 14-11681-MA**
**Minor Repair Service Contracts**

## General Requirements

**Intent** - The purpose of this bid is to provide the City of Lubbock with qualified contractors to perform minor repairs for the following services: Roofing, HVAC, Electrical, Plumbing and Fence Repair. The bidder hereby agree to furnish all labor, materials, and supplies and to provide the service in accordance with the bid document. This bid is broken down into four sections: Section I for Roofing Services; Section II for HVAC Services Section III for Electrical; and Section IV for Plumbing Services and Section V for Fence Repair Services.

**Multiple Award** – The City may award up to three vendors (primary, secondary, tertiary), as available, by services. The City will endeavor to utilize vendors in order of award, however, the City may utilize any contract awarded that is in the best interest of the City to do so regardless of reason.

**Estimates** - The City reserves the right to secure pricing prior to commencement of work and solicit competitive bidding, if in the opinion of the City; pricing received is determined to be unreasonable compared to industry standards.

**Repairs and New Installations Firm Quotes** - The City will request price quotes for new installation and repair projects. These quotes shall be firm pricing and are not to exceed the specified amount quoted for any specific project unless the scope of the project changes and the change order(s) are approved in writing by the respective City department. Prior to the City issuing a notice to proceed, Contractor shall provide the City with a written proposal detailing the scope of services and providing the cost for the proposed work. **These quotes must utilize the contracted labor rates and contracted materials cost plus markup in order to utilize this contract.**

The omission, within a bid submittal, of specific reference to any equipment, materials, or labor necessary for performance of contract per specifications, shall not relieve contractor of responsibility for furnishing such equipment, materials or labor. The Contractor shall assign only the necessary personnel to complete the required work. The City Department representative reserves the right to question and audit the number of personnel assigned to a particular job and the number of hours that are being billed. At the time the work order is issued, Contractor must inform the requesting City Department representative of the approximate start-time and estimated job completion time. Contractor must handle any call-backs at no additional charges unless charges are authorized by the requesting City Department representative. Contractor's work must be completed to the satisfaction of the using department. Payment may be withheld until work is done in a satisfactory manner.

**Tools/Equipment** - All tools and equipment necessary to perform contract work shall be provided by the Contractor.

**Equipment Rental/Lease** - No separate charges shall be allowed for rental/lease of equipment unless specifically approved by the City Department representative.

**Scheduling/Response Time** - The Contractor will be required to give free written job estimates for specific projects within one (1) work day upon request. On an emergency basis, the Contractor shall

respond within a maximum of two (2) hours to arrange a same-day inspection and provide a written estimate. Upon receipt of the Notice to Proceed, completion of repairs to remedy the emergency situation must be completed within 24-72 hours. The definition of an emergency is as follows:

> **An emergency** is a situation or condition that occurred without warning within two (2) weeks, is detrimental to life, health or safety and requires immediate action. Immediate action is defined as 24-72 hours. Contractor must provide a mobile phone, pager, or answering service so that the City has a 24- hour a day access to the Contractor.

**Permits** – All work shall comply with all applicable state and local codes and ordinances, as well as any other authorities that may have lawful jurisdiction pertaining to the work specified. The contractor shall procure all necessary permits or licenses to carry out his work, and shall pay
any applicable fees for permits or inspections. There is no charge for City permits for services being performed on City property.

**Licenses/Certifications** – Current State licenses/Certifications must be provided with bid.

**Similar Experience** – Bidder shall demonstrate previous experience in regard to the requirements of this solicitation for a period of no less than (5) years.

**Term of Contract** -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. The rates may be adjusted upward or downward at this time at a percentage not to exceed the effective change in the Consumer Price Index (CPI) for the contract for the previous 12-months. The City does not guarantee any specific amount of compensation, volume, minimum or maximum amount of services under this contract.

**References** - Bidder shall submit with the bid, the name, address, telephone number and point of contact of at least three companies, for which the bidder has provided commercial services within the preceding 12 months.

**Contact Person** - The Contractor shall designate one of its employees to function in the role of primary contact person. The contact person shall be the liaison for the Contractor for the term of the agreement, and shall handle issues, problems, or questions arising from the performance of services.

**Warranties** - All work shall be guaranteed a minimum of thirty (30) days after final acceptance by the department of any of the services, including any and all installations, repairs, additions, components or parts thereof;

- The City will use its best efforts to notify the Contractor during the warranty period if any repair or installation is not in good working order;
- For new installations, Contractor shall provide full manufactures warranty to the City.
- The Contractor shall provide and bear the cost of all labor, material, cost of transportation, and insurance required to meet its obligations under this warranty;
- The Contractor shall either repair or replace at the City's sole option any installation, equipment, or component part not in good working order, at no additional cost to the City;

**City of Lubbock, Texas**
**ITB 14-11681-MA**
**Minor Repair Service Contracts**

## Additional Requirements

**Labor** - Based on contracted hourly rate, time invoiced shall be for actual time worked subject to verification/documentation approved by the City Department. **Contractor may not exceed contracted hourly rate.** Should after hours/holiday hours be necessary or indicated, it shall be performed only after obtaining specific authorization from the respective City Department. Unauthorized after hours/holiday pay will not be paid.

**Materials** – Materials are to be quoted on a cost-plus basis; percentage of markup to be based on net cost to Contractor, allowing for full credit for trade and/or cash discounts to the City. On any single item in which the cost equals or exceeds $100.00, a copy of the supplier's invoice – which must be dated and marked paid - shall be submitted as an attachment to the Contractor's invoice. All other invoices for less amounts must be retained, by the Contractor, for at least the warranty period, for City inspection upon written request. Copies of invoices for less than $100.00 shall be supplied to the City Department representative when requested for any reason, within ten calendar days of the request.

**No Additional Charges Allowed** - No charges, such as miscellaneous charges, environmental charges,fees, etc. will be paid by the City of if not listed in your bid response. However, charges imposed by the State of Texas or Federal Government after the bid award will be honored. Any additional charges listed in your bid response will be taken in consideration as part of the award evaluation.

**Travel Time:** The City will not compensate the contractor for travel or time between job sites.

**Disposal of Refuse** - Contractor shall clean the site and dispose of all refuse at a Texas Commission on Environmental Quality (TCEQ) approved.

# 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. 11836 for minor repair services – Section II HVAC Services per ITB 14-11681-MA, by and between the City of Lubbock and Anthony Mechanical Services, 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:

_____
Pamela Moon, Executive Director of Finance

APPROVED AS TO FORM:

_____
Chad Weaver, Assistant City Attorney

vw:ccdocs/RES.Contract-Anthony Mechanical, Inc.
March 24, 2014

## CITY OF LUBBOCK, TX
## Minor Repair Service Contracts

**THIS CONTRACT** made and entered into this ____ day of _____, 2014, by and between the City of Lubbock ("City"), and **Anthony Mechanical Services, Inc**, of Lubbock, Texas ("Contractor").

**WITNESSETH:**

WHEREAS, the City of Lubbock duly advertised for bids for Minor Repair Service Contracts 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 Minor Repair Service Contracts.

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, Minor Repair Service Contracts and more specifically referred to as Section II –HVAC Services on the Bid Form submitted by the Contractor and General Requirements 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 general requirements, offer, and terms and conditions contained herein.

3. The Contractor shall perform the work according to the procedures outlined in the Bid Form and General Requirements 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. The rates may be adjusted upward or downward at this time at a percentage not to exceed the effective change in the Consumer Price Index (CPI) for the contract for the previous 12-months. 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 thirty (30) day written notice. Such written notice must state the reason for cancellation. The City of Lubbock reserves the right to award the canceled contract to the next lowest and best bidder as it deems to be in the best interest of the city.

5. Contractor shall at all times be an independent contractor and not an agent or representative of the 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

State of Texas. The insurance companies must carry a Best's Rating of A- VII or better. The policies will be written on an occurrence basis, subject to the following minimum limits of liability:

| TYPE | AMOUNT |
|---|---|
| General Liability<br>Commercial General Liability<br>General Aggregate<br>Products – Comp/OP AGG<br>Personal & Adv. Injury | $1,000,000 |
| Automotive Liability<br>Combined Single Limit<br>Any Auto | $1,000,000 |
| Workers Compensation | Statutory Amounts |

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

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

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

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

7. Neither the City nor the Contractor shall assign, transfer or encumber any rights, duties or interests accruing from this Contract without the written consent of the other.

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

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. All funds for payment by the City under this contract are subject to the availability of an annual appropriation for this purpose by the City. In the event of nonappropriation of funds by the City Council of the City of Lubbock for the goods or services provided under the contract, the City will terminate the contract, without termination charge or other liability, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the goods or services covered by this contract is spent, whichever event occurs first. If at any time funds are not appropriated for the continuance of this contract, cancellation shall be accepted by the Seller on 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 contract beyond the date of termination.

11. This Contract consists of the following documents set forth herein; Invitation to Bid No. 14-11681-MA, Bid Form and General Requirements.

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

CITY OF LUBBOCK

Glen C. Robertson, Mayor

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Marta Alvarez, Director of Purchasing & Contract Management

APPROVED AS TO FORM:

Assistant City Attorney

CONTRACTOR

BY

Authorized Representative

BILL HAYES

Print Name

PO BOX 3460

Address

LUB TX 79452

City, State, Zip Code

**BID FORM**
**Minor Repair Service Contracts**
**City of Lubbock, Texas**
**ITB 14-11681-MA**

**Section II – HVAC Services**

| Item | Description | Est. Number of Hours | Hourly Rate | Total Price |
|---|---|---|---|---|
| 1 | Technician/Installer – Regular Hours Regular (8-5) | 200 | 100.00 | 20,000.00 |
| 2 | Technician –After Hours/Holidays | 50 | 150.00 | 7,500.00 |
| 3 | Technician – Emergency | 50 | 150.00 | 7,500.00 |
| 4 | Apprentice– Regular Hours | 50 | 100.00 | 7,500.00 |
| 5 | Apprentice– After Hour /Holidays | | 150.00 | |
| 6 | Apprentice– Emergency | 50 | 150.00 | 7,500.00 |
| 7 | Material/Parts – Percentage of markup on estimated $15,000 parts/material based on actual cost to contractor. 2.5 % Markup. If no markup is intended, write the word "None" in the space provided. $15,000 x 2.5 % markup equals $15,000 + $22,500.00 | | | 37,500.00 |
| | **Grand Total of Section II – HVAC Services (Items 1-7)** | | | $ 87,500.00 |

For reimbursement of rental of equipment, prior approval must be authorized by the City Department representative. If applicable: _____ % markup. A copy of the receipt for the rental of the equipment must be attached to the invoice. Will you comply? Yes ☐ No ☐

Materials are to be quoted on a cost-plus basis; percentage of markup to be based on net cost to Contractor, allowing for full credit for trade and/or cash discounts to the, prior approval must be authorized by City Department representative. Use Attachment A for approval. Will you comply? Yes ☐ No ☐

Did you meet the requirement to submit a copy of your state license with your bid? Yes ☐ No ☐

Do you have a local service shop? Yes ☐ No ☐
Adddress:_____
How long has your company been in this business? _____
How many consecutive years of experience do you have in providing these services? _____
If emergency service is required at night or on weekends, can you respond? Yes ☐ No ☐
What is your response time for an emergency? _____
What is your response time for calls other than emergency? _____
What is your response time to begin a project after receipt of order? _____
List any additional information to be considered in evaluating your bid.

**Vendor's Signature** _____ **Company's Name** ANTHONY MECHANICAL SERVICES, INC.

**City of Lubbock, Texas**
**ITB 14-11681-MA**
**Minor Repair Service Contracts**

## General Requirements

**Intent** - The purpose of this bid is to provide the City of Lubbock with qualified contractors to perform minor repairs for the following services: Roofing, HVAC, Electrical, Plumbing and Fence Repair. The bidder hereby agree to furnish all labor, materials, and supplies and to provide the service in accordance with the bid document. This bid is broken down into four sections: Section I for Roofing Services; Section II for HVAC Services Section III for Electrical; and Section IV for Plumbing Services and Section V for Fence Repair Services.

**Multiple Award** – The City may award up to three vendors (primary, secondary, tertiary), as available, by services. The City will endeavor to utilize vendors in order of award, however, the City may utilize any contract awarded that is in the best interest of the City to do so regardless of reason.

**Estimates** - The City reserves the right to secure pricing prior to commencement of work and solicit competitive bidding, if in the opinion of the City; pricing received is determined to be unreasonable compared to industry standards.

**Repairs and New Installations Firm Quotes** - The City will request price quotes for new installation and repair projects. These quotes shall be firm pricing and are not to exceed the specified amount quoted for any specific project unless the scope of the project changes and the change order(s) are approved in writing by the respective City department. Prior to the City issuing a notice to proceed, Contractor shall provide the City with a written proposal detailing the scope of services and providing the cost for the proposed work. **These quotes must utilize the contracted labor rates and contracted materials cost plus markup in order to utilize this contract.**

The omission, within a bid submittal, of specific reference to any equipment, materials, or labor necessary for performance of contract per specifications, shall not relieve contractor of responsibility for furnishing such equipment, materials or labor. The Contractor shall assign only the necessary personnel to complete the required work. The City Department representative reserves the right to question and audit the number of personnel assigned to a particular job and the number of hours that are being billed. At the time the work order is issued, Contractor must inform the requesting City Department representative of the approximate start-time and estimated job completion time. Contractor must handle any call-backs at no additional charges unless charges are authorized by the requesting City Department representative. Contractor's work must be completed to the satisfaction of the using department. Payment may be withheld until work is done in a satisfactory manner.

**Tools/Equipment** - All tools and equipment necessary to perform contract work shall be provided by the Contractor.

**Equipment Rental/Lease** - No separate charges shall be allowed for rental/lease of equipment unless specifically approved by the City Department representative.

**Scheduling/Response Time** - The Contractor will be required to give free written job estimates for specific projects within one (1) work day upon request. On an emergency basis, the Contractor shall

respond within a maximum of two (2) hours to arrange a same-day inspection and provide a written estimate. Upon receipt of the Notice to Proceed, completion of repairs to remedy the emergency situation must be completed within 24-72 hours. The definition of an emergency is as follows:

> **An emergency** is a situation or condition that occurred without warning within two (2) weeks, is detrimental to life, health or safety and requires immediate action. Immediate action is defined as 24-72 hours. Contractor must provide a mobile phone, pager, or answering service so that the City has a 24- hour a day access to the Contractor.

**Permits** – All work shall comply with all applicable state and local codes and ordinances, as well as any other authorities that may have lawful jurisdiction pertaining to the work specified. The contractor shall procure all necessary permits or licenses to carry out his work, and shall pay any applicable fees for permits or inspections. There is no charge for City permits for services being performed on City property.

**Licenses/Certifications** – Current State licenses/Certifications must be provided with bid.

**Similar Experience** – Bidder shall demonstrate previous experience in regard to the requirements of this solicitation for a period of no less than (5) years.

**Term of Contract** -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. The rates may be adjusted upward or downward at this time at a percentage not to exceed the effective change in the Consumer Price Index (CPI) for the contract for the previous 12-months. The City does not guarantee any specific amount of compensation, volume, minimum or maximum amount of services under this contract.

**References** - Bidder shall submit with the bid, the name, address, telephone number and point of contact of at least three companies, for which the bidder has provided commercial services within the preceding 12 months.

**Contact Person** - The Contractor shall designate one of its employees to function in the role of primary contact person. The contact person shall be the liaison for the Contractor for the term of the agreement, and shall handle issues, problems, or questions arising from the performance of services.

**Warranties** - All work shall be guaranteed a minimum of thirty (30) days after final acceptance by the department of any of the services, including any and all installations, repairs, additions, components or parts thereof;

- The City will use its best efforts to notify the Contractor during the warranty period if any repair or installation is not in good working order;
- For new installations, Contractor shall provide full manufactures warranty to the City.
- The Contractor shall provide and bear the cost of all labor, material, cost of transportation, and insurance required to meet its obligations under this warranty;
- The Contractor shall either repair or replace at the City's sole option any installation, equipment, or component part not in good working order, at no additional cost to the City;

**City of Lubbock, Texas**
**ITB 14-11681-MA**
**Minor Repair Service Contracts**

## Additional Requirements

**Labor** - Based on contracted hourly rate, time invoiced shall be for actual time worked subject to verification/documentation approved by the City Department. **Contractor may not exceed contracted hourly rate.** Should after hours/holiday hours be necessary or indicated, it shall be performed only after obtaining specific authorization from the respective City Department. Unauthorized after hours/holiday pay will not be paid.

**Materials** – Materials are to be quoted on a cost-plus basis; percentage of markup to be based on net cost to Contractor, allowing for full credit for trade and/or cash discounts to the City. On any single item in which the cost equals or exceeds $100.00, a copy of the supplier's invoice – which must be dated and marked paid - shall be submitted as an attachment to the Contractor's invoice. All other invoices for less amounts must be retained, by the Contractor, for at least the warranty period, for City inspection upon written request. Copies of invoices for less than $100.00 shall be supplied to the City Department representative when requested for any reason, within ten calendar days of the request.

**No Additional Charges Allowed** - No charges, such as miscellaneous charges, environmental charges,fees, etc. will be paid by the City of if not listed in your bid response. However, charges imposed by the State of Texas or Federal Government after the bid award will be honored. Any additional charges listed in your bid response will be taken in consideration as part of the award evaluation.

**Travel Time:** The City will not compensate the contractor for travel or time between job sites.

**Disposal of Refuse** - Contractor shall clean the site and dispose of all refuse at a Texas Commission on Environmental Quality (TCEQ) approved.

# 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. 11828 for minor repair services-Section II HVAC and Section IV Plumbing Services per ITB 14-11681-MA, by and between the City of Lubbock and GRG Sanders and Co. dba Hub City Plumbing & Mechanical, 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:

_____
Pamela Moon, Executive Director of Finance

APPROVED AS TO FORM:

_____
Chad Weaver, Assistant City Attorney

vw:ccdocs/RES.Contract-GRG Sanders
March 12, 2014

**CITY OF LUBBOCK, TX**
**Minor Repair Service Contracts**

**THIS CONTRACT** made and entered into this ____ day of _____, 2014, by and between the City Lubbock ("City"), and **GRG Sanders and Co. dba Hub City Plumbing and Mechanical**, of Lubbock, Texas ("Contractor").

**WITNESSETH:**

WHEREAS, the City of Lubbock duly advertised for bids for Minor Repair Service Contracts 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 Minor Repair Service Contracts.

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, Minor Repair Service Contracts and more specifically referred to as Section II –HVAC and Section IV- Plumbing Services on the Bid Form submitted by the Contractor and General Requirements 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 general requirements, offer, and terms and conditions contained herein.

3. The Contractor shall perform the work according to the procedures outlined in the Bid Form and General Requirements 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. The rates may be adjusted upward or downward at this time at a percentage not to exceed the effective change in the Consumer Price Index (CPI) for the contract for the previous 12-months. 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 thirty (30) day written notice. Such written notice must state the reason for cancellation. The City of Lubbock reserves the right to award the canceled contract to the next lowest and best bidder as it deems to be in the best interest of the city.

5. Contractor shall at all times be an independent contractor and not an agent or representative of the City with regard to performance of the Services. Contractor shall not represent that it is, or hold itself out as, an agent or representative of City. In no event shall Contractor be authorized to enter into any agreement or undertaking for or on behalf of City.

6. The contractor shall obtain and maintain in full force and effect during the term of the contract, commercial general liability coverage with insurance carriers admitted to do business in the State of Texas. The insurance companies must carry a Best's Rating of A- VII or better. The policies will be written on an occurrence basis, subject to the following minimum limits of liability:

| TYPE | AMOUNT |
|---|---|
| General Liability<br>Commercial General Liability<br>General Aggregate<br>Products – Comp/OP AGG<br>Personal & Adv. Injury | $1,000,000 |
| Automotive Liability<br>Combined Single Limit<br>Any Auto | $1,000,000 |
| Workers Compensation | Statutory Amounts |

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

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

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

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

7. Neither the City nor the Contractor shall assign, transfer or encumber any rights, duties or interests accruing from this Contract without the written consent of the other.

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. All funds for payment by the City under this contract are subject to the availability of an annual appropriation for this purpose by the City. In the event of nonappropriation of funds by the City Council of the City of Lubbock for the goods or services provided under the contract, the City will terminate the contract, without termination charge or other liability, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the goods or services covered by this contract is spent, whichever event occurs first. If at any time funds are not appropriated for the continuance of this contract, cancellation shall be accepted by the Seller on 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 contract beyond the date of termination.

11. This Contract consists of the following documents set forth herein; Invitation to Bid No. 14-11681-MA, Bid Form and General Requirements.

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

CITY OF LUBBOCK

Glen C. Robertson, Mayor

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Marta Alvarez, Director of Purchasing & Contract Management

APPROVED AS TO FORM:

Assistant City Attorney

CONTRACTOR

BY

Authorized Representative

Mark vonBerg

Print Name

502 FM 1585

Address

Lubbock Tx 79423

City, State, Zip Code

# BID FORM
## Minor Repair Service Contracts
## City of Lubbock, Texas
## ITB 14-11681-MA

### Section II – HVAC Services

| Item | Description | Est. Number of Hours | Hourly Rate | Total Price |
|---|---|---|---|---|
| 1 | Technician/Installer – Regular Hours Regular (8-5) | 200 | 82.50 | 16,500.00 |
| 2 | Technician –After Hours/Holidays | 50 | 123.75 | 6,187.50 |
| 3 | Technician – Emergency | 50 | 123.75 | 6,187.50 |
| 4 | Apprentice– Regular Hours | 50 | 62.50 | 3,125.00 |
| 5 | Apprentice– After Hour /Holidays | | 93.75 | |
| 6 | Apprentice– Emergency | 50 | 93.75 | 4,687.50 |
| 7 | Material/Parts – Percentage of markup on estimated $15,000 parts/material based on actual cost to contractor. 25 % Markup. If no markup is intended, write the word "None" in the space provided. $15,000 x 25 % markup equals $15,000 + $3,750 | | | |
| | **Grand Total of Section II – HVAC Services (Items 1-7)** | | | $55,437.50 |

For reimbursement of rental of equipment, prior approval must be authorized by the City Department representative. If applicable: 25 % markup. A copy of the receipt for the rental of the equipment must be attached to the invoice. Will you comply? Yes ☑ No ☐

Materials are to be quoted on a cost-plus basis; percentage of markup to be based on net cost to Contractor, allowing for full credit for trade and/or cash discounts to the, prior approval must be authorized by City Department representative. Use Attachment A for approval. Will you comply? Yes ☑ No ☐

Did you meet the requirement to submit a copy of your state license with your bid? Yes ☑ No ☐

Do you have a local service shop? Yes ☑ No ☐
Adddress:, 502 FM 1585, Lubbock, TX 79423
How long has your company been in this business? Since 2000 – 14 years
How many consecutive years of experience do you have in providing these services? ____14yrs___
If emergency service is required at night or on weekends, can you respond? Yes ☑ No ☐
What is your response time for an emergency? ____Within 2hrs
What is your response time for calls other than emergency? ___Within 12 hrs
What is your response time to begin a project after receipt of order? _24hrs of receiving order; and within 24hrs of receiving materials that were ordered.
List any additional information to be considered in evaluating your bid.

**Vendor**'s Signature _____ **Company's Name: Hub City Plumbing & Mechanical**

# BID FORM
## Minor Repair Service Contracts
## City of Lubbock, Texas
## ITB 14-11681-MA

### Section IV- Plumbing Services

| Item | Description | Est. Number of Hours | Hourly Rate | Total Price |
|---|---|---|---|---|
| 1 | Licensed Plumber – Regular Hours (8-5) | 200 | 82.50 | 16,500.00 |
| 2 | Licensed Plumber – After Hours/Holiday Hours | 50 | 123.75 | 6,187.50 |
| 3 | Licensed Plumber – Emergency | 50 | 123.75 | 6,187.50 |
| 4 | Plumbers – Regular Hours | 50 | 82.50 | 4,125.00 |
| 5 | Plumbers – After hours/Holidays | | 123.75 | |
| 6 | Plumbers Helper – Emergency | 50 | 93.75 | 4,687.50 |
| 7 | Material/Parts – Percentage of markup on estimated $15,000 parts/material based on actual cost to contractor. 25% Markup. If no markup is intended, write the word "None" in the space provided. $15,000 x 25 % markup equals $15,000 + $3,750 | | | 18,750.00 |
| | **Grand Total of Section IV Plumber Services (Items 1-7)** | | | $56,437.50 |

For reimbursement of rental of equipment, prior approval must be authorized by the City Department representative. If applicable: 25 % markup. A copy of the receipt for the rental of the equipment must be attached to the invoice. Will you comply? Yes ☑ No ☐

Materials are to be quoted on a cost-plus basis; percentage of markup to be based on net cost to Contractor, allowing for full credit for trade and/or cash discounts to the, prior approval must be authorized by City Department representative. Use Attachment A for approval. Will you comply? Yes ☑ No ☐

Did you meet the requirement to submit a copy of your state license with your bid? Yes ☑ No ☐

Do you have a local service shop? Yes ☑ No ☐
Adddress: 502 FM 1585, Lubbock, TX 79423

How long has your company been in this business? 14yrs
How many consecutive years of experience do you have in providing these services? 14yrs
If emergency service is required at night or on weekends, can you respond? Yes ☐ No ☐
What is your response time for an emergency? 2hrs
What is your response time for calls other than emergency? 12hrs
What is your response time to begin a project after receipt of order? 24hrs of receiving order; and within 24hrs of receiving materials that were ordered.

List any additional information to be considered in evaluating your bid.

**Vendor's Signature** _____ **Company's Name** GBG Sanders and Co. dba Hub City Plumbing & Mechanical

**City of Lubbock, Texas**
**ITB 14-11681-MA**
**Minor Repair Service Contracts**

## General Requirements

**Intent** - The purpose of this bid is to provide the City of Lubbock with qualified contractors to perform minor repairs for the following services: Roofing, HVAC, Electrical, Plumbing and Fence Repair. The bidder hereby agree to furnish all labor, materials, and supplies and to provide the service in accordance with the bid document. This bid is broken down into four sections: Section I for Roofing Services; Section II for HVAC Services Section III for Electrical; and Section IV for Plumbing Services and Section V for Fence Repair Services.

**Multiple Award** – The City may award up to three vendors (primary, secondary, tertiary), as available, by services. The City will endeavor to utilize vendors in order of award, however, the City may utilize any contract awarded that is in the best interest of the City to do so regardless of reason.

**Estimates** - The City reserves the right to secure pricing prior to commencement of work and solicit competitive bidding, if in the opinion of the City; pricing received is determined to be unreasonable compared to industry standards.

**Repairs and New Installations Firm Quotes** - The City will request price quotes for new installation and repair projects. These quotes shall be firm pricing and are not to exceed the specified amount quoted for any specific project unless the scope of the project changes and the change order(s) are approved in writing by the respective City department. Prior to the City issuing a notice to proceed, Contractor shall provide the City with a written proposal detailing the scope of services and providing the cost for the proposed work. **These quotes must utilize the contracted labor rates and contracted materials cost plus markup in order to utilize this contract.**

The omission, within a bid submittal, of specific reference to any equipment, materials, or labor necessary for performance of contract per specifications, shall not relieve contractor of responsibility for furnishing such equipment, materials or labor. The Contractor shall assign only the necessary personnel to complete the required work. The City Department representative reserves the right to question and audit the number of personnel assigned to a particular job and the number of hours that are being billed. At the time the work order is issued, Contractor must inform the requesting City Department representative of the approximate start-time and estimated job completion time. Contractor must handle any call-backs at no additional charges unless charges are authorized by the requesting City Department representative. Contractor's work must be completed to the satisfaction of the using department. Payment may be withheld until work is done in a satisfactory manner.

**Tools/Equipment** - All tools and equipment necessary to perform contract work shall be provided by the Contractor.

**Equipment Rental/Lease** - No separate charges shall be allowed for rental/lease of equipment unless specifically approved by the City Department representative.

**Scheduling/Response Time** - The Contractor will be required to give free written job estimates for specific projects within one (1) work day upon request. On an emergency basis, the Contractor shall

respond within a maximum of two (2) hours to arrange a same-day inspection and provide a written estimate. Upon receipt of the Notice to Proceed, completion of repairs to remedy the emergency situation must be completed within 24-72 hours. The definition of an emergency is as follows:

> **An emergency** is a situation or condition that occurred without warning within two (2) weeks, is detrimental to life, health or safety and requires immediate action. Immediate action is defined as 24-72 hours. Contractor must provide a mobile phone, pager, or answering service so that the City has a 24- hour a day access to the Contractor.

**Permits** – All work shall comply with all applicable state and local codes and ordinances, as well as any other authorities that may have lawful jurisdiction pertaining to the work specified. The contractor shall procure all necessary permits or licenses to carry out his work, and shall pay
any applicable fees for permits or inspections. There is no charge for City permits for services being performed on City property.

**Licenses/Certifications** – Current State licenses/Certifications must be provided with bid.

**Similar Experience** – Bidder shall demonstrate previous experience in regard to the requirements of this solicitation for a period of no less than (5) years.

**Term of Contract** -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. The rates may be adjusted upward or downward at this time at a percentage not to exceed the effective change in the Consumer Price Index (CPI) for the contract for the previous 12-months. The City does not guarantee any specific amount of compensation, volume, minimum or maximum amount of services under this contract.

**References** - Bidder shall submit with the bid, the name, address, telephone number and point of contact of at least three companies, for which the bidder has provided commercial services within the preceding 12 months.

**Contact Person** - The Contractor shall designate one of its employees to function in the role of primary contact person. The contact person shall be the liaison for the Contractor for the term of the agreement, and shall handle issues, problems, or questions arising from the performance of services.

**Warranties** - All work shall be guaranteed a minimum of thirty (30) days after final acceptance by the department of any of the services, including any and all installations, repairs, additions, components or parts thereof;

- The City will use its best efforts to notify the Contractor during the warranty period if any repair or installation is not in good working order;
- For new installations, Contractor shall provide full manufactures warranty to the City.
- The Contractor shall provide and bear the cost of all labor, material, cost of transportation, and insurance required to meet its obligations under this warranty;
- The Contractor shall either repair or replace at the City's sole option any installation, equipment, or component part not in good working order, at no additional cost to the City;

**City of Lubbock, Texas**
**ITB 14-11681-MA**
**Minor Repair Service Contracts**

## Additional Requirements

**Labor** - Based on contracted hourly rate, time invoiced shall be for actual time worked subject to verification/documentation approved by the City Department. **Contractor may not exceed contracted hourly rate.** Should after hours/holiday hours be necessary or indicated, it shall be performed only after obtaining specific authorization from the respective City Department. Unauthorized after hours/holiday pay will not be paid.

**Materials** – Materials are to be quoted on a cost-plus basis; percentage of markup to be based on net cost to Contractor, allowing for full credit for trade and/or cash discounts to the City. On any single item in which the cost equals or exceeds $100.00, a copy of the supplier's invoice – which must be dated and marked paid - shall be submitted as an attachment to the Contractor's invoice. All other invoices for less amounts must be retained, by the Contractor, for at least the warranty period, for City inspection upon written request. Copies of invoices for less than $100.00 shall be supplied to the City Department representative when requested for any reason, within ten calendar days of the request.

**No Additional Charges Allowed** - No charges, such as miscellaneous charges, environmental charges,fees, etc. will be paid by the City of if not listed in your bid response. However, charges imposed by the State of Texas or Federal Government after the bid award will be honored. Any additional charges listed in your bid response will be taken in consideration as part of the award evaluation.

**Travel Time:** The City will not compensate the contractor for travel or time between job sites.

**Disposal of Refuse** - Contractor shall clean the site and dispose of all refuse at a Texas Commission on Environmental Quality (TCEQ) approved.

# 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. 11681 for minor repair services-Section II HVAC Services per ITB 14-11681-MA, by and between the City of Lubbock and Tim Johns Heating & Air Conditioning, 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:

Pamela Moon
Pamela Moon, Executive Director of Finance

APPROVED AS TO FORM:

Chad Weaver
Chad Weaver, Assistant City Attorney

vw:ccdocs/RES.Contract-Tim Johns HAC
March 12, 2014

**CITY OF LUBBOCK, TX**
**Minor Repair Service Contracts**

**THIS CONTRACT** made and entered into this ____ day of _____, 2014, by and between the City Lubbock ("City"), and **Tim Johns Heating and Air Conditioning**, of Lubbock, Texas ("Contractor").

**WITNESSETH:**

WHEREAS, the City of Lubbock duly advertised for bids for Minor Repair Service Contracts 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 Minor Repair Service Contracts.

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, Minor Repair Service Contracts and more specifically referred to as Section II –HVAC Services on the Bid Form submitted by the Contractor and General Requirements 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 general requirements, offer, and terms and conditions contained herein.

3. The Contractor shall perform the work according to the procedures outlined in the Bid Form and General Requirements 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. The rates may be adjusted upward or downward at this time at a percentage not to exceed the effective change in the Consumer Price Index (CPI) for the contract for the previous 12-months. 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 thirty (30) day written notice. Such written notice must state the reason for cancellation. The City of Lubbock reserves the right to award the canceled contract to the next lowest and best bidder as it deems to be in the best interest of the city.

5. Contractor shall at all times be an independent contractor and not an agent or representative of the City with regard to performance of the Services. Contractor shall not represent that it is, or hold itself out as, an agent or representative of City. In no event shall Contractor be authorized to enter into any agreement or undertaking for or on behalf of City.

6. The contractor shall obtain and maintain in full force and effect during the term of the contract, commercial general liability coverage with insurance carriers admitted to do business in the

State of Texas. The insurance companies must carry a Best's Rating of A- VII or better. The policies will be written on an occurrence basis, subject to the following minimum limits of liability:

| TYPE | AMOUNT |
|---|---|
| | $1,000,000 |
| General Liability<br>Commercial General Liability<br>General Aggregate<br>Products – Comp/OP AGG<br>Personal & Adv. Injury | |
| Automotive Liability<br>Combined Single Limit<br>Any Auto | $1,000,000 |
| Workers Compensation | Statutory Amounts |

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

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

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

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

7. Neither the City nor the Contractor shall assign, transfer or encumber any rights, duties or interests accruing from this Contract without the written consent of the other.

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. All funds for payment by the City under this contract are subject to the availability of an annual appropriation for this purpose by the City. In the event of nonappropriation of funds by the City Council of the City of Lubbock for the goods or services provided under the contract, the City will terminate the contract, without termination charge or other liability, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the goods or services covered by this contract is spent, whichever event occurs first. If at any time funds are not appropriated for the continuance of this contract, cancellation shall be accepted by the Seller on 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 contract beyond the date of termination.

11. This Contract consists of the following documents set forth herein; Invitation to Bid No. 14-11681-MA, Bid Form and General Requirements.

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

CITY OF LUBBOCK

_____
Glen C. Robertson, Mayor

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Marta Alvarez, Director of Purchasing & Contract Management

APPROVED AS TO FORM:

_____
Assistant City Attorney

CONTRACTOR

BY _____
Authorized Representative

Tim Johns
Print Name

8 Brentwood Circle
Address

Lubbock, TX. 79407
City, State, Zip Code

**Vendor's Signature** [signature] **Company's Name** Original Tim Johns Heating & Air

**BID FORM**
**Minor Repair Service Contracts**
**City of Lubbock, Texas**
**ITB 14-11681-MA**

**Section II – HVAC Services**

| Item | Description | Est. Number of Hours | Hourly Rate | Total Price |
|---|---|---|---|---|
| 1 | Technician/Installer – Regular Hours Regular (8-5) | 200 | 69.50 | 13,900 |
| 2 | Technician –After Hours/Holidays | 50 | 104.25 | 5,212.50 |
| 3 | Technician – Emergency | 50 | 104.25 | 5,212.50 |
| 4 | Apprentice– Regular Hours | 50 | 34.75 | 1,737.50 |
| 5 | Apprentice– After Hour /Holidays | 50 | 52.12 | 2606.00 |
| 6 | Apprentice– Emergency | 50 | 52.12 | 2606.00 |
| 7 | Material/Parts – Percentage of markup on estimated $15,000 parts/material based on actual cost to contractor. 18 % Markup. If no markup is intended, write the word "None" in the space provided. $15,000 x 18 % markup equals $15,000 + 2700 | | | 17,700 |
| | **Grand Total of Section II – HVAC Services (Items 1-7)** | | | $ 48,974.50 |

For reimbursement of rental of equipment, prior approval must be authorized by the City Department representative. If applicable: 10 % markup. A copy of the receipt for the rental of the equipment must be attached to the invoice. Will you comply? Yes ☒ No ☐

Materials are to be quoted on a cost-plus basis; percentage of markup to be based on net cost to Contractor, allowing for full credit for trade and/or cash discounts to the, prior approval must be authorized by City Department representative. Use Attachment A for approval. Will you comply? Yes ☒ No ☐

Did you meet the requirement to submit a copy of your state license with your bid? Yes ☒ No ☐

Do you have a local service shop? Yes ☒ No ☐

**City of Lubbock, Texas**
**ITB 14-11681-MA**
**Minor Repair Service Contracts**

## General Requirements

**Intent** - The purpose of this bid is to provide the City of Lubbock with qualified contractors to perform minor repairs for the following services: Roofing, HVAC, Electrical, Plumbing and Fence Repair. The bidder hereby agree to furnish all labor, materials, and supplies and to provide the service in accordance with the bid document. This bid is broken down into four sections: Section I for Roofing Services; Section II for HVAC Services Section III for Electrical; and Section IV for Plumbing Services and Section V for Fence Repair Services.

**Multiple Award** – The City may award up to three vendors (primary, secondary, tertiary), as available, by services. The City will endeavor to utilize vendors in order of award, however, the City may utilize any contract awarded that is in the best interest of the City to do so regardless of reason.

**Estimates** - The City reserves the right to secure pricing prior to commencement of work and solicit competitive bidding, if in the opinion of the City; pricing received is determined to be unreasonable compared to industry standards.

**Repairs and New Installations Firm Quotes** - The City will request price quotes for new installation and repair projects. These quotes shall be firm pricing and are not to exceed the specified amount quoted for any specific project unless the scope of the project changes and the change order(s) are approved in writing by the respective City department. Prior to the City issuing a notice to proceed, Contractor shall provide the City with a written proposal detailing the scope of services and providing the cost for the proposed work. **These quotes must utilize the contracted labor rates and contracted materials cost plus markup in order to utilize this contract.**

The omission, within a bid submittal, of specific reference to any equipment, materials, or labor necessary for performance of contract per specifications, shall not relieve contractor of responsibility for furnishing such equipment, materials or labor. The Contractor shall assign only the necessary personnel to complete the required work. The City Department representative reserves the right to question and audit the number of personnel assigned to a particular job and the number of hours that are being billed. At the time the work order is issued, Contractor must inform the requesting City Department representative of the approximate start-time and estimated job completion time. Contractor must handle any call-backs at no additional charges unless charges are authorized by the requesting City Department representative. Contractor's work must be completed to the satisfaction of the using department. Payment may be withheld until work is done in a satisfactory manner.

**Tools/Equipment** - All tools and equipment necessary to perform contract work shall be provided by the Contractor.

**Equipment Rental/Lease** - No separate charges shall be allowed for rental/lease of equipment unless specifically approved by the City Department representative.

**Scheduling/Response Time** - The Contractor will be required to give free written job estimates for specific projects within one (1) work day upon request. On an emergency basis, the Contractor shall

respond within a maximum of two (2) hours to arrange a same-day inspection and provide a written estimate. Upon receipt of the Notice to Proceed, completion of repairs to remedy the emergency situation must be completed within 24-72 hours. The definition of an emergency is as follows:

> **An emergency** is a situation or condition that occurred without warning within two (2) weeks, is detrimental to life, health or safety and requires immediate action. Immediate action is defined as 24-72 hours. Contractor must provide a mobile phone, pager, or answering service so that the City has a 24- hour a day access to the Contractor.

**Permits** – All work shall comply with all applicable state and local codes and ordinances, as well as any other authorities that may have lawful jurisdiction pertaining to the work specified. The contractor shall procure all necessary permits or licenses to carry out his work, and shall pay
any applicable fees for permits or inspections. There is no charge for City permits for services being performed on City property.

**Licenses/Certifications** – Current State licenses/Certifications must be provided with bid.

**Similar Experience** – Bidder shall demonstrate previous experience in regard to the requirements of this solicitation for a period of no less than (5) years.

**Term of Contract** -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. The rates may be adjusted upward or downward at this time at a percentage not to exceed the effective change in the Consumer Price Index (CPI) for the contract for the previous 12-months. The City does not guarantee any specific amount of compensation, volume, minimum or maximum amount of services under this contract.

**References** - Bidder shall submit with the bid, the name, address, telephone number and point of contact of at least three companies, for which the bidder has provided commercial services within the preceding 12 months.

**Contact Person** - The Contractor shall designate one of its employees to function in the role of primary contact person. The contact person shall be the liaison for the Contractor for the term of the agreement, and shall handle issues, problems, or questions arising from the performance of services.

**Warranties** - All work shall be guaranteed a minimum of thirty (30) days after final acceptance by the department of any of the services, including any and all installations, repairs, additions, components or parts thereof;

- The City will use its best efforts to notify the Contractor during the warranty period if any repair or installation is not in good working order;
- For new installations, Contractor shall provide full manufactures warranty to the City.
- The Contractor shall provide and bear the cost of all labor, material, cost of transportation, and insurance required to meet its obligations under this warranty;
- The Contractor shall either repair or replace at the City's sole option any installation, equipment, or component part not in good working order, at no additional cost to the City;

**City of Lubbock, Texas**
**ITB 14-11681-MA**
**Minor Repair Service Contracts**

# Additional Requirements

**Labor** - Based on contracted hourly rate, time invoiced shall be for actual time worked subject to verification/documentation approved by the City Department. **Contractor may not exceed contracted hourly rate.** Should after hours/holiday hours be necessary or indicated, it shall be performed only after obtaining specific authorization from the respective City Department. Unauthorized after hours/holiday pay will not be paid.

**Materials** – Materials are to be quoted on a cost-plus basis; percentage of markup to be based on net cost to Contractor, allowing for full credit for trade and/or cash discounts to the City. On any single item in which the cost equals or exceeds $100.00, a copy of the supplier's invoice – which must be dated and marked paid - shall be submitted as an attachment to the Contractor's invoice. All other invoices for less amounts must be retained, by the Contractor, for at least the warranty period, for City inspection upon written request. Copies of invoices for less than $100.00 shall be supplied to the City Department representative when requested for any reason, within ten calendar days of the request.

**No Additional Charges Allowed** - No charges, such as miscellaneous charges, environmental charges,fees, etc. will be paid by the City of if not listed in your bid response. However, charges imposed by the State of Texas or Federal Government after the bid award will be honored. Any additional charges listed in your bid response will be taken in consideration as part of the award evaluation.

**Travel Time:** The City will not compensate the contractor for travel or time between job sites.

**Disposal of Refuse** - Contractor shall clean the site and dispose of all refuse at a Texas Commission on Environmental Quality (TCEQ) approved.

# 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. 11819 for minor repair services-Section III Electrical Services per ITB 14-11681-MA, by and between the City of Lubbock and Amco Electric, 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:

_____
Pamela Moon, Executive Director of Finance

APPROVED AS TO FORM:

_____
Chad Weaver, Assistant City Attorney

vw:ccdocs/RES.Contract-Amco Electric
March 12, 2014

**CITY OF LUBBOCK, TX**
**Minor Repair Service Contracts**

**THIS CONTRACT** made and entered into this ____ day of _____, 2014, by and between the City Lubbock ("City"), and **Amco Electric, Inc.** , of Lubbock, Texas ("Contractor").

**WITNESSETH:**

WHEREAS, the City of Lubbock duly advertised for bids for Minor Repair Service Contracts 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 Minor Repair Service Contracts.

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, Minor Repair Service Contracts and more specifically referred to as Section III – Electrical Services on the Bid Form submitted by the Contractor and General Requirements 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 general requirements, offer, and terms and conditions contained herein.

3. The Contractor shall perform the work according to the procedures outlined in the Bid Form and General Requirements 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. The rates may be adjusted upward or downward at this time at a percentage not to exceed the effective change in the Consumer Price Index (CPI) for the contract for the previous 12-months. 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 thirty (30) day written notice. Such written notice must state the reason for cancellation. The City of Lubbock reserves the right to award the canceled contract to the next lowest and best bidder as it deems to be in the best interest of the city.

5. Contractor shall at all times be an independent contractor and not an agent or representative of the City with regard to performance of the Services. Contractor shall not represent that it is, or hold itself out as, an agent or representative of City. In no event shall Contractor be authorized to enter into any agreement or undertaking for or on behalf of City.

6. The contractor shall obtain and maintain in full force and effect during the term of the contract, commercial general liability coverage with insurance carriers admitted to do business in the State of Texas. The insurance companies must carry a Best's Rating of A- VII or better. The

policies will be written on an occurrence basis, subject to the following minimum limits of liability:

| TYPE | AMOUNT |
|---|---|
| | $1,000,000 |
| General Liability<br>Commercial General Liability<br>General Aggregate<br>Products – Comp/OP AGG<br>Personal & Adv. Injury | |
| Automotive Liability<br>Combined Single Limit<br>Any Auto | $1,000,000 |
| Workers Compensation | Statutory Amounts |

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

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

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

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

7. Neither the City nor the Contractor shall assign, transfer or encumber any rights, duties or interests accruing from this Contract without the written consent of the other.

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. All funds for payment by the City under this contract are subject to the availability of an annual appropriation for this purpose by the City. In the event of nonappropriation of funds by the City Council of the City of Lubbock for the goods or services provided under the contract, the City will terminate the contract, without termination charge or other liability, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the goods or services covered by this contract is spent, whichever event occurs first. If at any time funds are not appropriated for the continuance of this contract, cancellation shall be accepted by the Seller on 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 contract beyond the date of termination.

11. This Contract consists of the following documents set forth herein; Invitation to Bid No. 14-11681-MA, Bid Form and General Requirements.

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

CITY OF LUBBOCK

_____
Glen C. Robertson, Mayor

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Marta Alvarez, Director of Purchasing & Contract Management

APPROVED AS TO FORM:

_____
Assistant City Attorney

CONTRACTOR

BY Rex Barbour
Authorized Representative

Rex Barbour
Print Name

P.O. Box 5766
~~2402 Ave Q~~ RB
Address

Lubbock, TX 79408
City, State, Zip Code

**BID FORM**
**Minor Repair Service Contracts**
**City of Lubbock, Texas**
**ITB 14-11681-MA**

**Section III – Electrical Services**

| Item | Description | Est. Number of Hours | Hourly Rate | Total Price |
|---|---|---|---|---|
| 1 | Licensed Electrician – Regular Hours (8-5) | 200 | 35.00 | 7000.00 |
| 2 | Licensed Electrician – After Hours/Holiday Hours | 50 | 52.50 | 2625.00 |
| 3 | Licensed Electrician – Emergency | 50 | 52.50 | 2625.00 |
| 4 | Apprentice – Regular Hours | 50 | 35.00 | 1750.00 |
| 5 | Apprentice – After Hours/Holidays | | 52.50 | |
| 6 | Apprentice – Emergency | 50 | 35.00 | 1750.00 |
| 7 | Material/Parts – Percentage of markup on estimated $15,000 parts/material based on actual cost to contractor. 20 % Markup. If no markup is intended, write the word "None" in the space provided. $15,000 x ____ % markup equals $15,000 + 3000.00 | | | 18000.00 |
| | **Grand Total of Section III- Electrical Services (Items 1-7)** | | | 33750.00 |

For reimbursement of rental of equipment, prior approval must be authorized by the City Department representative. If applicable: 15 % markup. A copy of the receipt for the rental of the equipment must be attached to the invoice. Will you comply? Yes ☑ No ☐

Materials are to be quoted on a cost-plus basis; percentage of markup to be based on net cost to Contractor, allowing for full credit for trade and/or cash discounts to the, prior approval must be authorized by City Department representative. Use Attachment A for approval. Will you comply? Yes ☑ No ☐

Did you meet the requirement to submit a copy of your state license with your bid? Yes ☑ No ☐

Do you have a local service shop? Yes ☑ No ☐
Adddress: 2102 Ave S Lubbock Tx 79411
How long has your company been in this business? 10 years
How many consecutive years of experience do you have in providing these services? 10 years
If emergency service is required at night or on weekends, can you respond? Yes ☑ No ☐
What is your response time for an emergency? 1 hour
What is your response time for calls other than emergency? 4 hours
What is your response time to begin a project after receipt of order? 1 day
List any additional information to be considered in evaluating your bid.

We are a HUB Contractor -
Key Barbour is a master electrician with 30 years experience
Bryan Barbour is a master electrician with 16 years experience.

**Vendor's Signature** Dana Barbour **Company's Name** Amco Electric Inc

**City of Lubbock, Texas**
**ITB 14-11681-MA**
**Minor Repair Service Contracts**

## General Requirements

**Intent -** The purpose of this bid is to provide the City of Lubbock with qualified contractors to perform minor repairs for the following services: Roofing, HVAC, Electrical, Plumbing and Fence Repair. The bidder hereby agree to furnish all labor, materials, and supplies and to provide the service in accordance with the bid document. This bid is broken down into four sections: Section I for Roofing Services; Section II for HVAC Services Section III for Electrical; and Section IV for Plumbing Services and Section V for Fence Repair Services.

**Multiple Award** – The City may award up to three vendors (primary, secondary, tertiary), as available, by services. The City will endeavor to utilize vendors in order of award, however, the City may utilize any contract awarded that is in the best interest of the City to do so regardless of reason.

**Estimates -** The City reserves the right to secure pricing prior to commencement of work and solicit competitive bidding, if in the opinion of the City; pricing received is determined to be unreasonable compared to industry standards.

**Repairs and New Installations Firm Quotes** - The City will request price quotes for new installation and repair projects. These quotes shall be firm pricing and are not to exceed the specified amount quoted for any specific project unless the scope of the project changes and the change order(s) are approved in writing by the respective City department. Prior to the City issuing a notice to proceed, Contractor shall provide the City with a written proposal detailing the scope of services and providing the cost for the proposed work. **These quotes must utilize the contracted labor rates and contracted materials cost plus markup in order to utilize this contract.**

The omission, within a bid submittal, of specific reference to any equipment, materials, or labor necessary for performance of contract per specifications, shall not relieve contractor of responsibility for furnishing such equipment, materials or labor. The Contractor shall assign only the necessary personnel to complete the required work. The City Department representative reserves the right to question and audit the number of personnel assigned to a particular job and the number of hours that are being billed. At the time the work order is issued, Contractor must inform the requesting City Department representative of the approximate start-time and estimated job completion time. Contractor must handle any call-backs at no additional charges unless charges are authorized by the requesting City Department representative. Contractor's work must be completed to the satisfaction of the using department. Payment may be withheld until work is done in a satisfactory manner.

**Tools/Equipment** - All tools and equipment necessary to perform contract work shall be provided by the Contractor.

**Equipment Rental/Lease** - No separate charges shall be allowed for rental/lease of equipment unless specifically approved by the City Department representative.

**Scheduling/Response Time** - The Contractor will be required to give free written job estimates for specific projects within one (1) work day upon request. On an emergency basis, the Contractor shall

respond within a maximum of two (2) hours to arrange a same-day inspection and provide a written estimate. Upon receipt of the Notice to Proceed, completion of repairs to remedy the emergency situation must be completed within 24-72 hours. The definition of an emergency is as follows:

> **An emergency** is a situation or condition that occurred without warning within two (2) weeks, is detrimental to life, health or safety and requires immediate action. Immediate action is defined as 24-72 hours. Contractor must provide a mobile phone, pager, or answering service so that the City has a 24- hour a day access to the Contractor.

**Permits** – All work shall comply with all applicable state and local codes and ordinances, as well as any other authorities that may have lawful jurisdiction pertaining to the work specified. The contractor shall procure all necessary permits or licenses to carry out his work, and shall pay
any applicable fees for permits or inspections. There is no charge for City permits for services being performed on City property.

**Licenses/Certifications** – Current State licenses/Certifications must be provided with bid.

**Similar Experience** – Bidder shall demonstrate previous experience in regard to the requirements of this solicitation for a period of no less than (5) years.

**Term of Contract** -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. The rates may be adjusted upward or downward at this time at a percentage not to exceed the effective change in the Consumer Price Index (CPI) for the contract for the previous 12-months. The City does not guarantee any specific amount of compensation, volume, minimum or maximum amount of services under this contract.

**References** - Bidder shall submit with the bid, the name, address, telephone number and point of contact of at least three companies, for which the bidder has provided commercial services within the preceding 12 months.

**Contact Person** - The Contractor shall designate one of its employees to function in the role of primary contact person. The contact person shall be the liaison for the Contractor for the term of the agreement, and shall handle issues, problems, or questions arising from the performance of services.

**Warranties** - All work shall be guaranteed a minimum of thirty (30) days after final acceptance by the department of any of the services, including any and all installations, repairs, additions, components or parts thereof;

- The City will use its best efforts to notify the Contractor during the warranty period if any repair or installation is not in good working order;
- For new installations, Contractor shall provide full manufactures warranty to the City.
- The Contractor shall provide and bear the cost of all labor, material, cost of transportation, and insurance required to meet its obligations under this warranty;
- The Contractor shall either repair or replace at the City's sole option any installation, equipment, or component part not in good working order, at no additional cost to the City;

**City of Lubbock, Texas**
**ITB 14-11681-MA**
**Minor Repair Service Contracts**

# Additional Requirements

**Labor** - Based on contracted hourly rate, time invoiced shall be for actual time worked subject to verification/documentation approved by the City Department. **Contractor may not exceed contracted hourly rate.** Should after hours/holiday hours be necessary or indicated, it shall be performed only after obtaining specific authorization from the respective City Department. Unauthorized after hours/holiday pay will not be paid.

**Materials** – Materials are to be quoted on a cost-plus basis; percentage of markup to be based on net cost to Contractor, allowing for full credit for trade and/or cash discounts to the City. On any single item in which the cost equals or exceeds $100.00, a copy of the supplier's invoice – which must be dated and marked paid - shall be submitted as an attachment to the Contractor's invoice. All other invoices for less amounts must be retained, by the Contractor, for at least the warranty period, for City inspection upon written request. Copies of invoices for less than $100.00 shall be supplied to the City Department representative when requested for any reason, within ten calendar days of the request.

**No Additional Charges Allowed** - No charges, such as miscellaneous charges, environmental charges,fees, etc. will be paid by the City of if not listed in your bid response. However, charges imposed by the State of Texas or Federal Government after the bid award will be honored. Any additional charges listed in your bid response will be taken in consideration as part of the award evaluation.

**Travel Time:** The City will not compensate the contractor for travel or time between job sites.

**Disposal of Refuse** - Contractor shall clean the site and dispose of all refuse at a Texas Commission on Environmental Quality (TCEQ) approved.

# 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. 11825 for minor repair services-Section III Electrical Services per ITB 14-11681-MA, by and between the City of Lubbock and Dent Electric, 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:

Pamela Moon
_____
Pamela Moon, Executive Director of Finance

APPROVED AS TO FORM:

_____
Chad Weaver, Assistant City Attorney

vw:ccdocs/RES.Contract-Dent Electric
March 12, 2014

**CITY OF LUBBOCK, TX**
**Minor Repair Service Contracts**

**THIS CONTRACT** made and entered into this ____ day of _____, 2014, by and between the City Lubbock ("City"), and **Dent Electric, Inc.** , of Lubbock, Texas ("Contractor").

**WITNESSETH**:

WHEREAS, the City of Lubbock duly advertised for bids for Minor Repair Service Contracts 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 Minor Repair Service Contracts.

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, Minor Repair Service Contracts and more specifically referred to as Section III – Electrical Services on the Bid Form submitted by the Contractor and General Requirements 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 general requirements, offer, and terms and conditions contained herein.

3. The Contractor shall perform the work according to the procedures outlined in the Bid Form and General Requirements 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. The rates may be adjusted upward or downward at this time at a percentage not to exceed the effective change in the Consumer Price Index (CPI) for the contract for the previous 12-months. 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 thirty (30) day written notice. Such written notice must state the reason for cancellation. The City of Lubbock reserves the right to award the canceled contract to the next lowest and best bidder as it deems to be in the best interest of the city.

5. Contractor shall at all times be an independent contractor and not an agent or representative of the City with regard to performance of the Services. Contractor shall not represent that it is, or hold itself out as, an agent or representative of City. In no event shall Contractor be authorized to enter into any agreement or undertaking for or on behalf of City.

6. The contractor shall obtain and maintain in full force and effect during the term of the contract, commercial general liability coverage with insurance carriers admitted to do business in the State of Texas. The insurance companies must carry a Best's Rating of A- VII or better. The

policies will be written on an occurrence basis, subject to the following minimum limits of liability:

| TYPE | AMOUNT |
|---|---|
| General Liability<br>Commercial General Liability<br>General Aggregate<br>Products – Comp/OP AGG<br>Personal & Adv. Injury | $1,000,000 |
| Automotive Liability<br>Combined Single Limit<br>Any Auto | $1,000,000 |
| Workers Compensation | Statutory Amounts |

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

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

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

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

7. Neither the City nor the Contractor shall assign, transfer or encumber any rights, duties or interests accruing from this Contract without the written consent of the other.

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. All funds for payment by the City under this contract are subject to the availability of an annual appropriation for this purpose by the City. In the event of nonappropriation of funds by the City Council of the City of Lubbock for the goods or services provided under the contract, the City will terminate the contract, without termination charge or other liability, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the goods or services covered by this contract is spent, whichever event occurs first. If at any time funds are not appropriated for the continuance of this contract, cancellation shall be accepted by the Seller on 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 contract beyond the date of termination.

11. This Contract consists of the following documents set forth herein; Invitation to Bid No. 14-11681-MA, Bid Form and General Requirements.

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

CITY OF LUBBOCK

Glen C. Robertson, Mayor

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Marta Alvarez, Director of Purchasing & Contract Management

APPROVED AS TO FORM:

Assistant City Attorney

CONTRACTOR

BY _____ Dent Elastic, Inc.
Authorized Representative

Kenneth Elkins
Print Name

6206 Knoxville Dr.
Address

Lubbock TX. 79413
City, State, Zip Code

**BID FORM**
**Minor Repair Service Contracts**
**City of Lubbock, Texas**
**ITB 14-11681-MA**

**Section III – Electrical Services**

| Item | Description | Est. Number of Hours | Hourly Rate | Total Price |
|---|---|---|---|---|
| 1 | Licensed Electrician – Regular Hours (8-5) | 200 | $48.75 | $9,750.00 |
| 2 | Licensed Electrician – After Hours/Holiday Hours | 50 | $73.12 | $3,656.00 |
| 3 | Licensed Electrician – Emergency | 50 | $73.12 | $3,656.00 |
| 4 | Apprentice – Regular Hours | 50 | $36.25 | $1,812.50 |
| 5 | Apprentice – After Hours/Holidays | | $54.37 | |
| 6 | Apprentice – Emergency | 50 | $54.37 | $2,718.50 |
| 7 | Material/Parts – Percentage of markup on estimated $15,000 parts/material based on actual cost to contractor. 15 % Markup. If no markup is intended, write the word "None" in the space provided. $15,000 x 15 % markup equals $15,000 + $2,250.00 | | | $17,250.00 |
| | **Grand Total of Section III- Electrical Services (Items 1-7)** | | | $38,843.00 |

For reimbursement of rental of equipment, prior approval must be authorized by the City Department representative. If applicable: 15 % markup. A copy of the receipt for the rental of the equipment must be attached to the invoice. Will you comply? Yes ☑ No ☐

Materials are to be quoted on a cost-plus basis; percentage of markup to be based on net cost to Contractor, allowing for full credit for trade and/or cash discounts to the, prior approval must be authorized by City Department representative. Use Attachment A for approval. Will you comply? Yes ☑ No ☐

Did you meet the requirement to submit a copy of your state license with your bid? Yes ☑ No ☐

Do you have a local service shop? Yes ☑ No ☐
Adddress: 8312-Ave D. Lubbock, TX 79404
How long has your company been in this business? 40 years (Fort)
How many consecutive years of experience do you have in providing these services? 29 years
If emergency service is required at night or on weekends, can you respond? Yes ☑ No ☐
What is your response time for an emergency? 1- Hour
What is your response time for calls other than emergency? ~~Scheduled~~ Scheduled by
What is your response time to begin a project after receipt of order? Critical nature
List any additional information to be considered in evaluating your bid.

**Vendor's Signature** _____ **Company's Name** Dent Electric, Inc.

**City of Lubbock, Texas**
**ITB 14-11681-MA**
**Minor Repair Service Contracts**

## General Requirements

**Intent** - The purpose of this bid is to provide the City of Lubbock with qualified contractors to perform minor repairs for the following services: Roofing, HVAC, Electrical, Plumbing and Fence Repair. The bidder hereby agree to furnish all labor, materials, and supplies and to provide the service in accordance with the bid document. This bid is broken down into four sections: Section I for Roofing Services; Section II for HVAC Services Section III for Electrical; and Section IV for Plumbing Services and Section V for Fence Repair Services.

**Multiple Award** – The City may award up to three vendors (primary, secondary, tertiary), as available, by services. The City will endeavor to utilize vendors in order of award, however, the City may utilize any contract awarded that is in the best interest of the City to do so regardless of reason.

**Estimates** - The City reserves the right to secure pricing prior to commencement of work and solicit competitive bidding, if in the opinion of the City; pricing received is determined to be unreasonable compared to industry standards.

**Repairs and New Installations Firm Quotes** - The City will request price quotes for new installation and repair projects. These quotes shall be firm pricing and are not to exceed the specified amount quoted for any specific project unless the scope of the project changes and the change order(s) are approved in writing by the respective City department. Prior to the City issuing a notice to proceed, Contractor shall provide the City with a written proposal detailing the scope of services and providing the cost for the proposed work. **These quotes must utilize the contracted labor rates and contracted materials cost plus markup in order to utilize this contract.**

The omission, within a bid submittal, of specific reference to any equipment, materials, or labor necessary for performance of contract per specifications, shall not relieve contractor of responsibility for furnishing such equipment, materials or labor. The Contractor shall assign only the necessary personnel to complete the required work. The City Department representative reserves the right to question and audit the number of personnel assigned to a particular job and the number of hours that are being billed. At the time the work order is issued, Contractor must inform the requesting City Department representative of the approximate start-time and estimated job completion time. Contractor must handle any call-backs at no additional charges unless charges are authorized by the requesting City Department representative. Contractor's work must be completed to the satisfaction of the using department. Payment may be withheld until work is done in a satisfactory manner.

**Tools/Equipment** - All tools and equipment necessary to perform contract work shall be provided by the Contractor.

**Equipment Rental/Lease** - No separate charges shall be allowed for rental/lease of equipment unless specifically approved by the City Department representative.

**Scheduling/Response Time** - The Contractor will be required to give free written job estimates for specific projects within one (1) work day upon request. On an emergency basis, the Contractor shall

respond within a maximum of two (2) hours to arrange a same-day inspection and provide a written estimate. Upon receipt of the Notice to Proceed, completion of repairs to remedy the emergency situation must be completed within 24-72 hours. The definition of an emergency is as follows:

> **An emergency** is a situation or condition that occurred without warning within two (2) weeks, is detrimental to life, health or safety and requires immediate action. Immediate action is defined as 24-72 hours. Contractor must provide a mobile phone, pager, or answering service so that the City has a 24- hour a day access to the Contractor.

**Permits** – All work shall comply with all applicable state and local codes and ordinances, as well as any other authorities that may have lawful jurisdiction pertaining to the work specified. The contractor shall procure all necessary permits or licenses to carry out his work, and shall pay
any applicable fees for permits or inspections. There is no charge for City permits for services being performed on City property.

**Licenses/Certifications** – Current State licenses/Certifications must be provided with bid.

**Similar Experience** – Bidder shall demonstrate previous experience in regard to the requirements of this solicitation for a period of no less than (5) years.

**Term of Contract** -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. The rates may be adjusted upward or downward at this time at a percentage not to exceed the effective change in the Consumer Price Index (CPI) for the contract for the previous 12-months. The City does not guarantee any specific amount of compensation, volume, minimum or maximum amount of services under this contract.

**References** - Bidder shall submit with the bid, the name, address, telephone number and point of contact of at least three companies, for which the bidder has provided commercial services within the preceding 12 months.

**Contact Person** - The Contractor shall designate one of its employees to function in the role of primary contact person. The contact person shall be the liaison for the Contractor for the term of the agreement, and shall handle issues, problems, or questions arising from the performance of services.

**Warranties** - All work shall be guaranteed a minimum of thirty (30) days after final acceptance by the department of any of the services, including any and all installations, repairs, additions, components or parts thereof;

- The City will use its best efforts to notify the Contractor during the warranty period if any repair or installation is not in good working order;
- For new installations, Contractor shall provide full manufactures warranty to the City.
- The Contractor shall provide and bear the cost of all labor, material, cost of transportation, and insurance required to meet its obligations under this warranty;
- The Contractor shall either repair or replace at the City's sole option any installation, equipment, or component part not in good working order, at no additional cost to the City;

**City of Lubbock, Texas**
**ITB 14-11681-MA**
**Minor Repair Service Contracts**

# Additional Requirements

**Labor** - Based on contracted hourly rate, time invoiced shall be for actual time worked subject to verification/documentation approved by the City Department. **Contractor may not exceed contracted hourly rate.** Should after hours/holiday hours be necessary or indicated, it shall be performed only after obtaining specific authorization from the respective City Department. Unauthorized after hours/holiday pay will not be paid.

**Materials** – Materials are to be quoted on a cost-plus basis; percentage of markup to be based on net cost to Contractor, allowing for full credit for trade and/or cash discounts to the City. On any single item in which the cost equals or exceeds $100.00, a copy of the supplier's invoice – which must be dated and marked paid - shall be submitted as an attachment to the Contractor's invoice. All other invoices for less amounts must be retained, by the Contractor, for at least the warranty period, for City inspection upon written request. Copies of invoices for less than $100.00 shall be supplied to the City Department representative when requested for any reason, within ten calendar days of the request.

**No Additional Charges Allowed** - No charges, such as miscellaneous charges, environmental charges,fees, etc. will be paid by the City of if not listed in your bid response. However, charges imposed by the State of Texas or Federal Government after the bid award will be honored. Any additional charges listed in your bid response will be taken in consideration as part of the award evaluation.

**Travel Time:** The City will not compensate the contractor for travel or time between job sites.

**Disposal of Refuse** - Contractor shall clean the site and dispose of all refuse at a Texas Commission on Environmental Quality (TCEQ) approved.

**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. 11821 for minor repair services-Section III Electrical Services per ITB 14-11681-MA, by and between the City of Lubbock and Rieken Electric, 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:

Pamela Moon
_____
Pamela Moon, Executive Director of Finance

APPROVED AS TO FORM:

_____
Chad Weaver, Assistant City Attorney

vw:ccdocs/RES.Contract-Rieken Electric
March 12, 2014

**CITY OF LUBBOCK, TX**
**Minor Repair Service Contracts**

**THIS CONTRACT** made and entered into this ____ day of _____, 2014, by and between the City Lubbock ("City"), and **Rieken Electric Inc.**, of Lubbock, Texas ("Contractor").

**WITNESSETH:**

WHEREAS, the City of Lubbock duly advertised for bids for Minor Repair Service Contracts 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 Minor Repair Service Contracts.

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, Minor Repair Service Contracts and more specifically referred to as Section III – Electrical Services on the Bid Form submitted by the Contractor and General Requirements 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 general requirements, offer, and terms and conditions contained herein.

3. The Contractor shall perform the work according to the procedures outlined in the Bid Form and General Requirements 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. The rates may be adjusted upward or downward at this time at a percentage not to exceed the effective change in the Consumer Price Index (CPI) for the contract for the previous 12-months. 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 thirty (30) day written notice. Such written notice must state the reason for cancellation. The City of Lubbock reserves the right to award the canceled contract to the next lowest and best bidder as it deems to be in the best interest of the city.

5. Contractor shall at all times be an independent contractor and not an agent or representative of the City with regard to performance of the Services. Contractor shall not represent that it is, or hold itself out as, an agent or representative of City. In no event shall Contractor be authorized to enter into any agreement or undertaking for or on behalf of City.

6. The contractor shall obtain and maintain in full force and effect during the term of the contract, commercial general liability coverage with insurance carriers admitted to do business in the State of Texas. The insurance companies must carry a Best's Rating of A- VII or better. The

policies will be written on an occurrence basis, subject to the following minimum limits of liability:

| TYPE | AMOUNT |
|---|---|
| General Liability<br>Commercial General Liability<br>General Aggregate<br>Products – Comp/OP AGG<br>Personal & Adv. Injury | $1,000,000 |
| Automotive Liability<br>Combined Single Limit<br>Any Auto | $1,000,000 |
| Workers Compensation | Statutory Amounts |

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

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

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

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

7. Neither the City nor the Contractor shall assign, transfer or encumber any rights, duties or interests accruing from this Contract without the written consent of the other.

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. All funds for payment by the City under this contract are subject to the availability of an annual appropriation for this purpose by the City. In the event of nonappropriation of funds by the City Council of the City of Lubbock for the goods or services provided under the contract, the City will terminate the contract, without termination charge or other liability, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the goods or services covered by this contract is spent, whichever event occurs first. If at any time funds are not appropriated for the continuance of this contract, cancellation shall be accepted by the Seller on 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 contract beyond the date of termination.

11. This Contract consists of the following documents set forth herein; Invitation to Bid No. 14-11681-MA, Bid Form and General Requirements.

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

CITY OF LUBBOCK

Glen C. Robertson, Mayor

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Marta Alvarez, Director of Purchasing & Contract Management

APPROVED AS TO FORM:

Assistant City Attorney

CONTRACTOR

BY

Authorized Representative

Karl Rieken

Print Name

15006 NCR 2600

Address

Lubbock, Tx 79403

City, State, Zip Code

**BID FORM**
**Minor Repair Service Contracts**
**City of Lubbock, Texas**
**ITB 14-11681-MA**

**Section III – Electrical Services**

| Item | Description | Est. Number of Hours | Hourly Rate | Total Price |
|---|---|---|---|---|
| 1 | Licensed Electrician – Regular Hours (8-5) | 200 | $50.00 | 10000.00 |
| 2 | Licensed Electrician – After Hours/Holiday Hours | 50 | $75.00 | 3750.00 |
| 3 | Licensed Electrician – Emergency | 50 | $100.00 | 5000.00 |
| 4 | Apprentice – Regular Hours | 50 | $25.00 | 1250.00 |
| 5 | Apprentice – After Hours/Holidays | | 40.00 | |
| 6 | Apprentice – Emergency | 50 | 50.00 | 2500.00 |
| 7 | Material/Parts – Percentage of markup on estimated $15,000 parts/material based on actual cost to contractor. 15 % Markup. If no markup is intended, write the word "None" in the space provided. $15,000 x _____ % markup equals $15,000 + _____ | | | 17250.00 |
| | **Grand Total of Section III- Electrical Services (Items 1-7)** | | | $ ~~39750.00~~ |

For reimbursement of rental of equipment, prior approval must be authorized by the City Department representative. If applicable: _____ % markup. A copy of the receipt for the rental of the equipment must be attached to the invoice. Will you comply? Yes ☒ No ☐ GRAND TOTAL 39750.00

Materials are to be quoted on a cost-plus basis; percentage of markup to be based on net cost to Contractor, allowing for full credit for trade and/or cash discounts to the, prior approval must be authorized by City Department representative. Use Attachment A for approval. Will you comply? Yes ☒ No ☐

Did you meet the requirement to submit a copy of your state license with your bid? Yes ☒ No ☐

Do you have a local service shop? Yes ☒ No ☐
Adddress: 15006 NCR 2600 Lubbock, Tx 79403
How long has your company been in this business? 15 years
How many consecutive years of experience do you have in providing these services? 35 years
If emergency service is required at night or on weekends, can you respond? Yes ☒ No ☐
What is your response time for an emergency? 2 hours
What is your response time for calls other than emergency? 1 hour
What is your response time to begin a project after receipt of order? 8 hours
List any additional information to be considered in evaluating your bid.

**Vendor's Signature** _____ **Company's Name** Rieken Elec. Inc.

**City of Lubbock, Texas**
**ITB 14-11681-MA**
**Minor Repair Service Contracts**

## General Requirements

**Intent** - The purpose of this bid is to provide the City of Lubbock with qualified contractors to perform minor repairs for the following services: Roofing, HVAC, Electrical, Plumbing and Fence Repair. The bidder hereby agree to furnish all labor, materials, and supplies and to provide the service in accordance with the bid document. This bid is broken down into four sections: Section I for Roofing Services; Section II for HVAC Services Section III for Electrical; and Section IV for Plumbing Services and Section V for Fence Repair Services.

**Multiple Award** – The City may award up to three vendors (primary, secondary, tertiary), as available, by services. The City will endeavor to utilize vendors in order of award, however, the City may utilize any contract awarded that is in the best interest of the City to do so regardless of reason.

**Estimates** - The City reserves the right to secure pricing prior to commencement of work and solicit competitive bidding, if in the opinion of the City; pricing received is determined to be unreasonable compared to industry standards.

**Repairs and New Installations Firm Quotes** - The City will request price quotes for new installation and repair projects. These quotes shall be firm pricing and are not to exceed the specified amount quoted for any specific project unless the scope of the project changes and the change order(s) are approved in writing by the respective City department. Prior to the City issuing a notice to proceed, Contractor shall provide the City with a written proposal detailing the scope of services and providing the cost for the proposed work. **These quotes must utilize the contracted labor rates and contracted materials cost plus markup in order to utilize this contract.**

The omission, within a bid submittal, of specific reference to any equipment, materials, or labor necessary for performance of contract per specifications, shall not relieve contractor of responsibility for furnishing such equipment, materials or labor. The Contractor shall assign only the necessary personnel to complete the required work. The City Department representative reserves the right to question and audit the number of personnel assigned to a particular job and the number of hours that are being billed. At the time the work order is issued, Contractor must inform the requesting City Department representative of the approximate start-time and estimated job completion time. Contractor must handle any call-backs at no additional charges unless charges are authorized by the requesting City Department representative. Contractor's work must be completed to the satisfaction of the using department. Payment may be withheld until work is done in a satisfactory manner.

**Tools/Equipment** - All tools and equipment necessary to perform contract work shall be provided by the Contractor.

**Equipment Rental/Lease** - No separate charges shall be allowed for rental/lease of equipment unless specifically approved by the City Department representative.

**Scheduling/Response Time** - The Contractor will be required to give free written job estimates for specific projects within one (1) work day upon request. On an emergency basis, the Contractor shall

respond within a maximum of two (2) hours to arrange a same-day inspection and provide a written estimate. Upon receipt of the Notice to Proceed, completion of repairs to remedy the emergency situation must be completed within 24-72 hours. The definition of an emergency is as follows:

> **An emergency** is a situation or condition that occurred without warning within two (2) weeks, is detrimental to life, health or safety and requires immediate action. Immediate action is defined as 24-72 hours. Contractor must provide a mobile phone, pager, or answering service so that the City has a 24- hour a day access to the Contractor.

**Permits** – All work shall comply with all applicable state and local codes and ordinances, as well as any other authorities that may have lawful jurisdiction pertaining to the work specified. The contractor shall procure all necessary permits or licenses to carry out his work, and shall pay
any applicable fees for permits or inspections. There is no charge for City permits for services being performed on City property.

**Licenses/Certifications** – Current State licenses/Certifications must be provided with bid.

**Similar Experience** – Bidder shall demonstrate previous experience in regard to the requirements of this solicitation for a period of no less than (5) years.

**Term of Contract** -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. The rates may be adjusted upward or downward at this time at a percentage not to exceed the effective change in the Consumer Price Index (CPI) for the contract for the previous 12-months. The City does not guarantee any specific amount of compensation, volume, minimum or maximum amount of services under this contract.

**References** - Bidder shall submit with the bid, the name, address, telephone number and point of contact of at least three companies, for which the bidder has provided commercial services within the preceding 12 months.

**Contact Person** - The Contractor shall designate one of its employees to function in the role of primary contact person. The contact person shall be the liaison for the Contractor for the term of the agreement, and shall handle issues, problems, or questions arising from the performance of services.

**Warranties** - All work shall be guaranteed a minimum of thirty (30) days after final acceptance by the department of any of the services, including any and all installations, repairs, additions, components or parts thereof;

- The City will use its best efforts to notify the Contractor during the warranty period if any repair or installation is not in good working order;
- For new installations, Contractor shall provide full manufactures warranty to the City.
- The Contractor shall provide and bear the cost of all labor, material, cost of transportation, and insurance required to meet its obligations under this warranty;
- The Contractor shall either repair or replace at the City's sole option any installation, equipment, or component part not in good working order, at no additional cost to the City;

**City of Lubbock, Texas**
**ITB 14-11681-MA**
**Minor Repair Service Contracts**

# Additional Requirements

**Labor** - Based on contracted hourly rate, time invoiced shall be for actual time worked subject to verification/documentation approved by the City Department. **Contractor may not exceed contracted hourly rate.** Should after hours/holiday hours be necessary or indicated, it shall be performed only after obtaining specific authorization from the respective City Department. Unauthorized after hours/holiday pay will not be paid.

**Materials** – Materials are to be quoted on a cost-plus basis; percentage of markup to be based on net cost to Contractor, allowing for full credit for trade and/or cash discounts to the City. On any single item in which the cost equals or exceeds $100.00, a copy of the supplier's invoice – which must be dated and marked paid - shall be submitted as an attachment to the Contractor's invoice. All other invoices for less amounts must be retained, by the Contractor, for at least the warranty period, for City inspection upon written request. Copies of invoices for less than $100.00 shall be supplied to the City Department representative when requested for any reason, within ten calendar days of the request.

**No Additional Charges Allowed** - No charges, such as miscellaneous charges, environmental charges,fees, etc. will be paid by the City of if not listed in your bid response. However, charges imposed by the State of Texas or Federal Government after the bid award will be honored. Any additional charges listed in your bid response will be taken in consideration as part of the award evaluation.

**Travel Time:** The City will not compensate the contractor for travel or time between job sites.

**Disposal of Refuse** - Contractor shall clean the site and dispose of all refuse at a Texas Commission on Environmental Quality (TCEQ) approved.

# 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. 11823 for minor repair services-Section III Electrical Services per ITB 14-11681-MA, by and between the City of Lubbock and Brandon and Clark, 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:

Pamela Moon
_____
Pamela Moon, Executive Director of Finance

APPROVED AS TO FORM:

_____
Chad Weaver, Assistant City Attorney

vw:ccdocs/RES.Contract-Brandon & Clark
March 12, 2014

**CITY OF LUBBOCK, TX**
**Minor Repair Service Contracts**

**THIS CONTRACT** made and entered into this ____ day of _____, 2014, by and between the City Lubbock ("City"), and **Brandon and Clark, Inc.** , of Lubbock, Texas ("Contractor").

**WITNESSETH:**

WHEREAS, the City of Lubbock duly advertised for bids for Minor Repair Service Contracts 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 Minor Repair Service Contracts.

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, Minor Repair Service Contracts and more specifically referred to as Section III – Electrical Services on the Bid Form submitted by the Contractor and General Requirements 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 general requirements, offer, and terms and conditions contained herein.

3. The Contractor shall perform the work according to the procedures outlined in the Bid Form and General Requirments 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. The rates may be adjusted upward or downward at this time at a percentage not to exceed the effective change in the Consumer Price Index (CPI) for the contract for the previous 12-months. 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 thirty (30) day written notice. Such written notice must state the reason for cancellation. The City of Lubbock reserves the right to award the canceled contract to the next lowest and best bidder as it deems to be in the best interest of the city.

5. Contractor shall at all times be an independent contractor and not an agent or representative of the City with regard to performance of the Services. Contractor shall not represent that it is, or hold itself out as, an agent or representative of City. In no event shall Contractor be authorized to enter into any agreement or undertaking for or on behalf of City.

6. The contractor shall obtain and maintain in full force and effect during the term of the contract, commercial general liability coverage with insurance carriers admitted to do business in the State of Texas. The insurance companies must carry a Best's Rating of A- VII or better. The

policies will be written on an occurrence basis, subject to the following minimum limits of liability:

| TYPE | AMOUNT |
|---|---|
| General Liability<br>Commercial General Liability<br>General Aggregate<br>Products – Comp/OP AGG<br>Personal & Adv. Injury | $1,000,000 |
| Automotive Liability<br>Combined Single Limit<br>Any Auto | $1,000,000 |
| Workers Compensation | Statutory Amounts |

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

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

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

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

7. Neither the City nor the Contractor shall assign, transfer or encumber any rights, duties or interests accruing from this Contract without the written consent of the other.

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. All funds for payment by the City under this contract are subject to the availability of an annual appropriation for this purpose by the City. In the event of nonappropriation of funds by the City Council of the City of Lubbock for the goods or services provided under the contract, the City will terminate the contract, without termination charge or other liability, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the goods or services covered by this contract is spent, whichever event occurs first. If at any time funds are not appropriated for the continuance of this contract, cancellation shall be accepted by the Seller on 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 contract beyond the date of termination.

11. This Contract consists of the following documents set forth herein; Invitation to Bid No. 14-11681-MA, Bid Form and General Requirements.

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

CITY OF LUBBOCK

Glen C. Robertson, Mayor

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Marta Alvarez, Director of Purchasing & Contract Management

APPROVED AS TO FORM:

Assistant City Attorney

CONTRACTOR

BY Christopher S. Clark
Authorized Representative

Chris Clark
Print Name

3623 Interstate 27
Address

Lubbock TX 79404
City, State, Zip Code

**BID FORM**
**Minor Repair Service Contracts**
**City of Lubbock, Texas**
**ITB 14-11681-MA**

**Section III – Electrical Services**

| Item | Description | Est. Number of Hours | Hourly Rate | Total Price |
|---|---|---|---|---|
| 1 | Licensed Electrician – Regular Hours (8-5) | 200 | 49.18 | 9836.00 |
| 2 | Licensed Electrician – After Hours/Holiday Hours | 50 | 63.93 | 3196.50 |
| 3 | Licensed Electrician – Emergency | 50 | 63.93 | 3196.50 |
| 4 | Apprentice – Regular Hours | 50 | 35.51 | 1775.50 |
| 5 | Apprentice – After Hours/Holidays | | 46.17 | 46.17 |
| 6 | Apprentice – Emergency | 50 | 46.17 | 2308.50 |
| 7 | Material/Parts – Percentage of markup on estimated $15,000 parts/material based on actual cost to contractor. 25 % Markup. If no markup is intended, write the word "None" in the space provided. $15,000 x 25 % markup equals $15,000 + 3750 | | | 18750 |
| | **Grand Total of Section III- Electrical Services (Items 1-7)** | | | $ 39109.17 |

For reimbursement of rental of equipment, prior approval must be authorized by the City Department representative. If applicable: 25 % markup. A copy of the receipt for the rental of the equipment must be attached to the invoice. Will you comply? Yes ☑ No ☐

Materials are to be quoted on a cost-plus basis; percentage of markup to be based on net cost to Contractor, allowing for full credit for trade and/or cash discounts to the, prior approval must be authorized by City Department representative. Use Attachment A for approval. Will you comply? Yes ☑ No ☐

Did you meet the requirement to submit a copy of your state license with your bid? Yes ☑ No ☐

Do you have a local service shop? Yes ☑ No ☐
Adddress: 3623 I-27,
How long has your company been in this business? 64 years
How many consecutive years of experience do you have in providing these services? 50 years
If emergency service is required at night or on weekends, can you respond? Yes ☑ No ☐
What is your response time for an emergency? within 2 hours
What is your response time for calls other than emergency? 14 days to begin work
What is your response time to begin a project after receipt of order? within 14 days
List any additional information to be considered in evaluating your bid.

Depending on severity, 14 days is worst case. Lead time is very negotiable given circumstances.

**Vendor's Signature** [signature] **Company's Name** Brandon and Clark, Inc.

**City of Lubbock, Texas**
**ITB 14-11681-MA**
**Minor Repair Service Contracts**

## General Requirements

**Intent -** The purpose of this bid is to provide the City of Lubbock with qualified contractors to perform minor repairs for the following services: Roofing, HVAC, Electrical, Plumbing and Fence Repair. The bidder hereby agree to furnish all labor, materials, and supplies and to provide the service in accordance with the bid document. This bid is broken down into four sections: Section I for Roofing Services; Section II for HVAC Services Section III for Electrical; and Section IV for Plumbing Services and Section V for Fence Repair Services.

**Multiple Award** – The City may award up to three vendors (primary, secondary, tertiary), as available, by services. The City will endeavor to utilize vendors in order of award, however, the City may utilize any contract awarded that is in the best interest of the City to do so regardless of reason.

**Estimates -** The City reserves the right to secure pricing prior to commencement of work and solicit competitive bidding, if in the opinion of the City; pricing received is determined to be unreasonable compared to industry standards.

**Repairs and New Installations Firm Quotes -** The City will request price quotes for new installation and repair projects. These quotes shall be firm pricing and are not to exceed the specified amount quoted for any specific project unless the scope of the project changes and the change order(s) are approved in writing by the respective City department. Prior to the City issuing a notice to proceed, Contractor shall provide the City with a written proposal detailing the scope of services and providing the cost for the proposed work. **These quotes must utilize the contracted labor rates and contracted materials cost plus markup in order to utilize this contract.**

The omission, within a bid submittal, of specific reference to any equipment, materials, or labor necessary for performance of contract per specifications, shall not relieve contractor of responsibility for furnishing such equipment, materials or labor. The Contractor shall assign only the necessary personnel to complete the required work. The City Department representative reserves the right to question and audit the number of personnel assigned to a particular job and the number of hours that are being billed. At the time the work order is issued, Contractor must inform the requesting City Department representative of the approximate start-time and estimated job completion time. Contractor must handle any call-backs at no additional charges unless charges are authorized by the requesting City Department representative. Contractor's work must be completed to the satisfaction of the using department. Payment may be withheld until work is done in a satisfactory manner.

**Tools/Equipment** - All tools and equipment necessary to perform contract work shall be provided by the Contractor.

**Equipment Rental/Lease** - No separate charges shall be allowed for rental/lease of equipment unless specifically approved by the City Department representative.

**Scheduling/Response Time** - The Contractor will be required to give free written job estimates for specific projects within one (1) work day upon request. On an emergency basis, the Contractor shall

respond within a maximum of two (2) hours to arrange a same-day inspection and provide a written estimate. Upon receipt of the Notice to Proceed, completion of repairs to remedy the emergency situation must be completed within 24-72 hours. The definition of an emergency is as follows:

> **An emergency** is a situation or condition that occurred without warning within two (2) weeks, is detrimental to life, health or safety and requires immediate action. Immediate action is defined as 24-72 hours. Contractor must provide a mobile phone, pager, or answering service so that the City has a 24- hour a day access to the Contractor.

**Permits** – All work shall comply with all applicable state and local codes and ordinances, as well as any other authorities that may have lawful jurisdiction pertaining to the work specified. The contractor shall procure all necessary permits or licenses to carry out his work, and shall pay
any applicable fees for permits or inspections. There is no charge for City permits for services being performed on City property.

**Licenses/Certifications** – Current State licenses/Certifications must be provided with bid.

**Similar Experience** – Bidder shall demonstrate previous experience in regard to the requirements of this solicitation for a period of no less than (5) years.

**Term of Contract** -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. The rates may be adjusted upward or downward at this time at a percentage not to exceed the effective change in the Consumer Price Index (CPI) for the contract for the previous 12-months. The City does not guarantee any specific amount of compensation, volume, minimum or maximum amount of services under this contract.

**References** - Bidder shall submit with the bid, the name, address, telephone number and point of contact of at least three companies, for which the bidder has provided commercial services within the preceding 12 months.

**Contact Person** - The Contractor shall designate one of its employees to function in the role of primary contact person. The contact person shall be the liaison for the Contractor for the term of the agreement, and shall handle issues, problems, or questions arising from the performance of services.

**Warranties** - All work shall be guaranteed a minimum of thirty (30) days after final acceptance by the department of any of the services, including any and all installations, repairs, additions, components or parts thereof;

- The City will use its best efforts to notify the Contractor during the warranty period if any repair or installation is not in good working order;
- For new installations, Contractor shall provide full manufactures warranty to the City.
- The Contractor shall provide and bear the cost of all labor, material, cost of transportation, and insurance required to meet its obligations under this warranty;
- The Contractor shall either repair or replace at the City's sole option any installation, equipment, or component part not in good working order, at no additional cost to the City;

**City of Lubbock, Texas**
**ITB 14-11681-MA**
**Minor Repair Service Contracts**

# Additional Requirements

**Labor** - Based on contracted hourly rate, time invoiced shall be for actual time worked subject to verification/documentation approved by the City Department. **Contractor may not exceed contracted hourly rate.** Should after hours/holiday hours be necessary or indicated, it shall be performed only after obtaining specific authorization from the respective City Department. Unauthorized after hours/holiday pay will not be paid.

**Materials** – Materials are to be quoted on a cost-plus basis; percentage of markup to be based on net cost to Contractor, allowing for full credit for trade and/or cash discounts to the City. On any single item in which the cost equals or exceeds $100.00, a copy of the supplier's invoice – which must be dated and marked paid - shall be submitted as an attachment to the Contractor's invoice. All other invoices for less amounts must be retained, by the Contractor, for at least the warranty period, for City inspection upon written request. Copies of invoices for less than $100.00 shall be supplied to the City Department representative when requested for any reason, within ten calendar days of the request.

**No Additional Charges Allowed** - No charges, such as miscellaneous charges, environmental charges,fees, etc. will be paid by the City of if not listed in your bid response. However, charges imposed by the State of Texas or Federal Government after the bid award will be honored. Any additional charges listed in your bid response will be taken in consideration as part of the award evaluation.

**Travel Time:** The City will not compensate the contractor for travel or time between job sites.

**Disposal of Refuse** - Contractor shall clean the site and dispose of all refuse at a Texas Commission on Environmental Quality (TCEQ) approved.

# 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. 11818 for minor repair services-Section IV Plumbing Services per ITB 14-11681-MA, by and between the City of Lubbock and Stewart/Finn, Inc. dba Roto-Rooter of Lubbock, 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:

Pamela Moon
Pamela Moon, Executive Director of Finance

APPROVED AS TO FORM:

Chad Weaver, Assistant City Attorney

vw:ccdocs/RES.Contract-Stewart Finn
March 12, 2014

## CITY OF LUBBOCK, TX
## Minor Repair Service Contracts

**THIS CONTRACT** made and entered into this ____ day of _____, 2014, by and between the City Lubbock ("City"), and **Stewart/Finn, Inc. dba Roto-Rooter**, of Lubbock, Texas ("Contractor").

**WITNESSETH:**

WHEREAS, the City of Lubbock duly advertised for bids for Minor Repair Service Contracts 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 Minor Repair Service Contracts.

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, Minor Repair Service Contracts and more specifically referred to as Section IV- Plumbing Services on the Bid Form submitted by the Contractor and General Requirements 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 general requirements, offer, and terms and conditions contained herein.

3. The Contractor shall perform the work according to the procedures outlined in the Bid Form and General Requirements 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. The rates may be adjusted upward or downward at this time at a percentage not to exceed the effective change in the Consumer Price Index (CPI) for the contract for the previous 12-months. 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 thirty (30) day written notice. Such written notice must state the reason for cancellation. The City of Lubbock reserves the right to award the canceled contract to the next lowest and best bidder as it deems to be in the best interest of the city.

5. Contractor shall at all times be an independent contractor and not an agent or representative of the City with regard to performance of the Services. Contractor shall not represent that it is, or hold itself out as, an agent or representative of City. In no event shall Contractor be authorized to enter into any agreement or undertaking for or on behalf of City.

6. The contractor shall obtain and maintain in full force and effect during the term of the contract, commercial general liability coverage with insurance carriers admitted to do business in the State of Texas. The insurance companies must carry a Best's Rating of A- VII or better. The

policies will be written on an occurrence basis, subject to the following minimum limits of liability:

| TYPE | AMOUNT |
|---|---|
| | $1,000,000 |
| General Liability<br>Commercial General Liability<br>General Aggregate<br>Products – Comp/OP AGG<br>Personal & Adv. Injury | |
| Automotive Liability<br>Combined Single Limit<br>Any Auto | $1,000,000 |
| Workers Compensation | Statutory Amounts |

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

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

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

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

7. Neither the City nor the Contractor shall assign, transfer or encumber any rights, duties or interests accruing from this Contract without the written consent of the other.

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. All funds for payment by the City under this contract are subject to the availability of an annual appropriation for this purpose by the City. In the event of nonappropriation of funds by the City Council of the City of Lubbock for the goods or services provided under the contract, the City will terminate the contract, without termination charge or other liability, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the goods or services covered by this contract is spent, whichever event occurs first. If at any time funds are not appropriated for the continuance of this contract, cancellation shall be accepted by the Seller on 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 contract beyond the date of termination.

11. This Contract consists of the following documents set forth herein; Invitation to Bid No. 14-11681-MA, Bid Form and General Requirements.

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

CITY OF LUBBOCK

Glen C. Robertson, Mayor

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Marta Alvarez, Director of Purchasing & Contract Management

APPROVED AS TO FORM:

Assistant City Attorney

CONTRACTOR

BY Steve Fuller
Authorized Representative

Steve Fuller
Print Name

P. O. Box 53634
Address

Lubbock TX 79453
City, State, Zip Code

ORIGINAL

**BID FORM**
**Minor Repair Service Contracts**
**City of Lubbock, Texas**
**ITB 14-11681-MA**

**Section IV- Plumbing Services**

| Item | Description | Est. Number of Hours | Hourly Rate | Total Price |
|---|---|---|---|---|
| 1 | Licensed Plumber – Regular Hours (8-5) | 200 | 85.00 | 17,000.00 |
| 2 | Licensed Plumber – After Hours/Holiday Hours | 50 | 170.00 | 8,500.00 |
| 3 | Licensed Plumber – Emergency | 50 | 125.00 | 6,250.00 |
| 4 | Plumbers – Regular Hours | 50 | 85.00 | 4,250.00 |
| 5 | Plumbers – After hours/Holidays | | 170.00 | |
| 6 | Plumbers Helper – Emergency | 50 | 35.00 | 1,750.00 |
| 7 | Material/Parts – Percentage of markup on estimated $15,000 parts/material based on actual cost to contractor. __30___ % Markup. If no markup is intended, write the word "None" in the space provided. $15,000 x _30_ % markup equals $15,000 + __4,500.00 | | | 19,500.00__ |
| | **Grand Total of Section IV Plumber Services (Items 1-7)** | | | $57,250.00 |

For reimbursement of rental of equipment, prior approval must be authorized by the City Department representative. If applicable: ____20__ % markup. A copy of the receipt for the rental of the equipment must be attached to the invoice. Will you comply? Yes ☒ No ☐

Materials are to be quoted on a cost-plus basis; percentage of markup to be based on net cost to Contractor, allowing for full credit for trade and/or cash discounts to the, prior approval must be authorized by City Department representative. Use Attachment A for approval. Will you comply? Yes ☒ No ☐

Did you meet the requirement to submit a copy of your state license with your bid? YesNo ☐

Do you have a local service shop? Yes ☒ No ☐
Adddress:___313 82nd St Lubbock Tx 79404_____

How long has your company been in this business? ___30_____
How many consecutive years of experience do you have in providing these services? _35_____
If emergency service is required at night or on weekends, can you respond? Yes ☒ No ☐
What is your response time for an emergency? ____1hr_____
What is your response time for calls other than emergency? ____1-2hrs._____
What is your response time to begin a project after receipt of order? _____1-2 hrs._____
List any additional information to be considered in evaluating your bid.

**Vendor's Signature** Steven D Zilke **Company's Name _Roto-Rooter_____**

**City of Lubbock, Texas**
**ITB 14-11681-MA**
**Minor Repair Service Contracts**

## General Requirements

**Intent** - The purpose of this bid is to provide the City of Lubbock with qualified contractors to perform minor repairs for the following services: Roofing, HVAC, Electrical, Plumbing and Fence Repair. The bidder hereby agree to furnish all labor, materials, and supplies and to provide the service in accordance with the bid document. This bid is broken down into four sections: Section I for Roofing Services; Section II for HVAC Services Section III for Electrical; and Section IV for Plumbing Services and Section V for Fence Repair Services.

**Multiple Award** – The City may award up to three vendors (primary, secondary, tertiary), as available, by services. The City will endeavor to utilize vendors in order of award, however, the City may utilize any contract awarded that is in the best interest of the City to do so regardless of reason.

**Estimates** - The City reserves the right to secure pricing prior to commencement of work and solicit competitive bidding, if in the opinion of the City; pricing received is determined to be unreasonable compared to industry standards.

**Repairs and New Installations Firm Quotes** - The City will request price quotes for new installation and repair projects. These quotes shall be firm pricing and are not to exceed the specified amount quoted for any specific project unless the scope of the project changes and the change order(s) are approved in writing by the respective City department. Prior to the City issuing a notice to proceed, Contractor shall provide the City with a written proposal detailing the scope of services and providing the cost for the proposed work. **These quotes must utilize the contracted labor rates and contracted materials cost plus markup in order to utilize this contract.**

The omission, within a bid submittal, of specific reference to any equipment, materials, or labor necessary for performance of contract per specifications, shall not relieve contractor of responsibility for furnishing such equipment, materials or labor. The Contractor shall assign only the necessary personnel to complete the required work. The City Department representative reserves the right to question and audit the number of personnel assigned to a particular job and the number of hours that are being billed. At the time the work order is issued, Contractor must inform the requesting City Department representative of the approximate start-time and estimated job completion time. Contractor must handle any call-backs at no additional charges unless charges are authorized by the requesting City Department representative. Contractor's work must be completed to the satisfaction of the using department. Payment may be withheld until work is done in a satisfactory manner.

**Tools/Equipment** - All tools and equipment necessary to perform contract work shall be provided by the Contractor.

**Equipment Rental/Lease** - No separate charges shall be allowed for rental/lease of equipment unless specifically approved by the City Department representative.

**Scheduling/Response Time** - The Contractor will be required to give free written job estimates for specific projects within one (1) work day upon request. On an emergency basis, the Contractor shall

respond within a maximum of two (2) hours to arrange a same-day inspection and provide a written estimate. Upon receipt of the Notice to Proceed, completion of repairs to remedy the emergency situation must be completed within 24-72 hours. The definition of an emergency is as follows:

> **An emergency** is a situation or condition that occurred without warning within two (2) weeks, is detrimental to life, health or safety and requires immediate action. Immediate action is defined as 24-72 hours. Contractor must provide a mobile phone, pager, or answering service so that the City has a 24- hour a day access to the Contractor.

**Permits** – All work shall comply with all applicable state and local codes and ordinances, as well as any other authorities that may have lawful jurisdiction pertaining to the work specified. The contractor shall procure all necessary permits or licenses to carry out his work, and shall pay
any applicable fees for permits or inspections. There is no charge for City permits for services being performed on City property.

**Licenses/Certifications** – Current State licenses/Certifications must be provided with bid.

**Similar Experience** – Bidder shall demonstrate previous experience in regard to the requirements of this solicitation for a period of no less than (5) years.

**Term of Contract** -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. The rates may be adjusted upward or downward at this time at a percentage not to exceed the effective change in the Consumer Price Index (CPI) for the contract for the previous 12-months. The City does not guarantee any specific amount of compensation, volume, minimum or maximum amount of services under this contract.

**References** - Bidder shall submit with the bid, the name, address, telephone number and point of contact of at least three companies, for which the bidder has provided commercial services within the preceding 12 months.

**Contact Person** - The Contractor shall designate one of its employees to function in the role of primary contact person. The contact person shall be the liaison for the Contractor for the term of the agreement, and shall handle issues, problems, or questions arising from the performance of services.

**Warranties** - All work shall be guaranteed a minimum of thirty (30) days after final acceptance by the department of any of the services, including any and all installations, repairs, additions, components or parts thereof;

- The City will use its best efforts to notify the Contractor during the warranty period if any repair or installation is not in good working order;
- For new installations, Contractor shall provide full manufactures warranty to the City.
- The Contractor shall provide and bear the cost of all labor, material, cost of transportation, and insurance required to meet its obligations under this warranty;
- The Contractor shall either repair or replace at the City's sole option any installation, equipment, or component part not in good working order, at no additional cost to the City;

**City of Lubbock, Texas**
**ITB 14-11681-MA**
**Minor Repair Service Contracts**

# Additional Requirements

**Labor** - Based on contracted hourly rate, time invoiced shall be for actual time worked subject to verification/documentation approved by the City Department. **Contractor may not exceed contracted hourly rate.** Should after hours/holiday hours be necessary or indicated, it shall be performed only after obtaining specific authorization from the respective City Department. Unauthorized after hours/holiday pay will not be paid.

**Materials** – Materials are to be quoted on a cost-plus basis; percentage of markup to be based on net cost to Contractor, allowing for full credit for trade and/or cash discounts to the City. On any single item in which the cost equals or exceeds $100.00, a copy of the supplier's invoice – which must be dated and marked paid - shall be submitted as an attachment to the Contractor's invoice. All other invoices for less amounts must be retained, by the Contractor, for at least the warranty period, for City inspection upon written request. Copies of invoices for less than $100.00 shall be supplied to the City Department representative when requested for any reason, within ten calendar days of the request.

**No Additional Charges Allowed** - No charges, such as miscellaneous charges, environmental charges,fees, etc. will be paid by the City of if not listed in your bid response. However, charges imposed by the State of Texas or Federal Government after the bid award will be honored. Any additional charges listed in your bid response will be taken in consideration as part of the award evaluation.

**Travel Time:** The City will not compensate the contractor for travel or time between job sites.

**Disposal of Refuse** - Contractor shall clean the site and dispose of all refuse at a Texas Commission on Environmental Quality (TCEQ) approved.

**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. 11822 for minor repair services – Section IV Plumbing Services per ITB 14-11681-MA, by and between the City of Lubbock and Anthony Mechanical, 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:

Pamela Moon
_____
Pamela Moon, Executive Director of Finance

APPROVED AS TO FORM:

_____
Chad Weaver, Assistant City Attorney

vw:ccdocs/RES.Contract-Anthony Mechanical
March 24, 2014

**CITY OF LUBBOCK, TX**
**Minor Repair Service Contracts**

**THIS CONTRACT** made and entered into this ____ day of _____, 2014, by and between the City Lubbock ("City"), and **Anthony Mechanical, Inc**, of Lubbock, Texas ("Contractor").

**WITNESSETH:**

WHEREAS, the City of Lubbock duly advertised for bids for Minor Repair Service Contracts 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 Minor Repair Service Contracts.

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, Minor Repair Service Contracts and more specifically referred to as Section IV -Pluming Services on the Bid Form submitted by the Contractor and General Requirements 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 general requirements, offer, and terms and conditions contained herein.

3. The Contractor shall perform the work according to the procedures outlined in the Bid Form and General Requirements 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. The rates may be adjusted upward or downward at this time at a percentage not to exceed the effective change in the Consumer Price Index (CPI) for the contract for the previous 12-months. 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 thirty (30) day written notice. Such written notice must state the reason for cancellation. The City of Lubbock reserves the right to award the canceled contract to the next lowest and best bidder as it deems to be in the best interest of the city.

5. Contractor shall at all times be an independent contractor and not an agent or representative of the 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

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 |
|---|---|
| | $1,000,000 |
| General Liability<br>Commercial General Liability<br>General Aggregate<br>Products – Comp/OP AGG<br>Personal & Adv. Injury | |
| Automotive Liability<br>Combined Single Limit<br>Any Auto | $1,000,000 |
| Workers Compensation | Statutory Amounts |

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

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

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

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

7. Neither the City nor the Contractor shall assign, transfer or encumber any rights, duties or interests accruing from this Contract without the written consent of the other.

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. All funds for payment by the City under this contract are subject to the availability of an annual appropriation for this purpose by the City. In the event of nonappropriation of funds by the City Council of the City of Lubbock for the goods or services provided under the contract, the City will terminate the contract, without termination charge or other liability, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the goods or services covered by this contract is spent, whichever event occurs first. If at any time funds are not appropriated for the continuance of this contract, cancellation shall be accepted by the Seller on 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 contract beyond the date of termination.

11. This Contract consists of the following documents set forth herein; Invitation to Bid No. 14-11681-MA, Bid Form and General Requirements.

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

CITY OF LUBBOCK

_____
Glen C. Robertson, Mayor

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Marta Alvarez, Director of Purchasing & Contract Management

APPROVED AS TO FORM:

_____
Assistant City Attorney

CONTRACTOR

BY _____
Authorized Representative

Glen McCullough
Print Name

525 E 40th
Address

Lubbock Tx 79404
City, State, Zip Code

# BID FORM
## Minor Repair Service Contracts
## City of Lubbock, Texas
## ITB 14-11681-MA

### Section IV- Plumbing Services

| Item | Description | Est. Number of Hours | Hourly Rate | Total Price |
|---|---|---|---|---|
| 1 | Licensed Plumber – Regular Hours (8-5) | 200 | 65.33 | 13,066.00 |
| 2 | Licensed Plumber – After Hours/Holiday Hours | 50 | 98.00 | 4,900.00 |
| 3 | Licensed Plumber – Emergency | 50 | 98.00 | 4,900.00 |
| 4 | Plumbers – Regular Hours | 50 | 65.33 | 3260.50 |
| 5 | Plumbers – After hours/Holidays | | 98.00 | -0- |
| 6 | Plumbers Helper – Emergency | 50 | 70.38 | 3,519.00 |
| 7 | Material/Parts – Percentage of markup on estimated $15,000 parts/material based on actual cost to contractor. 15 % Markup. If no markup is intended, write the word "None" in the space provided. $15,000 x 15 % markup equals $15,000 + | | | 17,250.00 |
| | **Grand Total of Section IV Plumber Services (Items 1-7)** | | | $46,895.50 |

For reimbursement of rental of equipment, prior approval must be authorized by the City Department representative. If applicable: 15 % markup. A copy of the receipt for the rental of the equipment must be attached to the invoice. Will you comply? Yes ☒ No ☐

Materials are to be quoted on a cost-plus basis; percentage of markup to be based on net cost to Contractor, allowing for full credit for trade and/or cash discounts to the, prior approval must be authorized by City Department representative. Use Attachment A for approval. Will you comply? Yes ☒ No ☐

Did you meet the requirement to submit a copy of your state license with your bid? Yes ☒ No ☐

Do you have a local service shop? Yes ☒ No ☐
Adddress: _____

How long has your company been in this business? 90 years
How many consecutive years of experience do you have in providing these services? 90 years
If emergency service is required at night or on weekends, can you respond? Yes ☒ No ☐
What is your response time for an emergency? 1 hr
What is your response time for calls other than emergency? 2 hrs
What is your response time to begin a project after receipt of order? 4 hrs
List any additional information to be considered in evaluating your bid.

---

**Vendor's Signature** _____ **Company's Name** Anthony Mechanical Inc.

**City of Lubbock, Texas**
**ITB 14-11681-MA**
**Minor Repair Service Contracts**

## General Requirements

**Intent -** The purpose of this bid is to provide the City of Lubbock with qualified contractors to perform minor repairs for the following services: Roofing, HVAC, Electrical, Plumbing and Fence Repair. The bidder hereby agree to furnish all labor, materials, and supplies and to provide the service in accordance with the bid document. This bid is broken down into four sections: Section I for Roofing Services; Section II for HVAC Services Section III for Electrical; and Section IV for Plumbing Services and Section V for Fence Repair Services.

**Multiple Award** – The City may award up to three vendors (primary, secondary, tertiary), as available, by services. The City will endeavor to utilize vendors in order of award, however, the City may utilize any contract awarded that is in the best interest of the City to do so regardless of reason.

**Estimates -** The City reserves the right to secure pricing prior to commencement of work and solicit competitive bidding, if in the opinion of the City; pricing received is determined to be unreasonable compared to industry standards.

**Repairs and New Installations Firm Quotes** - The City will request price quotes for new installation and repair projects. These quotes shall be firm pricing and are not to exceed the specified amount quoted for any specific project unless the scope of the project changes and the change order(s) are approved in writing by the respective City department. Prior to the City issuing a notice to proceed, Contractor shall provide the City with a written proposal detailing the scope of services and providing the cost for the proposed work. **These quotes must utilize the contracted labor rates and contracted materials cost plus markup in order to utilize this contract.**

The omission, within a bid submittal, of specific reference to any equipment, materials, or labor necessary for performance of contract per specifications, shall not relieve contractor of responsibility for furnishing such equipment, materials or labor. The Contractor shall assign only the necessary personnel to complete the required work. The City Department representative reserves the right to question and audit the number of personnel assigned to a particular job and the number of hours that are being billed. At the time the work order is issued, Contractor must inform the requesting City Department representative of the approximate start-time and estimated job completion time. Contractor must handle any call-backs at no additional charges unless charges are authorized by the requesting City Department representative. Contractor's work must be completed to the satisfaction of the using department. Payment may be withheld until work is done in a satisfactory manner.

**Tools/Equipment** - All tools and equipment necessary to perform contract work shall be provided by the Contractor.

**Equipment Rental/Lease** - No separate charges shall be allowed for rental/lease of equipment unless specifically approved by the City Department representative.

**Scheduling/Response Time** - The Contractor will be required to give free written job estimates for specific projects within one (1) work day upon request. On an emergency basis, the Contractor shall

respond within a maximum of two (2) hours to arrange a same-day inspection and provide a written estimate. Upon receipt of the Notice to Proceed, completion of repairs to remedy the emergency situation must be completed within 24-72 hours. The definition of an emergency is as follows:

> **An emergency** is a situation or condition that occurred without warning within two (2) weeks, is detrimental to life, health or safety and requires immediate action. Immediate action is defined as 24-72 hours. Contractor must provide a mobile phone, pager, or answering service so that the City has a 24- hour a day access to the Contractor.

**Permits** – All work shall comply with all applicable state and local codes and ordinances, as well as any other authorities that may have lawful jurisdiction pertaining to the work specified. The contractor shall procure all necessary permits or licenses to carry out his work, and shall pay
any applicable fees for permits or inspections. There is no charge for City permits for services being performed on City property.

**Licenses/Certifications** – Current State licenses/Certifications must be provided with bid.

**Similar Experience** – Bidder shall demonstrate previous experience in regard to the requirements of this solicitation for a period of no less than (5) years.

**Term of Contract** -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. The rates may be adjusted upward or downward at this time at a percentage not to exceed the effective change in the Consumer Price Index (CPI) for the contract for the previous 12-months. The City does not guarantee any specific amount of compensation, volume, minimum or maximum amount of services under this contract.

**References** - Bidder shall submit with the bid, the name, address, telephone number and point of contact of at least three companies, for which the bidder has provided commercial services within the preceding 12 months.

**Contact Person** - The Contractor shall designate one of its employees to function in the role of primary contact person. The contact person shall be the liaison for the Contractor for the term of the agreement, and shall handle issues, problems, or questions arising from the performance of services.

**Warranties** - All work shall be guaranteed a minimum of thirty (30) days after final acceptance by the department of any of the services, including any and all installations, repairs, additions, components or parts thereof;

- The City will use its best efforts to notify the Contractor during the warranty period if any repair or installation is not in good working order;
- For new installations, Contractor shall provide full manufactures warranty to the City.
- The Contractor shall provide and bear the cost of all labor, material, cost of transportation, and insurance required to meet its obligations under this warranty;
- The Contractor shall either repair or replace at the City's sole option any installation, equipment, or component part not in good working order, at no additional cost to the City;

**City of Lubbock, Texas**
**ITB 14-11681-MA**
**Minor Repair Service Contracts**

# Additional Requirements

**Labor** - Based on contracted hourly rate, time invoiced shall be for actual time worked subject to verification/documentation approved by the City Department. **Contractor may not exceed contracted hourly rate.** Should after hours/holiday hours be necessary or indicated, it shall be performed only after obtaining specific authorization from the respective City Department. Unauthorized after hours/holiday pay will not be paid.

**Materials** – Materials are to be quoted on a cost-plus basis; percentage of markup to be based on net cost to Contractor, allowing for full credit for trade and/or cash discounts to the City. On any single item in which the cost equals or exceeds $100.00, a copy of the supplier's invoice – which must be dated and marked paid - shall be submitted as an attachment to the Contractor's invoice. All other invoices for less amounts must be retained, by the Contractor, for at least the warranty period, for City inspection upon written request. Copies of invoices for less than $100.00 shall be supplied to the City Department representative when requested for any reason, within ten calendar days of the request.

**No Additional Charges Allowed** - No charges, such as miscellaneous charges, environmental charges,fees, etc. will be paid by the City of if not listed in your bid response. However, charges imposed by the State of Texas or Federal Government after the bid award will be honored. Any additional charges listed in your bid response will be taken in consideration as part of the award evaluation.

**Travel Time:** The City will not compensate the contractor for travel or time between job sites.

**Disposal of Refuse** - Contractor shall clean the site and dispose of all refuse at a Texas Commission on Environmental Quality (TCEQ) approved.

City of Lubbock, TX
Purchasing and Contract Management
Bid Tabulation
April 10, 2014

ITB 14-11681-MA
Minor Repair Services for Various Departments

| Item | Qty | U/M | Description/Vendor | Location | Hourly Rate | Extended Cost |
|---|---|---|---|---|---|---|
| | | | Section I - Roofing Repair Services | | | |
| 1 | 200 | Hrs | Regular Labor Hours (8 - 5) | | | |
| | | | Lydick-Hooks Roofing Co. | Lubbock, TX | $ 56 | 11,262 |
| | | | Tecta America - CS, LLC | Lubbock, TX | 68 | 13,600 |
| | | | ABF Commerical Roofing | Lubbock, TX | 100 | 20,000 |
| 2 | 50 | Hrs | Holiday and After Hour Services | | | |
| | | | Lydick-Hooks Roofing Co. | Lubbock, TX | 70 | 3,520 |
| | | | Tecta America - CS, LLC | Lubbock, TX | 120 | 6,000 |
| | | | ABF Commerical Roofing | Lubbock, TX | 200 | 10,000 |
| 3 | 50 | Hrs | Emergency Services | | | |
| | | | Lydick-Hooks Roofing Co. | Lubbock, TX | 70 | 3,520 |
| | | | Tecta America - CS, LLC | Lubbock, TX | 120 | 6,000 |
| | | | ABF Commerical Roofing | Lubbock, TX | 400 | 20,000 |
| | | | Over All Total | | | |
| | | | Lydick-Hooks Roofing Co. | Lubbock, TX | | $ 18,301 |
| | | | Tecta America - CS, LLC | Lubbock, TX | | 25,600 |
| | | | ABF Commerical Roofing | Lubbock, TX | | 50,000 |

City of Lubbock, TX
Purchasing and Contract Management
Bid Tabulation
April 10, 2014

ITB 14-11681-MA
Minor Repair Services for Various Departments

| Item | Qty | U/M | Description/Vendor | Location | Hourly Rate | Extended Cost |
|---|---|---|---|---|---|---|
| | | | Section II - HVAC Services | | | |
| 1 | 200 | Hrs | Technician/Installer - Regular Labor Hours (8 - 5) | | | |
| | | | GRG Sanders and Co. dba Hub City Plumbing and Mechanical | Lubbock, TX | $ 83 | 16,500 |
| | | | Anthony Mechanical Services, Inc. | Lubbock, TX | 100 | 20,000 |
| 2 | 50 | Hrs | Technician - After Hours/Holiday | | | |
| | | | GRG Sanders and Co. dba Hub City Plumbing and Mechanical | Lubbock, TX | 124 | 6,188 |
| | | | Anthony Mechanical Services, Inc. | Lubbock, TX | 150 | 7,500 |
| 3 | 50 | Hrs | Technician - Emergency | | | |
| | | | GRG Sanders and Co. dba Hub City Plumbing and Mechanical | Lubbock, TX | 124 | 6,188 |
| | | | Anthony Mechanical Services, Inc. | Lubbock, TX | 150 | 7,500 |
| 4 | 50 | Hrs | Apprentice - Regular Labor Hours (8 - 5) | | | |
| | | | GRG Sanders and Co. dba Hub City Plumbing and Mechanical | Lubbock, TX | 63 | 3,125 |
| | | | Anthony Mechanical Services, Inc. | Lubbock, TX | 100 | 5,000 |
| 5 | 50 | Hrs | Apprentice - After Hours/Holiday | | | |
| | | | GRG Sanders and Co. dba Hub City Plumbing and Mechanical | Lubbock, TX | 94 | 4,688 |
| | | | Anthony Mechanical Services, Inc. | Lubbock, TX | 150 | 7,500 |
| 6 | 50 | Hrs | Apprentice Emergency Services | | | |
| | | | GRG Sanders and Co. dba Hub City Plumbing and Mechanical | Lubbock, TX | 94 | 4,688 |
| | | | Anthony Mechanical Services, Inc. | Lubbock, TX | 150 | 7,500 |
| | | | Over All Total | | | |
| | | | GRG Sanders and Co. dba Hub City Plumbing and Mechanical | Lubbock, TX | | $ 43,250 |
| | | | Anthony Mechanical Services, Inc. | Lubbock, TX | | 55,000 |

City of Lubbock, TX
Purchasing and Contract Management
Bid Tabulation
April 10, 2014

ITB 14-11681-MA
Minor Repair Services for Various Departments

| Item | Qty | U/M | Description/Vendor | Location | Hourly Rate | Extended Cost |
|---|---|---|---|---|---|---|
| | | | Section III - Electrical Services | | | |
| 1 | 200 | Hrs | Licensed Electrician - Regular Labor Hours (8 - 5) | | | |
| | | | Amco Electric, Inc. | Lubbock, TX | $ 35 | 7,000 |
| | | | Dent Electric, Inc. | Lubbock, TX | 49 | 9,750 |
| | | | Brandon and Clark, Inc. | Lubbock, TX | 49 | 9,836 |
| | | | Rieken Electric | Lubbock, TX | 50 | 10,000 |
| 2 | 50 | Hrs | Licensed Electrician - After Hours/Holiday | | | |
| | | | Amco Electric, Inc. | Lubbock, TX | 53 | 2,625 |
| | | | Brandon and Clark, Inc. | Lubbock, TX | 64 | 3,197 |
| | | | Dent Electric, Inc. | Lubbock, TX | 73 | 3,656 |
| | | | Rieken Electric | Lubbock, TX | 75 | 3,750 |
| 3 | 50 | Hrs | Licensed Electrician Emergency Services | | | |
| | | | Amco Electric, Inc. | Lubbock, TX | 53 | 2,625 |
| | | | Brandon and Clark, Inc. | Lubbock, TX | 64 | 3,197 |
| | | | Dent Electric, Inc. | Lubbock, TX | 73 | 3,656 |
| | | | Rieken Electric | Lubbock, TX | 100 | 5,000 |
| 4 | 50 | Hrs | Apprentice - Regular Labor Hours (8 - 5) | | | |
| | | | Rieken Electric | Lubbock, TX | 25 | 1,250 |
| | | | Amco Electric, Inc. | Lubbock, TX | 36 | 1,776 |
| | | | Brandon and Clark, Inc. | Lubbock, TX | 36 | 1,776 |
| | | | Dent Electric, Inc. | Lubbock, TX | 46 | 2,309 |
| 5 | 50 | Hrs | Apprentice - After Hours/Holiday | | | |
| | | | Amco Electric, Inc. | Lubbock, TX | 53 | 2,625 |
| | | | Dent Electric, Inc. | Lubbock, TX | 54 | 2,719 |
| | | | Brandon and Clark, Inc. | Lubbock, TX | 46 | 2,309 |
| | | | Rieken Electric | Lubbock, TX | 40 | 2,000 |
| 6 | 50 | Hrs | Apprentice Emergency Services | | | |
| | | | Amco Electric, Inc. | Lubbock, TX | 35 | 1,750 |
| | | | Brandon and Clark, Inc. | Lubbock, TX | 46 | 2,309 |
| | | | Rieken Electric | Lubbock, TX | 50 | 2,500 |
| | | | Dent Electric, Inc. | Lubbock, TX | 54 | 2,719 |
| | | | Over All Total | | | |
| | | | Amco Electric, Inc. | Lubbock, TX | | $ 18,401 |
| | | | Brandon and Clark, Inc. | Lubbock, TX | | 22,622 |
| | | | Rieken Electric | Lubbock, TX | | 24,500 |
| | | | Dent Electric, Inc. | Lubbock, TX | | 24,808 |

City of Lubbock, TX
Purchasing and Contract Management
Bid Tabulation
April 10, 2014

ITB 14-11681-MA
Minor Repair Services for Various Departments

| Item | Qty | U/M | Description/Vendor | Location | Hourly Rate | Extended Cost |
|---|---|---|---|---|---|---|
| | | | Section IV- Plumbing Services | | | |
| 1 | 200 | Hrs | Licensed Plumber - Regular Labor Hours (8 - 5) | | | |
| | | | Anthony Mechanical, Inc. | Lubbock, TX | $ 65 | 13,066 |
| | | | GRG Sanders and Co. dba Hub City Plumbing and Mechanical | Lubbock, TX | 83 | 16,500 |
| | | | Stewart/Finn, Inc. dba Roto-Rooter | Lubbock, TX | 85 | 17,000 |
| 2 | 50 | Hrs | Licensed Plumber - After Hours/Holiday | | | |
| | | | Anthony Mechanical, Inc. | Lubbock, TX | 98 | 4,900 |
| | | | GRG Sanders and Co. dba Hub City Plumbing and Mechanical | Lubbock, TX | 124 | 6,188 |
| | | | Stewart/Finn, Inc. dba Roto-Rooter | Lubbock, TX | 170 | 8,500 |
| 3 | 50 | Hrs | Licensed Plumber - Emergency | | | |
| | | | Anthony Mechanical, Inc. | Lubbock, TX | 98 | 4,900 |
| | | | GRG Sanders and Co. dba Hub City Plumbing and Mechanical | Lubbock, TX | 124 | 6,188 |
| | | | Stewart/Finn, Inc. dba Roto-Rooter | Lubbock, TX | 125 | 6,250 |
| 4 | 50 | Hrs | Plumber - Regular Labor Hours (8 - 5) | | | |
| | | | Anthony Mechanical, Inc. | Lubbock, TX | 65 | 3,267 |
| | | | GRG Sanders and Co. dba Hub City Plumbing and Mechanical | Lubbock, TX | 83 | 4,125 |
| | | | Stewart/Finn, Inc. dba Roto-Rooter | Lubbock, TX | 85 | 4,250 |
| 5 | 50 | Hrs | Plumber - After Hours/Holiday | | | |
| | | | Anthony Mechanical, Inc. | Lubbock, TX | 98 | 4,900 |
| | | | GRG Sanders and Co. dba Hub City Plumbing and Mechanical | Lubbock, TX | 124 | 6,188 |
| | | | Stewart/Finn, Inc. dba Roto-Rooter | Lubbock, TX | 170 | 8,500 |
| 6 | 50 | Hrs | Plumber Emergency Services | | | |
| | | | Stewart/Finn, Inc. dba Roto-Rooter | Lubbock, TX | 35 | 1,750 |
| | | | Anthony Mechanical, Inc. | Lubbock, TX | 70 | 3,519 |
| | | | GRG Sanders and Co. dba Hub City Plumbing and Mechanical | Lubbock, TX | 94 | 4,688 |
| | | | Over All Total | | | |
| | | | Anthony Mechanical, Inc. | Lubbock, TX | | $ 34,552 |
| | | | GRG Sanders and Co. dba Hub City Plumbing and Mechanical | Lubbock, TX | | 42,707 |
| | | | Stewart/Finn, Inc. dba Roto-Rooter | Lubbock, TX | | 46,250 |

**Regular City Council Meeting** **5. 14.**

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

**Resolution - Vector Control:** Consider a resolution authorizing the Mayor to execute contract 11839 an interlocal agreement with Lubbock County for vector control services.

**Item Summary**

The contract will provide Lubbock County vector control services for mosquito control to areas outside of the City limits. The City agrees to provide the County six applications, at a one time payment of $148,658. If additional applications are needed the County shall pay the direct cost for each additional application.

**Fiscal Impact**

$148,658 revenue to the City.

**Staff/Board Recommending**

Scott Snider, Assistant City Manager, Community Services

**Attachments**

Resolution & Agreement - Lubbock County

# RESOLUTION

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

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, an Interlocal Agreement for Vector Control services, by and between the City of Lubbock and Lubbock County, Texas, 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:

_____
Scott Snider, Assistant City Manager
Community Services

APPROVED AS TO FORM:

_____
Chad Weaver, Assistant City Attorney

RES.Interlocal Agrmt-Lubbock County
3.25.2014

**City of Lubbock, TX**
**Vector Control**
**Vector Control Service Agreement**

STATE OF TEXAS §

COUNTY OF LUBBOCK §

This Interlocal Agreement entered into between Lubbock County, acting by and through its duly authorized County Commissioners Court, hereinafter called "County", and the City of Lubbock, acting by and through its duly authorized Mayor, hereinafter called, "City".

WHEREAS, the Lubbock County Commissioners County, Lubbock County, Texas, has determined that a need exists for vector control services in Lubbock County outside the city limits of the City of Lubbock; and

WHEREAS, the City of Lubbock agrees to furnish such services; and

NOW THEREFORE, the parties mutually agree as follows:

1. The City agrees to provide vector control services for the entire area of Lubbock County lying outside the city limits of the City of Lubbock, including incorporated areas within the county. The City will provide weekly reports to the County to inform of sprayed locations.

2. The City in providing this service shall pay all necessary expenses of the personnel involved in this service, including salaries, administration expense, fringe benefits, transportation vehicles, supplies, and maintenance and operation of transportation vehicles.

3. The term of this Agreement shall be from October 1, 2013, (the Effective Date), through September 30, 2014.

4. The County hereby agrees and obligates itself to pay to the City for this service a one time, lump sum amount of One Hundred Forty Eight Thousand Six Hundred Fifty Eight and no/100 dollars ($148,658.00), said amount to be paid no later than thirty (30) days after execution of this agreement by both parties. It is further understood and agreed that in the event additional mosquito applications are necessary, due to heavier than normal rain or a mosquito borne disease outbreak, the County shall pay the direct cost for such additional applications beyond six per year. Detailed costs of this program are shown in the estimated cost exhibit attached hereto as Exhibit A, which exhibit is incorporated herein by reference.

5. The City or the County may amend this Agreement at any time, provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by an authorized representative of both organizations and approved by both governing bodies.

6. The County agrees that all payments to this Agreement must be made from current revenues available to the County pursuant to Section 791.0111 of the Texas Government Code.

7. The Agreement may be terminated by either party upon thirty (30) days written notice to the other party.

Executed this _____ day of _____, 2014.

COMMISSIONER'S COURT OF
LUBBOCK COUNTY, TEXAS:

Patti Jones Presiding

~~Tom Head, County Judge~~
Patti Jones, Presiding Officer

ATTEST:

Kelly Pinion, County Clerk

APPROVED AS TO FORM:

Neal Burt, Civil Chief
Assistant District Attorney

CITY OF LUBBOCK:

GLEN C. ROBERTSON, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Scott Snider,
Assistant City Manager

APPROVED AS TO FORM:

Chad Weaver
Assistant City Attorney

EXHIBIT A

MOSQUITO CONTROL SERVICE AGREEMENT

| | |
|---|---|
| 1) Personnel Services: | |
| a. Vector Control Workers: 40% of $207,840 | |
| (salary and benefits for five vector control workers) | |
| 35 weeksx 4 hours x 5 days x 5 employees = 3,500 hours | $ 83,136.00 |
| b. Supervisory Staff: 15% of $62,399 | |
| (salary and benefits for one supervisor) at | |
| 35 weeks x 9 hours/week = 315 total hours | 9,360.00 |
| 2) Supplies: | |
| a. 80 gallons insecticide x 6 applications annually at $35/gallon | 16,800.00 |
| b. 60 gallons larvacide x 6 applications annually at $35/gallon | 12,600.00 |
| 3) Fuel and Maintenance: | |
| Fuel and maintenance at 60% of $33,436 | |
| (5 ULV Sprayers and 5 turbine sprayers) | 20,062.00 |
| **Total:** | **$148,658.00** |

**Regular City Council Meeting** **5. 15.**

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

**Resolution - Lubbock Power & Light:** Consider a resolution authorizing the Mayor to execute Change Request COL-09001-SUP-07 with Ventyx, Inc, successor to Indus International. Inc, increasing the not-to-exceed amount of that certain contract amendment, dated on or about July 26, 2011, by and between the City, Lubbock Power & Light, and Ventyx, Inc., for services related to customer utility billing and payment software migration upgrades.

**Item Summary**

LP&L has contracted with Ventyx Inc. to perform technical development and maintenance of the Customer Information System (CIS), known as "Customer Suite" (historically called "Banner"), which processes and stores utility billing and payment information for all City utilities. This item is the final amendment to the current contract, increasing the not-to-exceed amount from $853,892.00 to $1,018,579.50.

On February 9, 2010, the City Council executed a $740,392 contract with Ventyx for the migration of the Customer Suite CIS to version 4.2.

On July 7, 2011, the Electric Utility Board approved a change in the software migration, from Customer Suite 4.2 to version 4.3 and also added additional services that included a migration of the interactive voice response (IVR) system, and changes to iNovah and Viryanet. The change request increased the contract amount by $113,500, or 15.3%, to a not-to-exceed amount of $853,892.00. The additional cost was to be absorbed within the approved and funded capital project, titled "Information System Migration and Telephone Technology", totaling $1.6 million.

The Customer Suite upgrade to version 4.3 provided technical enhancements that certified Customer Suite with Windows 7 and Internet Explorer 8 technologies. Customer Suite 4.3 also provided Red Flag and Fair and Accurate Credit Transactions Act (FACTA) compliance, meter data management framework, and electronic communication. The IVR interface modifications were upgraded to be compatible with Customer Suite 4.3. The iNovah changes provided the ability to track payments from energy assistance agencies from the pledge of dollars to the receipt of the pledged dollars. The Viryanet changes modified three pieces of functionality related to service order processing via the interface of which the major change involved service order note updates on exception orders.

The Customer Suite migration to version 4.3 went live on February 25, 2013. Migration support services were required from March 2013 through August 2013 that were related to post go-live professional services. Ventyx informed LP&L on August 29, 2013, that they had accrued over 855 billable hours for services that had been performed for pre- and post-go-live. Since Ventyx had not communicated these additional billable hours, even though they were for services that were necessary, LP&L entered into negotiations with Ventyx to reduce the billable hours. Ventyx ultimately agreed to reduce their billable hours by 437 hours, lowering the invoice by $74,265.50.

The amendment to the contract will enable Ventyx to complete the Customer Suite migration project, including the archive/purge that is extremely important to the completion of the project. The amendment to the contract is not related in any way to the hours that Ventyx spent working with LP&L on the billing error that occurred in June 2013 as a result of the migration. In fact, Ventyx absorbed over 1,500 billable hours (equivalent to over $260,000 dollars)

related to the billing error.

Following is a recap of the contract amendments since inception:

| | |
|---|---|
| Customer Suite 4.2 Migration | **$740,392.00** |
| | |
| July 7, 2011 Amendment: | |
| Change to 4.3 Migration | 77,800.00 |
| PCR 4 IVR Migration | 14,620.00 |
| PCR 5 iNovah Changes | 17,000.00 |
| PCR 6 Viryanet Changes | 4,080.00 |
| Amendment Total | 113,500.00 |
| **Total Amount** | **$853,892.00** |
| | |
| April 10, 2014 Amendment: | |
| Go-Live Support (1,126 hours) | 191,353.00 |
| Ventyx Negotiated Reduction (-437 hours) | (74,265.50) |
| Archive Purge (280 hours) | 47,600.00 |
| Amendment Total | 164,687.50 |
| **Revised Amount** | **$1,018,579.50** |

**Fiscal Impact**

Of the $164,687.50 due to Ventyx, $45,918.00 was paid, which was an amount over the contracted amount. Therefore, upon approval of this amendment, the total payment due to Ventyx will be reduced by $45,918 for a total of $118,769.50. For FY 2013-14, the total due to Ventyx, totaling $118,769.50, will be charged to the LP&L Customer Information System professional services account #7512.8302.

**Staff/Board Recommending**

The Electric Utility Board approved the migration change request COL-09001-SUP- 07, increasing the not-to-exceed amount of the contract from $853,892.00 to $1,018,579.50 at their March 25, 2014 Electric Utility Board Meeting. The Board recommends and requests that the City Council consider approval of this change request.

**Attachments**

Ventyx CC Resolution

Ventyx EUB Resolution

Ventyx Change Request

**RESOLUTION**

WHEREAS, the City of Lubbock has a Software License and Services Agreement ("Agreement") with Ventyx, Inc., a successor to Indus International, Inc., that was originally executed on August 12, 1999; and

WHEREAS, pursuant to the terms of the Agreement, Ventyx Inc. provides technical development and maintenance of the Customer Information System (CIS), known as "Customer Suite" (historically called "Banner"), which processes and stores utility billing and payment information for Lubbock Power & Light and for City of Lubbock utilities; and

WHEREAS, on July 7, 2011, a change in the software migration to Customer Suite 4.3 was approved in order to, among other reasons, comply with federal Red Flag and Fair and Accurate Credit Transactions Act ("FACTA") requirements; and

WHEREAS, Ventyx Inc. has submitted change request COL-09001-SUP-07 to Lubbock Power & Light in order to complete the work associated with the migration to Customer Suite 4.3; NOW THEREFORE:

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

THAT the Mayor of the City of Lubbock BE and is hereby authorized and directed to execute for and on behalf of the City of Lubbock, migration change request COL-09001-SUP-07, increasing the not-to-exceed amount of the contract from $853,892.00 to $1,018,579.50 to enable Ventyx Inc. to complete the Customer Suite migration project.

Passed by the City Council this _____ day of _____, 2014.

_____
Glen C. Robertson, Mayor

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Gary Zheng,
Chief Executive Officer—Lubbock Power & Light

APPROVED AS TO FORM:

_____
Todd F. Kimbrough
General Counsel—Lubbock Power & Light

# RESOLUTION

WHEREAS, Chapter 1, Article XII, Section 1 of the Lubbock City Charter and Chapter 2, Division 12 of the Code of Ordinances establishes and outlines certain responsibilities and duties for the Electric Utility Board ("Board"); and

WHEREAS, Lubbock Power & Light is the municipally-owned electric utility of the City of Lubbock; and

WHEREAS, the City of Lubbock has a Software License and Services Agreement ("Agreement") with Ventyx, Inc., a successor to Indus International, Inc., that was originally executed on August 12, 1999; and

WHEREAS, pursuant to the terms of the Agreement, Ventyx Inc. provides technical development and maintenance of the Customer Information System (CIS), known as "Customer Suite" (historically called "Banner"), which processes and stores utility billing and payment information for Lubbock Power & Light and for City of Lubbock utilities; and

WHEREAS, on July 7, 2011, the Board approved a change in the software migration to Customer Suite 4.3 in order to, among other reasons, comply with federal Red Flag and Fair and Accurate Credit Transactions Act ("FACTA") requirements; and

WHEREAS, Ventyx Inc. has submitted change request COL-09001-SUP-07 to Lubbock Power & Light in order to complete the work associated with the migration to Customer Suite 4.3; NOW THEREFORE:

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

1. THAT the Chairman of the Electric Utility Board BE and is hereby authorized and directed to executed for and on behalf of Lubbock Power & Light, migration change request COL-09001-SUP-07, increasing the not-to-exceed amount of the contract from $853,892.00 to $1,018,579.50 to enable Ventyx Inc. to complete the Customer Suite migration project.

2. THAT the Board recommends approval of change request COL-09001-SUP-07 to the City Council of the City of Lubbock.

3. THAT in the event the City Council fails to approve change request COL-09001-SUP-07 as attached to this resolution, the Board's approval shall be rescinded and shall be void *ab initio*.

Passed by the Electric Utility Board this _____ day of _____, 2014.

_____
Greg Taylor, Chairman

ATTEST:

_____
James Conwright, Secretary

APPROVED AS TO CONTENT:

_____
Gary Zheng,
Chief Executive Officer/Director of Electric Utilities

APPROVED AS TO FORM:

_____
Todd F. Kimbrough
General Counsel

VENTYX
AN ABB COMPANY

# Change Request # COL-09001-SUP-07

# Go-Live Extension and Post Go-Live Support

| Part I—Change Request Information | | | |
|---|---|---|---|
| **Project Name:**<br>City of Lubbock CS 4.2 Migration | | Change Request #:<br>COL-09001-SUP-07 | |
| **Change Request Name:**<br>Go-Live Extension and Post Go-Live Support | | Client #:<br>2439 | |
| Date Requested:<br>09/23/2013 | Requester:<br>Solomon Fields | ☐ Custom | √ Base |

| Project Phase / Reference Document #: | | Basis for Change: |
|---|---|---|
| √ Scope | COL-09001 | √ Scope |
| ☐ Project Definition | _____ | ☐ Resource Allocation |
| ☐ Functional Design | _____ | ☐ System Environment |
| ☐ Technical Design | _____ | ☐ Subsystem Interface |
| ☐ Construction | _____ | ☐ Procedure/Policy |
| ☐ Testing/QA | _____ | ☐ Resolution of Issues |
| ☐ Other | | ☐ Project Assumptions |
| | | ☐ Regulatory Requirements |

**Description/ Justification:**

This Change Request ("CR") is made as of _____, 2014 ("Effective Date") by and between Ventyx Inc., with a place of business at 400 Perimeter Center Terrace, Suite 500, Atlanta, Georgia 30346 ("Ventyx"), and City of Lubbock, Texas with a place of business located at 916 Texas Avenue, Lubbock, Texas 79401 ("Client") who have previously executed a Statement of Work, for the purpose of documenting certain services to be performed for Client. The parties hereby agree to the additional or modified terms and conditions stated in this CR that address changes or additions to the SOW. This Change Request is governed by the terms and conditions of the Software License & Services Agreement and SOW-COL-09001 effective August 12, 1999 and February 9, 2010, respectively (collectively the "Agreement"). To the extent there is any conflict between the terms of the Agreement and the provisions of this Change Request, the provisions of this Change Request will be controlling.

This change control includes the required hours to cover the project extension, post go-live work and remaining Archive Purge implementation.

| Part II—Approvals | | |
|---|---|---|
| ☐ **Approve** | ☐ **Cancel** | ☐ **Defer** |
| City of Lubbock, Texas | | Date |

REVIEWED AND
APPROVED AS TO FORM
JT 3/24/2014

VENTYX
AN ABB COMPANY

| | | |
|---|---|---|
| Ventyx Inc. Samantha Phillips | Samantha Phillips<br>VP Finance Americas | Date 3/24/14 |
| Ventyx Inc. C. L. Warrington | Chris Warrington<br>President of the Americas | Date 3/25/14 |

| Part III - Impact Analysis | |
|---|---|
| **Estimated Effort (Time and Materials)** | 968.75 Hours |
| **Rate:** | |

| | |
|---|---|
| Business Consultant | $170 / hr |
| Developer | $170 / hr |
| Technical Consultant | $170 / hr |
| Project Manager | $170 / hr |

**Total Charges (Time and Material):**

The following are the estimated hours and estimated cost. The number of hours of effort represents an estimate only. Actual fees for services will vary according to the number of person-hours of services actually rendered. All services are provided on a time and materials basis.

| Resource | Rate | Hours | Cost |
|---|---|---|---|
| Business Consultant | $170 / hr | 275 | $46,750 |
| Developer | $170 / hr | 100 | $17,000 |
| Technical Consultant | $170 / hr | 295 | $50,150 |
| Project Manager | $170 / hr | 298.75 | $50,787.50 |
| Total | | | $164,687.50 |

**Expiration of Offer:**

Pricing is subject to change at Ventyx's sole discretion if not accepted by Customer and returned to Ventyx on or before April 30, 2014.

**Impact if Change Request is Denied:**

Actual hours expended and remaining work not covered by contract.



AW

**Regular City Council Meeting** **5. 16.**

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

**Ordinance 2nd Reading – Planning**: Consider Ordinance 2014-O0040 for Zone Case 3222-A, a request of Ken Condray for a zoning change from T to C-3 on 1.81 acres of unplatted land out of Block AK, Section 39, 3418 Upland Avenue.

**Item Summary**

On March 27, 2014, the City Council approved the first reading of the ordinance.

General comments:
The request is to zone an area from T to C-3 for offices.

Adjacent land uses:
N - T (Transitional) Vacant Land and some Single Family homes.
E - IHC (Interstate Highway Commercial) Vacant Land
S - T (Transitional) Single Family Home and Railroad.
W - T (Transitional) Vacant Land.

Comprehensive Land Use Plan (CLUP):
The request would be consistent with the CLUP.

Zoning Policy:
To the north is the intersection of 34th Street and Upland Avenue. The intersections of two major thoroughfares are typically reserved for commercial developments. Due to the bisection of this quarter mile by the railroad, the area is peculiar and not optimal to develop residential between 34th Street and 50th Street along Upland. In the opinion of staff, we should attempt to mirror the commercial along the east of Upland Avenue.

Effect on the adjacent street and thoroughfare system:
None.

Recommendations:
On March 6, 2014, the Planning & Zoning Commission (P&Z) recommended the request with a vote of 5-0, with the following condition:
1. The screening fence shall be waived towards the adjacent undeveloped property to the west; should the property be developed as residential, a screening fence will be required at that time.

**Fiscal Impact**

None.

**Staff/Board Recommending**

Quincy White, Assistant City Manager
P&Z Commission

**Attachments**

Ordinance - Zone Case 3222-A

Zone Case 3222-A

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. 3222-A;** A ZONING CHANGE FROM **T** TO **C-3** ZONING DISTRICT ON **1.81 ACRES OF UNPLATTED LAND OUT OF BLOCK AK, SECTION 39,** 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, all conditions precedent required by law for a valid amendment to the Zoning Ordinance and Map have been fully compiled with, including giving notices in compliance with Section 40.01.005 of the Code of Ordinances, City of Lubbock, Texas, and the notices provided by the Texas Local Government Code §211.007 (Vernon, 1990), and notice was duly published in the Lubbock Avalanche-Journal more than fifteen (15) days prior to the date of the public hearing before the City Council on such proposed amendment, and the public hearing according to said notice, was held in the City Council Chamber of the Municipal Building, Lubbock, Texas, at which time persons appeared in support of the proposal; and after said hearing, it was by the City Council determined that it would be in the public interest, due to changed conditions, that the Zoning Ordinance and the Zoning Map be amended in the manner hereinafter set forth in the body of this Ordinances and this Ordinance having been introduced prior to first reading hereof; NOW THEREFORE:

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

**ZONE CASE NO. 3222-A**

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

A change of zoning under the provisions of Section 40.01.005 of the Code of Ordinances of the City of Lubbock from **T** to **C-3** zoning district on **1.81 acres of unplatted land out of Block AK, Section 39,** City of Lubbock, Lubbock County, Texas located at **3418 Upland 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 screening fence shall be waived towards the adjacent undeveloped property to the west; however, should the property be developed as residential, a screening fence will be required at that time.**

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

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

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

AND IT IS SO ORDERED.

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

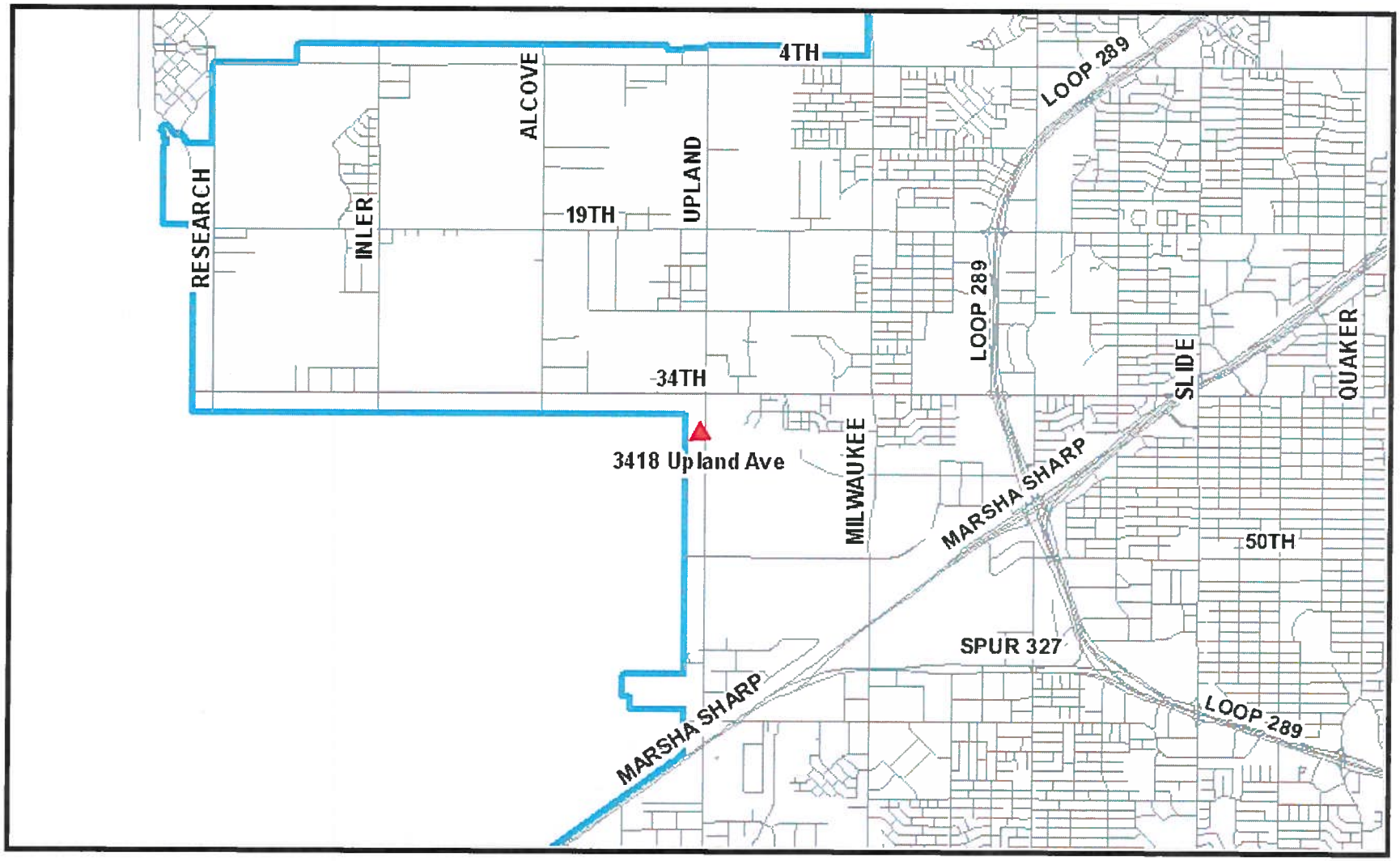
APPROVED AS TO CONTENT:

_____
Andrew Paxton, Director of Planning

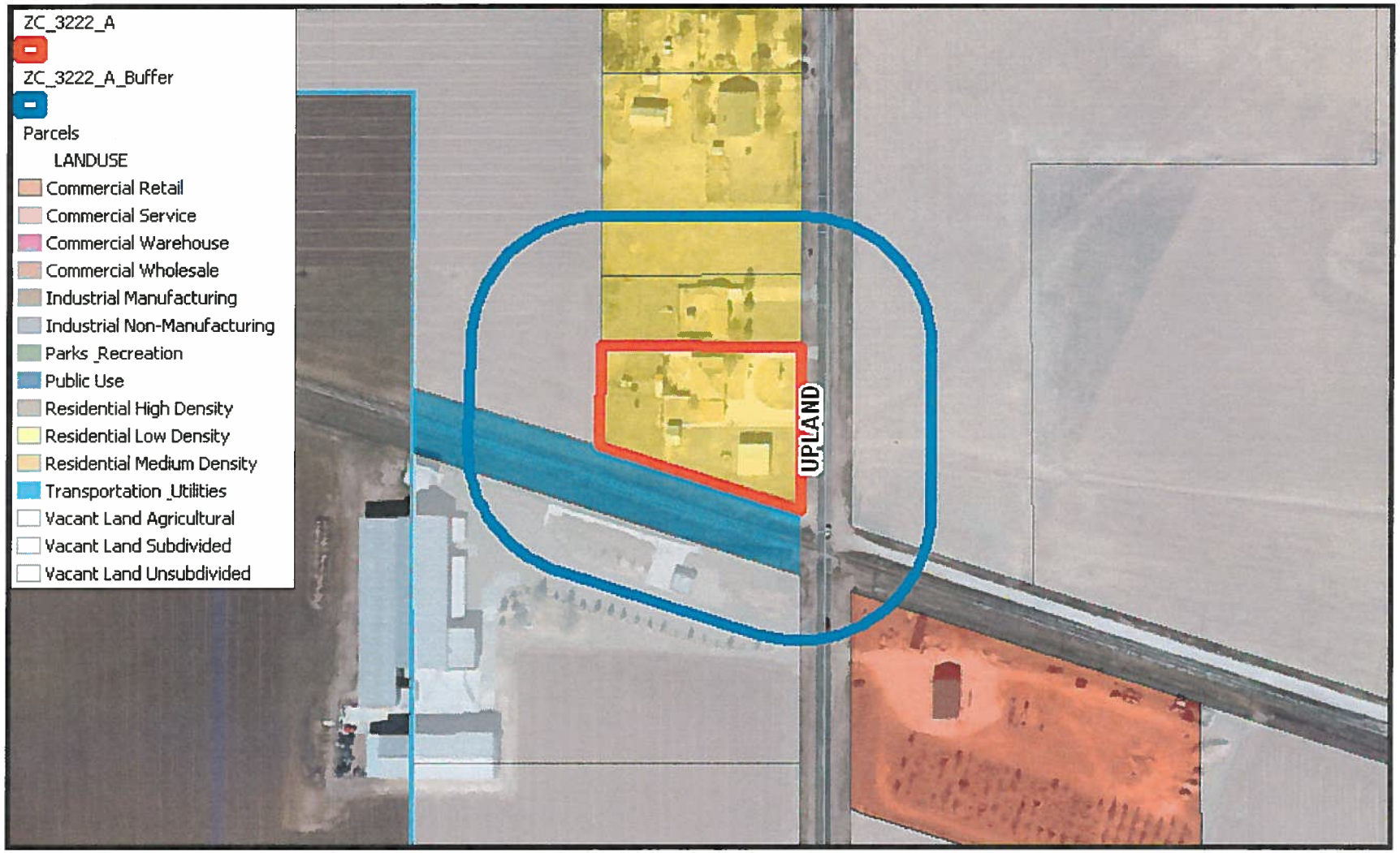
APPROVED AS TO FORM:

_____
Chad Weaver
Assistant City Attorney

vw/CityAtt/Chad/Zones/ZC3222-A
March 6, 2014

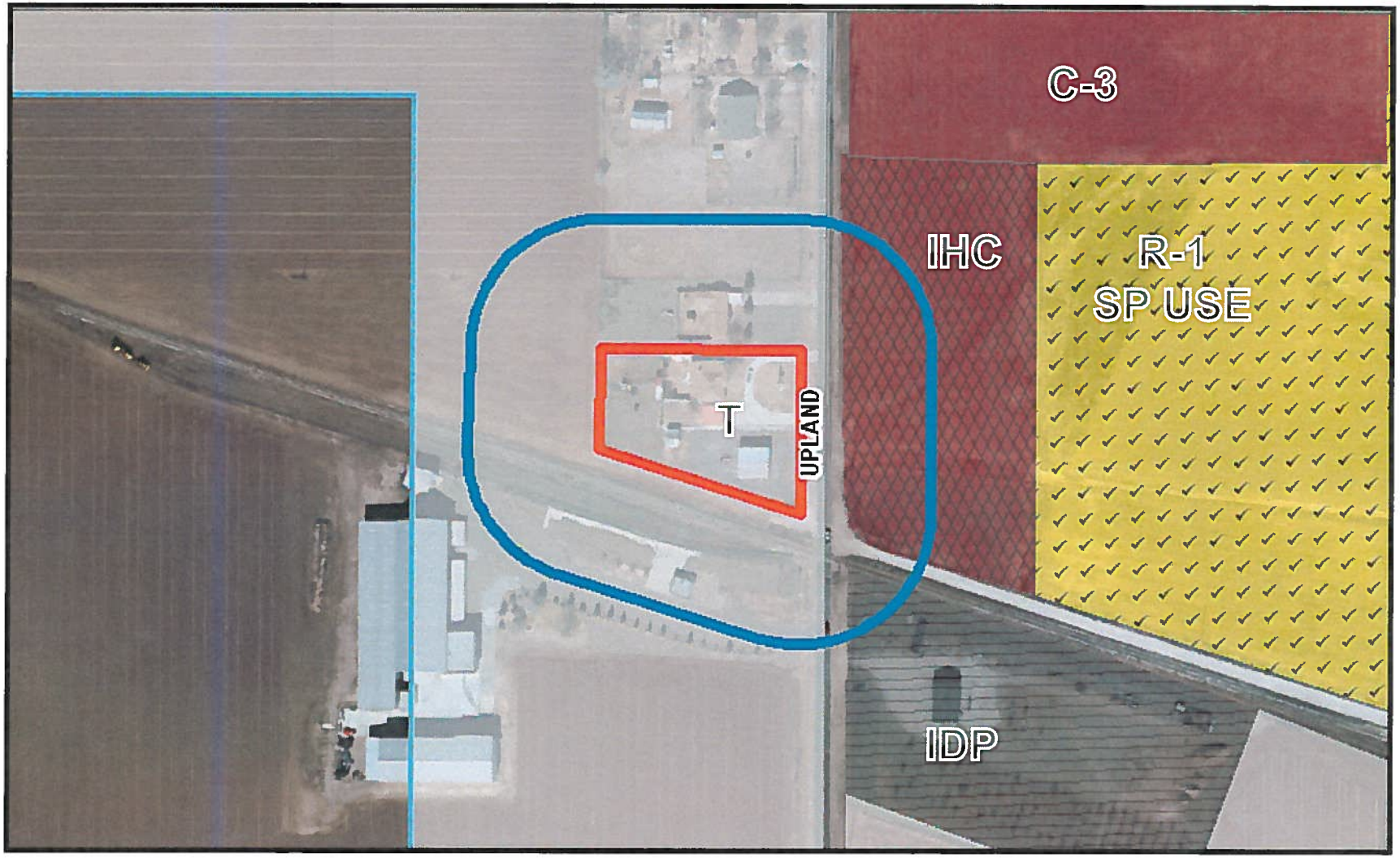



# P.Z.C. Case 3222-A




# P.Z.C. Case 3222-A

## Request of Ken Condray for a zoning change from T to C-3, 3418 Upland Avenue




# P.Z.C. Case 3222-A Zoning

city of lubbock TEXAS

# APPLICATION FOR ZONE CHANGE

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

**Applicant** (Please Print) KEN CONRAY

8301 CR 6910
Street/Post Office Box

LUBBOCK TX 79407
City State Zip

(806) 441. 1934
Telephone

**For** SAME

Street/Post Office Box

City State Zip

( )
Telephone

**Location or Address:** 3418 UPLAND AVENUE

**Legal Description:*** BLK. AK SEC. 39 AB 228 TR.ABA

**Existing Land Use:** RESIDENTIAL/ELECTRICAL SHOP **Existing Zoning:** I

**Acreage or Square Footage of Property:** 1.81 ACRES

**Zoning Requested:** C3

**Proposed Development:** OFFICES

**If property is not subdivided, will preliminary plat be submitted?** Yes _____ No ✓

**Applicant's Signature** **Date**

**Filing Fee:** $478.00 RC 18324 pd CK 5404
($475.00 for the first acre; $3.00 for each additional acre; $165 for Non-Profit)

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

## For City Use Only

PIN: 75007 MAP 45

**Zone Case No.:** 3222-A **Agenda No.:** _____

**Request for zoning change from:** I **To:** C-3

1.81 acres of unplatted land out of Blk AK Section 39

**on Lot(s):** — **Block(s):** —

**Subdivision:** — **Address:** 3418 Upland Ave

**Regular City Council Meeting** **5. 17.**

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

**Ordinance 2nd Reading – Planning**: Consider Ordinance 2014-O0041 for Zone Case 2508-N, a request of Tigris Development, LLC for a zoning change from T to R-2 on 4.294 acres of unplatted land out of Block E-2, Section 20, west of University Avenue and south of 110th Street.

**Item Summary**

On March 27, 2014, the City Council approved the first reading of the ordinance.

General comments:
The request is to zone an area from T to R-2 for duplexes.

Adjacent land uses:
N – R-1 Specific Use (Reduced setbacks)
E – T (Transitional) Vacant Land
S – R-2 Two-family dwellings (Vacant)
W– R-1 Specific Use (Reduced setbacks)

Comprehensive Land Use Plan (CLUP):
The request is consistent with the CLUP.

Zoning Policy:
The intent of this area is to continue the R-2 zoning adjacent to the south. The end result will be a continuous area of R-2 zoning serving as a buffer between the A-1 to the south and the R-1 to the north. R-2 zoning us considered another form of low to medium density residential and is treated very similar to R-1 zoning.

Effect on the adjacent street and thoroughfare system:
None. Although R-2 permits 2 units on one property, there will be enough parking for the two units on the parcel. Meeting all the guidelines of the zoning ordinance will prevent any issues on the thoroughfare system.

Recommendations:
On March 6, 2014, the Planning & Zoning Commission recommended the request with a vote of 5-0.

**Fiscal Impact**

None.

**Staff/Board Recommending**

Quincy White, Assistant City Manager
P&Z Commission

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. 2508-N;** A ZONING CHANGE FROM **T** TO **R-2** ZONING DISTRICT ON **4.294 ACRES OF UNPLATTED LAND OUT OF BLOCK E-2, SECTION 20,** 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. 2508-N**

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 **R-2** zoning district on **4.294 acres of unplatted land out of Block E-2, Section 20**, City of Lubbock, Lubbock County, Texas, located at **west of University Avenue and south of 110th Street.**

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

SECTION 2. THAT violation of any provision of this Ordinance shall be deemed a misdemeanor punishable by fine not to exceed Two Thousand and No/100 Dollars

($2,000.00) as provided in Section 40.01.006 of the Zoning Ordinance of the City of Lubbock.

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

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

AND IT IS SO ORDERED.

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

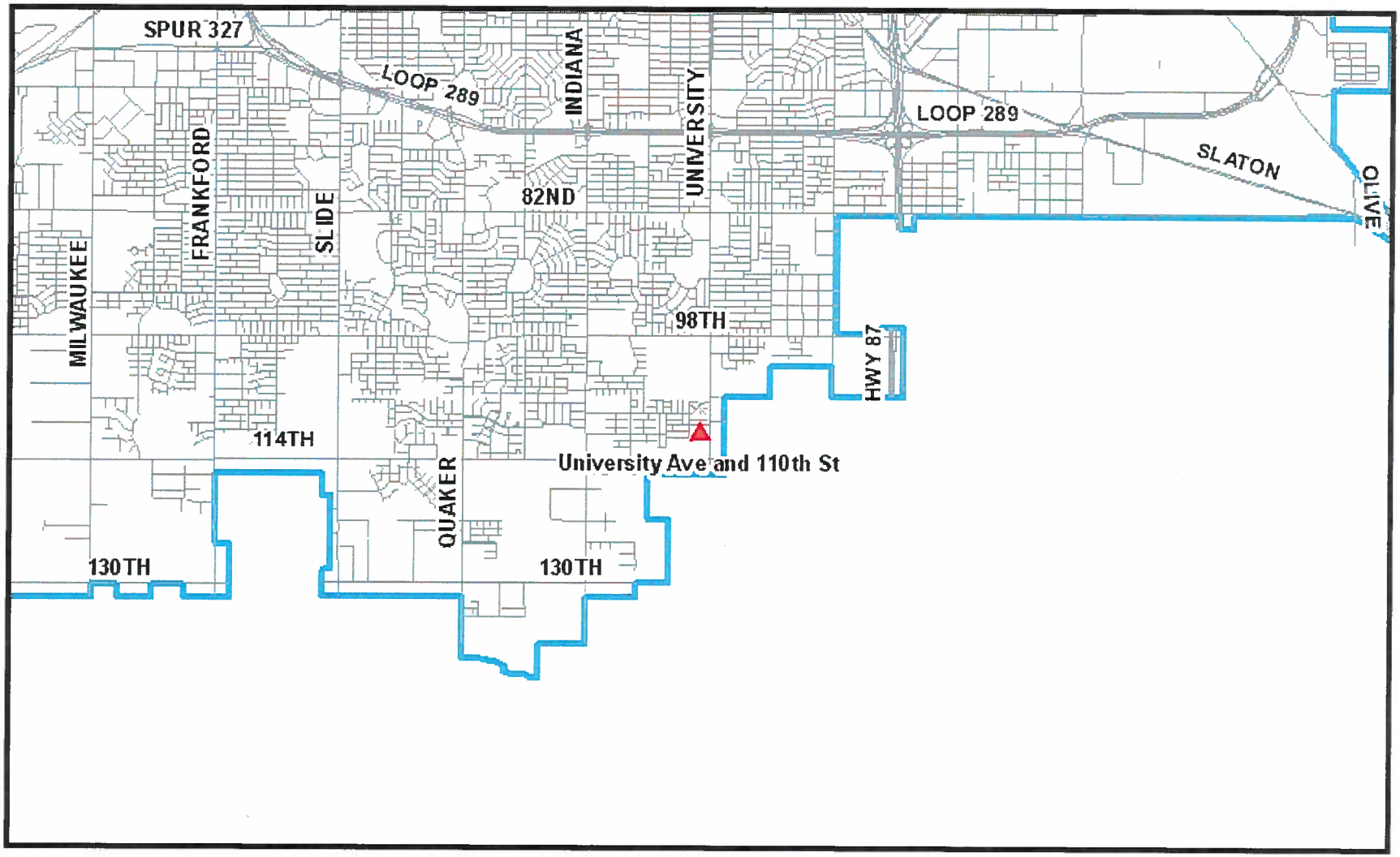
APPROVED AS TO CONTENT:

_____
Andrew Paxton, Director of Planning

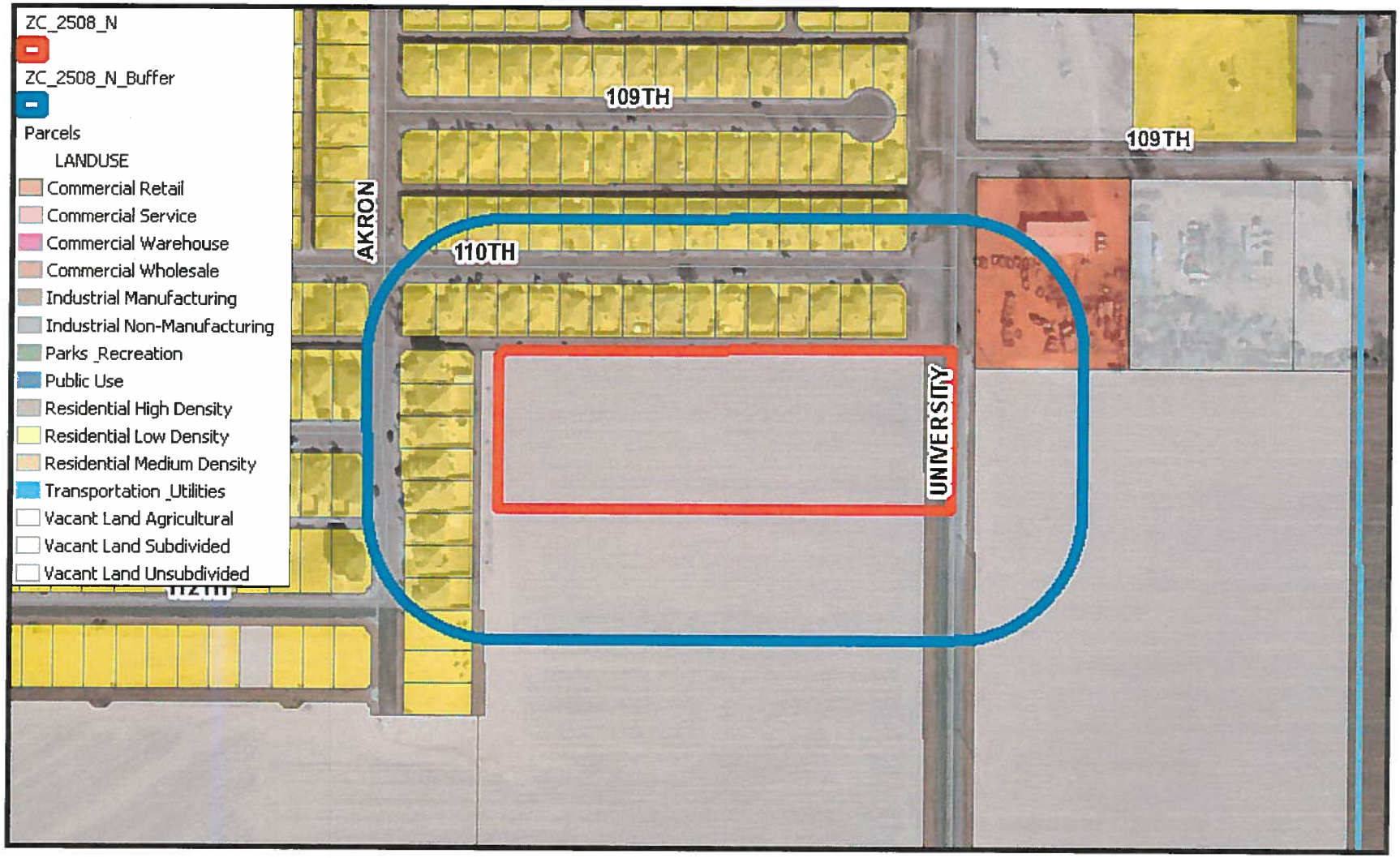
APPROVED AS TO FORM:

_____
Chad Weaver
Assistant City Attorney

vw/cityatt/Chad/ZoneCase/ZC2508-N
March 5, 2014

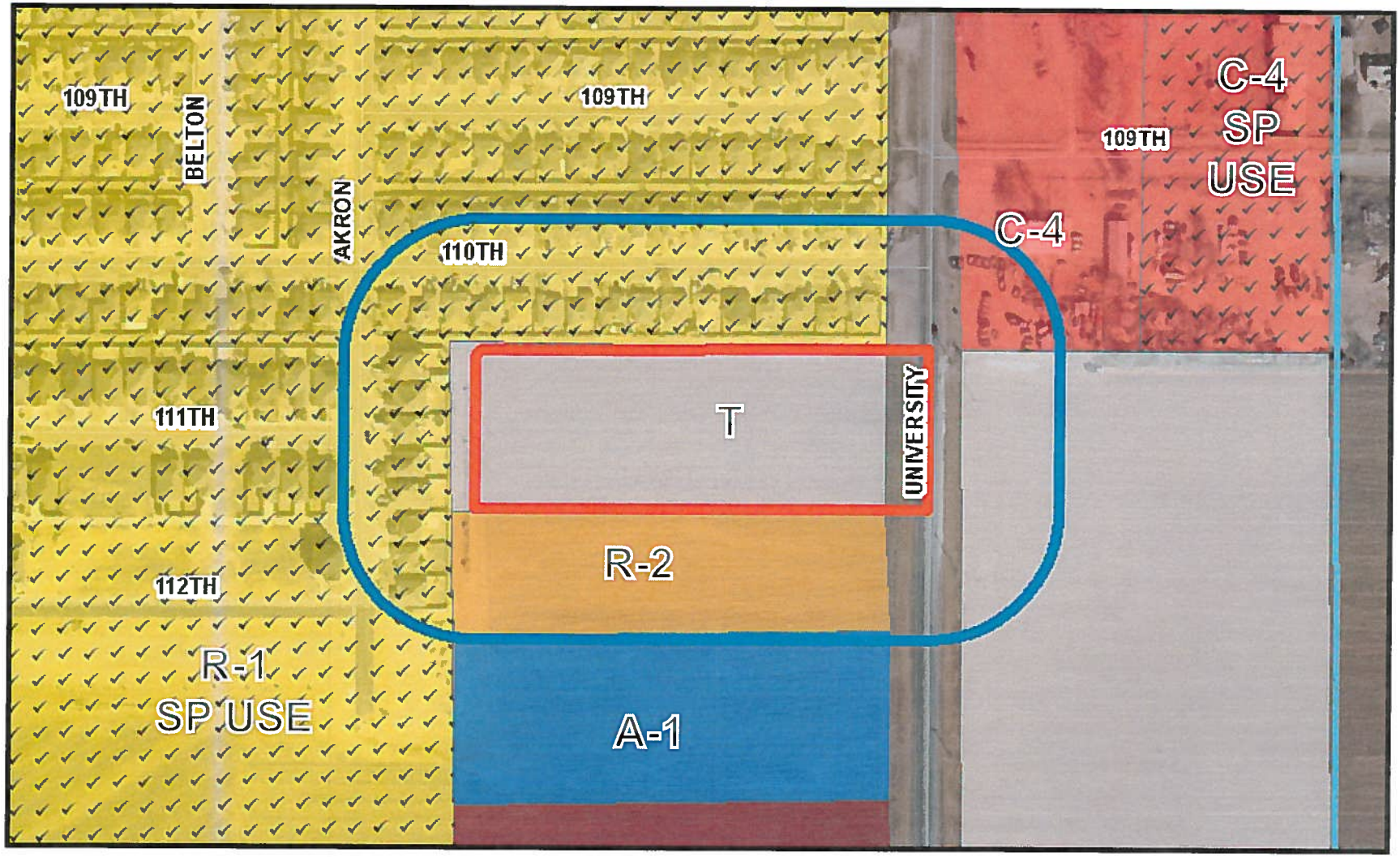



# P.Z.C. Case 2508-N




# P.Z.C. Case 2508-N

**Request of Tigris Development, LLC for a zoning change from T to R-2, west of University Avenue and south of 110th Street**




# P.Z.C. Case 2508-N Zoning

city of lubbock TEXAS

# APPLICATION FOR ZONE CHANGE

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

**Applicant** (Please Print) Tigris Development, LLC
5215 79th STREET
Street/Post Office Box
Lubbock TX 79424
City State Zip
(806) 687-8888
Telephone

**For** " " " "
" " "
Street/Post Office Box
" " "
City State Zip
( " ) " "
Telephone

**Location or Address:** See Exhibits "A" & "B"

**Legal Description:*** See Exhibits "A" & "B"

**Existing Land Use:** Transition **Existing Zoning:** _____

**Acreage or Square Footage of Property:** 4.294

**Zoning Requested:** R-2

**Proposed Development:** Consistent with R-2

**If property is not subdivided, will preliminary plat be submitted?** Yes _____ No V

Applicant's Signature

1-21-2014
Date

**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

M+B map 40

CH: 1225
Rec: 18026

**Zone Case No.:** 2508-SN **Agenda No.:** 1

**Request for zoning change from:** T **To:** R-2

4.294 acres of unplatted land out of Block E2 Section 20

**on Lot(s):** _____ **Block(s):** _____

**Subdivision:** _____ **Address:** West of University Ave & north of 114th St



SK

## EXHIBIT "A"

Location Address:

A portion of the Property that the Lubbock Central Appraisal District identifies under R86980 and denotes a situs address of "Lubbock 79424". Notwithstanding the foregoing, it is believed the Property does not technically have a legal address assigned as the Property has not been duly platted.

Legal Description:

Metes and Bounds Description prepared for Zone Change Purposes Only on a 4.294 acre tract out of Section 20 Block E-2, Lubbock County Texas further described by metes and bounds as follows:

BEGINNING at a point in the East line of Section 20, which bears N 01° 47' 36" E, 930 feet from the Southeast corner of Section 20, Block E-2;

THENCE N 88°11'46" W, 726.96 feet;

THENCE N 01°43'59" E, 246.81 feet;

THENCE N 46°43'46" E, 14.15 feet;

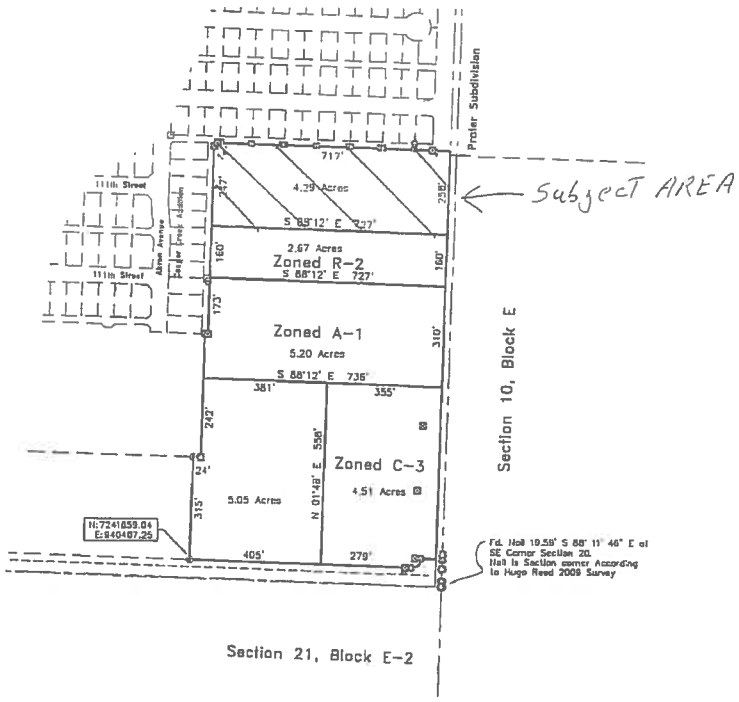
THENCE S 88°16'26" E, 717.23 feet;

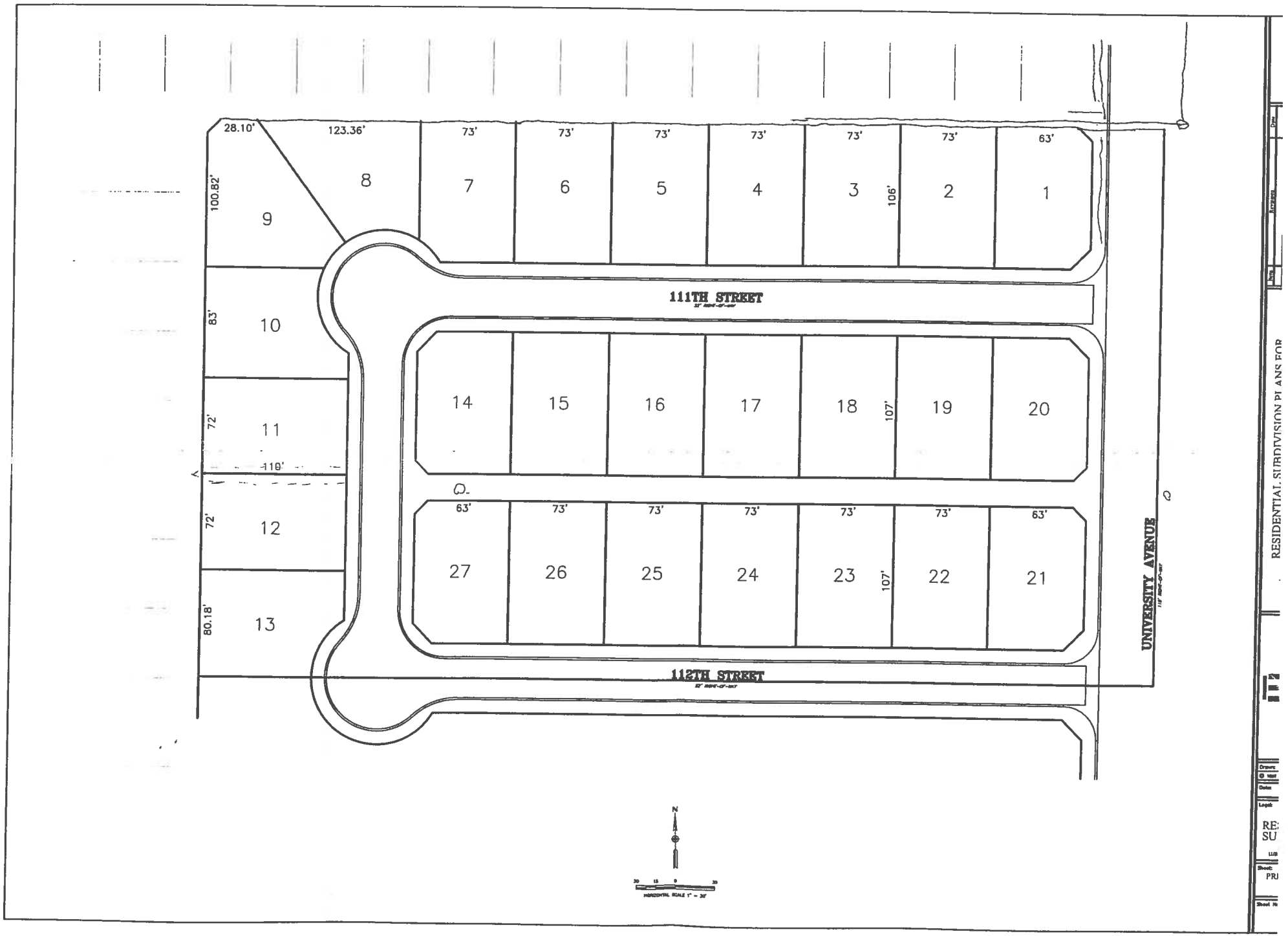
THENCE S 01°47'36" W, 257.61 feet to the PLACE of BEGINNING containing 4.294 Acres.

**PREPARED FOR ZONE CHANGE DESCRIPTION PURPOSES ONLY.**

EXHIBIT "B"

745-7692






RESIDENTIAL SUBDIVISION PLANS FOR

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

(2)

If for any reason you will be unable to attend the public hearing advertised by this notice, and wish to present your comments regarding the case, please complete this form and return it to the Secretary of the Planning and Zoning Commission, c/o Planning Department, P.O. Box 2000, Lubbock, TX, 79457, or fax to (806) 775-2100.

If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 775-2120.

**Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by:** **P&Z Case No.: 2508-N**

*In Favor of* ___

*Opposed* ✓

**Reasons and/or Comments:** The devaluation of the surrounding residential Homes! I've worked HARD to EARN my Home, AND do not wish for property VALUES to go down due to ~~A~~ Section 8 Apt Complex.

RECEIVED
FEB 27 REC'D
PLANNING DEPARTMENT

Print Name Gregory D. Flores

Signature: Greg D Flores

Address: 11005 AKRON

Address of Property Owned: 11005 AKRON
Lubbock TX 79423

7 of 48

Zone Case Number: **2508-N** 86320
FLORES IRENE & GREG
11005 AKRON AVE

LUBBOCK TX 79423

**Regular City Council Meeting** **5. 18.**

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

**Ordinance 2nd Reading – Planning**: Consider Ordinance 2014-O0042 Zone Case 2416-B, a request of The Francis Law Firm, P.C., for Capital Telecom Acquisition, LLC, for a zoning change from C-3 to C-3 Specific Use for a telecommunications tower on a portion of Tract B-2-A, Heald Addition, 5217 82nd Street.

**Item Summary**

On March 27, 2014, the City Council approved the first reading of the ordinance.

General comments:
Request for a zoning change from C-3 to C-3 Specific Use for a 120 feet monopole telecommunications tower.

Adjacent land uses:
N - (C-3) Gas Station, Retail, Professional Offices.
S - (R-2 Specific Use), Townhomes.
E - (C-3 Specific Use), Gas Station, Shopping Center, Playa Lake.
W - (A-2), Church.

Comprehensive Land Use Plan (CLUP):
The request is consistent with the CLUP.

Zoning Policy:
The Zoning Ordinance states "…antennas may be permitted in any zoning district provided that the proponent of such use has incorporated the minimum requirements…" and has been approved by the Planning and Zoning Commission (P&Z). It is up to the proponent to provide the necessary data showing the necessity for a new tower, rather than co-locating on an existing one. The department is currently working on a comprehensive map to locate all existing towers to ensure we are not overpopulating an area.

Effect on the adjacent street and thoroughfare system:
The tower will be designed so it will not be visually obstructive to traffic in the vicinity.

Recommendations:
On March 6, 2014, the P&Z recommended the request with a vote of 5-0, with the following condition:
1. Tied to the proposed elevation and site plan.

**Fiscal Impact**

None.

**Staff/Board Recommending**

Quincy White, Assistant City Manager
P&Z Commission

**Attachments**

Ordinance - Zone Case 2416-B

Zone Case 2416-B

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. 2416-B;** A ZONING CHANGE FROM **C-3** TO **C-3 SPECIFIC USE** FOR **A 120 FOOT MONOPOLE TELECOMMUNICATIONS TOWER**, ON **A PORTION OF TRACT B-2-A, HEALD ADDITION,** LUBBOCK, TEXAS; SUBJECT TO CONDITIONS; PROVIDING A PENALTY; PROVIDING A SAVINGS CLAUSE AND PROVIDING FOR PUBLICATION.

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

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

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

**ZONE CASE NO. 2416-B**

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

A change of zoning under provisions of Section 40.01.005 of the Code of Ordinances of the City of Lubbock from **C-3** to **C-3** Specific Use for **a 120 foot monopole telecommunications tower** on **a portion of Tract B-2-A, Heald Addition,** City of Lubbock, Lubbock County, Texas, located at **5217 82nd Street,** 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 tied to the proposed elevation and site plan.**

SECTION 2. THAT the granting of this specific use zoning is hereby made subject to compliance with all provisions of Zoning Ordinance No. 7084, as amended, including particularly, but not limited to, Section 40.03.3102 of the Codified Zoning Ordinance, which provides that a Building Permit shall be applied for and secured within thirty (30) months of the effective date of the zone change or all undeveloped property shall automatically revert back to the previous zoning classification, which in this case is the **C-3** zone district; and if such reversion occurs, the Director of Planning is directed to remove from the Zoning Map the legend indicating such specific use. The Specific Use authorized by this Ordinance is permitted under provision of Section 40.03.3101-40.03.3103 of Codified Zoning Ordinance No. 7084 on the property described as **5217 82nd Street**, City of Lubbock, Lubbock County, Texas.

SECTION 3. THAT violation of any provision of this Ordinance shall be deemed a misdemeanor punishable by fine not to exceed Two Thousand and No/100 Dollars ($2,000.00) as provided in Section 40.01.006 of the Zoning Ordinance of the City of Lubbock.

SECTION 4. THAT should any paragraph, sentence, clause, phrase or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

SECTION 5. THAT the City Secretary is hereby authorized to cause publication of the descriptive caption of this Ordinance as an alternative method provided by law.

AND IT IS SO ORDERED.

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

_____
GLEN C. ROBERTSON, MAYOR

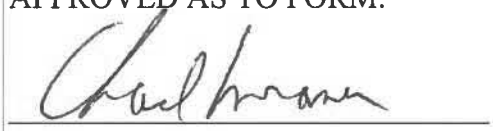
ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

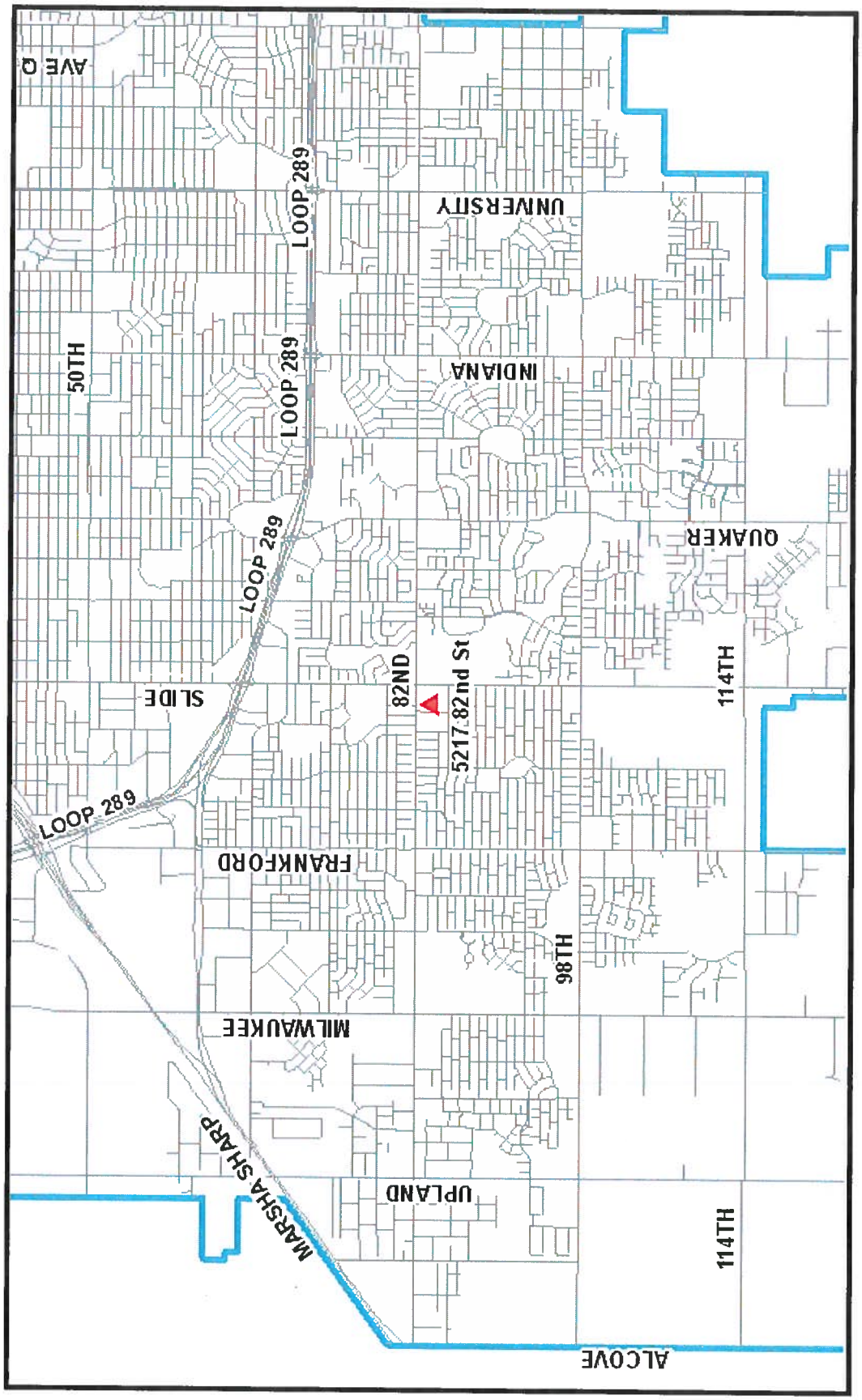
Andrew Paxton, Director of Planning

APPROVED AS TO FORM:

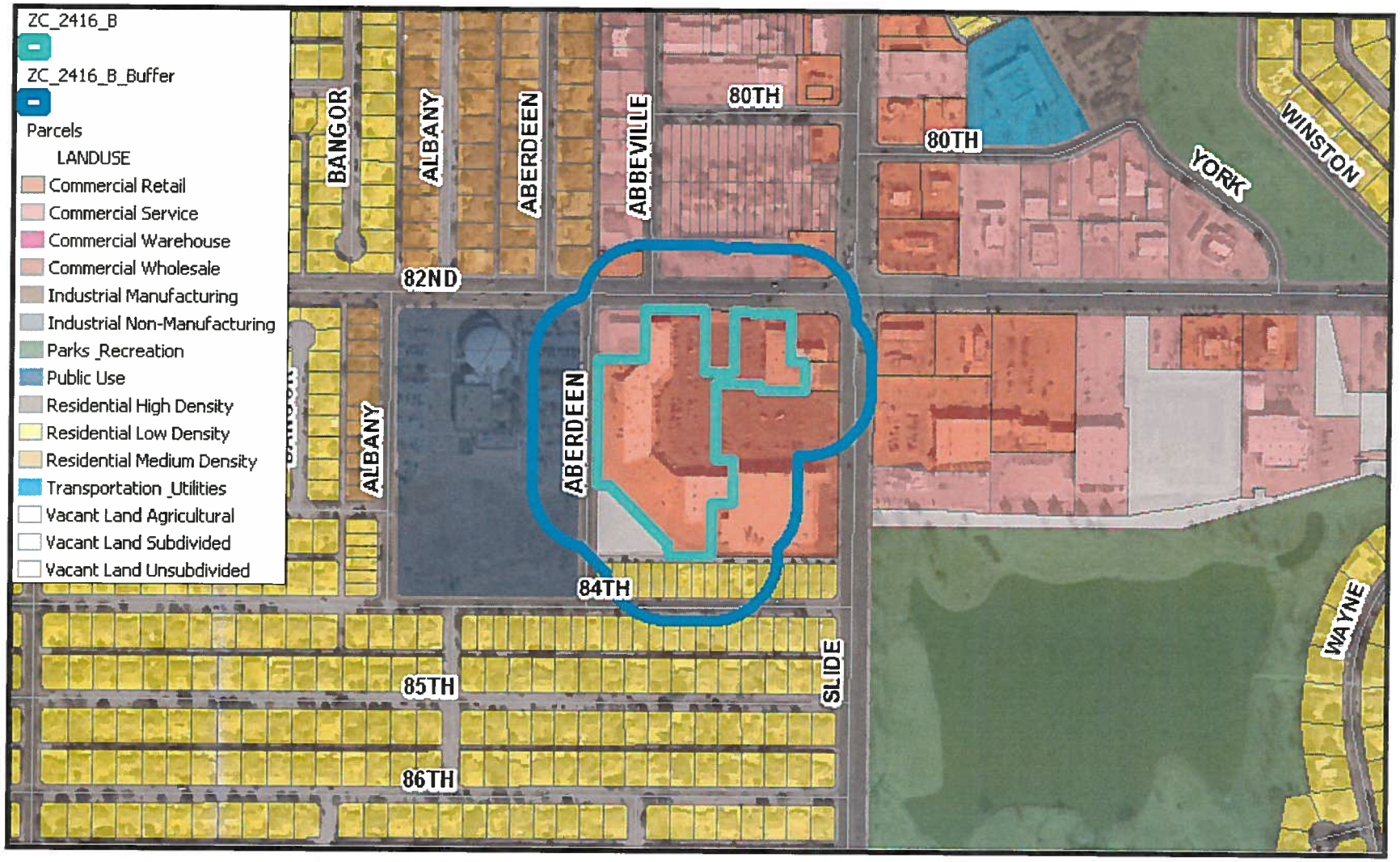


Chad Weaver
Assistant City Attorney

vw/CityAtt/Chad/Zones/ZC2416-B
March 6, 2014

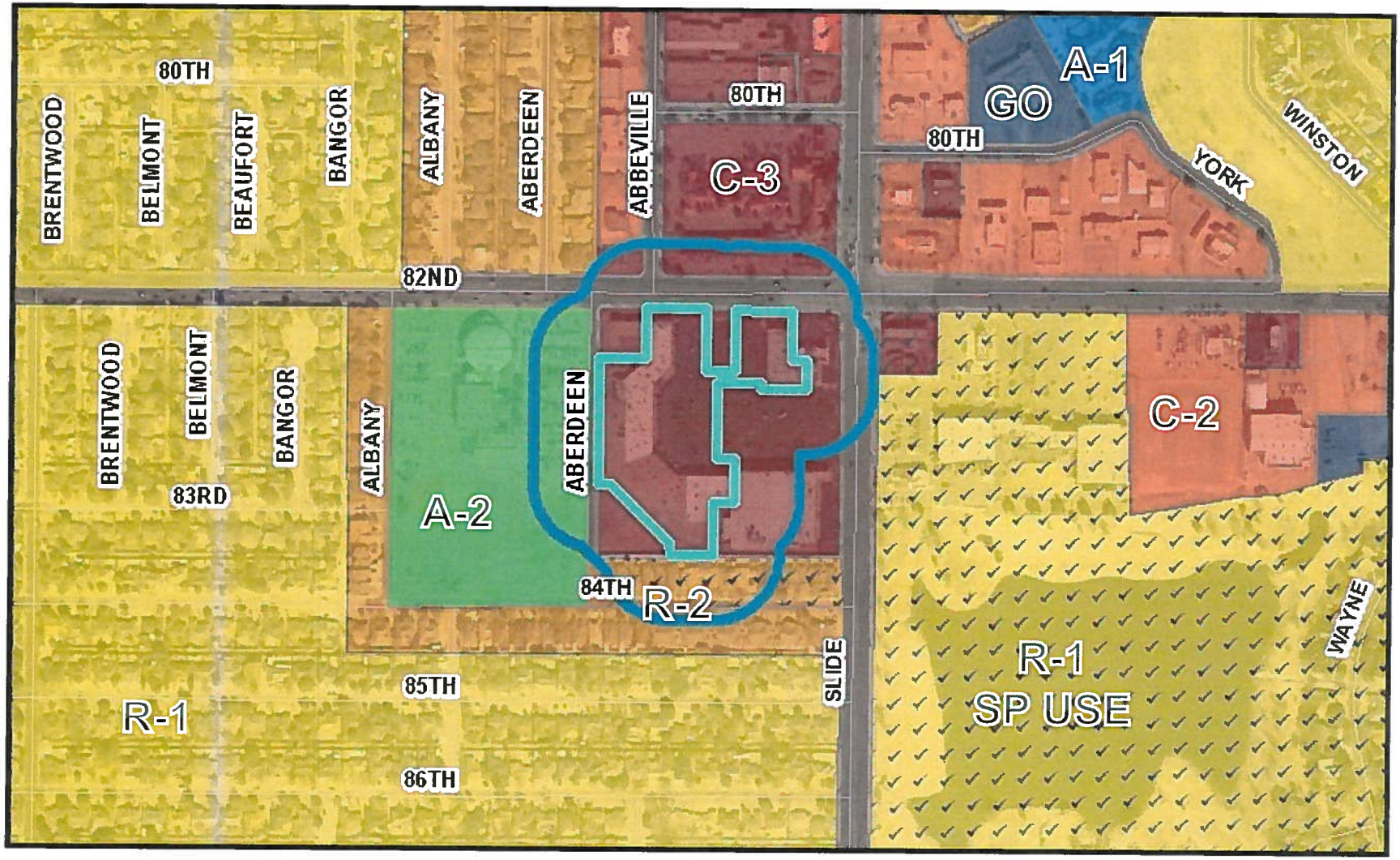



# P.Z.C. Case 2416-B




# P.Z.C. Case 2416-B

**Request of The Francis Law Firm, P.C. (for Capital Telecom Acquisition, LLC) for a zoning change from C-3 to C-3 Specific Use for a telecommunications tower, 5217 82nd Street**




# P.Z.C. Case 2416-B Zoning

city of lubbock TEXAS

# APPLICATION FOR ZONE CHANGE

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

**Applicant** (Please Print) The Francis Law Firm, P.C.

112 E. Pecan St., Suite 550
Street/Post Office Box

San Antonio, Texas 78205
City State Zip

( 210 ) 222-1100
Telephone

**For** Capital Telecom Acquisition, LLC

1500 Mt. Kemble, Suite 203
Street/Post Office Box

Morristown, NJ 07960
City State Zip

( 973 ) 425-0606
Telephone

**Location or Address:** 5217 82nd Street

**Legal Description:*** See attached Survey

**Existing Land Use:** Commercial **Existing Zoning:** C-3

**Acreage or Square Footage of Property:** 2,475 square feet

**Zoning Requested:** Specific Use Permit to construct 120 foot telecommunications tower

**Proposed Development:** Construction and operation of a 120 foot telecommunications tower

**If property is not subdivided, will preliminary plat be submitted?** Yes ____ No X

The Francis Law Firm, P.C.
**Applicant's Signature**
By: W. Bebb Francis, III
President

January 31, 2014
**Date**

**Filing Fee:** 475.00
($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.**

---

CH: 4563
REC: 18036

## For City Use Only

PIN: 22433 MAP 21

**Zone Case No.:** 2416-B **Agenda No.:** 3

**Request for zoning change from:** C-3 **To:** C-3 SP USE

**on Lot(s):** Tract B-2-A **Block(s):** —

**Subdivision:** Heald **Address:** 5217 82nd St

CAPITAL TELECOM

**SITE NAME:** LUBBOCK CT1312, TX
**STRUCTURE TYPE:** MONOPOLE

## DRAWING INDEX


| | |
|---|---|
| T-1 | TITLE SHEET |
| SUR-1 | SURVEY |
| Z-1 | ZONING MAP |
| Z-2 | OVERALL SITE PLAN |
| Z-3 | ENLARGED SITE PLAN |
| Z-4 | ELEVATION & FENCE DETAIL |


## LOCATION MAP

DEPART LUBBOCK INTERNATIONAL AIRPORT, BEAR RIGHT (EAST) ONTO (N) MARTIN LUTHER KING JR BLVD, KEEP STRAIGHT ONTO (N) MARTIN LUTHER KING JR BLVD (N M L K JR. BLVD), TURN RIGHT (WEST) ONTO FM-2641 (E REGIS ST), KEEP STRAIGHT ONTO FM-2641 (REGIS ST), TURN LEFT (SOUTH) ONTO I-27 S (S I-27), TAKE RAMP (LEFT) ONTO I-27 (US-87), AT EXIT 1A, ROAD NAME CHANGES TO US-87, AT EXIT 1, TAKE RAMP (RIGHT) ONTO AVENUE H (US-87 S), TURN LEFT (EAST) ONTO 82ND ST, TURN LEFT TO STAY ON 82ND ST, ARRIVE 5217 82ND ST, LUBBOCK, TX 79424

## PROJECT SUMMARY

| | |
|---|---|
| SCOPE OF WORK: | PROPOSED 120'-0" MONOPOLE & PROPOSED SECTOR ANTENNAS MOUNTED ON PROPOSED STRUCTURE. EQUIPMENT CABINET WILL BE LOCATED IN PROPOSED FENCED AREA. SITE IS AN UNMANNED TELECOMMUNICATIONS FACILITY. |
| SITE NAME: | LUBBOCK CT1312, TX |
| SITE ADDRESS: | 5217 82ND ST<br>LUBBOCK, TX 79424-2827 |
| PROPERTY OWNER: | SK PROPERTIES, L.P., A KANSAS LIMITED PARTNERSHIP<br>TENANTS - IN - COMMON<br>150 N MARKET ST<br>WICHITA, KS 67202-1900 |
| APPLICANT: | CAPITAL TELECOM ACQUISITION, LLC<br>1500 MT. KEMBLE, SUITE 203<br>MORRISTOWN, NJ 07960<br>(973) 425-0606 - PHONE<br>capitaltelecomofficial.com |
| CONTACT: | MIKE MOONEY: 973-425-0608<br>EXT. 111<br>mmooney@capitaltelecom.com |
| CO-APPLICANT: | AT&T WIRELESS, LLC |
| PRIMARY WIRELESS PROVIDER: | AT&T |
| LATITUDE: | NORTH 33° 31' 04.142" |
| LONGITUDE: | WEST 101° 55' 27.271" |
| LAT/LONG TYPE: | OPS-NAD83 |
| GROUND ELEVATION: | 3,252' (AMSL MAN088) |
| BUILDING CODE: | IBC 2009 |
| ELECTRICAL CODE: | NEC 2008 |

## ZONING INFO.

| | |
|---|---|
| TOWER TYPE: | MONOPOLE |
| TOWER HEIGHT: | 120'-0" |
| FLOOD ZONE: | X-AREAS OF MINIMAL FLOODING |
| ZONE: | COMMERCIAL RETAIL |
| APN # | R84459 |
| LOT AREA: | 292,035 S.F.<br>(6.70± ACRES) |
| PROPOSED AREA: | 2475 S.F. |

THE FOLLOWING PARTIES HEREBY APPROVE AND ACCEPT THESE DOCUMENTS AND AUTHORIZE THE CONTRACTOR TO PROCEED WITH THE CONSTRUCTION DESCRIBED HEREIN. ALL DOCUMENTS ARE SUBJECT TO REVIEW BY THE LOCAL BUILDING DEPARTMENT AND MAY IMPOSE CHANGES OR MODIFICATIONS.

**A&E CONSULTANT:**
ALLPRO CONSULTING GROUP, INC.
8221 LYNDON B JOHNSON FREEWAY, §204
DALLAS, TX 75243
OFFICE: 972-231-8893
FAX: 888-364-8375
CONTACT: JOJI GEORGE P.E.

**SURVEYOR:**
CLAUSEN LANDSURVEYING
REGISTERED PROFESSIONAL LAND SURVEYOR
6328 COUNTRY OAKS DR.
EL PASO, TX 79932
MOBILE: (915) 355-9482
SURVEYORCLAUSEN@GMAIL.COM

**UTILITY COMPANIES:**
POWER: LUBBOCK POWER & LIGHTS
(TEL.) (806) 775-2500
TEL CO.: AT&T
(TEL.) 800-344-7485

Texas 811 — Know what's below. Call before you dig.

ALLPRO CONSULTING GROUP, INC.

APPLICANT: CAPITAL TELECOM
1500 MT. KEMBLE AVE., SUITE 203
MORRISTOWN, NJ 07960

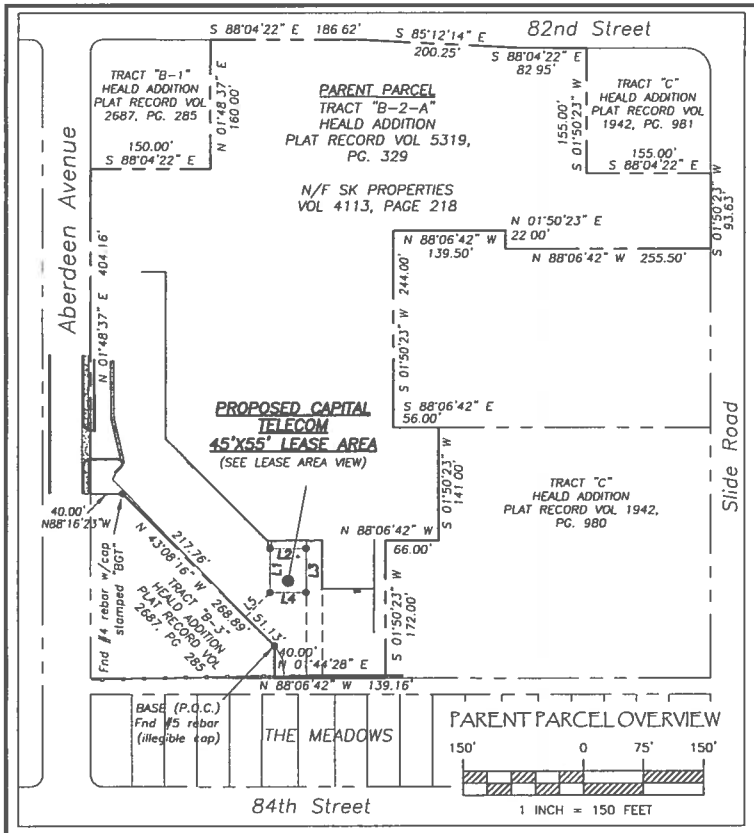
LUBBOCK CT1312, TX
5217 82ND ST
LUBBOCK, TX 79424-2827

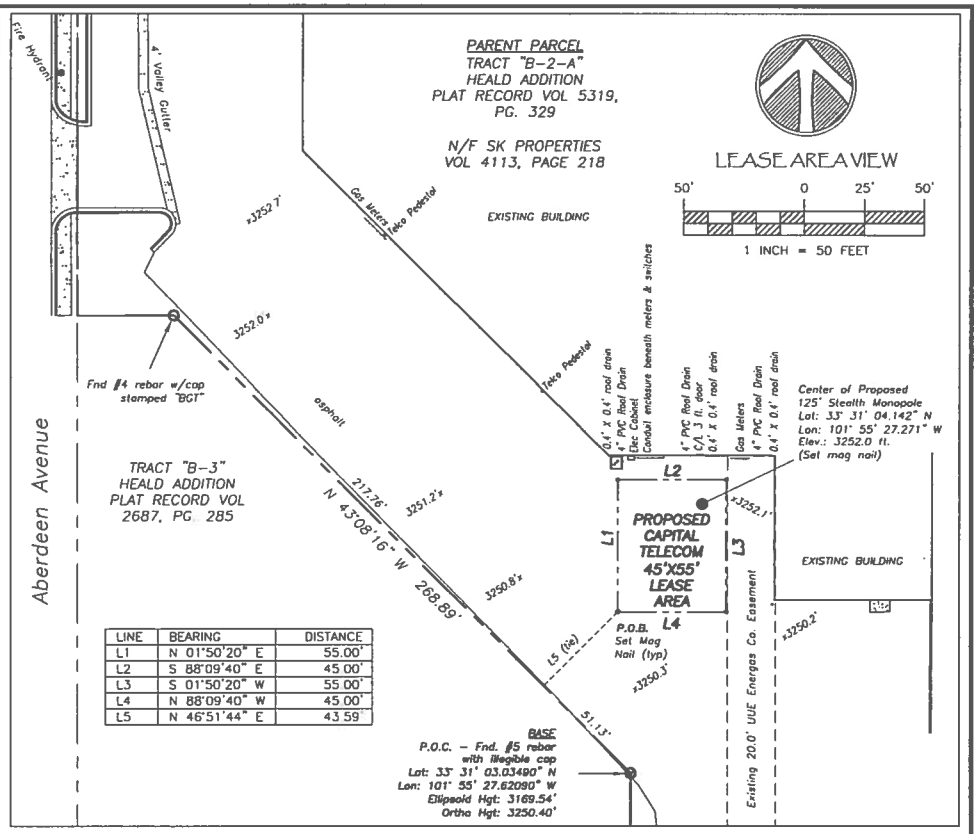
| NO. | DATE | REVISIONS | BY | CHK | APP'D |
|---|---|---|---|---|---|
| E | 12/30/13 | LL REDLINES | RM | JG | JG |
| D | 12/13/13 | UPDATED PER LE | RM | JG | JG |
| C | 10/25/13 | REDLINES | RM | JG | JG |
| B | 10/07/13 | REDLINES - TRANSFORMER | GT | JG | JG |
| A | 07/11/13 | ISSUED FOR REVIEW | RM | JG | JG |

SCALE: AS SHOWN — ACCI JOB #: 13-1439

TITLE SHEET

DRAWING NUMBER: T-1




| LINE | BEARING | DISTANCE |
|---|---|---|
| L1 | N 01°50'20" E | 55.00' |
| L2 | S 88°09'40" E | 45.00' |
| L3 | S 01°50'20" W | 55.00' |
| L4 | N 88°09'40" W | 45.00' |
| L5 | N 46°51'44" E | 43.59' |

## SURVEYOR'S DESCRIPTIONS

PROPOSED CAPITAL TELECOM 45'X55' LEASE AREA

The following is the description of a proposed telecommunications lease area "(PROPOSED LEASE AREA") within TRACT "B-2-A", HEALD ADDITION (PLAT RECORD VOLUME 5319, PAGE 329, LUBBOCK COUNTY RECORDS); lying within and being a portion of that parcel of land described in the Special Warranty Deed recorded in Volume 4113, Page 218, Lubbock County Records, City of Lubbock, Lubbock County, State of Texas; more particularly described as follows:

COORDINATE TABLE – TEXAS STATE PLANE COORDINATES, NORTH CENTRAL ZONE (4202), US FEET

| ID | Northing(Y) | Easting(X) | Elev(Z) | Description |
|---|---|---|---|---|
| BASE | 725,2041.56 | 925037.98 | 3250.4' | Found #5 rebar, illegible cap (P.O.C.) |

Commencing, for reference, at a #5 rebar with illegible cap ("BASE" above) found for a southwesterly corner of TRACT "B-2-A"; the same being the north corner of the east boundary line of Tract "B-3", HEALD ADDITION (VOL 2687, PG 285); FROM WHICH a #4 rebar with cap stamped "BGL" found for a southwesterly corner of said TRACT "B-2-A" bears North 43° 08' 16" West 268.89 feet; THENCE with the southwesterly boundary line of said TRACT "B-2-A", North 43° 08' 16" West 51.13 feet; THENCE, departing said boundary line at right angles, North 46° 51' 44" East 43.59 feet to a mag nail and tag set for the southwest corner of the PROPOSED LEASE AREA and the POINT OF BEGINNING of this lease area description; THENCE, from said POINT OF BEGINNING, the following four (4) courses:

1. North 01° 50' 20" East 55.00 feet to a mag nail with tag set for the northwest corner of the PROPOSED LEASE AREA;
2. South 88° 09' 40" East 45.00 feet to a mag nail with tag set for a northeast corner of the PROPOSED LEASE AREA;
3. South 01° 50' 20" West 55.00 feet to a mag nail with tag set for a southeast corner of the PROPOSED LEASE AREA;
4. North 88° 09' 40" West 45.00 feet to the POINT OF BEGINNING and containing, in all, 2.475 square feet of land, with access being over and across the existing common areas to Aberdeen Avenue.

## GENERAL NOTES

1. REFERENCE WAS MADE TO A TITLE REPORT BY CW SOLUTIONS, EFFECTIVE DATE 6-11-2013, SITE ADDRESS 52147 82nd STREET, LUBBOCK, TX. NO EASEMENTS CALLED OUT IN SAID TITLE REPORT APPEAR TO ADVERSELY AFFECT THE PROPOSED LEASE AREA.
2. CONTRACTOR BEARS FULL RESPONSIBILITY TO PROPERLY LOCATE UNDERGROUND UTILITIES PRIOR TO ANY EXCAVATION.
3. LESSEE BEARS FULL RESPONSIBILITY IN VERIFYING OWNERSHIP OF ANY PROPERTY INCLUDED WITHIN THE BOUNDARIES OF THE PROPOSED SUBJECT LEASE AREA OR ANY PROPOSED EASEMENTS.
4. BASIS OF BEARINGS IS GRID NORTH, TEXAS STATE PLANE COORDINATE SYSTEM (NAD83), NORTH CENTRAL ZONE (4204). DISTANCES ARE GRID.
5. PROPOSED TOWER CENTER NAD83 COORDINATE REPORT (1A):

| | |
|---|---|
| LAT: | 33°31'04.142"N |
| LON: | 101°55'27.271"W |
| GROUND ELEV: | 3,252' |

6. CURRENT SITE ZONING NOT VERIFIED BY THIS SURVEY.

## CERTIFICATION

I HEREBY CERTIFY THAT THIS PROPOSED LEASE AREA EXHIBIT WAS PREPARED BY ME OR UNDER MY SUPERVISION AND THAT THE INFORMATION PRESENTED HEREON IS TRUE AND CORRECT TO BEST OF MY KNOWLEDGE AND BELIEF. THIS IS NOT A BOUNDARY SURVEY OF THE PARENT PARCEL. (FIELD: 04-13-2013) 01-28-2014

CHRISTIAN A. CLAUSEN, R.P.L.S. (TX 5511-NM 18467-AZ 36621)

The information contained in this set of documents is proprietary by nature. Any use or disclosure other than that which relates to the client name is strictly prohibited.

Land Surveying
Christian A. Clausen
R P L S - Owner
surveyorclausen@gmail.com
5328 Country Oaks Dr
El Paso, Texas 79932
Tel: (915) 355-9487

The information contained in this set of documents is proprietary by nature. Any use or disclosure other than that which relates to the client name is strictly prohibited.

STATE OF TEXAS
REGISTERED
CHRISTIAN A. CLAUSEN
5511
PROFESSIONAL
LAND SURVEYOR

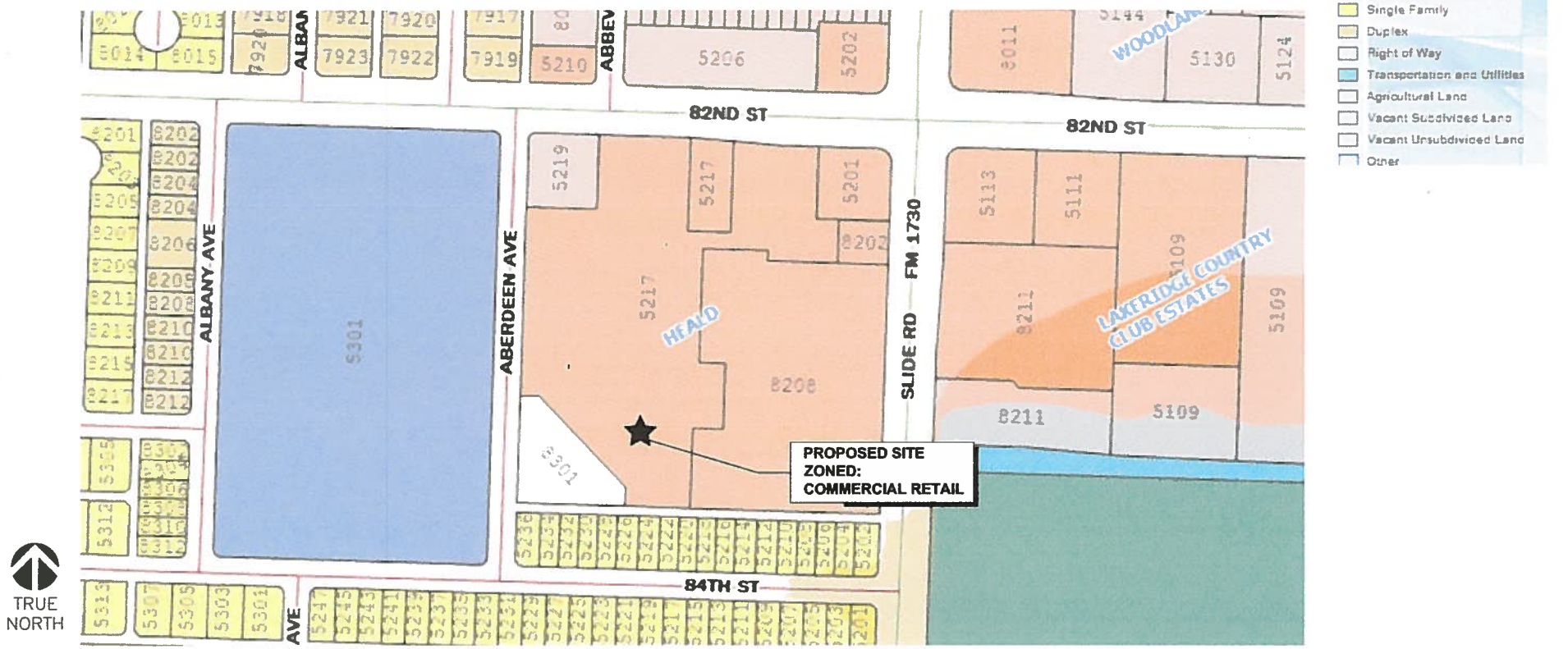
| ISSUED FOR: | DATE |
|---|---|
| REVIEW | 07-04-2013 |
| ADDRESS CLIENT COMMENTS | 01-17-2014 |
| TITLE REVIEW / FINALIZE | 01-20-2014 |
| RELABEL ENERGAS EASEMENT | 01-28-2014 |

SITE NAME:
LUBBOCK CT1312

SITE ADDRESS:
5217 82nd St
LUBBOCK, TX 79424-2827

SHEET TITLE
SURVEY SHEET

SHEET NUMBER
SUR-1



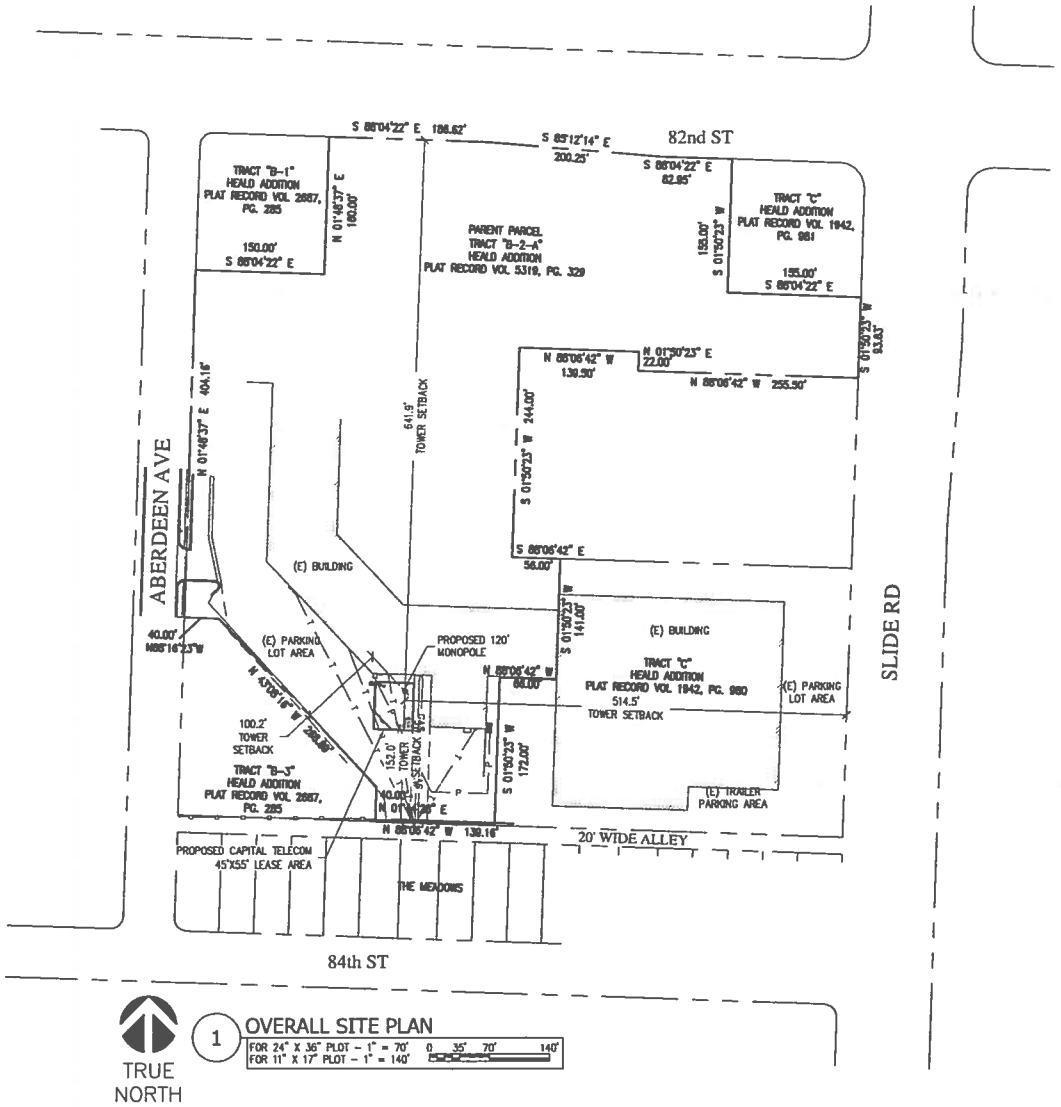

| | | |
|---|---|---|
| ALLPRO CONSULTING GROUP, INC. | APPLICANT: CAPITAL TELECOM, 1500 W. MOBILE AVE., SUITE 203, MORRISTOWN, NJ 07960 | LUBBOCK CT1312, TX<br>5217 82ND ST<br>LUBBOCK, TX 79424-2827 |

| NO. | DATE | REVISIONS | BY | CHK | APP'D |
|---|---|---|---|---|---|
| E | 12/30/13 | LL REDLINES | RM | JC | JC |
| D | 12/13/13 | UPDATED PER LL | RM | JC | JC |
| C | 10/25/13 | REDLINES | RM | JC | JC |
| B | 10/07/13 | REDLINES - TRANSFORMER | GT | JC | JC |
| A | 07/11/13 | ISSUED FOR REVIEW | RM | JC | JC |

SCALE: AS SHOWN — ACCI JOB # 13-1439

ZONING MAP

DRAWING NUMBER: Z-1




TRUE NORTH

1 OVERALL SITE PLAN

FOR 24" X 36" PLOT – 1" = 70' 0 35' 70' 140'
FOR 11" X 17" PLOT – 1" = 140'

## LEGEND

| | |
|---|---|
| PROPOSED | NEW |
| (E) | EXISTING |
| —— | CENTER LINE |
| — — — | PROPERTY LINE |
| ——X—— | FENCE LINE |
| ——G—— | GROUND WIRE |
| ——OHP—— | OVERHEAD POWER |
| ——OHT—— | OVERHEAD TELCO |
| ——P—— | UNDERGROUND POWER CONDUIT |
| ——T—— | UNDERGROUND TELCO CONDUIT |

NOTE:

1. CALLING FOR A 6" CONCRETE CURB ABOVE GROUND (8" IN THE GROUND)AROUND THE ENTIRE COMPOUND.
2. THAT THE POWER ROUTE WILL BE CONFIRMED AND APPROVED WITH THE POWER COMPANY AND THE LANDLORD.
3. THE EXISTING POWER AND TELCO LINES WILL BE REROUTED OUTSIDE OF THE COMPOUND AREA BY CAPITAL IN COORDINATION WITH THE POWER AND TELCO COMPANIES AND THE LANDLORD.
4. THERE WILL BE A 6" CURB RUNNING ALL ALONG THE OUTSIDE ON THE FENCED IN COMPOUND. BREAKUP OF EXISTING PAVEMENT OR CONCRETE FOR COMPOUND AREA.

LLPRO CONSULTING GROUP, INC.
8527 LYNDON B JOHNSON FREEWAY
SUITE 204 DALLAS, TX 75243
PHONE: 972-234-4663
FAX: 888-464-5295
WWW.ALLPROCG.COM
FIRM REGISTRATION # 8043

APPLICANT
CAPITAL TELECOM
1500 MT. KEMBLE AVE., SUITE 353
MORRISTOWN, NJ 07960

LUBBOCK CT1312, TX

5217 82ND ST
LUBBOCK, TX 79424-2827

| NO. | DATE | REVISIONS | BY | CHK | APP'D |
|---|---|---|---|---|---|
| E | 12/30/13 | LL REDLINES | RM | JG | JG |
| D | 12/13/13 | UPDATED PER LE | RM | JG | JG |
| C | 10/25/13 | REDLINES | RM | JG | JG |
| B | 10/07/13 | REDLINES – TRANSFORMER | CT | JG | JG |
| A | 07/11/13 | ISSUED FOR REVIEW | RM | JG | JG |

SCALE: AS SHOWN ACCI JOB # 13-1439

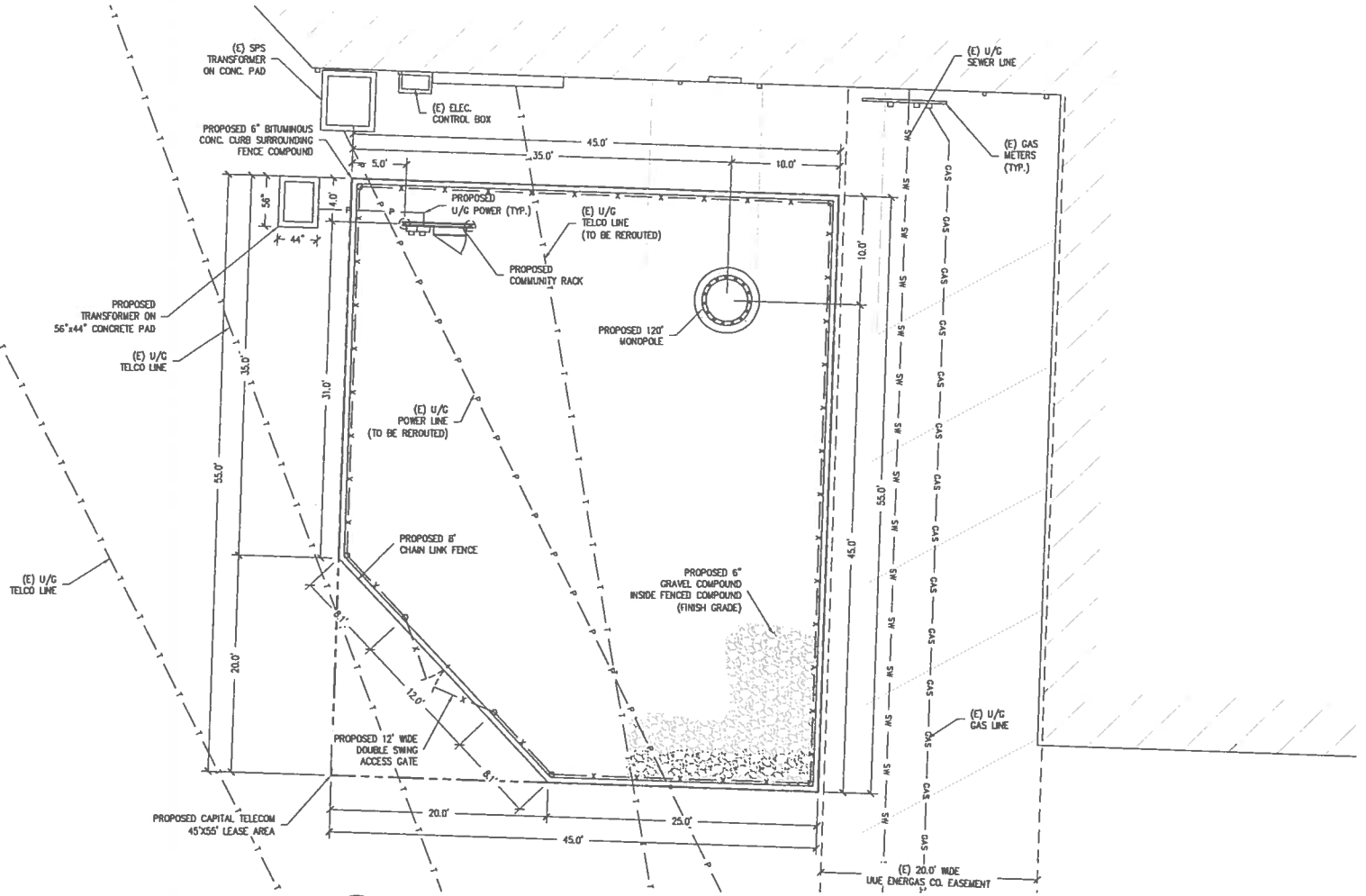
OVERALL SITE PLAN

DRAWING NUMBER

Z-2

NOTE:

1. CALLING FOR A 6" CONCRETE CURB ABOVE GROUND (8" IN THE GROUND)AROUND THE ENTIRE COMPOUND.
2. THAT THE POWER ROUTE WILL BE CONFIRMED AND APPROVED WITH THE POWER COMPANY AND THE LANDLORD.
3. THE EXISTING POWER AND TELCO LINES WILL BE REROUTED OUTSIDE OF THE COMPOUND AREA BY CAPITAL IN COORDINATION WITH THE POWER AND TELCO COMPANIES AND THE LANDLORD.
4. THERE WILL BE A 6" CURB RUNNING ALL ALONG THE OUTSIDE ON THE FENCED IN COMPOUND. BREAKUP OF EXISTING PAVEMENT OR CONCRETE FOR COMPOUND AREA.




TRUE NORTH

1 ENLARGED SITE PLAN

FOR 24" X 36" PLOT – 1" = 60' | FOR 11" X 17" PLOT – 1" = 120' | 0 30' 60' 120'

CONSULTING GROUP, INC.

APPLICANT

CAPITAL TELECOM

1500 MT. KEMBLE AVE., SUITE 203 MORRISTOWN, NJ 07960

LUBBOCK CT1312, TX

5217 82ND ST
LUBBOCK, TX 79424-2827

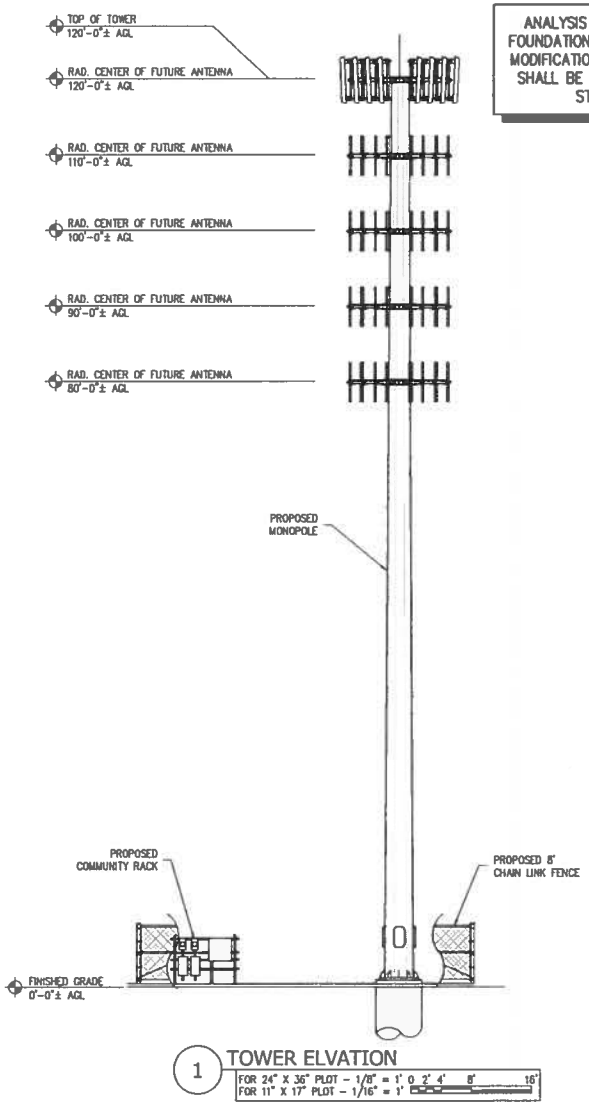
| NO. | DATE | REVISIONS | BY | CHK | APP'D |
|---|---|---|---|---|---|
| E | 12/30/13 | LL REDLINES | RM | JG | JG |
| D | 12/13/13 | UPDATED PER LE | RM | JG | JG |
| C | 10/25/13 | REDLINES | RM | JG | JG |
| B | 10/07/13 | REDLINES – TRANSFORMER | CT | JG | JG |
| A | 07/11/13 | ISSUED FOR REVIEW | RM | JG | JG |

SCALE: AS SHOWN | ACCI JOB # 13-1438

ENLARGED SITE PLAN

DRAWING NUMBER

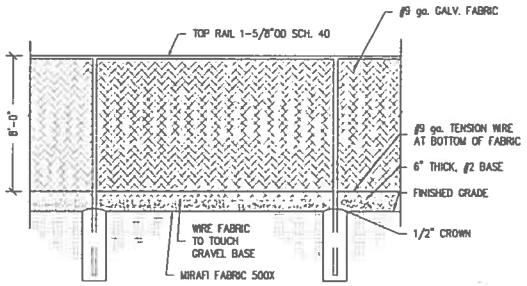
Z-3



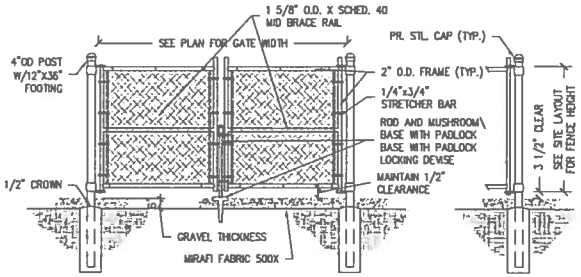

ANALYSIS AND DESIGN OF TOWER AND FOUNDATION BY OTHERS. NO ERECTION OR MODIFICATION OF TOWER AND FOUNDATION SHALL BE MADE WITHOUT APPROVAL OF STRUCTURAL ENGINEER.

1 TOWER ELVATION

FOR 24" X 36" PLOT – 1/8" = 1' 0 2' 4' 8' 16'
FOR 11" X 17" PLOT – 1/16" = 1'




| 8' HIGH FENCE | FOOTINGS |
|---|---|
| LINE POST -2-3/8" OD | 12"X30" |
| CORNER POST -3" OD | 12"X42" |
| GATE POST -4" OD | 12"X42" |




NOTE ! Immediately After Any Welding / Grinding / drilling Fabricator Shall Apply Three (3) Coats of Cold-Galvanizing Compound to cleaned surfaces.

2 FENCE DETAIL
N.T.S.

LLPRO CONSULTING GROUP, INC.

APPLICANT
CAPITAL TELECOM
1500 MT. KEMBLE AVE., SUITE 303
MORRISTOWN, NJ 07960

LUBBOCK CT1312, TX

5217 82ND ST
LUBBOCK, TX 79424-2827

| NO. | DATE | REVISIONS | BY | CHK | APP'D |
|---|---|---|---|---|---|
| E | 12/30/13 | LL REDLINES | RM | JG | JG |
| D | 12/13/13 | UPDATED PER LE | RM | JG | JG |
| C | 10/25/13 | REDLINES | RM | JG | JG |
| B | 10/07/13 | REDLINES – TRANSFORMER | GT | JG | JG |
| A | 07/11/13 | ISSUED FOR REVIEW | RM | JG | JG |

SCALE: AS SHOWN
ACCI JOB # 13-1439

ELEVATION & FENCE DETAIL

DRAWING NUMBER
Z-4

January 31, 2014

To the Honorable Planning and Zoning Commission and City Council:

The Francis Law Firm, a Professional Corporation on behalf of Capital Telecom Acquisition, LLC ("Applicant"), respectfully submits the attached Application for Specific Use Permit ("Application") to construct a 120 foot telecommunications tower pursuant to Code Section 40.02.002(h) (the "Tower").

## BACKGROUND

Applicant has entered into a lease agreement with SK Properties L.P., a Kansas limited partnership (the "Property Owner") for a 2,475 square foot lease tract (the "Lease Tract") out of Tract "B-2-A", Held Addition, the City of Lubbock, Texas, and being commonly known as 5217 82nd Street, Lubbock, Texas. Applicant proposes to construct and operate the Tower within the Lease Tract. The Lease Tract is currently zoned "C-3"

The Property Owner has authorized Applicant to act as its agent for processing this Application. The undersigned, as counsel to Applicant, is authorized to submit this letter to the Planning and Zoning Commission and to the City Council in support of the Application.

Attached to the Application is:

(i) a survey of the Lease Tract;

(ii) a site plan ("Site Plan") for the Lease Tract; and

(iii) an elevation of the proposed Tower (as shown on the Site Plan).

## NATURE OF TOWER AND FACILITIES

The Applicant submits that,

1. The proposed Tower is a 120 foot telecommunications tower which is designed to accommodate up to five (5) "telecommunications providers."

A PROFESSIONAL CORPORATION
(210) 222-1100 • 112 E. PECAN STREET, SUITE 550 • SAN ANTONIO, TEXAS 78205-1517 • FAX (210) 222-2468
WRITER'S DIRECT DIAL (210) 222-1112 WRITER'S E-MAIL wbfrancis@francislawfirm.com
www.francislawfirm.com

2. As detailed on the Site Plan, the Tower will be enclosed by an eight (8) foot "chain link with galvanized fabric" fence.

## EXISTING SITES

Applicant will present evidence to the Planning and Zoning Commission and City Council that there are no existing towers or structures "within the geographic area required to meet Applicant's engineering needs."

## CO-LOCATION ON TOWER

As indicated on the elevation of the Tower which is a part of the Site Plan and as noted above, the proposed Tower will be constructed in order to accommodate up to five (5) telecommunications providers.

## SPECIFIC USE PERMIT

Applicant respectfully requests approval of its Application for a Specific Use Permit for the construction of the proposed 120 foot telecommunications tower.

Yours very truly,

The Francis Law Firm, P.C.

By: _____
W. Bebb Francis, III
Counsel to Capital Telecom Acquisition, LLC

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

If for any reason you will be unable to attend the public hearing advertised by this notice, and wish to present your comments regarding the case, please complete this form and return it to the Secretary of the Planning and Zoning Commission, c/o Planning Department, P.O. Box 2000, Lubbock, TX, 79457, or fax to (806) 775-2100.

If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 775-2120.

**Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by:** **P&Z Case No.:** ***2416-B***

*In Favor of* ✓

*Opposed* ____

**Reasons and/or Comments:**

Print Name James R. Smith

Signature: James R. Smith

Address: 5226-84th ST.

Address of Property Owned: 5226-84th ST.

27 of 29

Zone Case Number: **2416-B** 62505
SMITH JAMES R & ROY FAY
5226 84TH ST

LUBBOCK TX 79424

4

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

If for any reason you will be unable to attend the public hearing advertised by this notice, and wish to present your comments regarding the case, please complete this form and return it to the Secretary of the Planning and Zoning Commission, c/o Planning Department, P.O. Box 2000, Lubbock, TX, 79457, or fax to (806) 775-2100.

If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 775-2120.

**Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by:** P&Z Case No.: 2416-B

*In Favor of* X

*Opposed* ____

**Reasons and/or Comments:**

Print Name Charles Elliot GRACO REAL ESTATE DEVELOPMENT, INC.

Signature: Charles Elliot, Property Management Agent for ROCK RIDGE PLAZA T.I.C.

Address: 2574 74th Street Suite 210 Lubbock, TX 79423

Address of Property Owned: 5217 82nd Street Lubbock, TX 79424

23 of 29

Zone Case Number: 2416-B 73666
S K PROPERTIES L P
150 N MARKET ST

WICHITA KS 67202-1900

**Regular City Council Meeting** **5. 19.**

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

**Ordinance 2nd Reading – Planning**: Consider Ordinance 2014-O0049 for Zone Case 3225, a request of Jack Galland for a zoning change from R-1 to Garden Office (GO) on Lot 9, Block 26, Modern Manors Addition, 4801 Elgin Avenue.

**Item Summary**

On March 27, 2014, the City Council approved the first reading of the ordinance.

General comments:
The request is to change the zoning from R-1 to GO. The existing house will be converted into a small office building.

Adjacent land uses:
To the south is an existing real estate office, zoned C-3 and south of is a recently expanded car wash. Across the street and alley to the north, west, and east is single family residential property.

Comprehensive Land Use Plan (CLUP):
The request is a minor change to the CLUP, and such a change would be included within a motion to approve.

Zoning Policy:
The GO standards are set forth in a manor to allow GO as a compatible buffer near single family residential neighborhoods. The development standards encourage GO construction to mimic residential construction to help compatibility with the neighborhoods.

Effect on the adjacent street and thoroughfare system:
There will be little to no impact on the thoroughfare system with this property being a block off 50th Street.

Recommendations:
On March 6, 2014, the Planning & Zoning Commission (P&Z) recommended the request with a vote of 5-0, with the following conditions:
1. The development of the office building shall meet the GO parking requirements.
2. There shall be one curb cut allowed (vehicle access) from 48th Street.

**Fiscal Impact**

None.

**Staff/Board Recommending**

Quincy White, Assistant City Manager
P&Z Commission

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. 3225;** A ZONING CHANGE FROM **R-1** TO **GO** ZONING DISTRICT ON **LOT 9, BLOCK 26, MODERN MANORS ADDITION,** LUBBOCK, TEXAS; PROVIDING A PENALTY; SUBJECT TO CONDITIONS; PROVIDING A SAVINGS CLAUSE AND PROVIDING FOR PUBLICATION.

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

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

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

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

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

**ZONE CASE NO. 3225**

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

A change of zoning under the provisions of Section 40.01.005 of the Code of Ordinances of the City of Lubbock from **R-1** to **GO** zoning district on **Lot 9, Block 26, Modern Manors Addition,** City of Lubbock, Lubbock County, Texas

located at **4801 Elgin Avenue,** subject to conditions and being further described as follows:

**SUBJECT TO THE FOLLOWING CONDITIONS:**

1. **THAT the development of the office building shall meet the GO parking requirements.**

2. **THAT there shall be one curb cut allowed (vehicular access) from 48th Street.**

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

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

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

AND IT IS SO ORDERED.

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

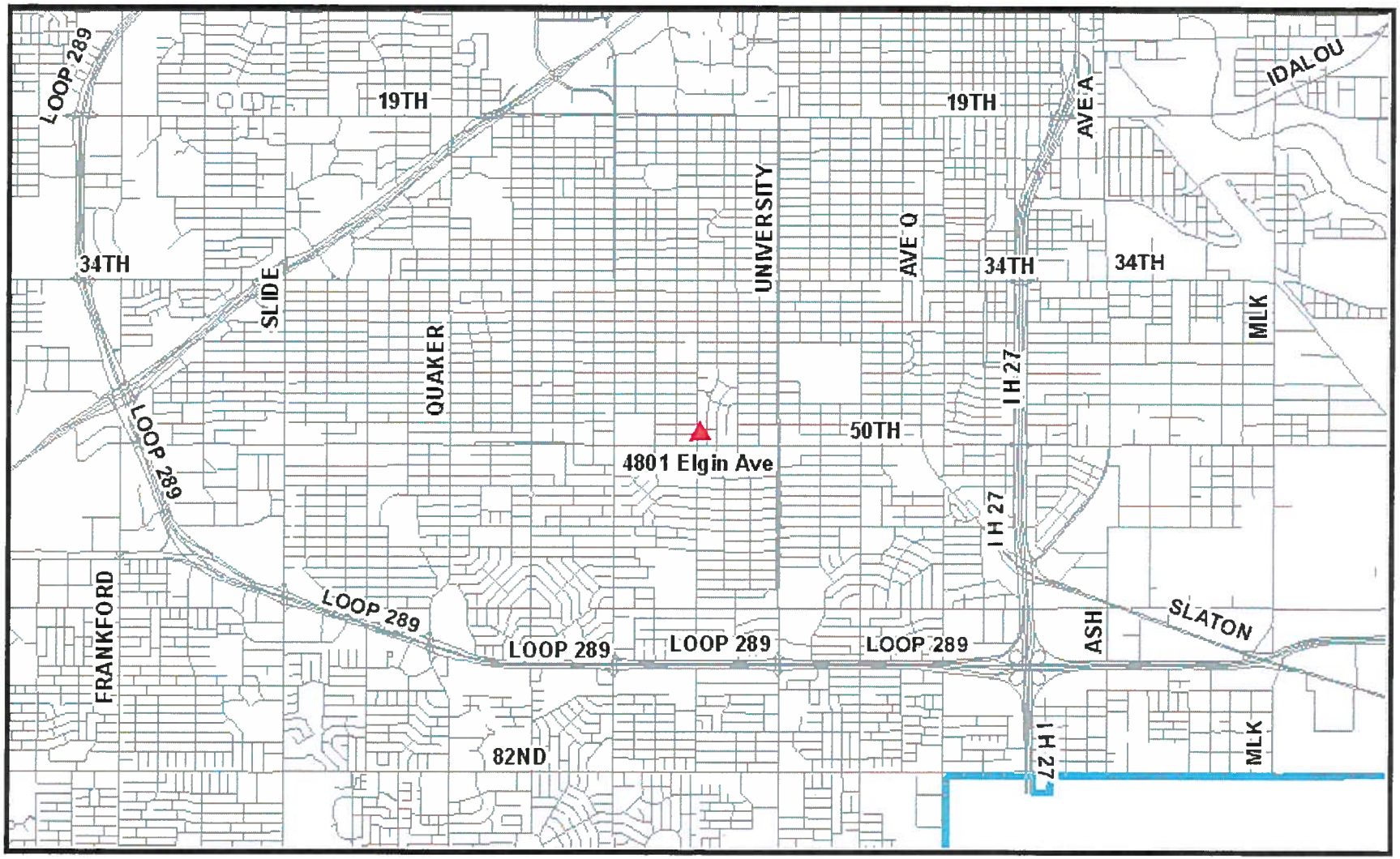
APPROVED AS TO CONTENT:

Andrew Paxton, Director of Planning

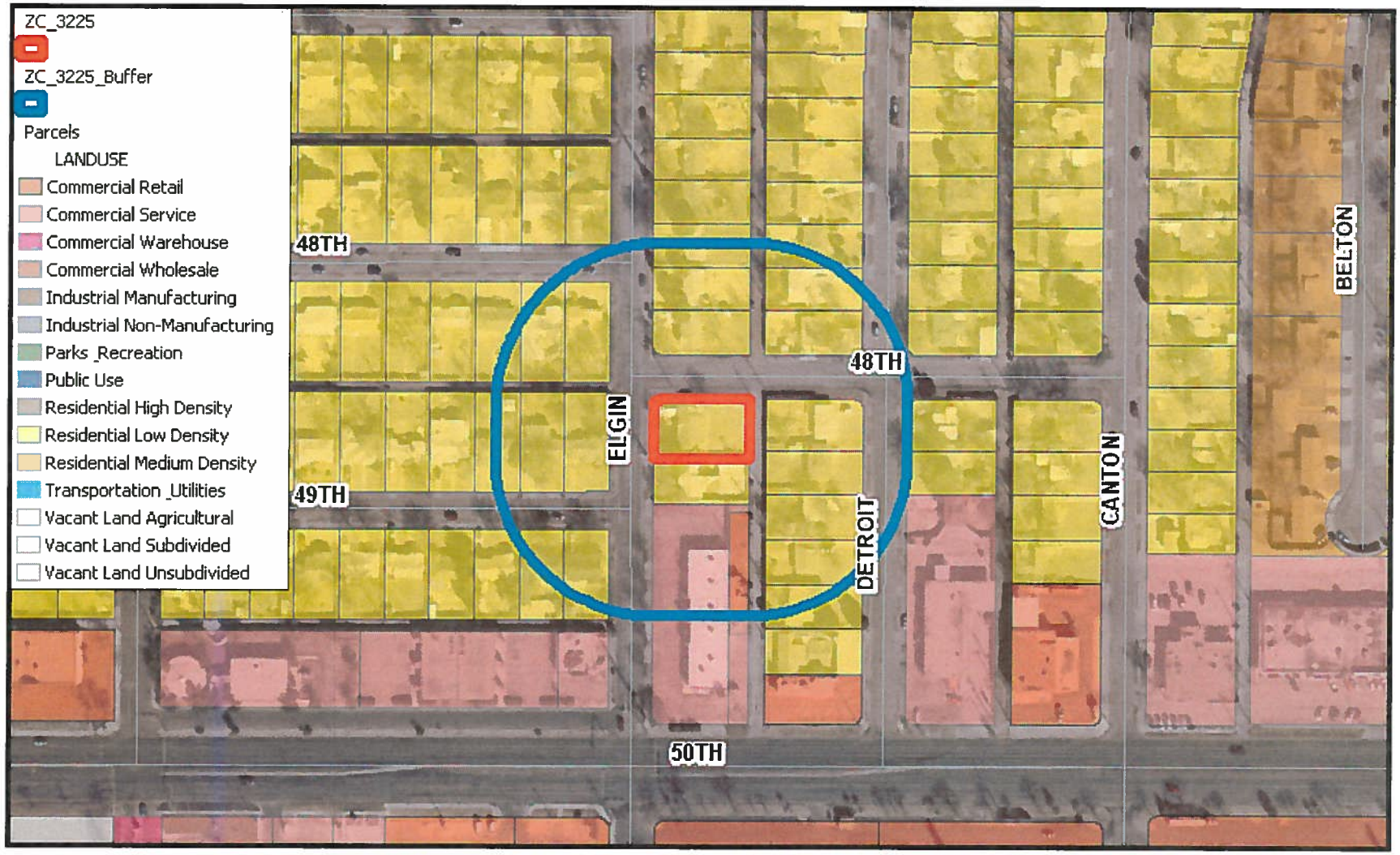
APPROVED AS TO FORM:

Chad Weaver
Assistant City Attorney

vw/CityAtt/Chad/Zones/ZC3225
March 6, 2014

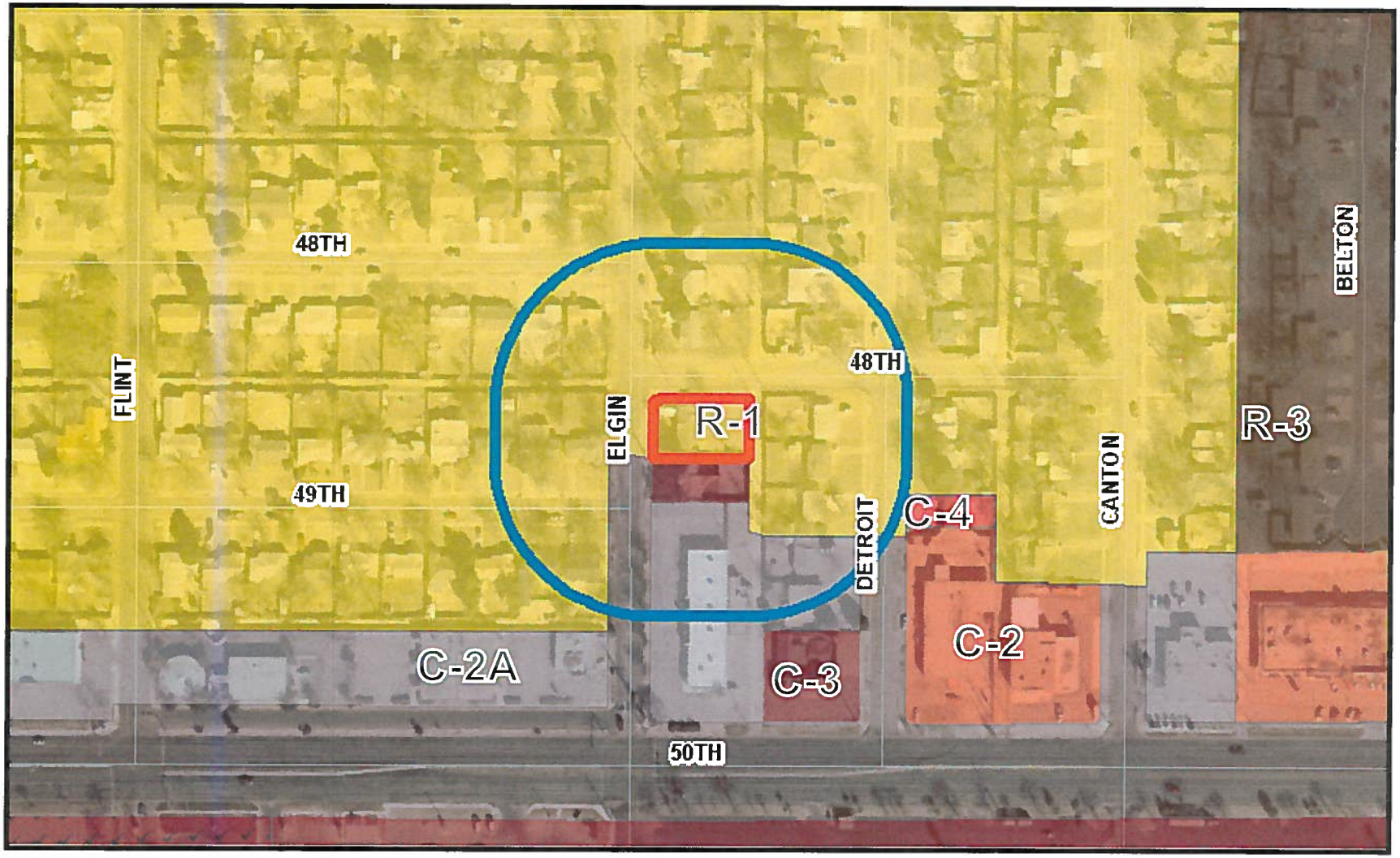



# P.Z.C. Case 3225




# P.Z.C. Case 3225

## Request of Jack Galland for a zoning change from R-1 to GO, 4801 Elgin Avenue




# P.Z.C. Case 3225 Zoning

city of lubbock TEXAS

# APPLICATION FOR ZONE CHANGE

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

**Applicant** (Please Print) Jack Galland

7004 Santa Fe Dr.
Street/Post Office Box

Lubbock TX 79407
City State Zip

(806) 771-4131
Telephone

**For** _____

Street/Post Office Box

City State Zip

( )
Telephone

**Location or Address:** 4801 Elgin Ave Lubbock Tx 79413

**Legal Description:*** Lot 9 Block 26 Modern Manors Rd. Lubbock Lubbock

**Existing Land Use:** Residential **Existing Zoning:** R1

**Acreage or Square Footage of Property:** 8400 ☒ Ft.

**Zoning Requested:** Garden office

**Proposed Development:** _____

**If property is not subdivided, will preliminary plat be submitted?** Yes _____ No X

Jack Galland
**Applicant's Signature**

1-27-14
**Date**

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

**Filing Fee:** _____
**($475.00 for the first acre; $3.00 for each additional acre; $165 for Non-Profit)**

receipt 18038 CK# 1155

## For City Use Only

PIN 36814 map 6

**Zone Case No.:** 14ZC1A 3225 **Agenda No.:** 2

**Request for zoning change from:** R-1 **To:** GO

**on Lot(s):** 9 **Block(s):** 26

**Subdivision:** modern Manors **Address:** 4801 Elgin AVE



SR

FIRSTMARK
REALTORS

FirstMark Realtors has owned 4803 Elgin Ave since 2002. The property was a residential rental until 2007. When FirstMark needed a new office, I proposed to the Planning & Zoning to change the status to a garden office. It has been wonderful. We are close enough to 50th Street for easy access and have several businesses around us. Since our opening, the car wash around the corner has been remodeled as well as several of the homes in the area.

Jack & Rhonda Galland are interested in purchasing 4801 Elgin to create a small garden office. FirstMark has been property managers for the Gallands for the last 2 years and welcome the plan to have a new office & the Gallands to the neighborhood.

In our packet there are printouts of the current location in overhead view and as well as other pictures. Some of the updates that Jack plans on include: a new fence, additional parking, outside color change & of course the necessary changes required by the City of Lubbock.

We want to thank the staff & members of the Planning & Zoning for the time that has been spent helping us in this endeavor.

**Celeste Patterson, Broker**
4803 Elgin Ave
Lubbock, TX 79413
CelestePatterson@firstmarkrealtors.com

Toll Free: 800.342.2671
Office: 806.793.8759
Cell: 806.789.0477
Fax: 806.793.8799

# Jack & Rhonda Galland

- Have been married for 29 years
- Have three children: Shelby, Colby & Brady
    - All have attended or graduated from Frenship ISD
      Brady currently on his Senior year
- Moved to Lubbock in October 1993
    - When people starting telling me...you will either love it or hate it...we must love it because we are still here and have no desire to live anywhere else
- Jack has been in the Employee Benefit part of the Insurance industry since 1983. He opened his own agency, Galland Insurance Services LLC in 2008, currently managing over 70 Employee Health and Benefit Plans in Lubbock
- To supplement any lost income with the event of OBAMA Care, Jack started buying residential rental properties. Currently, Galland Investment Group LLC owns 30 rental properties. With the intent to grow larger in the coming years
- Now owning two businesses in Lubbock, it's time to become an office owner not a renter. And converting an older home to an office has always been a GOAL for Jack

48th St
48th St
Subject Property
Elgin Ave
Detroit Ave
Elgin Ave
Detroit Ave
Elgin Ave
50th St

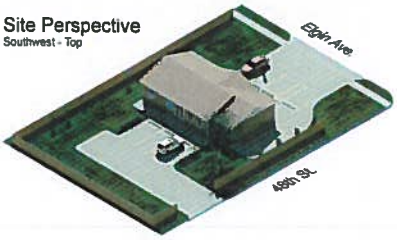
Entrance

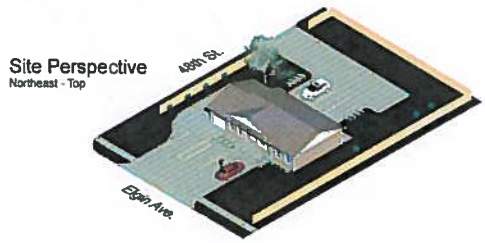
West Elevation - As viewed from Elgin Ave.

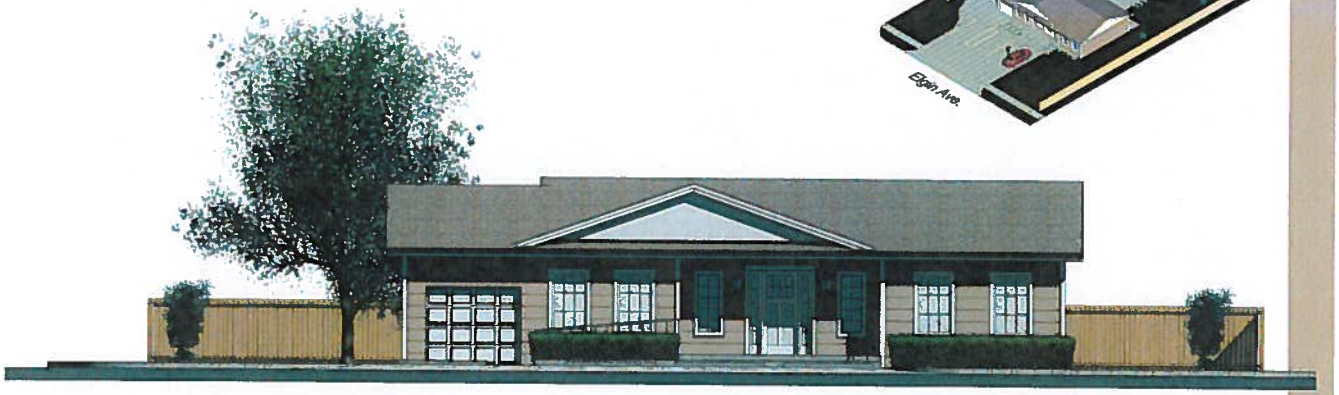
48th St. - Rear Parking Entrance

Front Parking

Rear Parking



West Elevation - 4801 Elgin Ave.

**Regular City Council Meeting** **5. 20.**

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

**Ordinance 2nd Reading – Planning**: Consider Ordinance 2014-O0043 Zone Case 3116-D, a request of Hugo Reed and Associates, Inc., for FP Investors 1, LLC, for a zoning change from R-1 Specific Use and Garden Office (GO) to R-1 Specific Use for reduced setbacks on 73.4 acres of unplatted land out of Block AK, Section 4, south of 135th Street and east of Quaker Avenue.

**Item Summary**

On March 27, 2014, the City Council approved the first reading of the ordinance.

General comments:
The request is for a Specific Use residential to allow for reduced setback requirements.

Adjacent land uses:
This is a continuation of an existing single family development, Kelsey Park.

Comprehensive Land Use Plan (CLUP):
The request is consistent with the CLUP.

Zoning Policy:
This request for reduced setbacks is common in the residential development market.

Effect on the adjacent street and thoroughfare system:
There should be little additional impact on the thoroughfare system.

Recommendations:
On March 6, 2014, the Planning & Zoning Commission (P&Z) recommended the request with a vote of 5-0, with the following conditions:
1. The setbacks for lots less than .5 acres shall be reduced as follows:
   a. 20 feet front setback.
   b. 5 feet front setback for cul-de-sac lots.
   c. 5 feet side setback for corner lots (excluding corner lots on Quaker Avenue and Memphis Avenue) with a 5 feet side setback required for backyard fences.
   d. Zero rear setback for non-rear facing third (additional) car garage.
2. The setback for any lots over .5 acres shall follow the regular R-1 setback standards.

**Fiscal Impact**

None.

**Staff/Board Recommending**

Quincy White, Assistant City Manager
P&Z Commission

**Attachments**

Ordinance - Zone Case 3116-D

Zone Case 3116-D

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. 3116-D;** A ZONING CHANGE FROM **R-1 SPECIFIC USE AND GO** TO **R-1 SPECIFIC USE** FOR **REDUCED SETBACKS**, ON **73.4 ACRES OF UNPLATTED LAND OUT OF BLOCK AK, SECTION 4,** LUBBOCK, TEXAS; SUBJECT TO CONDITIONS; PROVIDING A PENALTY; PROVIDING A SAVINGS CLAUSE AND PROVIDING FOR PUBLICATION.

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

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

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

**ZONE CASE NO. 3116-D**

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

A change of zoning under provisions of Section 40.01.005 of the Code of Ordinances of the City of Lubbock from **R-1 Specific Use and GO** to **R-1 Specific Use** for **reduced setbacks** on **73.4 acres of unplatted land out of Block AK, Section 4,** City of Lubbock, Lubbock County, Texas, located at **south of 135th Street and east of Quaker 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 setbacks for lots less than .5 acres shall be reduced as follows:**

   a. **20 foot front setback;**

   b. **5 foot front setback for cul-de-sac lots;**

   c. **5 foot side setback for corner lots (excluding corner lots on Quaker and Memphis) with a 5 foot side setback required for backyard fences; and**

   d. **Zero rear setback for non-rear facing third (additional) car garage.**

2. **THAT the setback for any lots over .5 acres shall follow the regular R-1 setback standards.**

SECTION 2. THAT the granting of this specific use zoning is hereby made subject to compliance with all provisions of Zoning Ordinance No. 7084, as amended, including particularly, but not limited to, Section 40.03.3102 of the Codified Zoning Ordinance, which provides that a Building Permit shall be applied for and secured within thirty (30) months of the effective date of the zone change or all undeveloped property shall automatically revert back to the previous zoning classification, which in this case is the R-1 Specific Use and GO zone district; and if such reversion occurs, the Director of Planning is directed to remove from the Zoning Map the legend indicating such specific use. The Specific Use authorized by this Ordinance is permitted under provision of Section 40.03.3101-40.03.3103 of Codified Zoning Ordinance No. 7084 on the property described as **south of 135th Street and east of Quaker Avenue**, City of Lubbock, Lubbock County, Texas.

SECTION 3. THAT violation of any provision of this Ordinance shall be deemed a misdemeanor punishable by fine not to exceed Two Thousand and No/100 Dollars ($2,000.00) as provided in Section 40.01.006 of the Zoning Ordinance of the City of Lubbock.

SECTION 4. THAT should any paragraph, sentence, clause, phrase or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

SECTION 5. THAT the City Secretary is hereby authorized to cause publication of the descriptive caption of this Ordinance as an alternative method provided by law.

AND IT IS SO ORDERED.

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

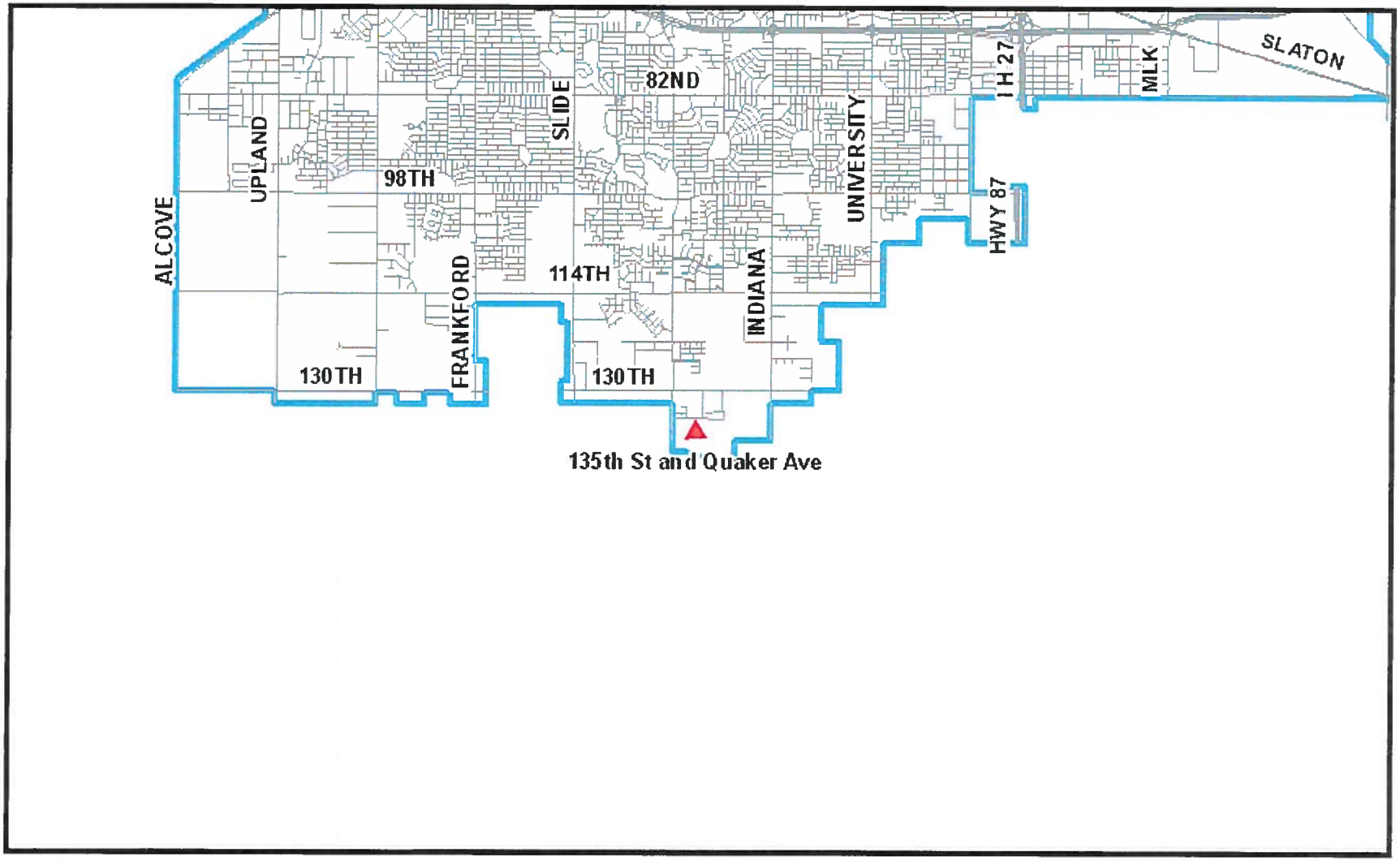
APPROVED AS TO CONTENT:

_____
Andrew Paxton, Director of Planning

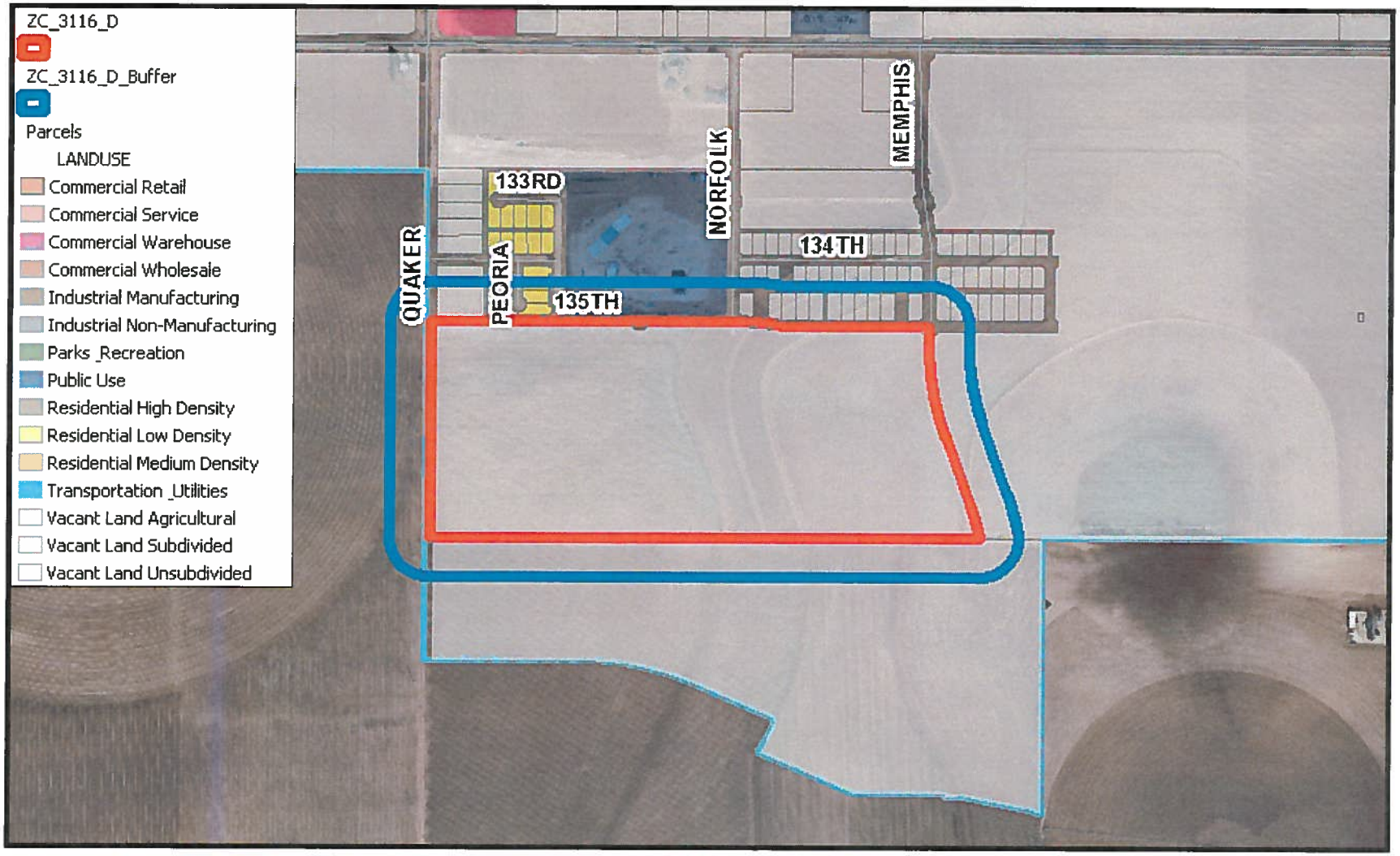
APPROVED AS TO FORM:

_____
Chad Weaver
Assistant City Attorney

vw/CityAtt/Chad/Zones/ZC3116-D
March 6, 2014

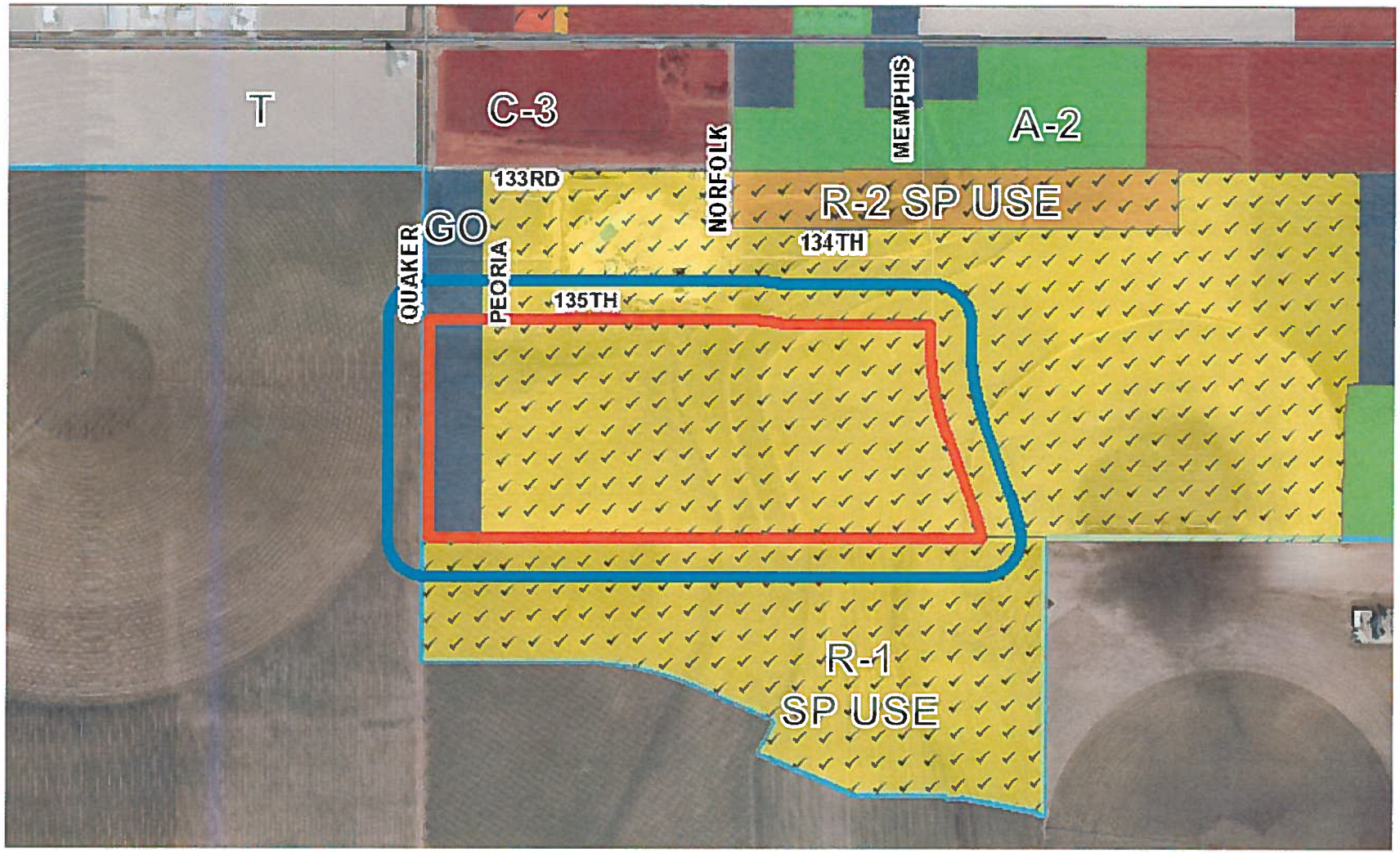



# P.Z.C. Case 3116-D




# P.Z.C. Case 3116-D

**Request of Hugo Reed and Associates, Inc. (for FP Investors 1, LLC) for a zoning change from R-1 Specific Use and GO to R-1 Specific Use for reduced setbacks, south of 135th Street and east of Quaker Avenue**




# P.Z.C. Case 3116-D Zoning

# APPLICATION FOR ZONE CHANGE

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

**Applicant** (Please Print)
Hugo Reed and Associates, Inc.
1601 Avenue N
Street/Post Office Box
Lubbock, Texas 79401
City State Zip
(806) 763-5642
Telephone

**For**
FP Investors 1, LLC
17103 Preston Road, Suite 225
Street/Post Office Box
Dallas TX 75248-1389
City State Zip
214-850-8838
Telephone

**Location or Address:** Section 4, Block AK

**Legal Description:*** See metes and bounds description attached

**Existing Land Use:** Vacant

**Existing Zoning:** R-1 Specific Use + GO

**Acreage or Square Footage of Property:** 73.4 Acres

**Zoning Requested:** R-1 Specific Use as follows: For any lots less than 0.5 acre in size: Front set-back to 20', Front setback on cul-de-sac lots to 5', Side set-back on end lots (Excluding Quaker and Memphis) to 5'. Where 5' side setback is used, side fence must be placed at 5' set-back line. Non-rear facing garage may be constructed to a zero (0') rear set back.

**Proposed Development:** Phased single-family residential

**If property is not subdivided, will preliminary plat be submitted?** Yes _____ No X

Terry Holeman
**Applicant's Signature**

February 3, 2014
**Date**

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

**Filing Fee:** $694 (Ford Development #3595)
($475.00 for the first acre; $3.00 for each additional acre; $165 for non-profit)

Receipt 6039 CK# 3595

## For City Use Only

M+B map70

**Zone Case No.:** 3116-D **Agenda No.:** 5

**Request for zoning change from:** R-1 SP use + GO **To:** R-1 SP use

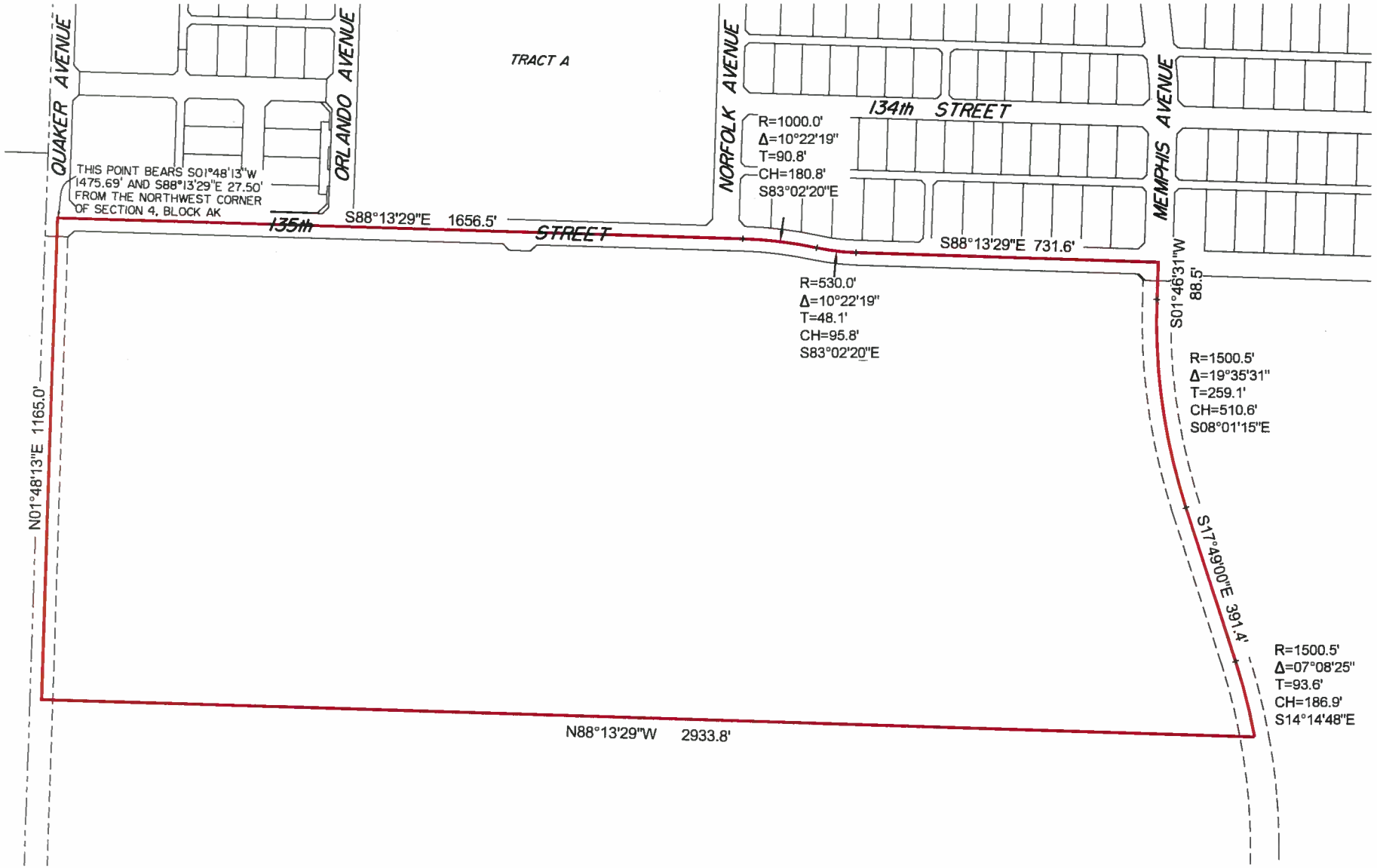
73.4 acres of unplatted land out of Block A of Section 4

**on Lot(s):** — **Block(s):** —

**Subdivision:** — **Address:** South of 135th St, East of Quaker Ave



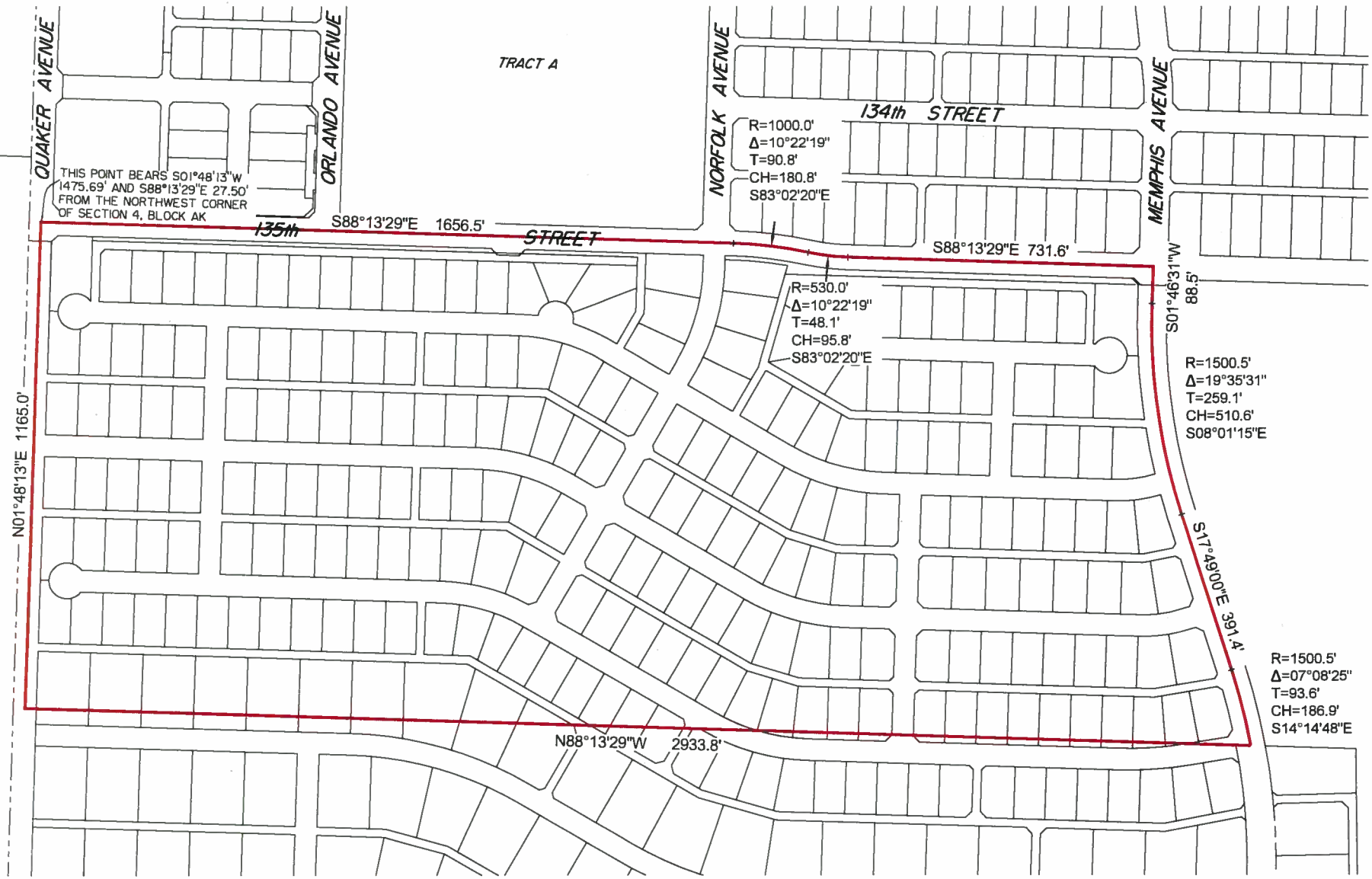
SR




# PROPOSED R-1 SPECIFIC USE LOCATED IN SECTION 4, BLOCK AK

NORTH

HUGO REED AND ASSOCIATES, INC.
LAND SURVEYORS
CIVIL ENGINEERS
TEXAS LICENSED SURVEYING FIRM 100676-00
TEXAS REGISTERED ENGINEERING FIRM F-780
1601 AVENUE N
LUBBOCK, TEXAS 79401
PHONE: 806 / 763-5642
FAX: 806 / 763-3891




# PROPOSED R-1 SPECIFIC USE
# LOCATED IN SECTION 4, BLOCK AK

NORTH

HR HUGO REED AND ASSOCIATES, INC.
LAND SURVEYORS
CIVIL ENGINEERS
TEXAS LICENSED SURVEYING FIRM 100675-00
TEXAS REGISTERED ENGINEERING FIRM F-760
1601 AVENUE N
LUBBOCK, TEXAS 79401
PHONE: 806 / 763-5642
FAX: 806 / 763-3891

HUGO REED AND ASSOCIATES, INC.
1601 AVENUE N / LUBBOCK, TEXAS 79401 / 806/763-5642 / FAX 806/763-3891
TEXAS REGISTERED ENGINEERING FIRM F-760
TEXAS LICENSED SURVEYING FIRM 100676-00

LAND SURVEYORS
CIVIL ENGINEERS

# PROPOSED R-1 SPECIFIC USE ZONING

METES AND BOUNDS DESCRIPTION of a tract of land located in Section 4, Block AK, Lubbock County, Texas, being further described as follows:

BEGINNING at a point in the center line of 135th street for the Northwest corner of this tract, which bears S. 01°48'13" W. an approximate distance of 1475.7 feet and S. 88°13'29" E. an approximate distance of 27.5 feet from the Northwest corner of Section 4, Block AK, Lubbock County, Texas;

THENCE S. 88°13'29" E., along the centerline of said 135th Street, an approximate distance of 1656.5 feet to a point of curvature;

THENCE Southeasterly, continuing along said centerline, around a curve to the right, said curve having a radius of approximately 1000.0 feet, a central angle of 10°22'19", approximate tangent lengths of 90.8 feet, a chord distance of approximately 180.8 feet and a chord bearing of S. 83°02'20" E to a point of reverse curvature;

THENCE Southeasterly, continuing along said centerline, around a curve to the left, said curve having a radius of approximately 530.0 feet, a central angle of 10°22'19", approximate tangent lengths of 48.1 feet, a chord distance of approximately 95.8 feet and a chord bearing of S. 83°02'20" E. to a point of tangency;

THENCE S. 88°13'29" E., continuing along said centerline, an approximate distance of 731.6 feet to a point for the Northeast corner of this tract;

THENCE S. 01°46'31" W. an approximate distance of 88.5 feet to a point of curvature;

THENCE Southeasterly, along a curve to the left, said curve having a radius of approximately 1500.5 feet, a central angle of 19°35'31", approximate tangent lengths of 259.1 feet, a chord distance of approximately 510.6 feet and a chord bearing of S. 08°01'15" E. to a point of tangency;

THENCE S. 17°49'00" E. an approximate distance of 391.4 feet to a point of curvature;

THENCE Southeasterly, along a curve to the right, said curve having a radius of approximately 1500.5 feet, a central angle of 07°08'25", approximate tangent lengths of 93.62 feet, a chord distance of approximately 186.9 feet and a chord bearing of S. 14°14'48" E. to a point of intersection for the Southeast corner of this tract;

THENCE N. 88°13'29" W. an approximate distance of 2933.8 feet to a point for the Southwest corner of this tract;

THENCE N. 01°48'13" E. an approximate a distance of 1165.0 feet to the Point of Beginning.

Contains: Approximately 73.4 Acres

PREPARED FOR ZONE CHANGE REQUEST ONLY; DOES NOT REPESENT A SURVEY.

**Regular City Council Meeting** **5. 21.**

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

**Ordinance 2nd Reading – Planning**: Consider Ordinance 2014-O0051 Zone Case 1437-K, a request of Mark Lindley, for Asset Plus Realty Corporation, for a zoning change from R-3 Specific Use to A-2 on Lot 2, Holiday Park Addition, 4702 4th Street.

**Item Summary**

On March 27, 2014, the City Council approved the first reading of the ordinance.

General comments:
The request is to zone a parcel from R-3 Specific Use for a mobile home park to A-2 High Density Apartments.

Adjacent land uses:
N - small manufactured home subdivision, single family lots, and on north is a student housing apartment complex.
W - is a combination of A-1, family apartment district, and single family district beyond that.
E - Texas Tech Ag fields.
S - mixed commercial uses and the Catholic Diocese of Lubbock.

Comprehensive Land Use Plan (CLUP):
The request is consistent with the CLUP.

Zoning Policy:
The current zoning is multi-family and therefore is compatible with the request.

Effect on the adjacent street and thoroughfare system:
Although both the existing development and future development are multi-family projects, the new development will have an increased density over the existing. Therefore, Toledo Avenue will see an increased volume in traffic. With the intersection of Toledo Avenue and 4th Street having a traffic signal, there should be a minimal impact on the overall thoroughfare system.

Recommendations:
On March 6, 2014, the Planning & Zoning Commission (P&Z) recommended the request with a vote of 5-0, with the following condition:
1. That an 8 feet screening fence shall be required on the west property line.

**Fiscal Impact**

None.

**Staff/Board Recommending**

Quincy White, Assistant City Manager
P&Z Commission

**Attachments**

Ordinance - Zone Case 1437-K

Zone Case 1437-K

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. 1437-K;** A ZONING CHANGE FROM **R-3 SPECIFIC USE** TO **A-2** ZONING DISTRICT ON **LOT 2, HOLIDAY PARK ADDITION,** LUBBOCK, TEXAS; PROVIDING A PENALTY; SUBJECT TO CONDITIONS; PROVIDING A SAVINGS CLAUSE AND PROVIDING FOR PUBLICATION.

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

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

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

**ZONE CASE NO. 1437-K**

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

A change of zoning under the provisions of Section 40.01.005 of the Code of Ordinances of the City of Lubbock from **R-3 Specific Use** to **A-2** zoning district on **Lot 2, Holiday Park Addition,** City of Lubbock, Lubbock County, Texas located at **4702 4th Street,** subject to conditions and being further described as follows:

**SUBJECT TO THE FOLLOWING CONDITIONS:**

1. **THAT an 8 foot screening fence shall be required on the west property line.**

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

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

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

AND IT IS SO ORDERED.

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

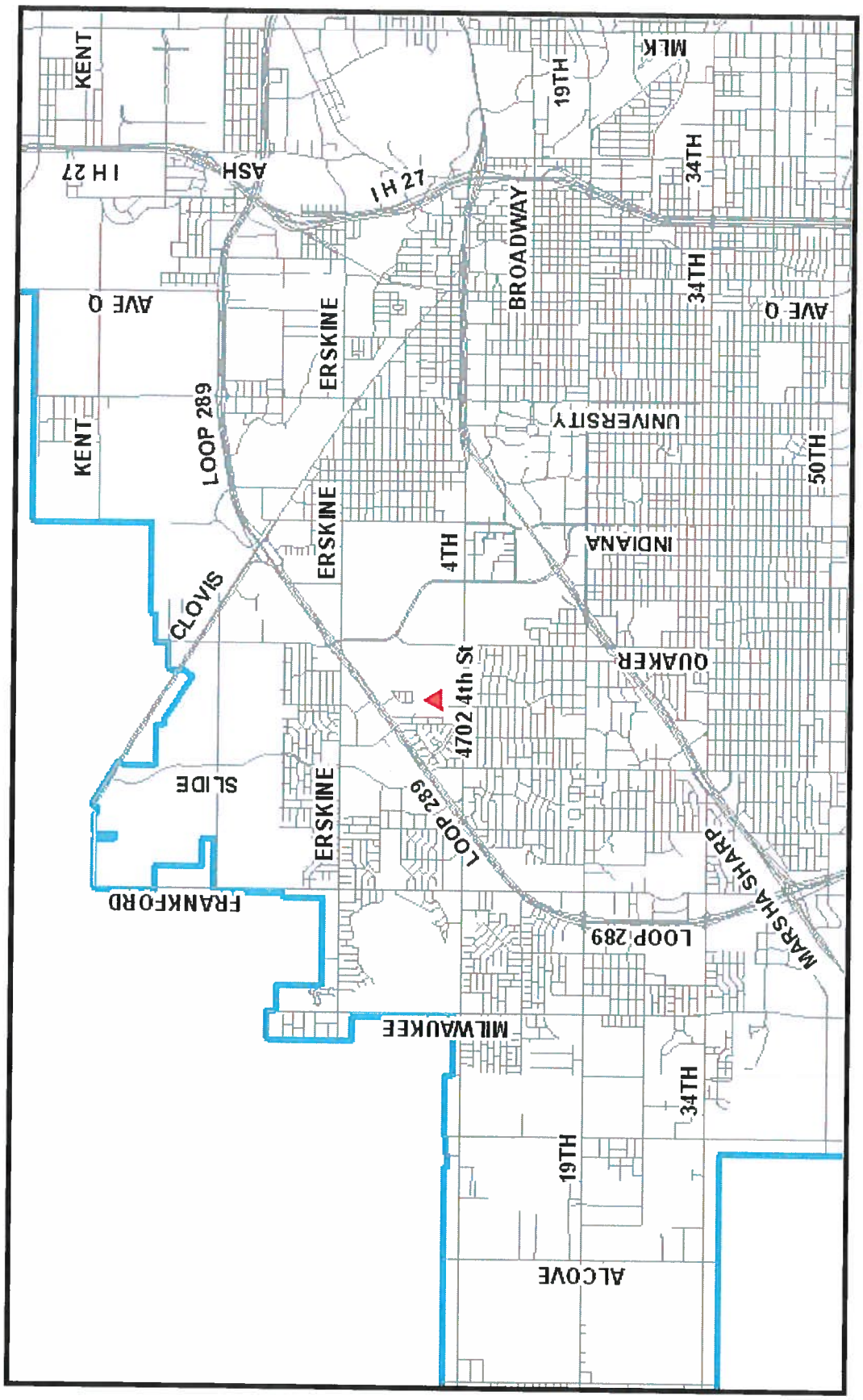
APPROVED AS TO CONTENT:

_____
Andrew Paxton, Director of Planning

APPROVED AS TO FORM:

_____
Chad Weaver
Assistant City Attorney

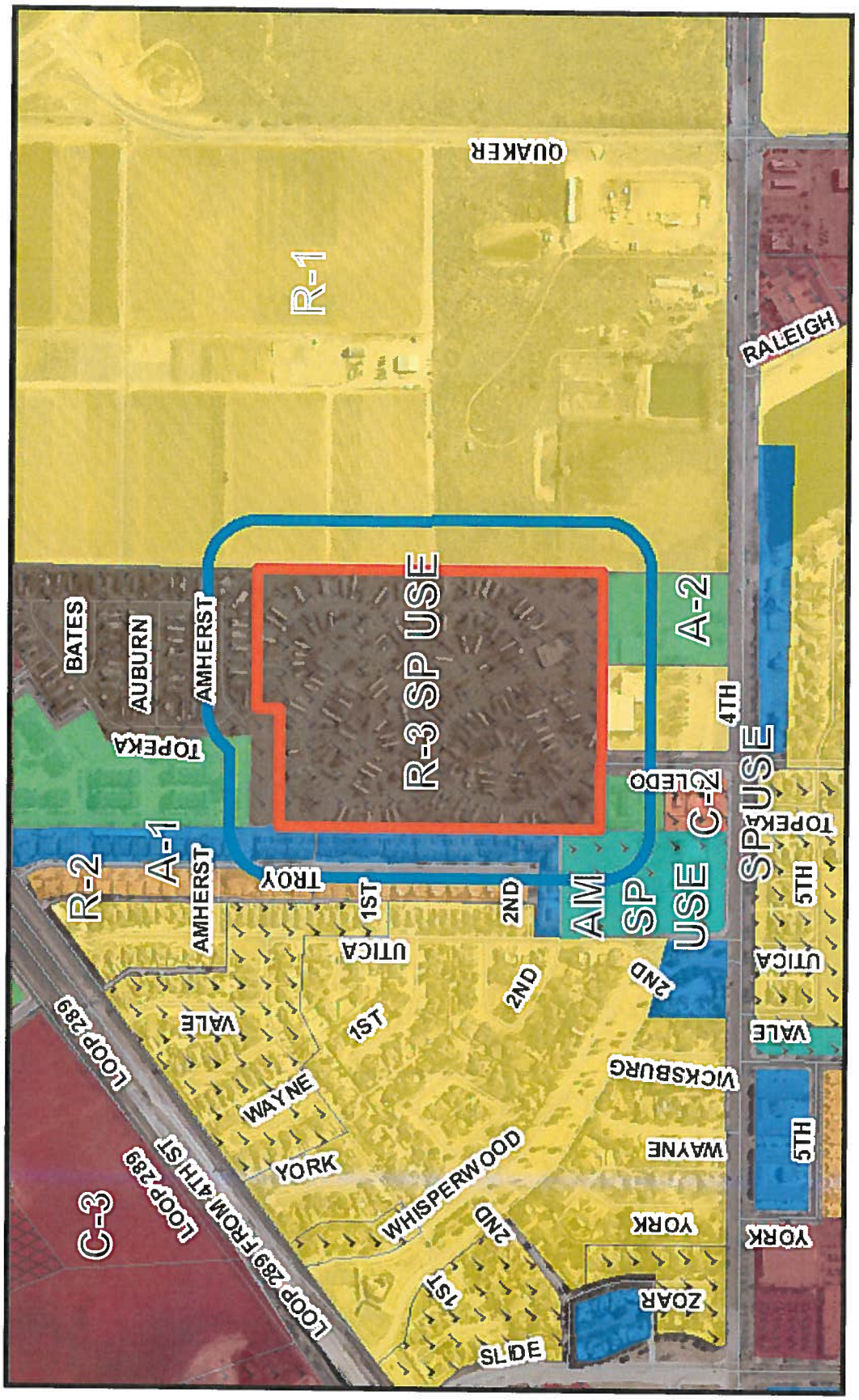
vw/CityAtt/Chad/Zones/ZC1437-K
March 6, 2014




# P.Z.C. Case 1437-K

# P.Z.C. Case 1437-K

**Request of Mark Lindley (for Asset Plus Realty Corporation) for a zoning change from R-3 Specific Use to A-2, 4702 4th Street**




# P.Z.C. Case 1437-K Zoning

city of lubbock TEXAS

# APPLICATION FOR ZONE CHANGE

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

**Applicant** (Please Print) Mark Lindley

675 Bering Drive, Suite 200
Street/Post Office Box

Houston, Texas 77057
City State Zip

(281) 657-5225
Telephone

**For** Asset Plus Realty Corporation

675 Bering Drive, Suite 200
Street/Post Office Box

Houston, Texas 77057
City State Zip

(713) 782-5800
Telephone

**Location or Address:** 4th Street and Toledo Avenue

**Legal Description:*** Lot 2 Holiday Park Volume 1234 pg 631

**Existing Land Use:** Mobile Home Park **Existing Zoning:** R-3

**Acreage or Square Footage of Property:** 36.719 Acres

**Zoning Requested:** A-2

**Proposed Development:** 3 Story Multi Family

**If property is not subdivided, will preliminary plat be submitted?** Yes ____ No ____

**Applicant's Signature**

Feb 7, 2014
**Date**

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

**Filing Fee:** $583.00
**($475.00 for the first acre; $3.00 for each additional acre; $165 for Non-Profit)**

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Receipt 18040 CK # 1962 **For City Use Only** PIN: 24160 map 9

**Zone Case No.:** 1437-K **Agenda No.:** 6

**Request for zoning change from:** R-3 SP. USE **To:** A-2

**on Lot(s):** 2 **Block(s):** —

**Subdivision:** Holiday Park **Address:** ~~2 of Toledo Ave~~ 4702 4th St


SP

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

If for any reason you will be unable to attend the public hearing advertised by this notice, and wish to present your comments regarding the case, please complete this form and return it to the Secretary of the Planning and Zoning Commission, c/o Planning Department, P.O. Box 2000, Lubbock, TX, 79457, or fax to (806) 775-2100.

If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 775-2120.

**Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by:** **P&Z Case No.: *1437-K***

*In Favor of* X

*Opposed* ___

RECEIVED
FEB 26 REC'D
PLANNING DEPARTMENT

**Reasons and/or Comments:**

Print Name Dale Dillard

Signature: Dale Dillard

Address: 4502-19th

Address of Property Owned: 4502-19th



Zone Case Number: **1437-K** 28408
DILLARD, DALE RAY
4502 19TH ST

LUBBOCK TX 79407-2411

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

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**Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by:** **P&Z Case No.:** ***1437-K***

*In Favor of* ✓

*Opposed* ____

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PLANNING DEPARTMENT

**Reasons and/or Comments:**

Print Name DONNA TURNER

Signature: Donna Turner

Address: 103 N. Troy #C

Address of Property Owned: 103 N. Troy #C

88 of 91

Zone Case Number: **1437-K** 69152
TURNER, DONNA
103 N TROY AVE APT C

LUBBOCK TX 79416-3156

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

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**Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by:** **P&Z Case No.: 1437-K**

*In Favor of* X

*Opposed* ____

RECEIVED
FEB 26 REC'D
PLANNING DEPARTMENT

**Reasons and/or Comments:**

Print Name GEORGE A. FRY

Signature: George A Fry

Address: 102 N. Troy #D Lubbock, TX 79416

Address of Property Owned: 102 N. Troy #D Lubbock, TX 79416

37 of 91

Zone Case Number: **1437-K** 69073
FRY GEORGE A & STELLA
102 N TROY AVE
APT D

LUBBOCK TX 79416-3007

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

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**Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by:** **P&Z Case No.: 1437-K**

*In Favor of* ✓

*Opposed* ___

**Reasons and/or Comments:**

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FEB 25 REC'D
PLANNING DEPARTMENT

Print Name THOMAS O. GORE

Signature: Thomas O. Gore

Address: 4711 AMHERST ST.

Address of Property Owned: 4711 AMHERST ST.

42 of 91

Zone Case Number: **1437-K** 28396
GORE, THOMAS O
4711 AMHERST ST

LUBBOCK TX 79416-3218

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

(7)

If for any reason you will be unable to attend the public hearing advertised by this notice, and wish to present your comments regarding the case, please complete this form and return it to the Secretary of the Planning and Zoning Commission, c/o Planning Department, P.O. Box 2000, Lubbock, TX, 79457, or fax to (806) 775-2100.

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**Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by:** **P&Z Case No.: 1437-K**

RECEIVED
MAR 03 REC'D
PLANNING DEPARTMENT

*In Favor of* ✓

*Opposed* ___

**Reasons and/or Comments:**

Provided there is at least an 8 ft fence dividing the property from the Troy Ave. allys.
Not a chain link fence!
And they keep the fence maintained, unlike the way it is maintained presently!

Print Name RHONDA TEAL

Signature: Rhonda Teal

Address: 101- Troy # B

Address of Property Owned: 101- Troy # B

83 of 91

Zone Case Number: **1437-K** 69068
TEAL RHONDA & RAVAN RAY
101 TROY
B

LUBBOCK TX 79416

7

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

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If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 775-2120.

**Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by:** **P&Z Case No.: 1437-K**

*In Favor of* ✓

*Opposed* ____

**Reasons and/or Comments:**
Vast improvement of neighborhood as well as property values.

RECEIVED
MAR 03 REC'D
PLANNING DEPARTMENT

Print Name Wes Tolley for MacVan Investments
Signature: Wes Tolley
Address: P.O. Box 16738 Lubbock, TX 79490
Address of Property Owned: 4702 4th Street Lubbock, TX 79416

53 of 91

Zone Case Number: 1437-K 24160
MACVAN INVEST CO
PO BOX 16738

LUBBOCK TX 79490-6738

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

7

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**Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by:** **P&Z Case No.: 1437-K**

*In Favor of* X

*Opposed* ____

**Reasons and/or Comments:**

RECEIVED
MAR 04 REC'D
PLANNING DEPARTMENT

Print Name Toni J Galvan

Signature: Toni J. Galvan

Address: 107 Troy Ave Unit C, Lubbock, TX 79416-3158

Address of Property Owned: 107 Troy Ave Unit C, Lubbock, TX 79416-3158



Zone Case Number: 1437-K 69055
GALVAN, TONI J
107 TROY AVE APT C

LUBBOCK TX 79416-3158

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

7

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**Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by:** **P&Z Case No.: 1437-K**

*In Favor of* ___

*Opposed* X

RECEIVED
MAR 05 REC'D
PLANNING DEPARTMENT

**Reasons and/or Comments:**

Print Name Dewayne Todd

Signature: Dewayne Todd

Address: 4710 Amherst

Address of Property Owned: 4710 Amherst St



Zone Case Number: 1437-K 28406
TODD DEWAYNE & SHERRIE
4710 AMHERST ST

LUBBOCK TX 79416-3219

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

7

If for any reason you will be unable to attend the public hearing advertised by this notice, and wish to present your comments regarding the case, please complete this form and return it to the Secretary of the Planning and Zoning Commission, c/o Planning Department, P.O. Box 2000, Lubbock, TX, 79457, or fax to (806) 775-2100.

If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 775-2120.

**Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by:** **P&Z Case No.: 1437-K**

*In Favor of* ____

*Opposed* X

RECEIVED
MAR 05 REC'D
PLANNING DEPARTMENT

**Reasons and/or Comments:**

Print Name Sheanie Todd

Signature: Sheanie Todd

Address: 4712 Amherst St

Address of Property Owned: 4712 Amherst St

87 of 91

Zone Case Number: **1437-K** 28407
TODD, BOBBY F
& BOBBIE C
4710 AMHERST

LUBBOCK TX 79416

17

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

If for any reason you will be unable to attend the public hearing advertised by this notice, and wish to present your comments regarding the case, please complete this form and return it to the Secretary of the Planning and Zoning Commission, c/o Planning Department, P.O. Box 2000, Lubbock, TX, 79457, or fax to (806) 775-2100.

If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 775-2120.

**Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by:** **P&Z Case No.: 1437-K**

*In Favor of* ____

*Opposed* X

**Reasons and/or Comments:**
Apmts. would be right on top of us.

RECEIVED
MAR 05 REC'D
PLANNING DEPARTMENT

Print Name JAMES BARRETT

Signature: James Barrett

Address: 106 N. TROY AVE APT B

Address of Property Owned: 9702 - 4th ST.



Zone Case Number: **1437-K** 69079
BARRETT JAMES G JR
106 N TROY AVE APT B

LUBBOCK TX 79416-3021

**Regular City Council Meeting** **5. 22.**

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

**Ordinance 2nd Reading – Planning**: Consider Ordinance 2014-O0044 Zone Case 3095-C, a request of Hugo Reed and Associates, Inc., for Vasrim, Inc., for a zoning change from A-3 to IHC for a hotel on 1.7 acres of land out of Block A, Section 22, 4601 North Loop 289.

**Item Summary**

On March 27, 2014, the City Council approved the first reading of the ordinance.

General comments:
Request for a zoning change from A-3 to IHC for a hotel.

Adjacent land uses:
N - (C-3) Loop 289 (surgical center on other sides).
S - (A-2) Vacant land/mobile home subdivision.
E - (R-1) Vacant land.
W - (A-2) Apartments.

Comprehensive Land Use Plan (CLUP):
This request is consistent with the CLUP.

Zoning Policy:
The purpose of the IHC zoning district is to provide for quality uses which serve a City-wide or regional area. The proposed hotel use is in line with the intent of this district.

Effect on the adjacent street and thoroughfare system:
As a result of the change to allow a hotel, there will be increased traffic in the area; however, with its location on a regional thoroughfare approval will not negatively affect the surrounding development.

The previous zone case for the apartment district removed the screening fence requirement towards the R-1 (Texas Tech University) due to the open area which could be an area for undesired illegal activities to take place.

Recommendations:
On March 6, 2014, the Planning & Zoning Commission (P&Z) recommended the request with a vote of 5-0, with the following condition:
1. Screening fence will not be required on the east property line (adjacent to Texas Tech University).

**Fiscal Impact**

None.

**Staff/Board Recommending**

Quincy White, Assistant City Manager
P&Z Commission

**Attachments**

Ordinance - Zone Case 3095-C

Zone Case 3095-C

ORDINANCE NO._____

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 7084 AND THE OFFICIAL MAP OF THE CITY OF LUBBOCK MAKING THE FOLLOWING CHANGES: **ZONE CASE NO. 3095-C;** A ZONING CHANGE FROM **A-3** TO **IHC** ZONING DISTRICT ON **1.7 ACRES OF LAND OUT OF BLOCK A, SECTION 22,** 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, all conditions precedent required by law for a valid amendment to the Zoning Ordinance and Map have been fully compiled with, including giving notices in compliance with Section 40.01.005 of the Code of Ordinances, City of Lubbock, Texas, and the notices provided by the Texas Local Government Code §211.007 (Vernon, 1990), and notice was duly published in the Lubbock Avalanche-Journal more than fifteen (15) days prior to the date of the public hearing before the City Council on such proposed amendment, and the public hearing according to said notice, was held in the City Council Chamber of the Municipal Building, Lubbock, Texas, at which time persons appeared in support of the proposal; and after said hearing, it was by the City Council determined that it would be in the public interest, due to changed conditions, that the Zoning Ordinance and the Zoning Map be amended in the manner hereinafter set forth in the body of this Ordinances and this Ordinance having been introduced prior to first reading hereof; NOW THEREFORE:

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

**ZONE CASE NO. 3095-C**

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 **A-3** to **IHC** zoning district on **1.7 acres of land out of Block A, Section 22,** City of Lubbock, Lubbock County, Texas located at **4601 North Loop 289,** 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 screening fence on the east property line (adjacent to Texas Tech University) shall be waived.**

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

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

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

AND IT IS SO ORDERED.

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Andrew Paxton, Director of Planning

APPROVED AS TO FORM:

_____
Chad Weaver
Assistant City Attorney

vw/CityAtt/Chad/Zones/ZC3095-C
March 6, 2014

HUGO REED AND ASSOCIATES, INC.
1601 AVENUE N / LUBBOCK, TEXAS 79401 / 806/763-5642 / FAX 806/763-3891
TEXAS REGISTERED ENGINEERING FIRM F-760
TEXAS LICENSED SURVEYING FIRM 100676-00

LAND SURVEYORS
CIVIL ENGINEERS

# PROPOSED IHC ZONING

METES AND BOUND DESCRIPTION of a 1.7 acre tract of land located in Section 22, Block A, Lubbock County, Texas, being further described as follows:

BEGINNING at a point in the Southeast right-of-way line of North Loop 289 for the Northeast corner of this tract which bears North an approximate distance of 4,074.7 feet and East an approximate distance of 3,416.2 feet from the Southwest corner of Section 22, Block A, Lubbock County, Texas;

THENCE S. 00°02'29" W. an approximate distance of 555.1 feet to a point for the Southeast corner of this tract;

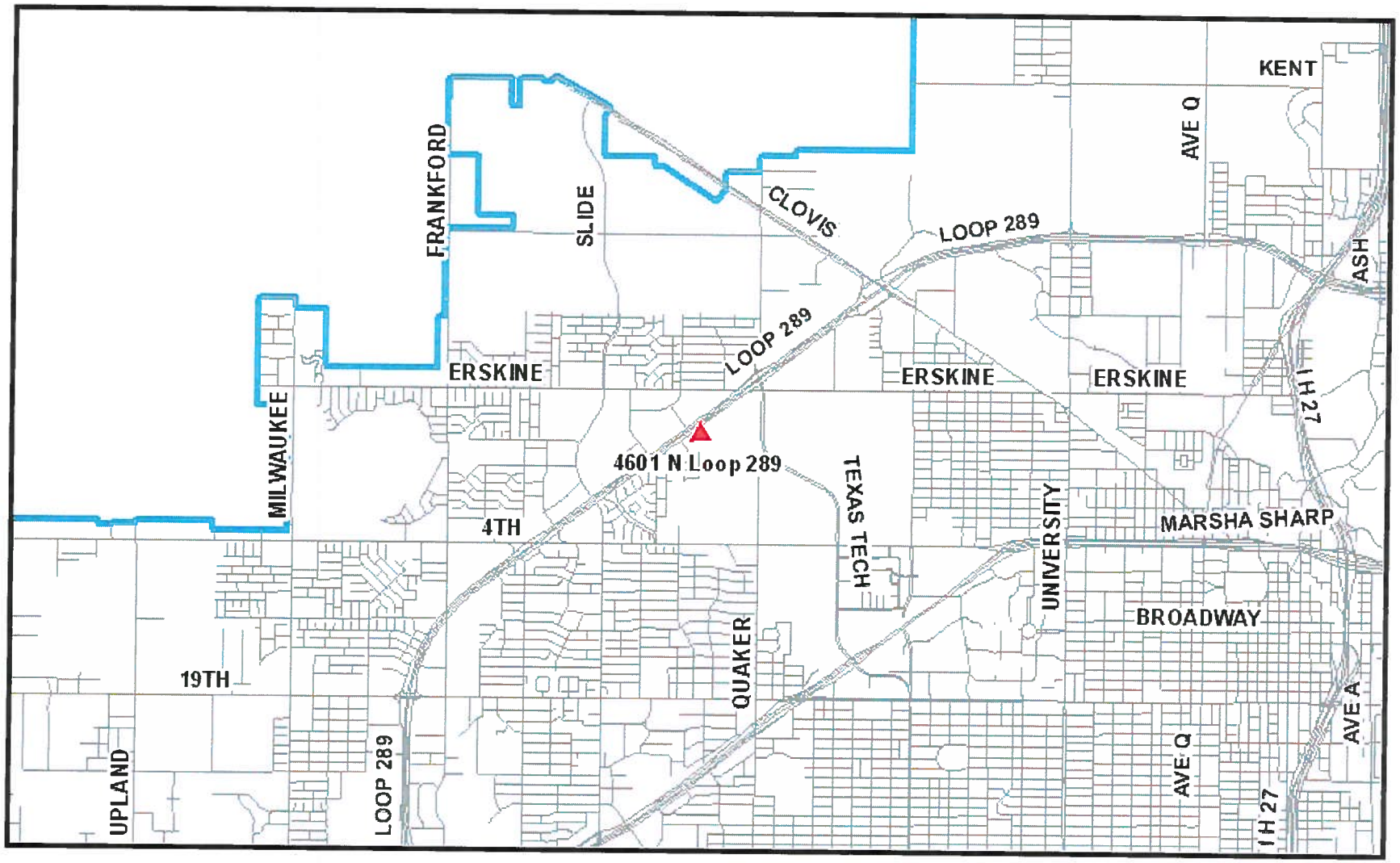
THENCE N. 36°54'29" W. an approximate distance of 443.6 feet to a point in the Southeast right-of-way line of said North Loop 289, for the Northwest corner of this tract;

THENCE N. 53°05'32" E., along said Southeast right-of-way line, an approximate distance of 333.7 feet to the Point of Beginning.

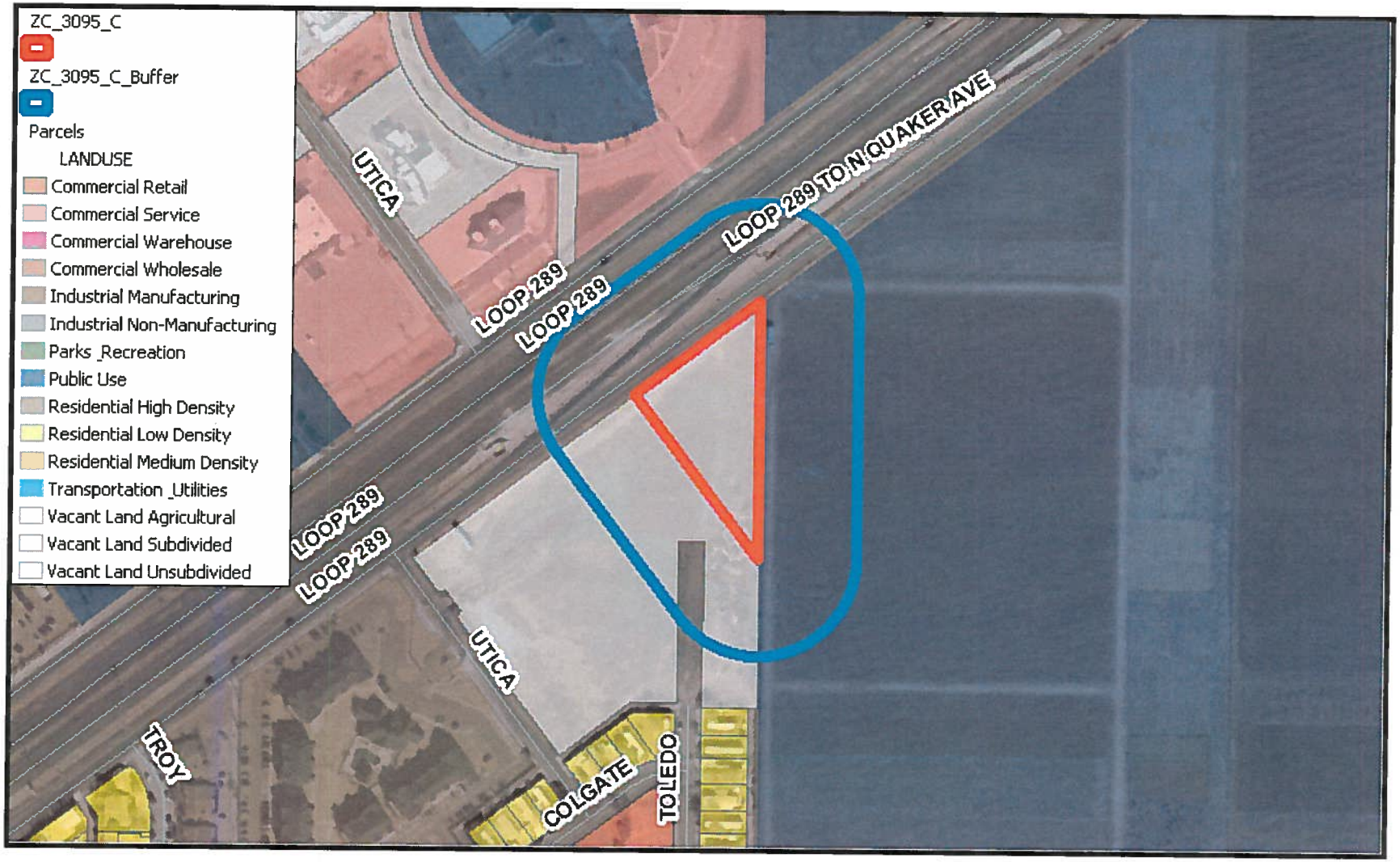
Contains: 74,014 square feet.

**PREPARED FOR ZONE CHANGE REQUEST ONLY; DOES NOT REPRESENT A SURVEY.**

NOT FOR RECORDING

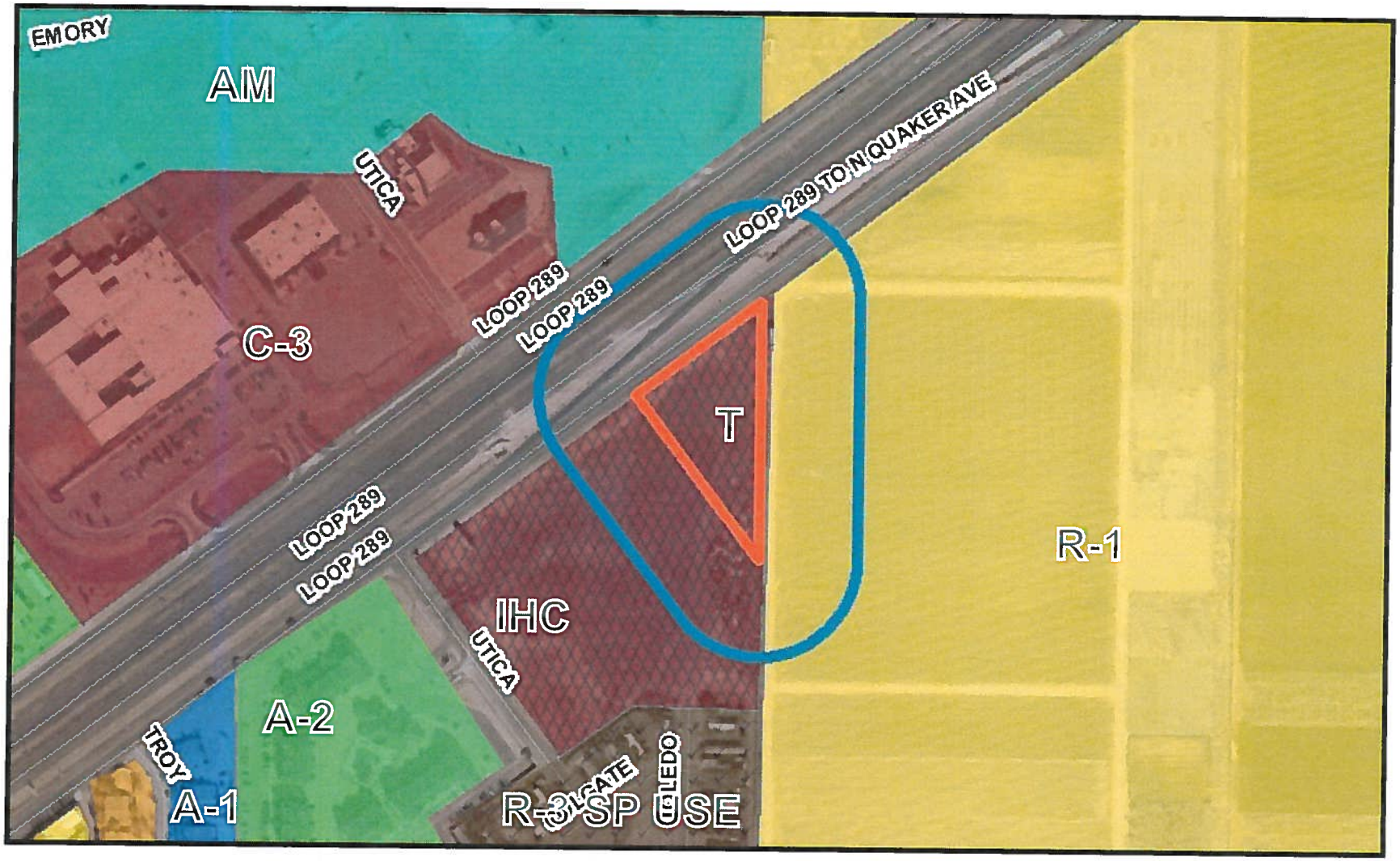



# P.Z.C. Case 3095-C




# P.Z.C. Case 3095-C

**Request of Hugo Reed and Associates, Inc. (for Vasrim, Inc.) for a zoning change from A-3 to IHC for a hotel, 4601 North Loop 289**




# P.Z.C. Case 3095-C Zoning

# APPLICATION FOR ZONE CHANGE

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

**Applicant** (Please Print)
Hugo Reed and Associates, Inc.
1601 Avenue N
Street/Post Office Box
Lubbock, Texas 79401
City State Zip
(806) 763-5642
Telephone

**For**
Vasrim, Inc.
715 South Filmore Street
Street/Post Office Box
Amarillo, Texas 79101
City State Zip
806-206-4788
Telephone

**Location or Address:** South side of North Loop 289 approximately 700 feet northeast of North Utica Avenue

**Legal Description:*** See metes and bounds description attached

**Existing Land Use:** Vacant **Existing Zoning:** A-2

**Acreage or Square Footage of Property:** 1.7 acres

**Zoning Requested:** IHC

**Proposed Development:** Hotel

**If property is not subdivided, will preliminary plat be submitted?** Yes X No

Terry Holeman
**Applicant's Signature**

February 8, 2014
**Date**

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

**Filing Fee:** $478 (Vasrim #1005)
($475.00 for the first acre; $3.00 for each additional acre; $165 for non-profit)

CK: 1005 pd

**For City Use Only** MH8 Map 9

**Zone Case No.:** 3095-C **Agenda No.:** 8

**Request for zoning change from:** A3 **To:** IHC

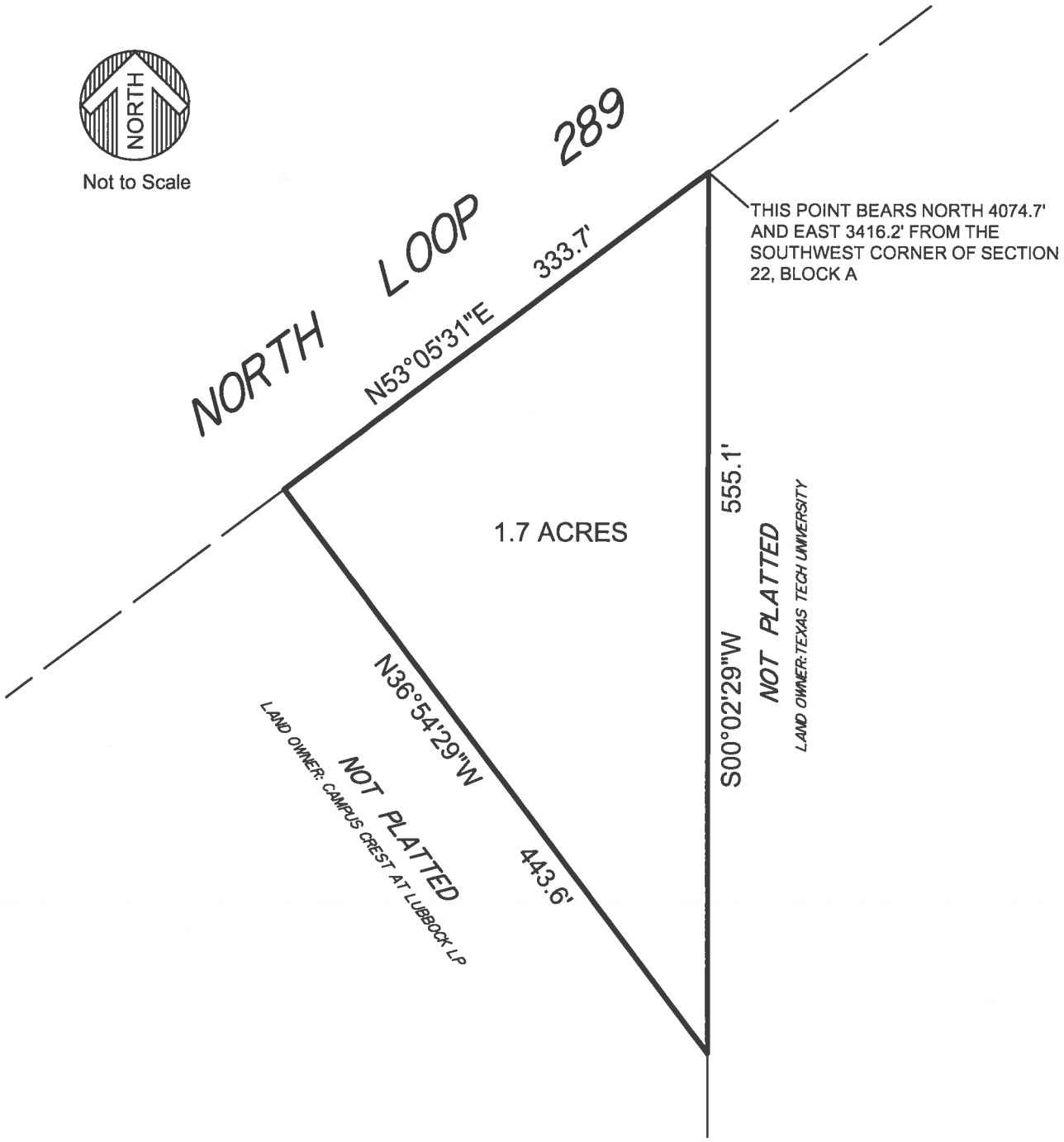
1.7 acres of land out of Block A Section 22

**on Lot(s):** — **Block(s):** —

**Subdivision:** — **Address:** 4601 N Loop 289

SR

# PROPOSED IHC ZONING LOCATED IN SECTION 22, BLOCK A




W.W.

FEBRUARY 07, 2014

HUGO REED AND ASSOCIATES, INC.
LAND SURVEYORS
CIVIL ENGINEERS
TEXAS LICENSED SURVEYING FIRM 100676-00
TEXAS REGISTERED ENGINEERING FIRM F-760
1601 AVENUE N
LUBBOCK, TEXAS 79401
PHONE: 806 / 763-5642
FAX: 806 / 763-3891

LAND SURVEYORS
CIVIL ENGINEERS

HUGO REED AND ASSOCIATES, INC.
1601 AVENUE N / LUBBOCK, TEXAS 79401 / 806/763-5642 / FAX 806/763-3891
TEXAS REGISTERED ENGINEERING FIRM F-760
TEXAS LICENSED SURVEYING FIRM 100676-00

# PROPOSED IHC ZONING

METES AND BOUND DESCRIPTION of a 1.7 acre tract of land located in Section 22, Block A, Lubbock County, Texas, being further described as follows:

BEGINNING at a point in the Southeast right-of-way line of North Loop 289 for the Northeast corner of this tract which bears North an approximate distance of 4,074.7 feet and East an approximate distance of 3,416.2 feet from the Southwest corner of Section 22, Block A, Lubbock County, Texas;

THENCE S. 00°02'29" W. an approximate distance of 555.1 feet to a point for the Southeast corner of this tract;

THENCE N. 36°54'29" W. an approximate distance of 443.6 feet to a point in the Southeast right-of-way line of said North Loop 289, for the Northwest corner of this tract;

THENCE N. 53°05'32" E., along said Southeast right-of-way line, an approximate distance of 333.7 feet to the Point of Beginning.

Contains: 74,014 square feet.

**PREPARED FOR ZONE CHANGE REQUEST ONLY; DOES NOT REPRESENT A SURVEY.**

NOT FOR RECORDING

**Regular City Council Meeting** **5. 23.**

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

**Ordinance 2nd Reading – Planning**: Consider Ordinance 2014-O0045 Zone Case 3034-A, a request of Condray Design Group, for Lubbock Children's Health Clinic, for a zoning change from C-2A and R-2 to AM Specific Use on Lots 5 through 9, SW McGaw Addition, 1702 and 1704 East 13th Street and 1703 East 14th Street.

**Item Summary**

On March 27, 2014, the City Council approved the first reading of the ordinance.

General comments:
The request of the proponent is a down zone from C-2A (restricted local retail) to AM Specific Use (Apartment Medical) for a children's health clinic. The new district will allow the proposed use and will allow a reduction in the side and rear setbacks and parking, and not require the screening fence requirement.

Adjacent land uses:
N - R-2 (vacant land).
S - R-2 (vacant land).
E - R-2 (house).
W - C-2A (vacant land).

Comprehensive Land Use Plan (CLUP):
While the current CLUP outlines this area as low density residential, discussion during the C-2A zoning case included the fact that the change would amend the CLUP. This would be a minor change to the CLUP; however, the change is a down zone closer in line with the intended use of this area. If approved, please include a statement as a part of the motion to approve a minor change to the CLUP.

Zoning Policy:
While the area is targeted for residential use, it has remained vacant and does not appear this will change in the near future. The proposed change is a more residential friendly district which removes more intensive commercial uses and will be a positive alteration for this area.

Effect on the adjacent street and thoroughfare system:
MLK Jr. Boulevard is a designated thoroughfare. The proposed plan would add one additional curb cut off of MLK Jr. Boulevard and one additional curb cut on 14th Street. The effect on the thoroughfare system should be minimal.

Recommendations:
On March 6, 2014, the P&Z recommended the request with a vote of 5-0, with the following condition:
1. Tied to the proposed site plan and elevations, including the reduced setbacks, reduction in the number of parking stalls, the one curb cut on MLK Jr. Boulevard and waived screening fence on the north property line.

**Fiscal Impact**

None.

**Staff/Board Recommending**

Quincy White, Assistant City Manager
P&Z Commission

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**Attachments**

Ordinance - Zone Case 3034-A

Zone Case 3034-A

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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. 3034-A;** A ZONING CHANGE FROM **C-2A AND R-2** TO **AM SPECIFIC USE** FOR **REDUCED SETBACKS AND REDUCED PARKING STALLS**, ON **LOTS 5 THROUGH 9, SW MCGAW ADDITION,** LUBBOCK, TEXAS; SUBJECT TO CONDITIONS; PROVIDING A PENALTY; PROVIDING A SAVINGS CLAUSE AND PROVIDING FOR PUBLICATION.

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

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

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

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

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

**ZONE CASE NO. 3034-A**

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

A change of zoning under provisions of Section 40.01.005 of the Code of Ordinances of the City of Lubbock from **C-2A and R-2** to **AM Specific Use** for **reduced setbacks and reduced parking stalls** on **Lots 5 through 9, SW McGaw Addition,** City of Lubbock, Lubbock County, Texas, located at **1702 and 1704 East 13th Street and 1703 East 14th Street,** subject to conditions, and being further described as follows:

**SUBJECT TO THE FOLLOWING CONDITIONS:**

1. **THAT the zone be tied to the proposed site plan and elevations, including the reduced setbacks, reduction in the number of parking stalls, the one curb cut on MLK Jr. Blvd. and waived screening fence on the north property line.**

SECTION 2. THAT the granting of this specific use zoning is hereby made subject to compliance with all provisions of Zoning Ordinance No. 7084, as amended, including particularly, but not limited to, Section 40.03.3102 of the Codified Zoning Ordinance, which provides that a Building Permit shall be applied for and secured within thirty (30) months of the effective date of the zone change or all undeveloped property shall automatically revert back to the previous zoning classification, which in this case is the **C-2A and R-2** zone district; and if such reversion occurs, the Director of Planning is directed to remove from the Zoning Map the legend indicating such specific use. The Specific Use authorized by this Ordinance is permitted under provision of Section 40.03.3101-40.03.3103 of Codified Zoning Ordinance No. 7084 on the property described as **1702 and 1704 East 13th Street and 1703 East 14th Street**, City of Lubbock, Lubbock County, Texas.

SECTION 3. THAT violation of any provision of this Ordinance shall be deemed a misdemeanor punishable by fine not to exceed Two Thousand and No/100 Dollars ($2,000.00) as provided in Section 40.01.006 of the Zoning Ordinance of the City of Lubbock.

SECTION 4. THAT should any paragraph, sentence, clause, phrase or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

SECTION 5. THAT the City Secretary is hereby authorized to cause publication of the descriptive caption of this Ordinance as an alternative method provided by law.

AND IT IS SO ORDERED.

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

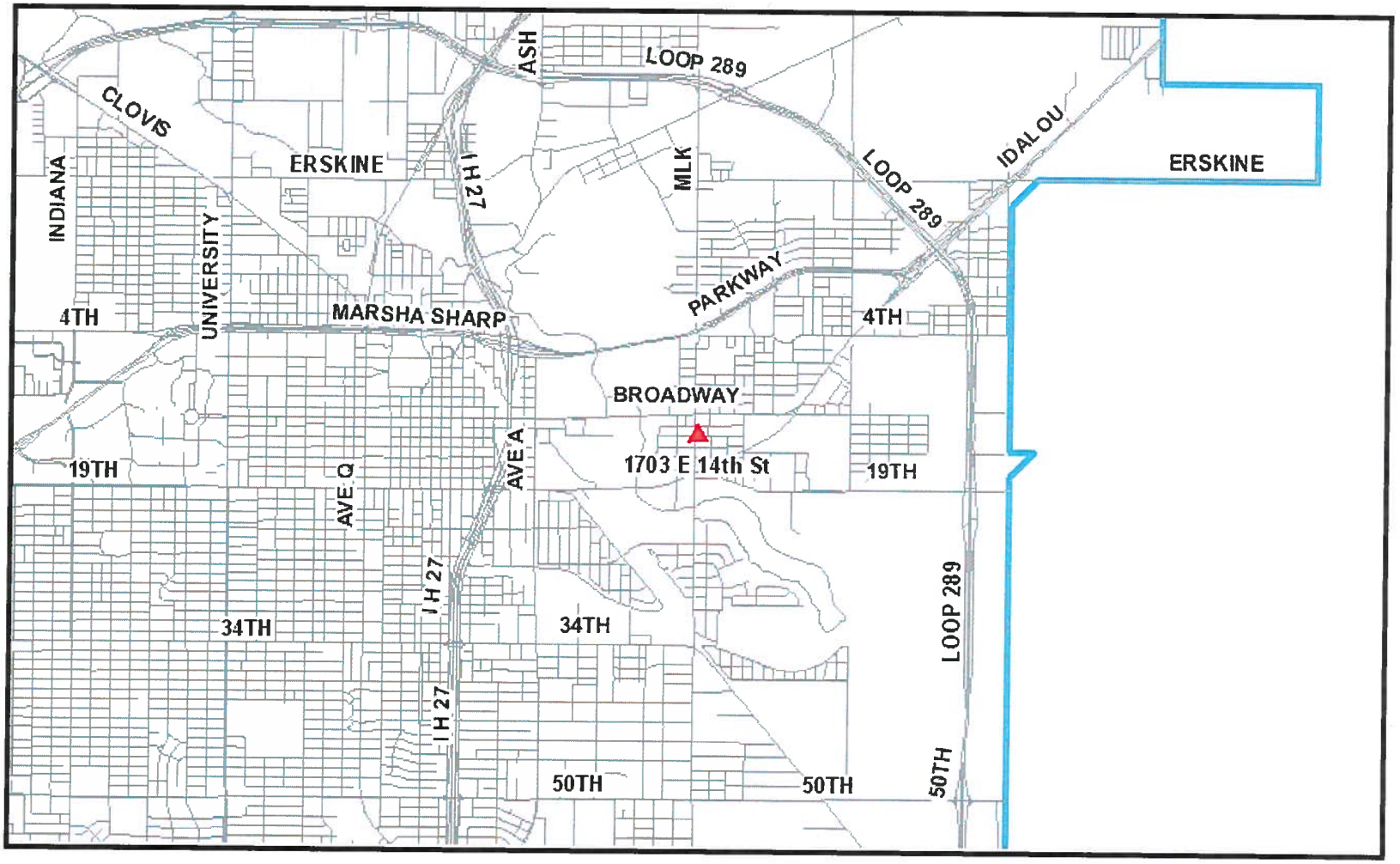
APPROVED AS TO CONTENT:

_____
Andrew Paxton, Director of Planning

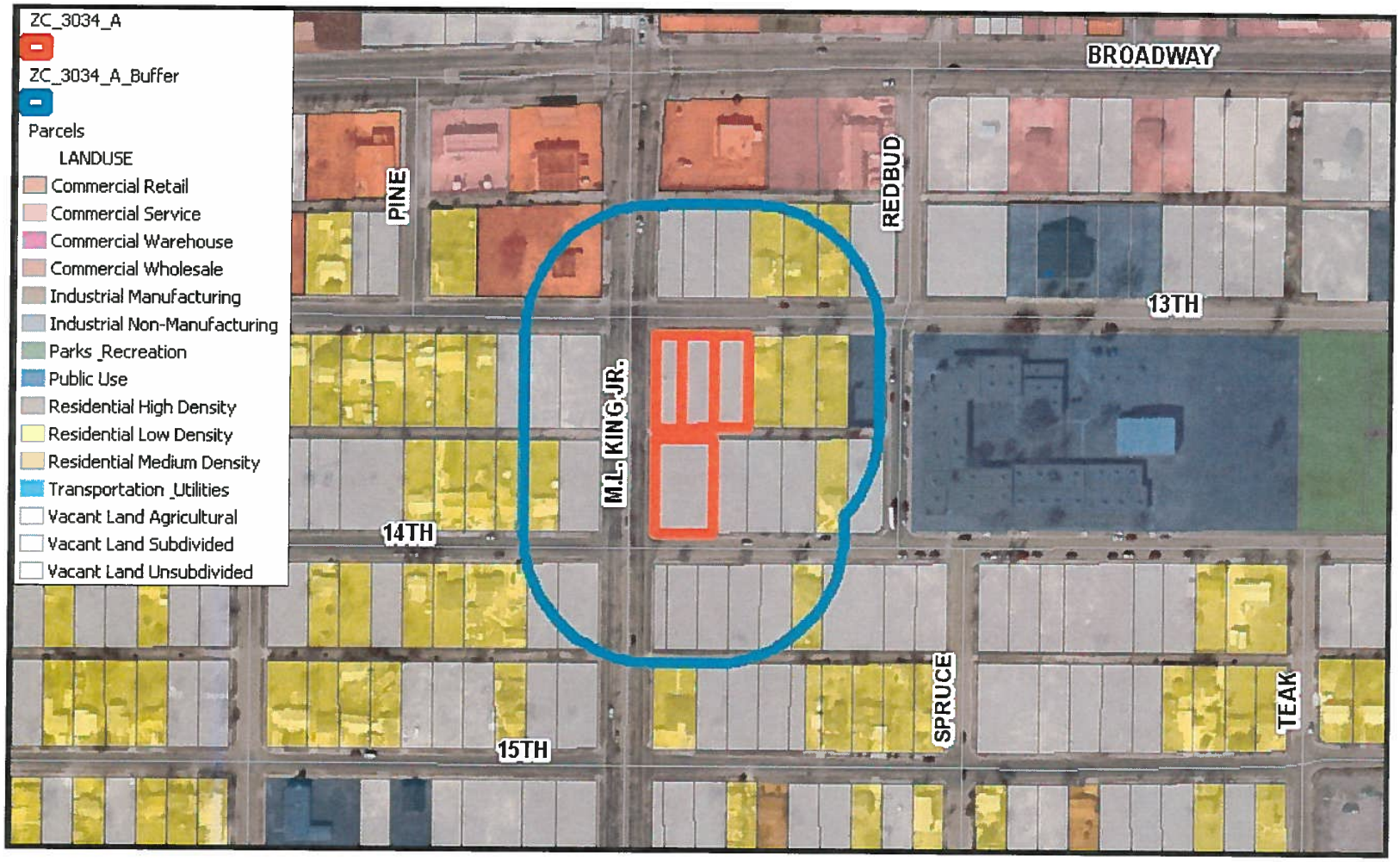
APPROVED AS TO FORM:

_____
Chad Weaver
Assistant City Attorney

vw/CityAtt/Chad/Zones/ZC3034-A
March 6, 2014

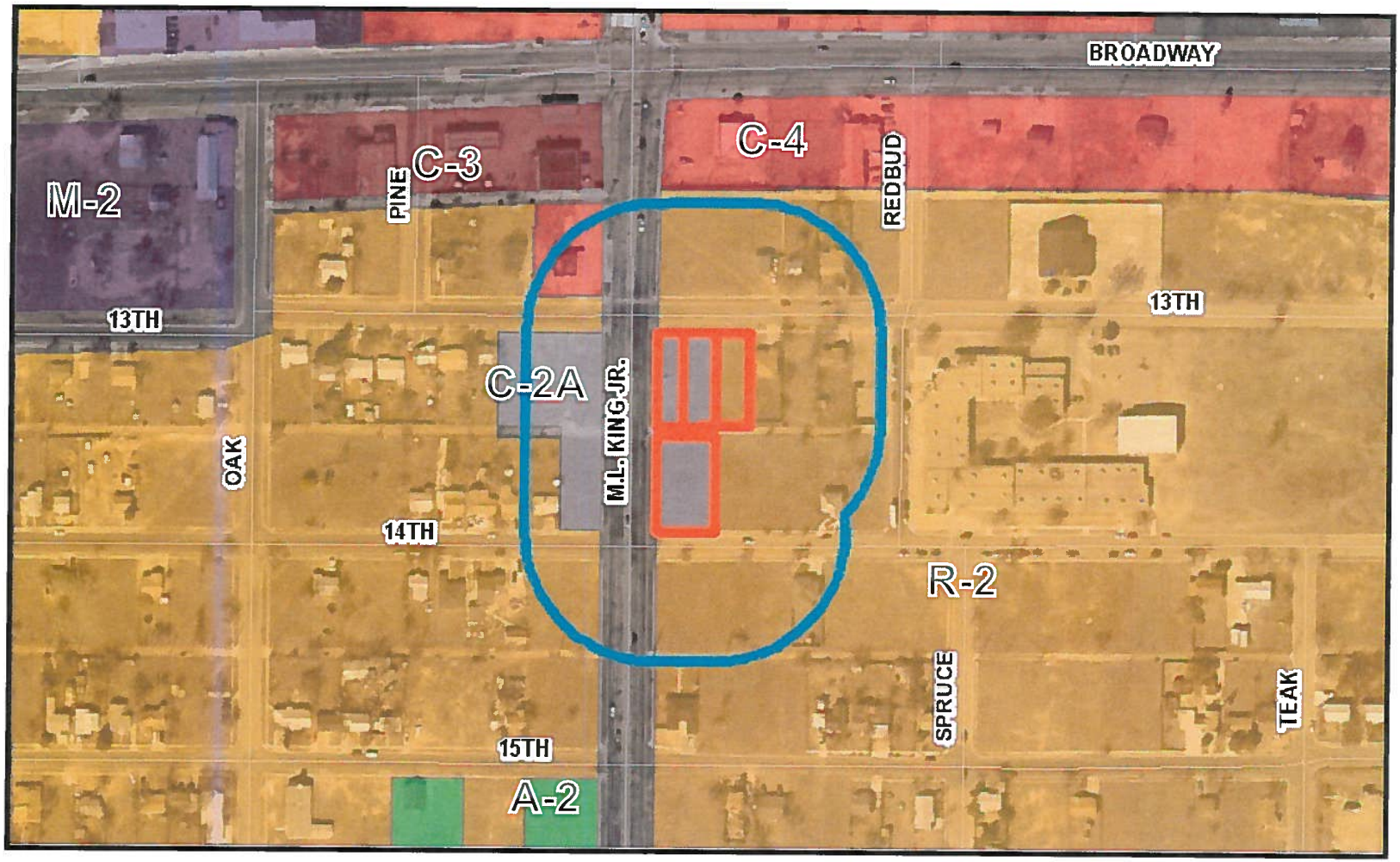



# P.Z.C. Case 3034-A




# P.Z.C. Case 3034-A

**Request of Condray Design Group (for Lubbock Children's Health Clinic) for a zoning change from C-2A and R-2 to AM Specific Use, 1702 and 1704 East 13th Street and 1703 East 14th Street**




# P.Z.C. Case 3034-A Zoning

city of lubbock TEXAS

# APPLICATION FOR ZONE CHANGE

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

**Applicant** (Please Print) CONDRAY DESIGN GROUP
1402 AVE. N
Street/Post Office Box
LUBBOCK, TX 79401
City State Zip
(806.748.6190
Telephone

**For** LUBBOCK CHILDREN'S HEALTH CLINIC
P.O. BOX 12103
Street/Post Office Box
LUBBOCK, TX 79452
City State Zip
(806.749.3300
Telephone

**Location or Address:** 1704 E. 13TH STREET, LUBBOCK, TX 79403

**Legal Description:*** S.W. MCGAUGH ADDITION, LOTS 5-9

**Existing Land Use:** VACANT **Existing Zoning:** C-2A / R-2

**Acreage or Square Footage of Property:** 36,625 ± (.84 ACRES)

**Zoning Requested:** "AM" APARTMENT-MEDICAL DISTRICT SPECIFIC USE

**Proposed Development:** CHILDREN'S CLINIC

**If property is not subdivided, will preliminary plat be submitted?** Yes ____ No ✓

**Applicant's Signature**

2.7.14
**Date**

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

**Filing Fee:** $165.00
**($475.00 for the first acre; $3.00 for each additional acre; $165 for Non-Profit)**

## For City Use Only

38865 - 38868 map 15

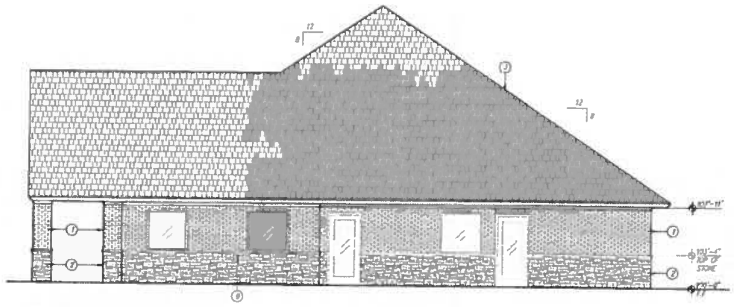
**Zone Case No.:** 3034-A **Agenda No.:** 9

**Request for zoning change from:** C-2A, R-2 **To:** AM specific use

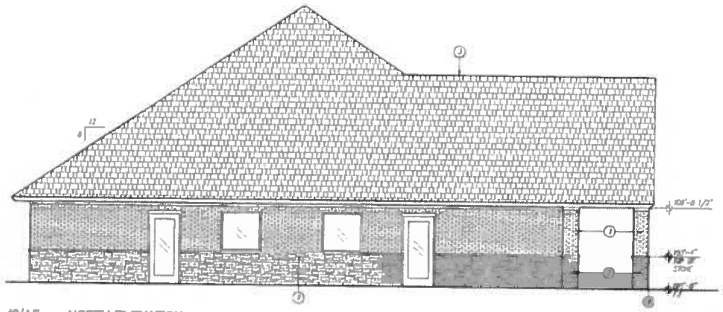
**on Lot(s):** 5 through 9 **Block(s):** —

**Subdivision:** S W MC GAW **Address:** 1702 and 1704 E 13th St and 1703 E 14th St

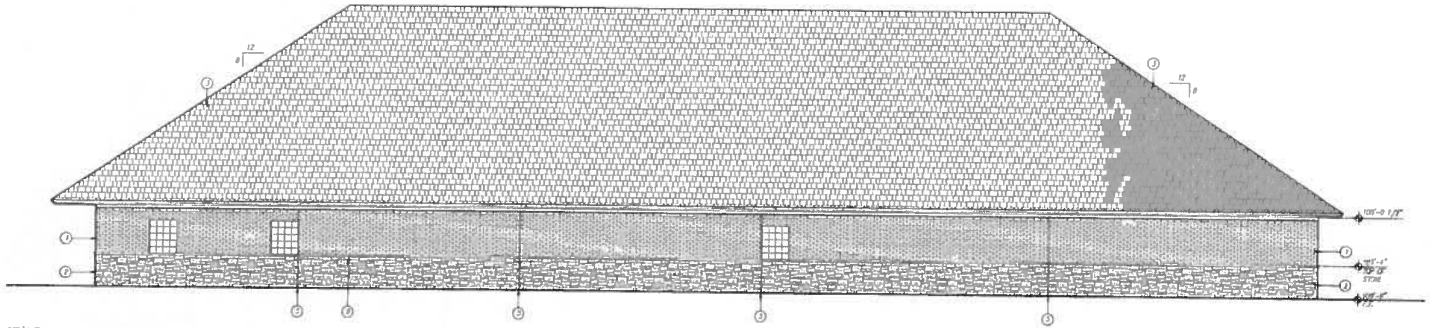
SR



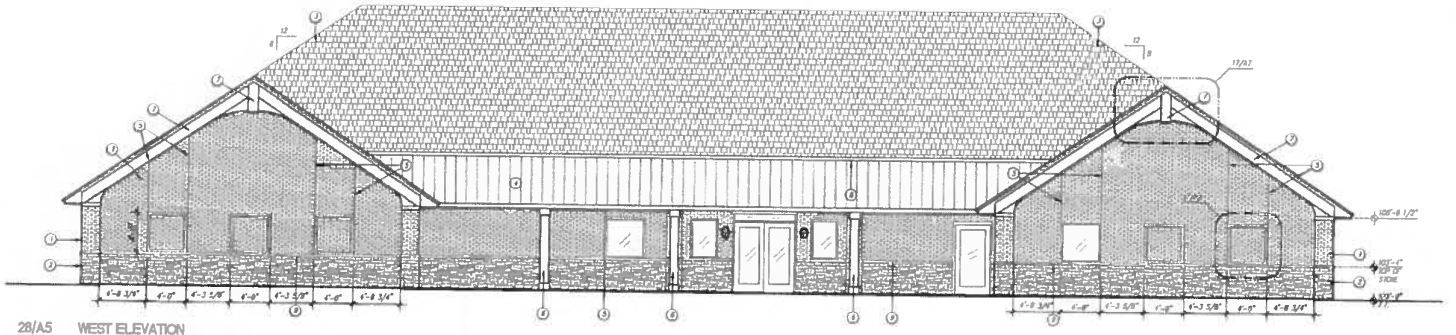
26/A5 SOUTH ELEVATION
SCALE: 3/16" = 1'-0"



13/A5 NORTH ELEVATION
SCALE: 3/16" = 1'-0"



27/A5 EAST ELEVATION
SCALE: 3/16" = 1'-0"



28/A5 WEST ELEVATION
SCALE: 3/16" = 1'-0"

## GENERAL NOTES

1) REFER TO ROOF PLAN AND MPE FOR ROOF-MOUNTED ITEMS.

## KEYED NOTES

DESIGNATED BY: ⟨7⟩

7. FACE BRICK AS SPECIFIED.
2. STONE AS SPECIFIED.
3. COMPOSITE SHINGLE ROOF AS SPECIFIED.
4. METAL ROOF AS SPECIFIED.
5. CONTROL JOINT FILL WITH BACKER ROD AND SEALANT.
6. ROUGH SAWN CEDAR COLUMN SURROUND.
7. ROUGH SAWN CEDAR BEAM SURROUND. REFER TO DETAILS ON A7.
8. PREFINISHED METAL FLASHING.
9. STONE WATER TABLE.

CONDRAY DESIGN GROUP
ARCHITECTURE & INTERIORS
1402 AVENUE N
LUBBOCK, TX 79401
806.748.6190
www.condray.com

SURENDRAN CONSULTING
STRUCTURAL ENGINEERS PLLC

CHAMBERS ENGINEERING, LLC

BSA Consulting Engineers, PLLC
Electrical & Mechanical Consulting Engineers

LUBBOCK CHILDREN'S HEALTH CLINIC
NEW EAST CLINIC

EAST 13TH STREET AND MARTIN LUTHER KING BLVD.
LUBBOCK, TEXAS 79403

REVISIONS:

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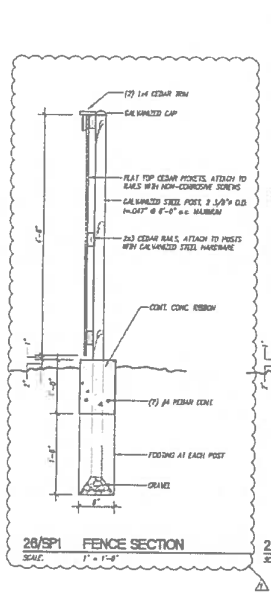
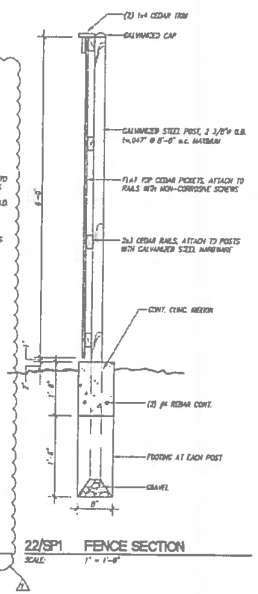
PROJECT NO. 21318
DATE: 01/28/2014

SHEET NO.
A5

5 OF 10




28/SP1 FENCE SECTION
SCALE: 1" = 1'-0"




22/SP1 FENCE SECTION
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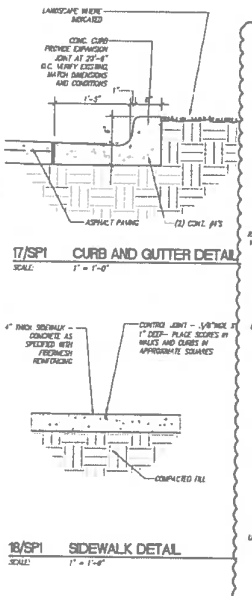
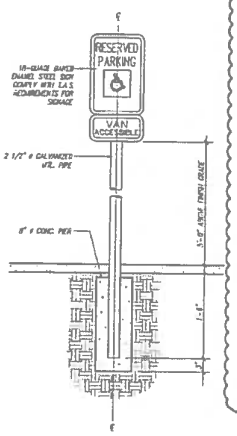
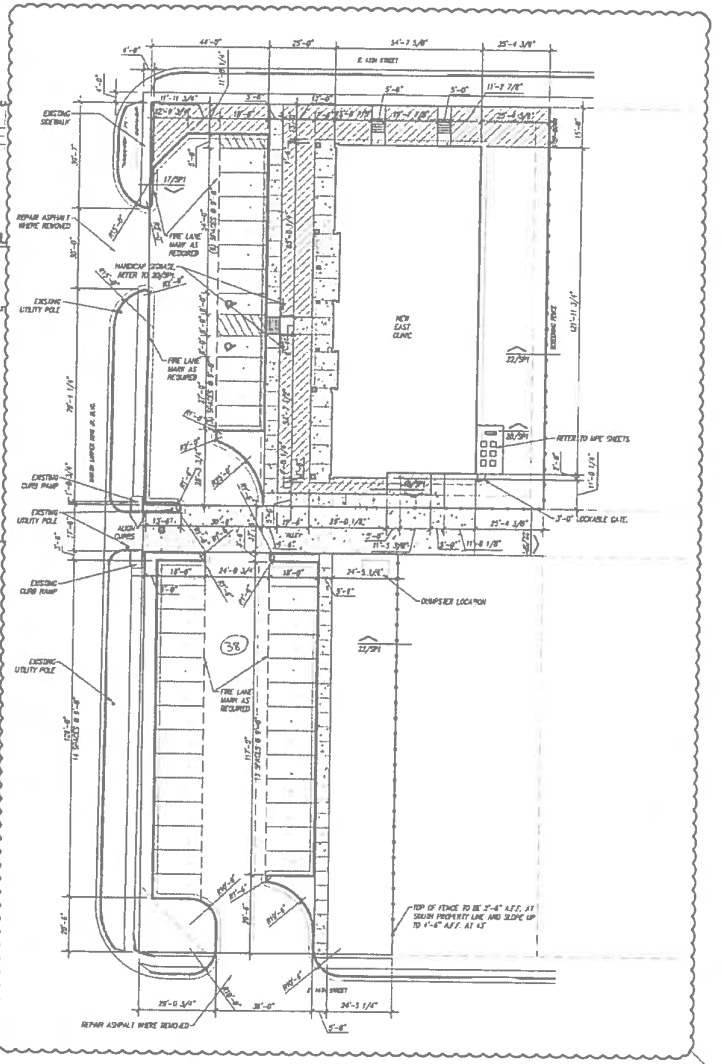



17/SP1 CURB AND GUTTER DETAIL
SCALE: 1" = 1'-0"

18/SP1 SIDEWALK DETAIL
SCALE: 1" = 1'-0"




ACCESSIBLE PARKING SIGNAGE
20/SP1
SCALE: N.T.S.




16/SP1 SITE PLAN
SCALE: 1" = 30'-0"

## GENERAL SITE PLAN NOTES

1). ALL DIMENSIONS SHOWN ARE TO FACE OF BRICK, FACE OF CURB, OR PROPERTY LINE UNLESS NOTED OTHERWISE.

2). FIELD VERIFY EXACT LOCATIONS OF EXISTING UTILITIES BEFORE COMMENCING WORK, EXCAVATION OR TRENCHING.

3). FIELD VERIFY ALL DIMENSIONS AND GRADES (EXISTING AND NEW CONSTRUCTION). ADJUST WHERE REQUIRED TO PROVIDE PROPER AND COMPLETE INSTALLATION. NOTIFY ARCHITECT IN CASE OF ANY DISCREPANCIES.

4). ALL EXISTING SITE CONDITIONS NOT AFFECTED BY (I.E. CURBING, WALKS, LANDSCAPING, ETC.) SHALL BE PROTECTED AND REPLACED IF DAMAGED.

5). REFER TO MPE DRAWINGS FOR SCOPE AND EXTENT OF ALL MECHANICAL AND ELECTRICAL WORK TO BE COMPLETED.

6). NEW CONSTRUCTION INTERSECTING WITH EXISTING CONDITIONS SHALL MATCH EXISTING ELEVATIONS, CONTOURS AND PROVIDE A SMOOTH TRANSITION.

7). ALL SOIL CONCRETE FLATWORK, CLOSER THAN STRUCTURAL, TO BE REINFORCED USING FIBERMESH UNLESS NOTED OTHERWISE.

8). ALL LANDSCAPE AREAS USED DURING CONSTRUCTION FOR STAGING OR STORAGE ARE TO BE RESOD TO MATCH EXISTING CONDITIONS. ALL IRRIGATION SYSTEMS THAT ARE DISTURBED DURING CONSTRUCTION ARE TO BE REPAIRED IF AFFECTED.

9). REFER TO CIVIL SHEETS FOR FINAL GRADING INFORMATION.

## LEGEND

PROPERTY LINE

LANDSCAPED AREA

NEW CONCRETE, REFER TO STRUCTURAL

CONDRAY DESIGN GROUP
ARCHITECTURE & INTERIORS
1402 AVENUE N
LUBBOCK, TX 79401
806.748.6190
www.condray.com

REGISTERED ARCHITECT
STATE OF TEXAS
CONDRAY

SURENDRAN CONSULTING
STRUCTURAL ENGINEERING

CHAMBERS ENGINEERING, LLC

BSA
Electrical & Mechanical Consulting Engineers
Phone:806.785.7475
Fax: 806.780.0139

LUBBOCK CHILDREN'S HEALTH CLINIC
NEW EAST CLINIC
EAST 13TH STREET AND MARTIN LUTHER KING BLVD
LUBBOCK, TEXAS 79403

REVISIONS:
1 01/21/2014
2 02/03/2014

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PROJECT NO. 1138
DATE 01/03/2014

SHEET NO.
SP1
1 OF 1

# Lubbock Children's Health Clinic

January 2014

13th & Martin Luther King Blvd.

CONDRAY
DESIGN GROUP

9

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

If for any reason you will be unable to attend the public hearing advertised by this notice, and wish to present your comments regarding the case, please complete this form and return it to the Secretary of the Planning and Zoning Commission, c/o Planning Department, P.O. Box 2000, Lubbock, TX, 79457, or fax to (806) 775-2100.

If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 775-2120.

**Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by:** **P&Z Case No.: 3034-A**

*In Favor of* ✓

*Opposed* ____

RECEIVED
MAR 05 REC'D
PLANNING DEPARTMENT

**Reasons and/or Comments:**

Print Name Fernando G. Romo

Signature: Fernando G. Romo

Address: 1711 E. 13th St Lubbock, Texas 79403

Address of Property Owned: 1711 E. 13th St.

22 of 26

Zone Case Number: **3034-A** 38859
ROMO, FERNANDO GARZA
1711 E 13TH ST

LUBBOCK TX 79403-5701

**Regular City Council Meeting** **5. 24.**

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

**Ordinance 2nd Reading – Planning**: Consider Ordinance 2014-O0046 Zone Case 1913-C, a request of Zac Garth, for Gene McGuire, for a zoning change from R-1 to Garden Office (GO) on 2.836 acres of unplatted land out of Block AK, Section 44, 2401 West Loop 289.

**Item Summary**

On March 27, 2014, the City Council approved the first reading of the ordinance.

General comments:
The request is for a zoning change from R-1 to GO for an office.

Adjacent land uses:
N: (AM Specific Use for a Motel) extended stay motel.
S: (A-1) apartments.
E: (A-1) duplexes.
W: (C-3) Loop 289, then vacant land.

Comprehensive Land Use Plan (CLUP):
Currently, the CLUP has medium to high density residential at this location. The CLUP is our guide and is an evolving plan that changes, because the City is a growing, changing, living body. The pocket left as R-1 which is proposed for GO should not be left as R-1. Residential zoning surrounded by apartments, commercial and west Loop 289 in such a small area, in staff's opinion, would not be the best use for the land. Currently, the CLUP does not distinguish between apartments or GO as a buffer district and is better suited for major thoroughfares than residential.

Zoning Policy:
The GO zoning district is intended to provide "compatibility between offices and adjacent uses and promote a stable environment between residential and commercial uses." With the adjacent land uses being apartments and duplexes, the addition of garden offices at this location will provide a needed buffer between the loop and residential zoning.

Effect on the adjacent street and thoroughfare system:
There should be no adverse effects on the thoroughfare system.

Recommendations:
On March 6, 2014, the P&Z Commission (P&Z) recommended the request with a vote of 5-0.

**Fiscal Impact**

None.

**Staff/Board Recommending**

Quincy White, Assistant City Manager
P&Z Commission

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**Attachments**

Ordinance - Zone Case 1913-C

Zone Case 1913-C

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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. 1913-C;** A ZONING CHANGE FROM **R-1** TO **GO** ZONING DISTRICT ON **2.836 ACRES OF UNPLATTED LAND OUT OF BLOCK AK, SECTION 44,** 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. 1913-C**

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

A change of zoning under the provisions of Section 40.01.005 of the Code of Ordinances of the City of Lubbock from **R-1** to **GO** zoning district on **2.836 acres of unplatted land out of Block AK, Section 44**, City of Lubbock, Lubbock County, Texas, located at **2401 West Loop 289.**

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

SECTION 2. THAT violation of any provision of this Ordinance shall be deemed a misdemeanor punishable by fine not to exceed Two Thousand and No/100 Dollars

($2,000.00) as provided in Section 40.01.006 of the Zoning Ordinance of the City of Lubbock.

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

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

AND IT IS SO ORDERED.

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

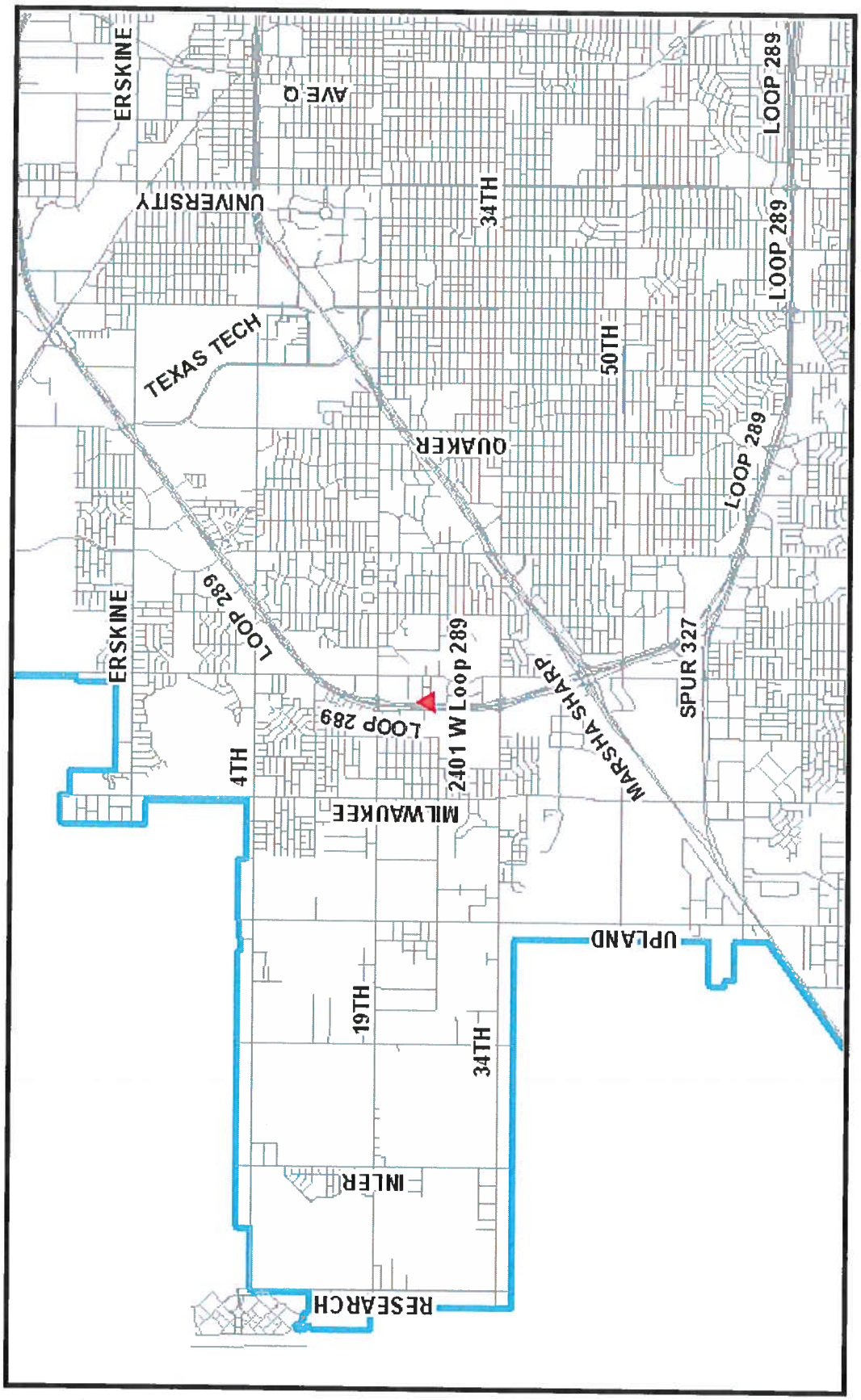
APPROVED AS TO CONTENT:

_____
Andrew Paxton, Director of Planning

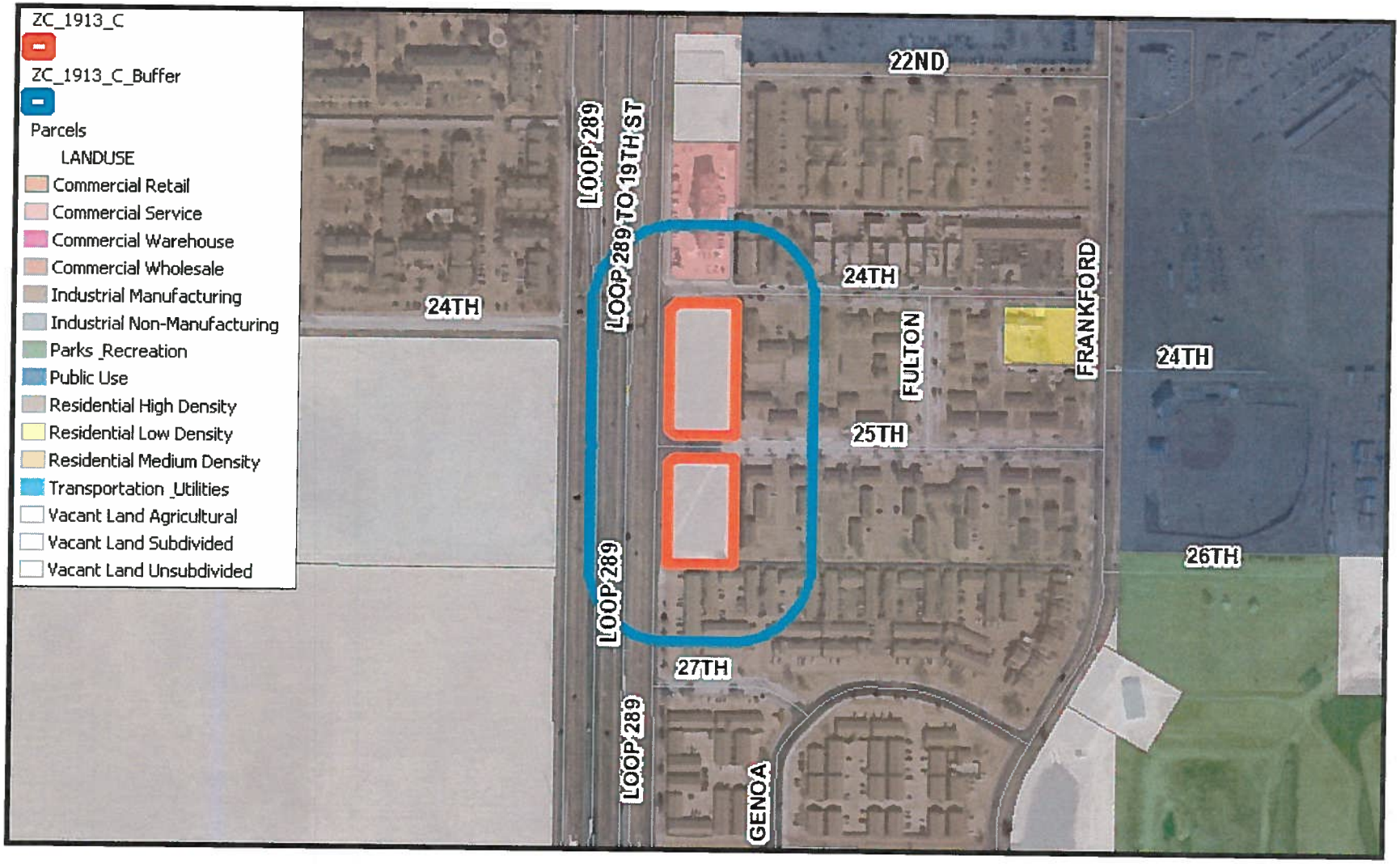
APPROVED AS TO FORM:

_____
Chad Weaver
Assistant City Attorney

vw/cityatt/Chad/ZoneCase/ZC1913-C
March 6, 2014




# P.Z.C. Case 1913-C




# P.Z.C. Case 1913-C

## Request of Zac Garth (for Gene McGuire) for a zoning change from R-1 to GO, 2401 West Loop 289

# P.Z.C. Case 1913-C Zoning

city of lubbock TEXAS

# APPLICATION FOR ZONE CHANGE

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

**Applicant** (Please Print) ZAC EARTH (THUNN DESIGNS) **For** GENE MCNUTT (TEXAS PEWTER)

12402 SLIDE RD. STE. 203
Street/Post Office Box

LUBBOCK TX. 79424
City State Zip

(806) 794-6700
Telephone

5102 60th STREET
Street/Post Office Box

LUBBOCK TX 79414
City State Zip

(806)
Telephone

**Location or Address:** 2401 W LOOP 289 LUBBOCK TX.

**Legal Description:*** BLK AK SEC 44 AB 1395 TR A ACS: 2.836

**Existing Land Use:** VACANT LOT **Existing Zoning:** R-1

**Acreage or Square Footage of Property:** 1.4 ACRES

**Zoning Requested:** GO (GARDEN OFFICE)

**Proposed Development:** OFFICE BUILDING W/ ADDITIONAL LEASE SPACE, PLUS BUILDING PAD SITE. (3,000 SF ~~[illegible]~~) 10678 SF (2,092 SF)

**If property is not subdivided, will preliminary plat be submitted?** Yes ____ No ✓

ZAC GARTH
**Applicant's Signature**

02/11/14
**Date**

**Filing Fee:** ____
**($475.00 for the first acre; $3.00 for each additional acre; $165 for Non-Profit)**

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

## For City Use Only

PIN: 1102 map 23

**Zone Case No.:** 14-13-C **Agenda No.:** 12

**Request for zoning change from:** R1 **To:** GO

2.836 acres of unplatted land out of BLOCK AK SECTION 44

**on Lot(s):** — **Block(s):** —

**Subdivision:** — **Address:** 2401 W loop 289

SR

**Regular City Council Meeting** **5. 25.**

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

**Ordinance 2nd Reading - Planning:** Consider Ordinance 2014-O0047 Zone Case 3226, a request of West Texas Engineering, LLC, for Asher Logistics, for a zoning change from M-1 to M-2 Limited to sand storage silos and all unconditionally permitted M-1 uses on 42.68 acres of unplatted land out of Block E, Section 1, between 63rd Street and 65th Street and between Elm Avenue and MLK Jr. Boulevard.

**Item Summary**

On March 27, 2014, the City Council approved the first reading of the ordinance.

General comments:
The applicant has requested a change from M-1 to M-2 limited to a sand storage silo and all unconditionally permitted M-1 uses.

Adjacent land uses:
The entire area surrounding the subject property is zone industrial; M-1 to the north, west, and south, and M-2 to the east.

Comprehensive Land Use Plan (CLUP):
The request is consistent with the CLUP.

Zoning Policy:
Although the CLUP does not distinguish between light and heavy industrial, generally zoning policy would not mix light and heavy industrial uses. However, the request is only adding one use, staff supports the request.

Effect on the adjacent street and thoroughfare system:
As with any new use, there will be additional traffic from the site. Overall there is little to no impact on the thoroughfare system.

Recommendations:
On March 6, 2014, the Planning & Zoning Commission (P&Z) recommended the request with a vote of 5-0, with the following condition:
1. Limited to sand storage silos and all unconditionally permitted M-1 uses.

**Fiscal Impact**

None.

**Staff/Board Recommending**

Quincy White, Assistant City Manager
P&Z Commission

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. 3226;** A ZONING CHANGE FROM **M-1** TO **M-2** ZONING DISTRICT LIMITED TO **SAND STORAGE SILOS AND ALL UNCONDITIONALLY PERMITTED M-1 USES**, ON **42.68 ACRES OF UNPLATTED LAND OUT OF BLOCK E, SECTION 1,** 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, 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. 3226**

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 **M-1** to **M-2** zoning district **limited to sand storage silos and all unconditionally permitted M-1 uses** on **42.68 acres of unplatted land out of Block E, Section 1,** City of Lubbock, Lubbock County, Texas, located at **between 63rd Street and 65th Street and between Elm Avenue and Martin Luther King Jr., subject to conditions and being further described as follows:**

**METS AND BOUNDS DESCRIPTION: Attached as Exhibit "A".**

**SUBJECT TO THE FOLLOWING CONDITIONS:**

1. **THAT the use be limited to sand storage silos and all unconditionally permitted M-1 uses.**

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

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

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

AND IT IS SO ORDERED.

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

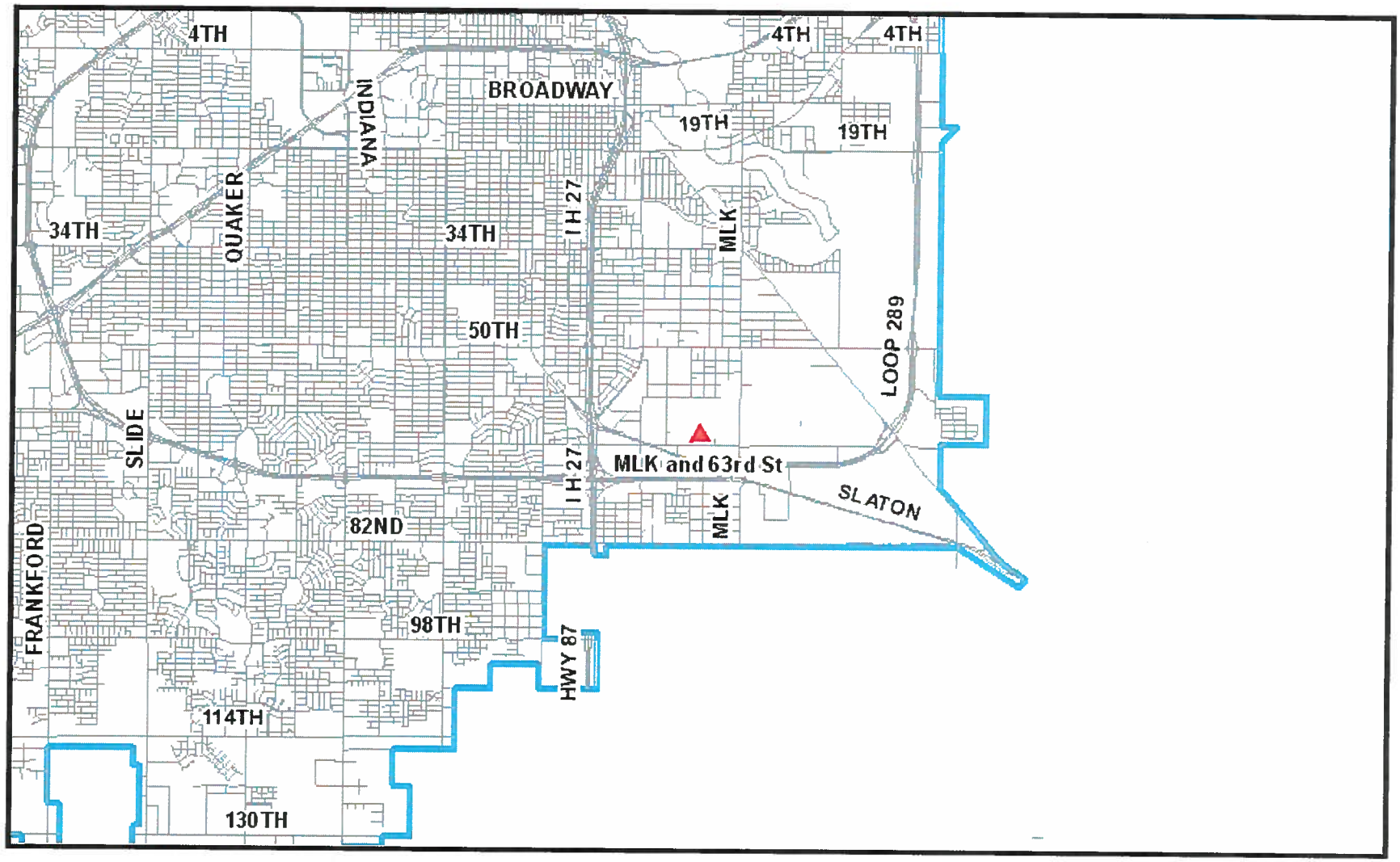
APPROVED AS TO CONTENT:

_____
Andrew Paxton, Director of Planning

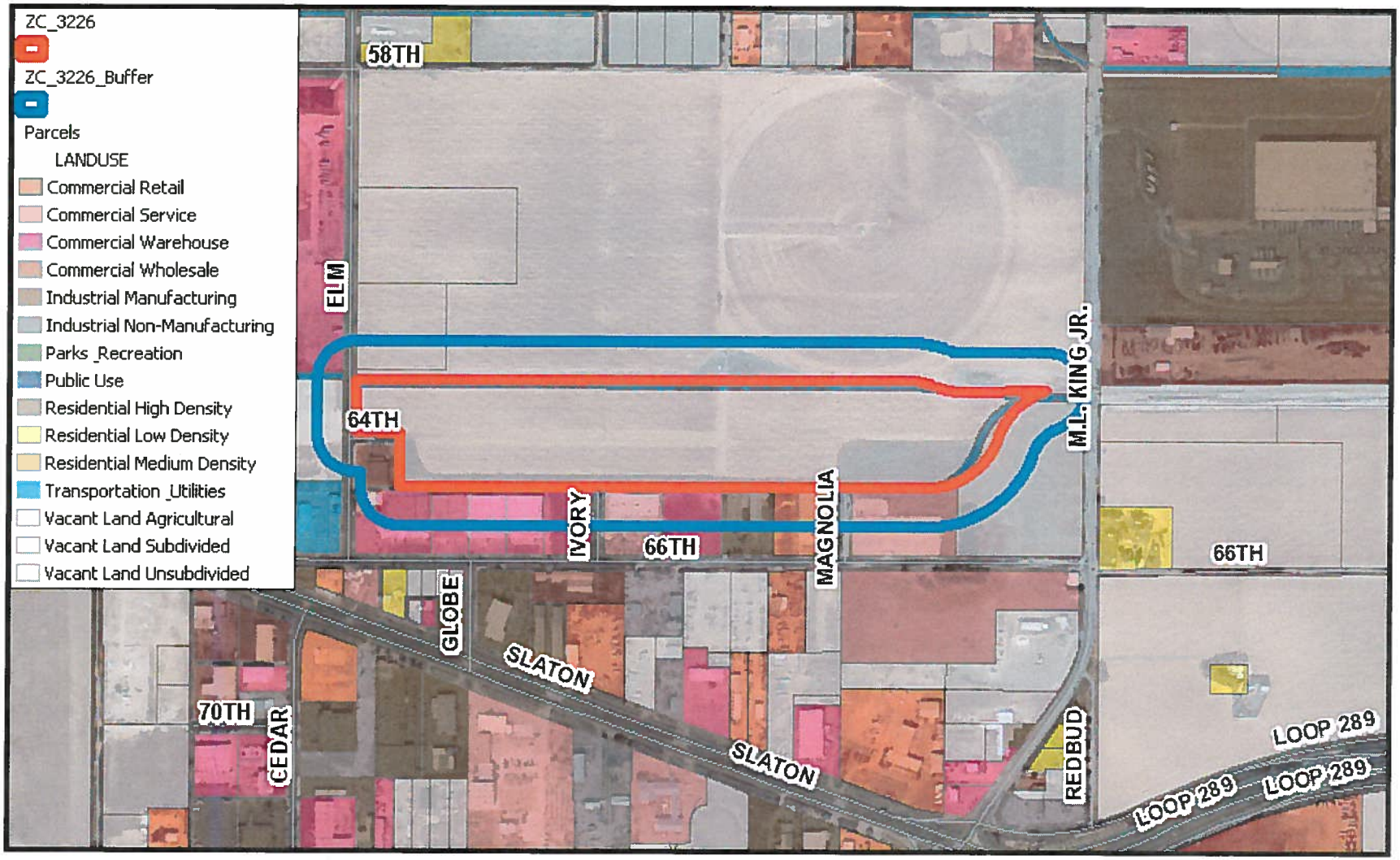
APPROVED AS TO FORM:

Chad Weaver
Assistant City Attorney

vw/CityAtt/Chad/Zones/ZC3226
March 12, 2014

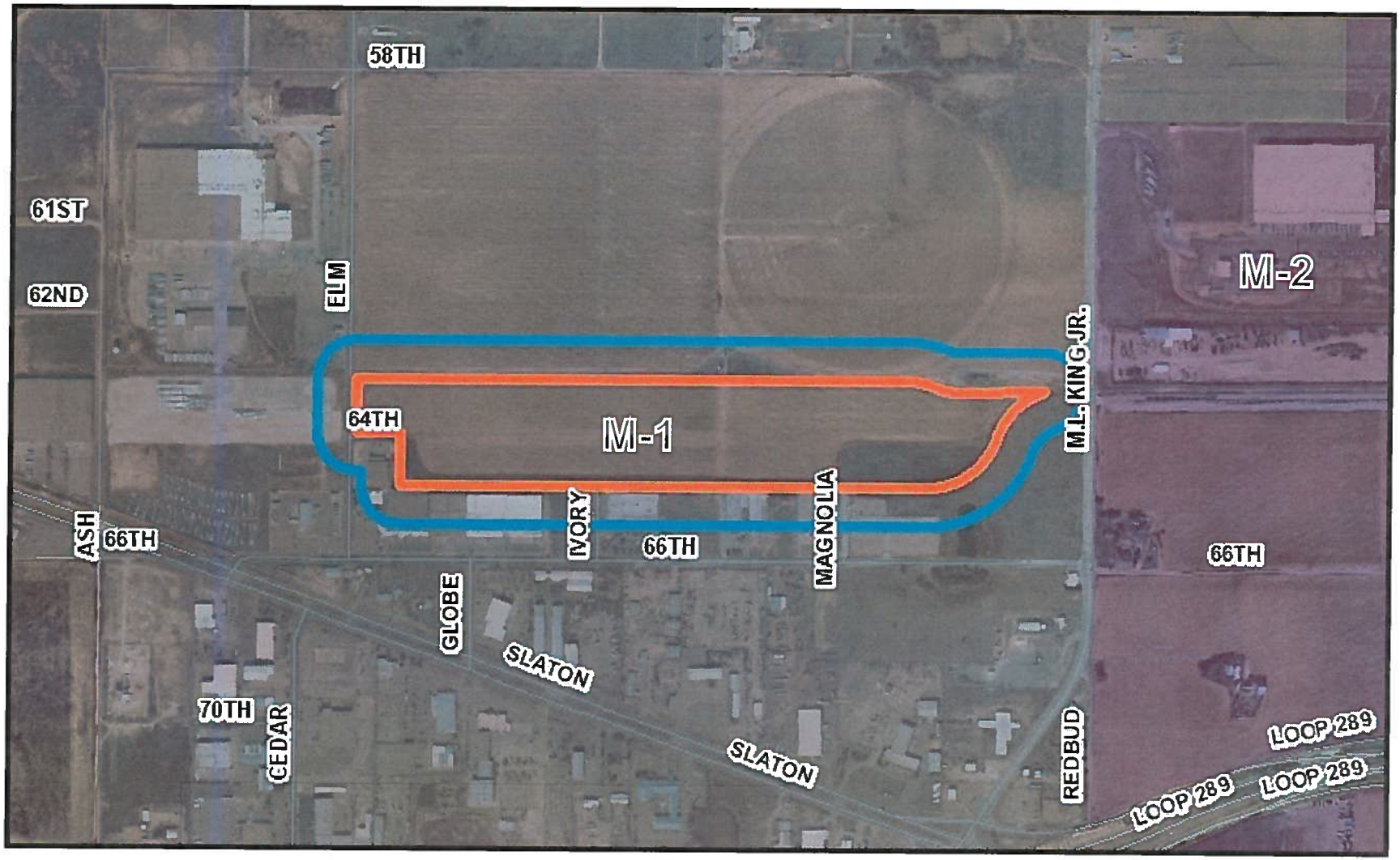



# P.Z.C. Case 3226




# P.Z.C. Case 3226

**Request of West Texas Engineering, LLC (for Asher Logistics) for a zoning change from M-1 to M-2, between 63rd Street and 65th Street and between Elm Avenue and Martin Luther King Jr. Boulevard**




# P.Z.C. Case 3226 Zoning

city of lubbock TEXAS

# APPLICATION FOR ZONE CHANGE

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

**Applicant** (Please Print): West Texas Engineering, LLC
13105 CR 1820 (Street/Post Office Box)
Lubbock (City) Texas (State) 79424 (Zip)
( 806 ) 687-2552 (Telephone)

**For**: Asher Logistics
6201 Martin Luther King, Jr. Blvd (Street/Post Office Box)
Lubbock (City) Texas (State) 79404 (Zip)
( 806 ) 786-3214 (Telephone)

**Location or Address:** Between 63rd and 65th Street and between Elm Avenue and MLK Blvd

**Legal Description:*** Section 1, Block E, Tract 3

**Existing Land Use:** Vacant **Existing Zoning:** M-1

**Acreage or Square Footage of Property:** 42.68 Acres

**Zoning Requested:** M-2 (Heavy Manufacturing) District

**Proposed Development:** New truck silos and ticket office

**If property is not subdivided, will preliminary plat be submitted?** Yes X No

Applicant's Signature

2-11-14
Date

**Filing Fee:** $601.00
($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

M-2B Map 5

**Zone Case No.:** ~~3247~~ 3226 **Agenda No.:** 13

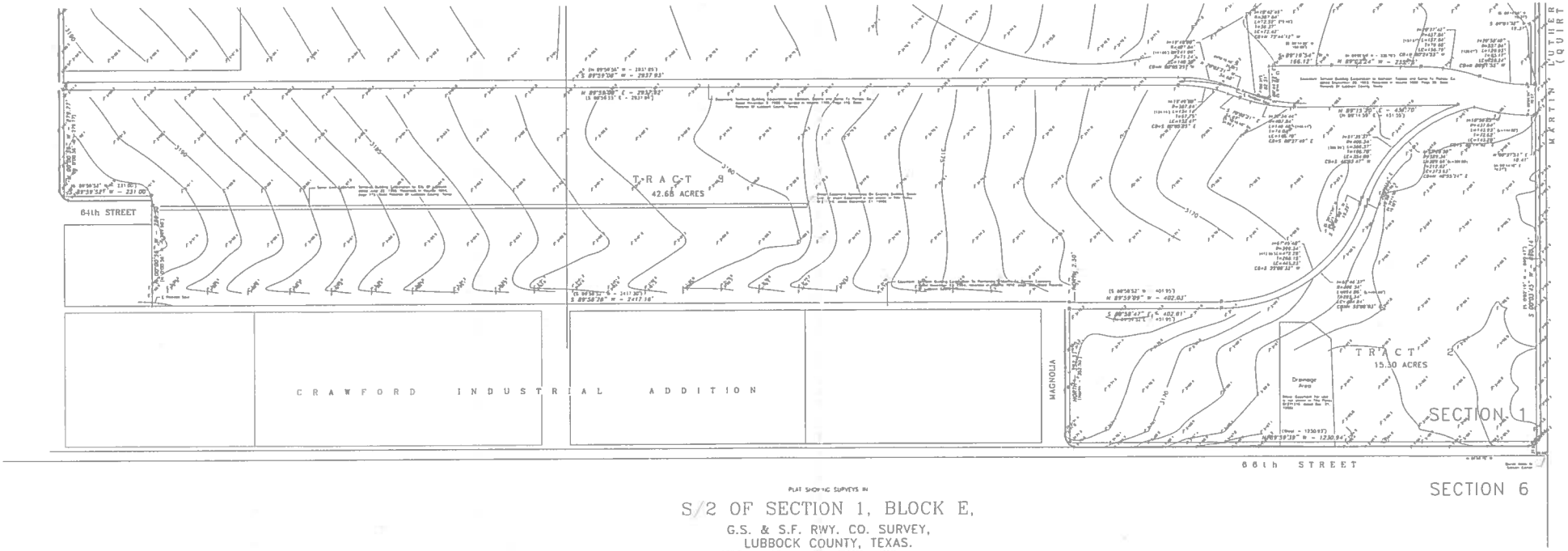
**Request for zoning change from:** M-1 **To:** M-2

42.68 acres of unplatted land out of Block E, Section 1

**on Lot(s):** — **Block(s):** —

**Subdivision:** — **Address:** Between 63rd St and 65th St
Between MLK Blvd and Elm Ave

SK




PLAT SHOWING SURVEYS IN

S/2 OF SECTION 1, BLOCK E,

G.S. & S.F. RWY. CO. SURVEY,
LUBBOCK COUNTY, TEXAS.
SURVEYED: May 2[illegible] & June 10, 1999

THENCE N. 20°14'58" E. along the Southerly R.O.W. line of said A.T.& S.F. Railway Company Industrial Lead Track, 19.33 feet to a 1/2" x 24" iron rod set, the beginning of a curve to the right whose center bears S. 69°45'01" E. 389.34 feet;

THENCE Northeasterly along said curve to the right, same being the Southerly R.O.W. line of said A.T.& S.F. Railway Company Industrial Lead Track an arc distance of 389.69 feet to a 1/2" x 24" iron rod set for a point of reverse curve whose center bears N. 18°05'48" E. 437.84 feet;

THENCE Southeasterly along said curve, same being the Southerly R.O.W. line of said A.T.& S.F. Railway Company Industrial Lead Track, an arc distance of 144.02 feet to a 1/2" x 24" iron rod set for the end of said curve;

THENCE N. 89°14'16" E. along the South R.O.W. line of said A.T.& S.F. Railway Company Industrial Lead Track, 18.27 feet to a 1/2" x 24" iron rod set in the West R.O.W. line of Quirt Avenue, for a corner of this tract;

THENCE S. 0°02'19" W. along the West R.O.W. line of Quirt Avenue, 860.47 feet to the BEGINNING CORNER of this tract.

**TRACT 3** Vic's Tract

A tract of land out of the South 1/2 of Section 1, Block E, Original Grantee, G.S.& S.F. Railway Company, Lubbock County, Texas, and being further described by metes and bounds as follows:

BEGINNING at the Southeast corner of said Section 1, Block E;

THENCE N. 0°02'19" E. along the East line of said Section 1, 928.36 feet to a point;

THENCE S. 89°14'59" W. 232.70 feet to a 1/2" x 24" iron rod set on a curve to the left whose center bears S. 18°06'21" E. 406.34 feet to the BEGINNING CORNER of this tract;

THENCE Southwesterly along said curve to the left, same being the Northerly R.O.W. line of a A.T.& S.F. Railway Company Industrial Lead Track, an arc distance of 366.26 feet to a 1/2" x 24" iron rod set for the end of said curve;

THENCE S. 20°14'58" W. along the Northerly R.O.W. line of said A.T.& S.F. Railway Company Industrial Lead Track, 19.33 feet to a 1/2" x 24" iron rod set for the beginning of a curve to the right whose center bears N. 69°45'01" W. 389.34 feet;

THENCE Southwesterly along said curve to the right, same being the Northerly R.O.W. line of said A.T.& S.F. Railway Company Industrial Lead Track, an arc distance of 473.96 feet to a 1/2" x 24" iron rod set for a corner of this tract;

THENCE S. 89°59'52" W. along the North R.O.W. line of said A.T.& S.F. Railway Company Industrial Lead Track, 401.95 feet to a line 1/2" x 24" iron rod set for a corner of this tract;

THENCE North along the East R.O.W. line of said A.T.& S.F. Railway Company Industrial Lead Track, 2.5 feet to a 1/2" x 24" iron rod set for a corner of this tract;

THENCE S. 89°59'52" W. along the North R.O.W. line of said A.T.& S.F. Railway Company Industrial Lead Track, 2417.30 feet to a 1/2" x 24" iron rod set for a corner of this tract, same being the Southeast corner of Lot 3, Block 7, Third installment Crawford Industrial Addition;

THENCE N. 0°00'56" W. along the East line of said Lot 3, Block 7 and 64th Street, 289.50 feet to a 1/2" x 24" iron rod set for a corner of this tract, same being the Northeast corner of Third Installment Crawford Industrial Addition;

THENCE S. 89°59'52" W. along the North line of 64th Street as platted in Third Installment Crawford Industrial Addition, 231.0 feet to a 1/2" x 24" iron rod set for a corner of this tract, same being the East R.O.W. line of Elm Avenue;

THENCE N. 0°00'56" W. along the East R.O.W. line of Elm Avenue, 279.77 feet to a 1/2" x 24" iron rod set in the South R.O.W. line of a A.T.& S.F. Railway Company Industrial Lead Track, a corner of this tract;

THENCE S. 89°59'55" E. along the South R.O.W. line of said A.T.& S.F. Railway Company Industrial Lead Track, 2937.84 feet to a 1/2" x 24" iron rod set for the beginning of a curve to the right whose center bears S. 0°00'05" W. 387.84 feet;

THENCE Southeasterly along said curve to the right, same being the Southerly R.O.W. line of said A.T.& S.F. Railway Company Industrial Lead Track, an arc distance of 134.14 feet to a 1/2" x 24" iron rod set for the end of said curve;

THENCE S. 70°10'48" E. along the Southerly R.O.W. line of said A.T.& S.F. Railway Company Industrial Lead Track, 34.92 feet to a 1/2" x 24" iron rod set for the beginning of a curve to the left whose center bears N. 19°49'05" E. 407.84 feet;

THENCE Southeasterly along said curve to the left, same being the Southerly R.O.W. line of said A.T.& S.F. Railway Company Industrial Lead Track, an arc distance of 146.41 feet to a 1/2" x 24" iron rod set for the end of said curve;

THENCE N. 89°14'59" E. along the South R.O.W. line of said A.T.& S.F. Railway Company Industrial Lead Track, 431.55 feet to the BEGINNING CORNER of this tract.

**TRACT 4**

A tract of land out of the South 1/2 of Section 1, Block E, Original Grantee, G.C.& S.F. Railway Company, Lubbock County, Texas, and described by metes and bounds as follows:

BEGINNING at the Southeast corner of said Section 1, Block E;

THENCE N. 0°02'19" along the East line of said Section 1, 978.36 feet to a point;

THENCE S. 89°14'59" W. 30.0 feet to a 1/2" x 24" iron rod set in the West R.O.W. of Quirt Avenue and the North R.O.W. line of the A.T.& S.F. Railway Company, the Southeast and BEGINNING CORNER of this tract;

THENCE continue S. 89°14'59" W. along the North R.O.W. line of said A.T.& S.F. Railway Company 19.37 feet to a 1/2" x 24" iron rod set for the beginning of a curve to the right whose center bears N. 0°45'01" W. 357.84 feet;

THENCE Northwesterly along said curve to the right, same being the Northerly R.O.W. line of said A.T.& S.F. Railway Company an arc distance of 128.87 feet to a 1/2" x 24" iron rod set for a point of a reverse curve, whose center bears S. 19°52'59" W. 437.84 feet;

THENCE Northwesterly along said curve, same being the Northerly R.O.W. line of said A.T.& S.F. Railway Company, an arc distance of 157.67 feet to a 1/2" x 24" iron rod set for the end of said curve;

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

If for any reason you will be unable to attend the public hearing advertised by this notice, and wish to present your comments regarding the case, please complete this form and return it to the Secretary of the Planning and Zoning Commission, c/o Planning Department, P.O. Box 2000, Lubbock, TX, 79457, or fax to (806) 775-2100.

If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 775-2120.

**Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by:** **P&Z Case No.: 3226**

*In Favor of* ✓

*Opposed* ____

**Reasons and/or Comments:**

RECEIVED
FEB 24 REC'D
PLANNING DEPARTMENT

Print Name Robert Lacy

Signature: Robert Lacy

Address: 2901 Ave A

Address of Property Owned: 6411 Elm Avenue & 6311 Elm Avenue



Zone Case Number: 3226 87555
PYCO INDUSTRIES INC
2901 AVE A

LUBBOCK TX 79404-2231

13

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

If for any reason you will be unable to attend the public hearing advertised by this notice, and wish to present your comments regarding the case, please complete this form and return it to the Secretary of the Planning and Zoning Commission, c/o Planning Department, P.O. Box 2000, Lubbock, TX, 79457, or fax to (806) 775-2100.

If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 775-2120.

**Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by:** **P&Z Case No.: 3226**

*In Favor of* ____

*Opposed* X

RECEIVED
MAR 0 4 REC'D
PLANNING DEPARTMENT

**Reasons and/or Comments:**

SEE ATTACHED LETTER

Print Name GORDON WILKERSON (FOR WILKERSON INVESTMENT CO. AND WILKERSON COMPANY)

Signature: Gordon Wilkerson

Address: P.O. BOX 2525, LUBBOCK, TX 79408

Address of Property Owned: SUBJECT PROPERTY, 502 E. 64TH, 501 E. 65TH, 515-527 EAST 64TH



Zone Case Number: 3226 93708
WILKERSON INVEST CO
PO BOX 2525

LUBBOCK TX 79408-2525

13

**Wilkerson**
**PROPERTIES INC.**

Commercial & Industrial
Development, Management & Brokerage

March 4, 2014

Secretary
Planning and Zoning Commission
C/o Planning Department
P. O. Box 2000
Lubbock, TX 79457

RECEIVED
MAR 04 REC'D
PLANNING DEPARTMENT

**Re: P & Z Case No. 3226**

Dear Members of the Commission:

I am a partner representing Wilkerson Investment Co., owners of the 42.68 acre tract leased to Asher Logistics which is the subject of this zone case.

Wilkerson Investment Co. opposes the request to change zoning from M-1 to M-2. M-2 zoning would allow uses that could be significantly detrimental to values on developed and vacant property adjacent to this tract we own. We own approximately 150 acres adjacent to this tract to the north. M-2 zoning is not in keeping with our overall development plans for the parcel.

After receiving notice of the zone change request, I had follow up discussions with Victor Roden of West Texas Engineering, LLC, who is handling the zone case for Asher Logistics. Victor told me that he has modified the request for zone change to: "M-2 limited to storage silos for sand and all permitted M-1 uses." If the zone change request has been modified as stated in the previous sentence, we have no opposition.

Thank you for your consideration of these comments. We appreciate your service to the City of Lubbock.

Sincerely,

Gordon Wilkerson

Gordon Wilkerson

P.O. Box 2525 • Lubbock, Texas 79408 • 501 East 66th Street • Lubbock, Texas 79404
(806) 745-3611 • fax (806) 474-2216 • www.wilkersonproperties.com

(13)

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

If for any reason you will be unable to attend the public hearing advertised by this notice, and wish to present your comments regarding the case, please complete this form and return it to the Secretary of the Planning and Zoning Commission, c/o Planning Department, P.O. Box 2000, Lubbock, TX, 79457, or fax to (806) 775-2100.

If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 775-2120.

**Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by:** **P&Z Case No.: 3226**

*In Favor of* ___

*Opposed* ✓

RECEIVED
MAR 04 REC'D
PLANNING DEPARTMENT

**Reasons and/or Comments:**

Print Name Audra Wagner Smith

Signature: Andrew Smith

Address: 925 E 66th St Lubbock, TX 79404

Address of Property Owned: 925 E 66th St. Lubbock, TX 79404

4 of 8

Zone Case Number: 3226 14130
PB&A INVESTMENTS LLC
1349 W 42ND ST
ODESSA TX 79764-4084

13

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

If for any reason you will be unable to attend the public hearing advertised by this notice, and wish to present your comments regarding the case, please complete this form and return it to the Secretary of the Planning and Zoning Commission, c/o Planning Department, P.O. Box 2000, Lubbock, TX, 79457, or fax to (806) 775-2100.

If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 775-2120.

**Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by:** **P&Z Case No.: 3226**

RECEIVED
MAR 05 REC'D
PLANNING DEPARTMENT

*In Favor of* ____

*Opposed* X

**Reasons and/or Comments:**

SunGold Foods Inc. is a food manufacturing company. Statutes are established by FDA as well as the new Food Safety Management Act (FSMA) that we must abide by. Several industries that would be allowed under the M2 zone change would be detrimental to SunGold Foods Inc.

SunGold Foods Inc is opposed to the change from M1 to M2 due to the lack of information on intent of Asher Logistics usage as well as what the future usage could be.

Print Name Mike Williams / General Manager

Signature: Mike Williams

Address: _____

Address of Property Owned: 901 E. 66th St. Lubbock, TX 79404

6 of 8

Zone Case Number: 3226 14128
SUN GOLD FOODS INC
PO BOX 3022

FARGO ND 58108

**Regular City Council Meeting** **5. 26.**

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

**Ordinance 2nd Reading – Planning**: Consider Ordinance 2014-O0048, Zone Case 3227, a request of Keith McNeese, for Purple Tie Limo, for a zoning change from C-3 to C-4 limited to car rental, limo service, all vehicles to be stored inside, and all unconditional C-3 uses on Lots 3 and 4, Block 1, Lisemby Addition, 2605 and 2607 34th Street.

**Item Summary**

On March 27, 2014, the City Council approved the first reading of the ordinance.

General comments:
The request is to change the zoning from C-3 to C-4 Limited to a car rental service (limo service) and all unconditionally permitted C-3 uses.

Adjacent land uses:
34th Street to the east and west is all zoned commercial and is primarily retail. To the south this property backs up to single family residential.

Comprehensive Land Use Plan (CLUP):
The request is consistent with the CLUP.

Zoning Policy:
Although C-4 is reserved for locations along a state highway, the request for a single use as limited as a limo and car rental service fits in with the intent of the ordinance.

Effect on the adjacent street and thoroughfare system:
There should be little to no impact on the thoroughfare system as this is a renovation of an existing building.

Recommendations:
On March 6, 2014, the Planning & Zoning Commission (P&Z) recommended the request with a vote of 5-0, with the following conditions:
1. Limited to a car rental (limo service) and all unconditionally permitted C-3 uses.
2. That a 6 feet wood or masonry screening fence shall be required on the south property line.

**Fiscal Impact**

None.

**Staff/Board Recommending**

Quincy White, Assistant City Manager
P&Z Commission

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. 3227;** A ZONING CHANGE FROM **C-3** TO **C-4** ZONING DISTRICT LIMITED TO **CAR RENTAL** ON **LOTS 3 AND 4, BLOCK 1, LISEMBY ADDITION,** LUBBOCK, TEXAS; PROVIDING A PENALTY; SUBJECT TO CONDITIONS; PROVIDING A SAVINGS CLAUSE AND PROVIDING FOR PUBLICATION.

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

WHEREAS, 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. 3227**

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-3** to **C-4** zoning district **limited to car rental** on **Lots 3 and 4, Block 1, Lisemby Addition,** City of Lubbock, Lubbock County, Texas, located at **2605 and 2607 34th Street, subject to conditions, and being further described as follows:**

**SUBJECT TO THE FOLLOWING CONDITIONS:**

1. **THAT the use be limited to a car rental (limo service) and all unconditionally permitted C-3 uses.**

2. **THAT all vehicles shall be stored inside overnight.**

3. **THAT a 6 foot wood or masonry screening fence shall be required on the south property line.**

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

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

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

AND IT IS SO ORDERED.

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

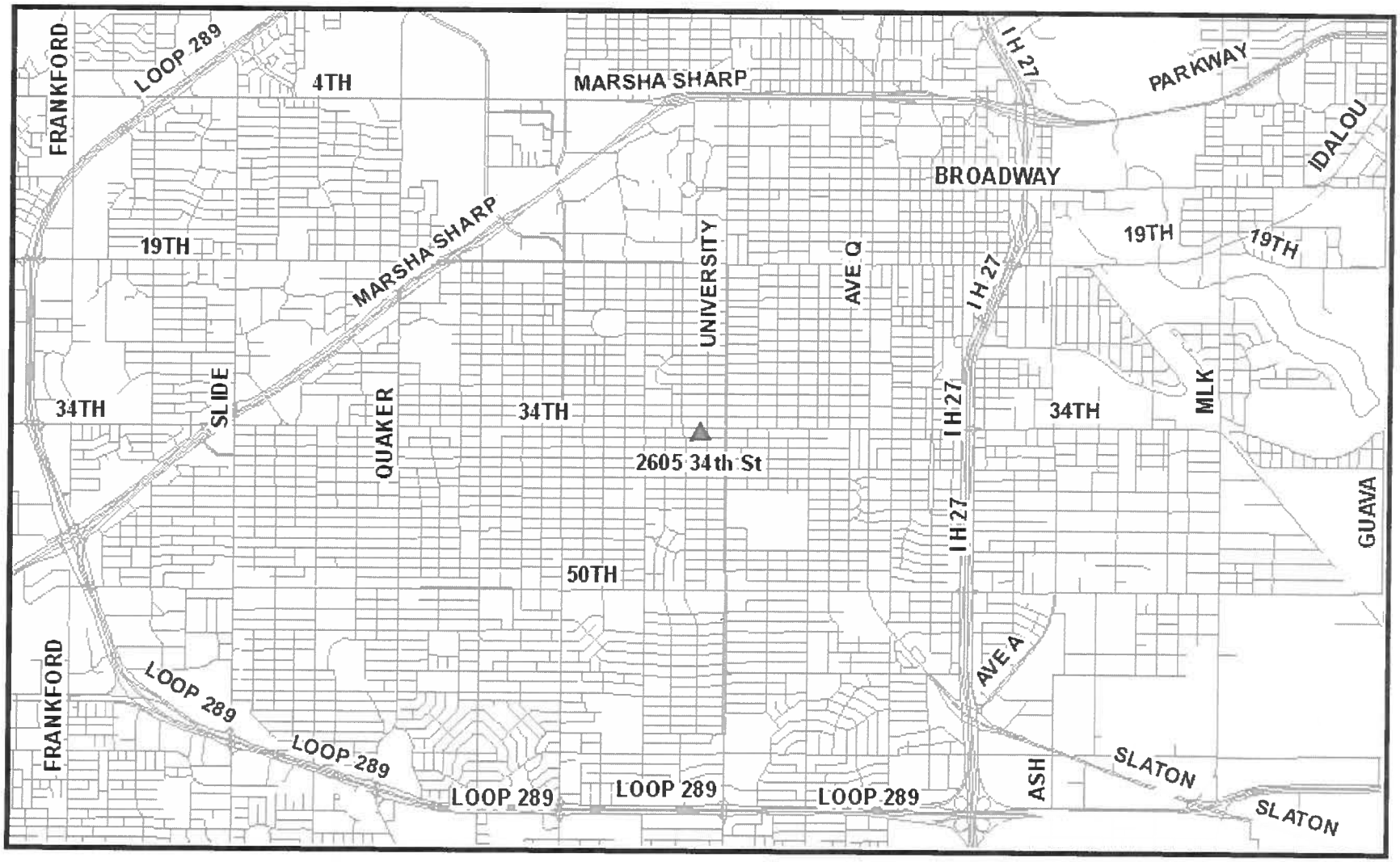
APPROVED AS TO CONTENT:

_____
Andrew Paxton, Director of Planning

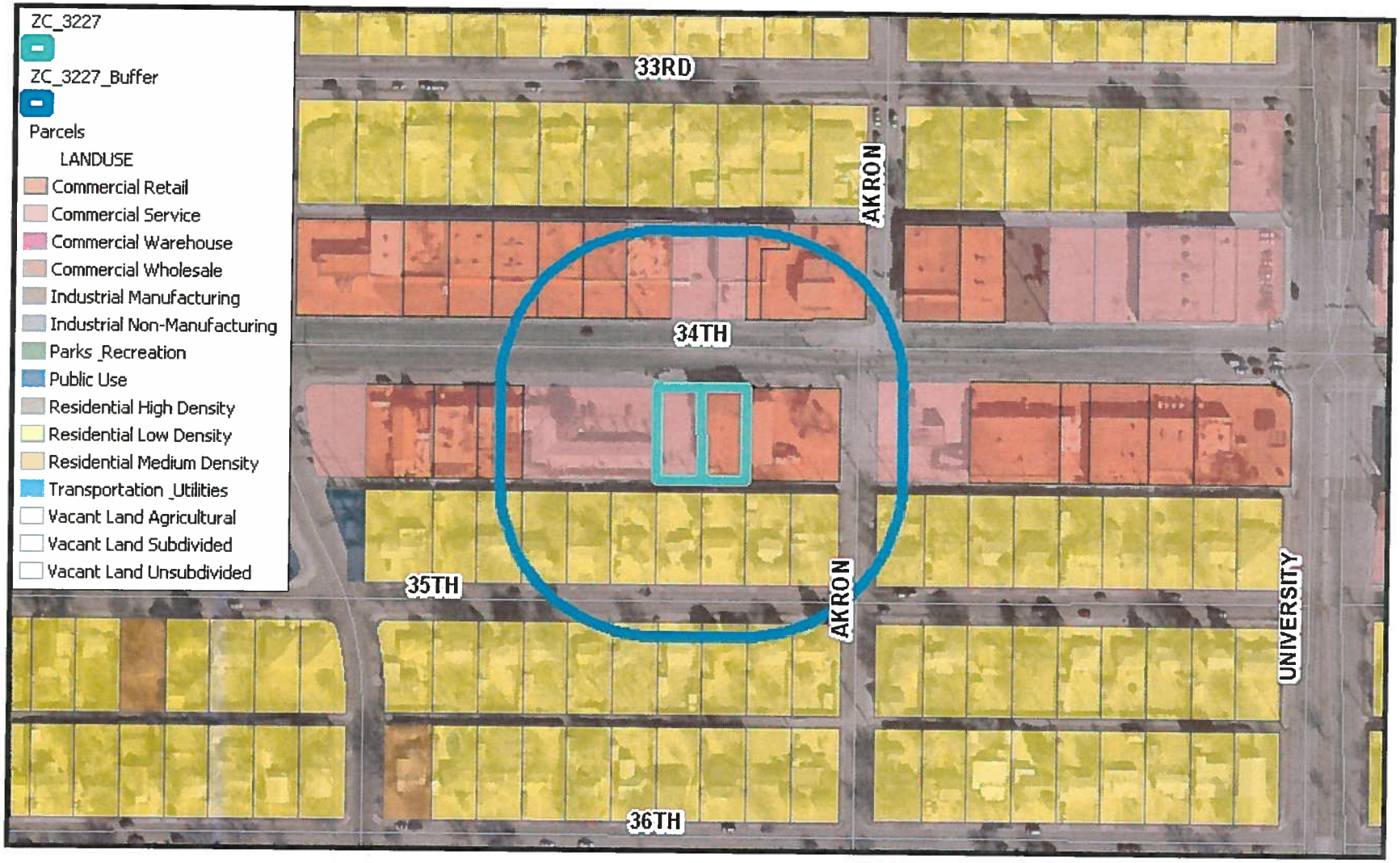
APPROVED AS TO FORM:

Chad Weaver
Assistant City Attorney

vw/CityAtt/Chad/Zones/ZC3227
Msarch 12, 2014

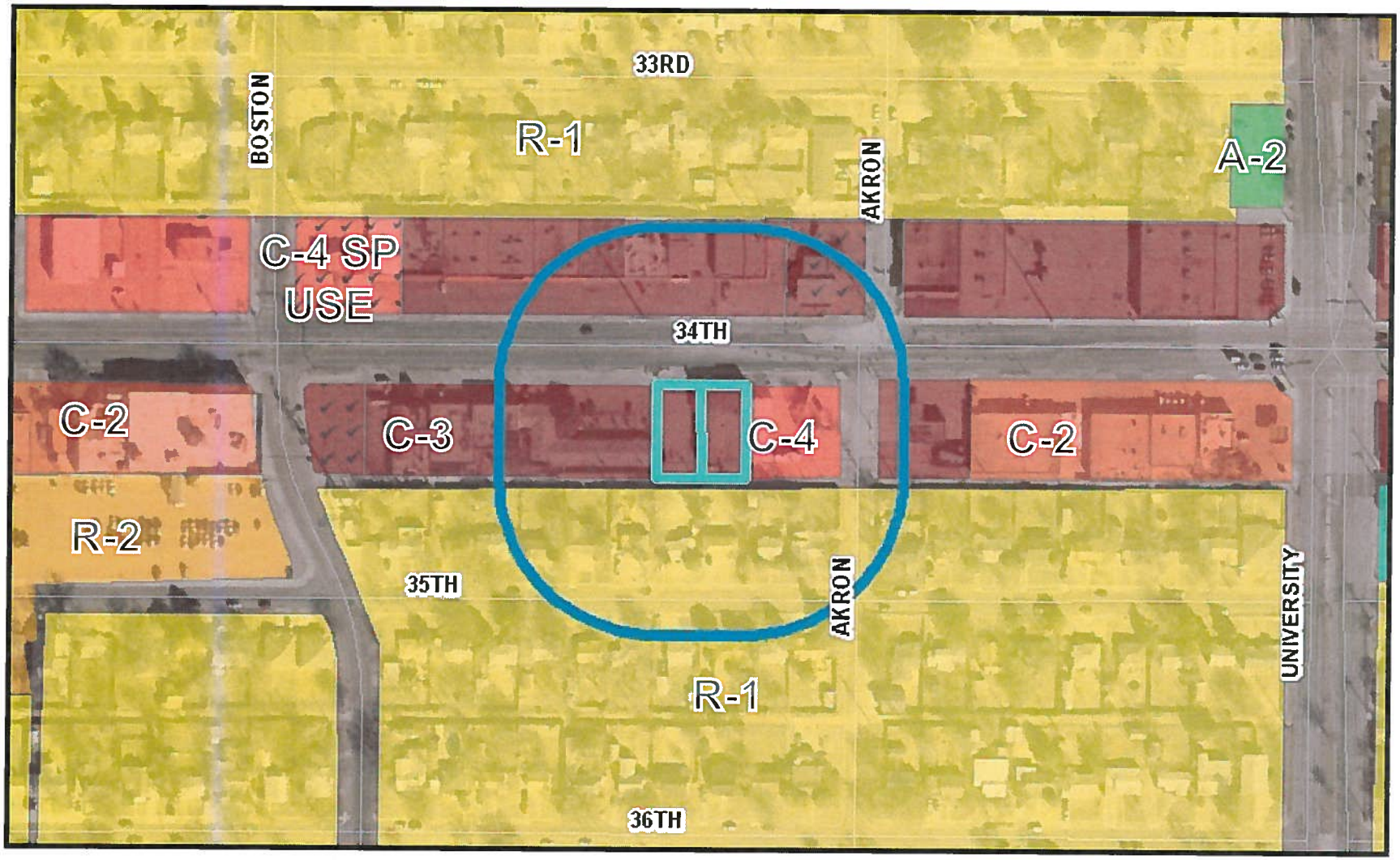



# P.Z.C. Case 3227




# P.Z.C. Case 3227

**Request of Keith McNeese (for Purple Tie Limo) for a zoning change from C-3 to C-4 limited to car rental (limo service, all vehicles to be stored inside) and all unconditional C-3 uses, 2605 and 2607 34th Street**




# P.Z.C. Case 3227 Zoning

city of lubbock TEXAS

# APPLICATION FOR ZONE CHANGE

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

**Applicant** (Please Print) Keith McNeese
3803 101st
Street/Post Office Box
Lubbock, TX 79423
City State Zip
(806) 548-3392
Telephone

**For** Purple Tie Limo.
13912 FM 1730
Street/Post Office Box
Lubbock, TX 79424
City State Zip
( )
Telephone

**Location or Address:** 2605 & 2607 34th

**Legal Description:*** 

**Existing Land Use:** _____ **Existing Zoning:** C-3

**Acreage or Square Footage of Property:** _____

**Zoning Requested:** C-4 Limited to limo service (car rental) w/ no outside storage

**Proposed Development:** _____

**If property is not subdivided, will preliminary plat be submitted?** Yes N/A No _____

**Applicant's Signature** **Date**

**Filing Fee:** $475
**($475.00 for the first acre; $3.00 for each additional acre; $165 for Non-Profit)**

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

## For City Use Only

PIN: 30191, 30192 Map 6

**Zone Case No.:** ~~3228~~ 3227 **Agenda No.:** 14

**Request for zoning change from:** C-3 **To:** C-4 limited to a ~~limo~~ car rental (limo service)

**on Lot(s):** 3, 4 **Block(s):** 1

**Subdivision:** Lisemby **Address:** 2605 and 2607 34th St

SR

14

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

If for any reason you will be unable to attend the public hearing advertised by this notice, and wish to present your comments regarding the case, please complete this form and return it to the Secretary of the Planning and Zoning Commission, c/o Planning Department, P.O. Box 2000, Lubbock, TX, 79457, or fax to (806) 775-2100.

If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 775-2120.

**Please check one of the following to indicate if you are in favor of, or oppose, the zone change requested by:** **P&Z Case No.: 3227**

*In Favor of* ✓

*Opposed* ___

**Reasons and/or Comments:**

According to tax listings, Lumby Blk 1, lots 3 & 4 are 2611 and 2613 - 34th Street, not 2605 and 2607 as stated in this notice.

RECEIVED
MAR 06 REC'D
PLANNING DEPARTMENT

Print Name VIVIAN DANIEL

Signature: Vivian Daniel

Address: 4321 Honduras Dr. Corpus Christi, TX 78411

Address of Property Owned: 2611 - 2613 - 34th

5 of 26

Zone Case Number: 3227 30191
DANIEL VIVIAN B
4321 HONDURAS DR

CRP CHRISTI TX 78411-5007

**Regular City Council Meeting** **6. 1.**

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

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

**Item Summary**

Mr. Andy Hutchison of Boomer Development, LLC has requested to lease approximately 2.54 acres of land on the west side of Lubbock Preston Smith International Airport in order to construct and operate a franchised hotel. The land is adjacent to Interstate 27 by the entrance to the Silent Wings Museum.

Plans are being finalized for Cobblestone Hotels and Suites to be the franchiser. The three-story facility would include an 80-90 room hotel, a workout room and a couple of meeting rooms which would accommodate 50-60 people. Groundbreaking will be planned for late June with completion in Spring 2015. The agreement also allows first right of refusal for the surrounding area for commercial development.

The lease has a term of thirty (30) years with a ten (10) year option to extend the agreement.

The land rental fee will commence one year from the Date of Beneficial Occupancy or eighteen (18) months after execution of the agreement, whichever occurs first. The following is the rental structure through the term of the agreement:

Years 2 – 10: $25,000 per year; $2,083.33 per month
Years 11 – 20: $30,000 per year; $2,500.00 per month
Years 21 – 30: $35,000 per year; $2,916.67 per month
Years 31 – 40: $40,000 per year; $3,333.33 per month (Option Extension)

**Fiscal Impact**

Revenues will increase due to the rentals received from the new tenant.

**Staff/Board Recommending**

Kelly Campbell, Interim Director of Aviation
Airport Board

**Attachments**

Resolution - Boomer Development
Agreement - Hotel Land Lease
Boomer Exhibits A-B
Boomer Exhibits C-E

**RESOLUTION**

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

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, a Lease Agreement by and between the City of Lubbock and Boomer Development, LLC, a Texas corporation, and related documents. Said Lease Agreement is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Kelly Campbell, Interim Director of Aviation

APPROVED AS TO FORM:

_____
Chad Weaver, Assistant City Attorney

vw:ccdocs/RES.Agrmt-Boomer Development
March 27, 2014

**STATE OF TEXAS**

**COUNTY OF LUBBOCK**

# HOTEL LAND LEASE AGREEMENT

**THIS LEASE AGREEMENT**, hereinafter called "Agreement," made and entered into by and between the **CITY OF LUBBOCK**, a Home Rule Municipality of Lubbock County, Texas, hereinafter called "City," and **BOOMER DEVELOPMENT LLC**, a Texas corporation, hereinafter called "Lessee."

**W I T N E S S E T H:**

**WHEREAS**, City operates an airport known as Lubbock Preston Smith International Airport which is located in the City of Lubbock, County of Lubbock, State of Texas, which is hereinafter called "Airport"; and,

**WHEREAS**, Lessee desires to lease certain parcels of land at the Airport for construction and operation of a hotel and related facilities and improvements on said parcel; and,

**WHEREAS**, City is willing to lease said parcels of land to Lessee for said purposes and to grant specified rights and privileges in addition thereto;

**NOW, THEREFORE**, in consideration of the foregoing and of the mutual covenants and agreements herein contained, City and Lessee do hereby mutually undertake, promise and agree, each for itself and its successors and assigns, as follows:

## 1. TERM

a. The term, hereinafter referred to as "Term," of the Agreement shall commence on the execution date of this Agreement and terminate thirty (30) years after the Date of Beneficial

Occupancy (DBO), which shall be the date the hotel is initially opened for business. The parties agree to confirm the DBO in writing.

b. Option to Renew

So long as Lessee is not in default of the terms and conditions of this Agreement, Lessee shall have the option to extend this Agreement for an additional term of ten (10) years. Such option must be requested in writing at least one hundred twenty (120) calendar days prior to the expiration date of the original term of the Agreement.

c. Holding Over

If Lessee shall, with the consent of the City, hold over after the expiration or sooner termination of the Term of this Agreement, the resulting tenancy privilege shall, unless otherwise mutually agreed, be on a month-to-month basis until such time as Lessee shall surrender the Leased Premises (with thirty (30) days prior written notice to City) or City shall reenter the Leased Premises (with thirty (30) days prior written notice to Lessee). During such month-to-month tenancy, Lessee shall pay rentals to City established in accordance with the provisions of this Agreement, and shall be bound by all of the additional provisions of this Agreement insofar as they may be pertinent.

## 2. PREMISES

a. City hereby leases and grants to Lessee and Lessee hereby rents and takes from the City, the premises described below, hereinafter referred to as "Premises" or "Leased Premises," and further described in Exhibit "A", which is attached hereto and made a part hereof, subject to any recorded easements, restrictions, agreements, and other lawful encumbrances.

| Leased Premises | SF/Acre/Number |
|---|---|
| Land | 110,642.4 sq. ft. /2.54 ± acres |

b. Survey

City shall provide Lessee with a boundary survey of the Premises, prepared by a registered land surveyor duly licensed in the State of Texas, within thirty (30) days after the execution of this Agreement. The cost of said survey shall be paid by the City. The acreage amounts stipulated herein are estimates only and such amounts are subject to change slightly upon

completion of the boundary survey of the Premises. Upon the completion of the survey, it shall be incorporated herein as Exhibit "A."

c. The final acreage amount is subject to change and will be calculated based on the site plan as approved by the City, and/or by the final "as-built" drawings of the project.

## 3. USES AND RIGHTS

a. Lessee shall have the right to construct and operate a hotel and related facilities upon the Leased Premises upon the Airport. All other uses of the Premises not expressly authorized by this Agreement are prohibited. The hotel shall meet Hotel Standards as set forth in Exhibit "C" attached hereto and incorporated herein by reference.

b. During the Term of this Agreement, the following additional rights and prohibitions apply:

(1) Lessee shall have the right to sell alcoholic beverages by the drink to its patrons and guests, in accordance with state and local laws and ordinances.

(2) Lessee shall have the right to operate a restaurant, with the prior written approval by City of the type (franchise, if applicable), plans and specifications for the proposed restaurant on the Leased Premises, including the right to sell snacks and beverages from vending machines.

(3) Lessee shall have the right to obtain supplies or services from suppliers, vendors or contractors of its own choice at the Premises, provided that Lessee acknowledges City's right to regulate providers of ground transportation service to the Airport.

(4) Lessee shall have the right to operate a shuttle service for hotel and restaurant guests subject to reasonable regulations adopted by the City for the regulation of ground transportation to and from the Airport, including but not limited to Article 24 of the Lubbock City Code.

(5) Lessee shall use the Premises only in accordance with the laws of the United States of America and the State of Texas, the rules and regulations promulgated by their authority with reference to aviation and air navigation; and all rules, regulations and ordinances of City, as all these may be amended.

c. City covenants that it has lawful authority to execute this Agreement and that upon payment of the rentals provided herein, and upon performance of the covenants and agreements on the part of Lessee to be performed hereunder, Lessee shall peacefully have and enjoy the Premises and the rights and privileges granted by this Agreement.

d. The Agreement, in every sense, shall be without cost to the City for the development, maintenance and improvement of the Premises. It shall be the sole responsibility of Lessee to develop, keep, maintain, repair and operate the entirety of the Premises and all improvements and facilities placed thereon at Lessee's sole cost and expense.

e. In the event that Lessee desires to carry on activities in addition to those herein listed as part of its business operations, Lessee shall do so only upon the express written approval of the Director of Aviation.

## 4. RENTS, FEES AND CHARGES

In consideration of the rights and privileges to be granted to Lessee by City, the Lessee shall pay to City as compensation therefore the following fees and charges commencing as set forth in Subpart c. below.

a. Lessee agrees to pay the City a minimum monthly rental fee as outlined herein;

Years 2 – 10: $25,000 per year; $2,083.33 per month

Years 11 – 20: $30,000 per year; $2,500.00 per month

Years 21 – 30: $35,000 per year; $2,916.67 per month

Years 31 – 40: $40,000 per year; $3,333.33 per month (Option Extension)

b. The monthly fixed rental fee shall be paid in advance on the first day of each month during the Term of this Agreement.

c. Payment of the monthly fixed rental fee shall commence one year from the Date of Beneficial Occupancy (DBO) or eighteen (18) months after execution of this agreement, whichever occurs first, unless otherwise approved by City.

d. Late Payment Charges

(1) Without waiving any other right of action available to the City in the event of default in payment of charges and fees hereunder, if the Lessee fails to make a payment when due and said failure continues for a consecutive period of thirty (30) days, a late payment charge of five

percent (5%) of the total amount due shall be assessed. Thereafter, late payment charges shall be assessed for each additional thirty (30) day period or portion thereof that the payment is late.

(2) All payments are due and payable on or before the 1st day of each month this Agreement is in effect and shall be made to the City at the Office of the Director of Aviation, Lubbock Preston Smith International Airport, 5401 N. MLK Blvd., Unit 389, Lubbock, Texas 79403.

(3) Collection Costs

Lessee agrees to pay/reimburse the City for all costs of collection, including but not limited to attorney's fees, in the event of default occurring by Lessee for non-payment of rents, fees and charges as stated herein.

e. Annual Certified Statement

For each contract year, the Lessee (including any sublessee under this Agreement, sometimes hereinafter referred to as "sublessee"), at its own cost and expense, shall provide to the City a statement of Gross Receipts for the previous contract year prepared by an independent certified public accountant certifying that such statements have been prepared in accordance with Generally Accepted Accounting Principles and under the terms and conditions of the Agreement as follows:

(1) Room Rentals

(2) Food and Beverage Sales

(3) Vending Machine Sales

(4) Miscellaneous

Such statement of Gross Receipts shall be substantially the same as provided in Exhibit "D" as attached hereto.

f. Definition of Gross Receipts

(1) The term "Gross Receipts" as used in this Agreement means the total dollar value of all receipts received by Lessee (including sublessees) which are derived from, arise out of, or become payable on account of Lessee's (including sublessees) business and all business transactions conducted at or from the Leased Premises by or for the account of Lessee (including sublessees). Gross receipts are both cash and credit, regardless of when paid, on all orders of goods and services, including but not limited to receipts received for the rental of rooms, food and

beverage sales, miscellaneous sales, and commissions received for orders for goods and services performed by a third party vendor used by and charged to the customer, such as movies, video games, valet laundry services, tour services and vending machine sales, accepted or sold by Lessee (including sublessees) in, on, about, or from the Leased Premises, whether or not to be filled or performed at any other location, and the full amount of all orders accepted by Lessee (including sublessees) elsewhere, but to be filled or performed in, on, about or from the Premises.

(2) The following shall be excluded or deducted, as the case may be, from the computation of "Gross Receipts":

(a) Any and all retail sales taxes, excise taxes, hotel and restaurant taxes, lodging and/or bed taxes, bar or entertainment taxes, or related direct taxes collected by Lessee in the course of making such sales, and thereafter remitted to any governmental agency.

(b) Receipts from the sale or trade-in value of any equipment used upon the Premises and owned by Lessee.

(c) Receipts from telephone calls made by guests, invitees or patrons of Lessee through the hotel and restaurant telephone switchboard and pay phones.

(d) Employee meals, complimentary rooms, and complimentary meals, if included in Gross Receipts;

(e) Payments remitted to any franchisor pursuant to Frequent Guest Programs and transfers between affiliated properties.

(f) Damage fees, including pet and smoking fees, billed to the customer.

g. Books and Records of Lessee

(1) Books and Records

The Lessee (and sublessee) shall maintain such books and records in accordance with Generally Accepted Accounting Principles as would normally be examined by an independent certified public accountant pursuant to such standards in performing an audit of the Lessee's Gross Receipts. Such books or records shall contain records of all the Lessee's (and sublessee's) receipts in connection with its operations in a form consistent with good accounting practice and shall contain itemized records of all Gross Receipts by such categories of sales as are specified herein above (or such other categories as the City may require from time to time) and of all other receipts derived by the Lessee (and sublessee) from its operations.

(2) Location of Books and Records

The Lessee (and sublessee) may keep the books and records at its corporate office, provided that such books shall be made available to the City at the Leased Premises or a mutually agreed upon site, upon the City's request.

(3) Controls

The Lessee (and sublessee) shall cause to be installed on the Premises, and shall at all times use, such computers, cash registers, invoicing machines, sales slips or other accounting equipment, devices and forms as are reasonably necessary to record properly, accurately and completely all sales from and on the Premises of the Lessee's goods and services.

h. The City expressly reserves the right to assess and collect the following:

(1) Charges for the provision of any services or facilities which the City is required to provide by any governmental entity having jurisdiction over the Airport.

(2) The Lessee shall pay charges for other services or facilities provided by the City to the Lessee. Such services or facilities may include, but are not limited to, special maintenance of Lessee's Premises, vehicle permits, ID badges or equipment/vehicle storage areas.

(3) Charges provided for herein shall not exceed the charges imposed by the City on other Lessees or users of such services.

i. No payment by the Lessee or receipt by the City of a lesser payment amount than that which is due and payable under the provisions of the Agreement at the time of such payment shall be deemed to be other than a payment on account of the earliest payment then due, nor shall any endorsement or statement on any check or in any letter accompanying any check or payment be deemed an accord and satisfaction and the City may accept any check or payment without prejudicing in any way its right to recover the balance of such payment or to pursue any other remedy provided in this Agreement or by law.

## 5. MAINTENANCE, REPAIRS AND INSPECTIONS

a. Lessee shall, at its expense, maintain the Premises (including all leasehold improvements) in good and safe repair and in a neat, clean, and orderly condition. Lessee further agrees to paint, redecorate, repair and renovate the same as needed, but not less than to the extent and quality as required by the initial Franchise Agreement between Lessee and Cobblestone Hotel

and Suites, a copy of which shall be provided to the City upon its execution, or similar Franchise Agreement(s) approved by the City, and to surrender the Premises and leasehold improvements at the termination of this Agreement in the condition they were upon construction, reasonable wear and tear excepted.

b. City assumes no responsibility as to the condition of the Premises or any improvements located thereon and shall not assume responsibility for maintenance, upkeep, or repair necessary to keep the Premises in a safe and serviceable condition. City shall not be responsible for any expenses incurred in connection with preparing the Premises for development, except as may be expressly identified within the Agreement. Notwithstanding anything to the contrary contained herein, City warrants and represents that it is not aware of any covenants and restrictions encumbering the Premises, except as described herein or may be filed of record.

c. Waiver of Warranty of Suitability. City further disclaims any warranty of suitability that may arise by operation of law. Lessee leases the Premises "as is" and City does not warrant that there are no latent defects that are vital to Lessee's use of the Premises for its intended uses.

d. Any damage caused to any property of City by any act, omission or negligence of Lessee, its employees, invitees, suppliers or furnishers of service shall be repaired and restored to the condition existing prior to damage either (at City's election) by Lessee at Lessee's sole expense in accordance with Plans and Specifications approved by City, or by City, in which case Lessee shall pay City, as additional rent, the expenses of repair thereby incurred.

e. Lessee shall not undertake any maintenance or repair on the Premises involving structural change, alteration or rebuilding until detailed Plans and Specifications prepared by an architect or engineer registered in the State of Texas have first been approved in writing by City. Such approval shall not be unreasonably withheld.

f. Trash Disposal

As required by the City, Lessee shall provide for the complete removal, sanitary handling, and disposal of all trash, garbage and other refuse resulting from operations on the Leased Premises. Trash receptacles shall be maintained in a clean and sanitary condition and located away from public view.

g. Janitorial Service

Lessee agrees to provide, at its own expense, such janitorial and cleaning services and supplies as may be necessary or required in the operation and maintenance of its Leased Premises. Lessee also agrees to keep and maintain its Leased Premises in a clean, neat and sanitary condition, and attractive in appearance.

h. City, its authorized employees, agents, contractors, subcontractors, and other representatives shall have the right, but not the obligation, at all reasonable times to enter upon the Premises, for the following purposes:

(1) To inspect the Premises during regular business hours (or at any time in case of emergency) to ascertain the condition of Premises and to determine Lessee's compliance with the terms of this Agreement. The right of inspection shall impose on City no duty to inspect and shall impart no liability upon City for failure to inspect.

(2) To perform (or arrange to perform) maintenance and repairs and replacements in any event when Lessee is obligated to do so under this Agreement and has failed to do so within thirty (30) days after written notice from City; provided, however, that as to any such maintenance, repairs or replacements, Lessee shall pay City's entire cost and expense of performing such work as additional rent to City upon written demand.

(3) To perform any obligation of City under this Agreement and to make additions, alterations, maintenance and repairs to its utility systems; provided, however, the City shall repair any damage to the Leased Premises resulting from such additions, alterations, maintenance or repairs.

(4) All entries made for the purposes set forth in this Section shall be without abatement of rent and without unreasonable interference with Lessee's operations.

## 6. CONSTRUCTION, IMPROVEMENTS AND ALTERATIONS

a. General Requirements

(1) Lessee has specifically requested that the Premises be leased for use as a hotel site. Lessee's request for such use is based upon its own inspections and review of the Premises. Lessee therefore accepts the Premises in an "as is" condition.

(2) Lessee shall comply in every respect to applicable statutes, ordinances, building codes, and rules and regulations of all governmental agencies as may have jurisdiction at the time any construction is performed or any improvements are placed upon the Leased Premises by Lessee. Lessee shall obtain and provide to City copies of all required permits and licenses.

(3) Within ninety (90) days of the execution date of the Agreement, Lessee shall provide to the Airport, City and other appropriate agencies, preliminary Plans and Specifications prepared by an architect or engineer registered in the State of Texas. Such preliminary Plans and Specifications shall be subject to approval in quality and design by the Director of Aviation, such approval not to be unreasonably withheld.

(4) Lessee shall submit to the Director of Aviation for approval of the final Plans and Specifications prepared by an architect or engineer registered in the State of Texas for improvements to be constructed by Lessee on the Leased Premises within one hundred twenty (120) days of the execution of the Agreement, unless otherwise approved in writing by the City. It is stipulated that Lessee shall be responsible for construction of all improvements to Leased Premises necessary to create and maintain a quality facility, including without limitation, construction of all utility improvements and connections within the Leased Premises.

(5) Upon completion of any construction of the facilities, Lessee and its prime contractor, contractors or Architect shall furnish City with a set of "as-built" drawings duly certified by an architect or engineer registered in the State of Texas promptly after completion.

(6) Lessee shall not implement or commence any change in the original Plans and Specifications without the express written approval of the Director of Aviation, which approval shall not be unreasonably withheld. The City shall approve or disapprove said modified Plans and Specifications within ten (10) business days after submission by Lessee, otherwise such Plans and Specifications shall be deemed approved. Any request for changes to the original Plans and Specifications shall be submitted for approval to the City prior to the commencement of any work relating to implementation of same. All approvals are without recourse or the assumption of liability by the City or the reviewing engineer.

(7) No change of flag, a hotel re-branding or change in affiliation shall be made on the hotel site without prior written consent of City, which consent shall not be unreasonably withheld. City shall be provided with a copy of the applicable franchise agreement between Lessee

and franchisor prior to City's issuance of its consent, if any.

(8) Lessee shall not install any billboards on the Premises or any off-premises advertising signs. Lessee shall install and maintain signage for the hotel or any such other buildings or improvements in accordance with the standards prescribed in the Covenants in Exhibit "C" attached hereto and incorporated herein by reference.

(9) Upon expiration or termination of this Agreement, title to all improvements, structures, alterations of or additions erected or constructed by Lessee on the Premises (excluding trade fixtures, furnishings, equipment and other personal property which may be removed without material injury to the Premises), shall automatically vest in the City.

(10) Lessee acknowledges that, from time to time, City may undertake construction, repair or other activities related to the operation, maintenance and repair of Airport property which will require temporary accommodation by Lessee. Lessee agrees to accommodate City in such matters, even though Lessee's own activities may be inconvenienced or partially impaired, and Lessee agrees that no liability shall attach to City, its elected officials, employees or agents by reason of such inconvenience or impairment. City shall undertake its construction, repair or other activities in a manner which shall not unreasonably disrupt Lessee's business on the Premises, or deny access to the Premises.

b. Utilities

(1) City reserves the right for itself and others to existing utility easements over, under or across the Leased Premises, to grant necessary utility easements therefore, provided that in the exercise of such rights it shall not unreasonably interfere with Lessee's use of the Leased Premises, and that it shall repair any damage to the Leased Premises and leasehold improvements caused by City as a result of the exercise of such reserved rights. City also reserves the right to utilize any existing surface, overhead and underground pipes, pumps, utility lines or hydrant systems on the Leased Premises as are necessary to supply utility service to other portions of the Airport or Lessee thereon.

(2) Lessee shall be responsible for the construction and expense of all utility improvements and connections, including any tie-in fees to the public water and sewer systems, within the Leased Premises and to utility systems located adjacent to the Premises as provided for by the City, limited only to hook up fees for sewer and water taps Lessee shall not be responsible

for any other fee or pro-rata assessment for any construction or improvements to any of the utility systems provided by the City. Furthermore, Lessee shall be responsible for the cost and expense of all utility services used by Lessee as determined by separate meter.

c. Landscaping

(1) All areas within the Leased Premises not utilized by structures, parking spaces or vehicular way shall be landscaped by Lessee.

(2) A landscaping plan, which shall be acceptable to the franchisor, is to be included along with the Plans and Specifications for approval by the City. No initial landscaping is to be undertaken by Lessee before written approval is obtained from the franchisor and the Director of Aviation. Landscaping material shall be chosen for its permanence, attractiveness and ease of maintenance. Landscaped areas shall be kept maintained at all times.

d. Construction Commencement

Lessee agrees to begin construction of the hotel within six (6) months after execution of this Agreement, and shall complete construction no later than one (1) year after the commencement date of construction, unless otherwise approved in writing by the City.

e. Failure to Timely Construct

In the event construction of the hotel contemplated herein is not complete within one (1) year after the commencement date of construction, Lessee shall nevertheless, pay the City according to the Rents, Fees and Charges, set forth herein, unless construction has been interrupted by a natural, unforeseen occurrence which prevents construction from proceeding for more than thirty (30) days.

f. Possession

Lessee shall have the right to enter upon the Premises and commence the construction of improvements immediately upon the approval of Lessee's Plans and Specifications by the City.

## 7. DAMAGE AND DESTRUCTION

In the event that the Leased Premises or improvements made by Lessee thereon shall be damaged by fire or other casualty, in whole or in part, and such damage renders the Premises and/or improvements untenantable in whole or in part, Lessee shall give immediate notice thereof to City

and the same shall be repaired, restored and/or rebuilt by Lessee at its sole cost and expense to the condition at least equal to that which existed prior to its damage or destruction and in compliance with all laws and regulations applicable at the time of repair and/or restoration of the Premises and/or improvements, and in accordance with a schedule as approved by the City. City has relied upon Lessee to provide its own business interruption and rents insurance to cover the rental fees for the lease of the Premises and the loss to Lessee of any improvements and other property in accordance with paragraph 8 of this Agreement.

## 8. INSURANCE AND INDEMNIFICATION

a. Insurance coverages and limits required of Lessee hereunder are designed to meet the minimum requirements of Lessee and are not a recommended insurance program for Lessee. Lessee alone shall be responsible for the sufficiency of its own insurance program. With no intent to limit Lessee's liability or the indemnification provisions set forth herein, Lessee shall procure and maintain during the Term of this Agreement the following minimum limits:

(1) General Liability Insurance no less than One Million Dollars ($1,000,000) each occurrence, Combined Single Limit (CSL), bodily injury and property damage, including Personal and Advertising Injury and Employer's non-ownership liability; Two Million Dollars ($2,000,000) aggregate.

(2) Worker's Compensation in compliance with Texas Statutory Limits, including an All States Endorsements.

(3) Liquor Liability - $1,000,000 per occurrence/$2,000,000 Aggregate (as applicable).

(4) Comprehensive Automobile Liability Insurance - $1,000,000 CSL for all automotive equipment owned, non-owned, operated, leased or hired.

(5) Umbrella – Two Million Dollars ($2,000,000) to follow form for all underlying casualty lines of coverage.

b. Lessee must carry and place on file in the City and Airport offices an original signed copy of Lessee's Certificate of Insurance reflecting the following additional policies:

(1) Property Insurance Special form or a broader form of coverage at 100% replacement cost for all improvements and betterments to the Leased Premises.

(2) In the event of a casualty, City agrees to allow Lessee to utilize the insurance proceeds to rebuild the Premises as required herein.

(3) Business Interruption (Rents) Insurance equal to one year of the rental income herein stated and naming the City of Lubbock loss payee with respect to the rents.

(4) Builder's Risk to cover the amount equal to the full replacement value of any improvements.

(5) Underground or Above Ground Storage Tank – No less than $1,000,000 limit (as applicable).

c. Lessee's policy(ies) covering the said insurance shall be issued by a company doing business in the State of Texas (Best's A-VII or better) and countersigned by a Texas agent and approved by the Airport's Director of Aviation, and shall not be subject to cancellation or change until after thirty (30) days written notice shall have been given to City. All Certificates of Insurance, except Worker's Compensation, reflecting the above and naming the City of Lubbock as additional insured, shall be delivered to City by Lessee in advance of the date of occupancy as established herein with renewal certificates provided to City as applicable.

d. All insurance policies shall contain a standard cross-liability provision and shall stipulate that no insurance held by City will be called upon to contribute to a loss covered thereunder. City shall have no liability for any premiums charged for such coverage, and the inclusion of City as an additional insured is not intended to, and shall not, make City a partner or joint venturer with Lessee in Lessee's operations. Such policies shall also insure Lessee against the risks to which it is exposed as the Lessee of the business authorized under this Agreement, and shall be for full coverage with any deductibles and/or retentions subject to approval by City and shall contain provisions on the part of the respective insurers waiving the right of such insurers to subrogation.

e. The City reserves the right to periodically review the insurance provisions stated herein as to the amount of coverage, new types of insurance and new terms (such as combined single limit coverage) and to reasonably modify the insurance coverage under this Agreement.

f. If Lessee places a first mortgage upon its leasehold estate, Lessee's policies shall provide that any and all payments for loss shall be payable to mortgagee (lending institution), the City and Lessee as their respective interests shall apply.

g. City shall not be liable for any damage to Lessee's property from any cause unless solely caused by fault or negligence of City, its officers, agents, contractors or employees, and Lessee and Lessee's insurance companies, waive all claims against City for damage to persons or property arising for any reason, unless solely caused by fault or negligence of City, its officers, agents, contractors, or employees.

h. Indemnification

Lessee shall protect, defend, and indemnify City and its officers, elected officials, agents and employees from and against any and all liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury or death of any person, damage to any property, or other liability, including all reasonable costs for investigation and defense thereof (including but not limited to attorney fees, court costs, and expert fees), of any nature whatsoever arising out of or incident to this Agreement and/or the use or occupancy of the Leased Premises or the acts or omissions of Lessee's officers, agents, employees, contractors, subcontractors, licensees, or invitees, regardless of where the injury, death or damage may occur, unless such injury, death or damage is caused by the sole negligence and willful misconduct of the City. The City shall give to Lessee reasonable notice of any such claims or actions. The Lessee shall also use counsel reasonably acceptable to City in carrying out its obligations hereunder. The provisions of this section shall survive the expiration or early termination of this Agreement.

## 9. CANCELLATION PROVISIONS

a. City's Right to Cancellation

The City shall have the right to terminate this Agreement in its entirety immediately if one or more of the following events of default occur by Lessee:

(1) If Lessee shall neglect or fail to perform or observe any of the terms, provisions, conditions or covenants herein contained and if such neglect or failure shall continue for a period of thirty (30) days after written notice from City of such neglect or failure or, if more than thirty (30) days shall be required to cure the default because of its nature, if Lessee shall fail within said thirty (30) day period to commence and thereafter diligently proceed to cure such default; or,

(2) The occurrence of any act which deprives the Lessee of the rights, licenses, permits, and authorizations necessary for the proper and lawful conduct of the Lessee's operations or

services, and if such default is not cured within thirty (30) days after written notice from the City; or,

(3) If Lessee shall abandon the Leased Premises or shall cease to operate a hotel on the Leased Premises, except when Lessee is remodeling or reconstructing the Premises as agreed to in writing by the City and Lessee; or,

(4) Any termination of this Agreement shall not affect or impair the right of City to recover damages occasioned by default of Lessee.

b. Lessee's Right to Cancellation

The Lessee shall have the right to terminate this Agreement in its entirety upon thirty (30) days written notice to the City if one or more of the following events of default occur by City:

(1) The issuance by any court of competent jurisdiction of any injunction preventing or restraining the use of Airport in such a manner as to substantially restrict Lessee from conducting its operations not caused by any act or omission of Lessee and the remaining in force of such injunction for at least thirty (30) days; or,

(2) If for any reason Lessee is deprived of access to the Leased Premises for thirty (30) consecutive days or more; or,

(3) The assumption by the United States Government and the authorized agencies thereof, or any other governmental agency, of the operation, control, or use of the Airport facilities, or any substantial part or parts thereof in such a manner as to substantially restrict for a period of thirty (30) days or more the conduct of the Lessee's business thereto; or,

(4) A breach by the City of any of the terms and covenants or conditions within this Agreement, and the failure of the City to remedy such breach, for a period of thirty (30) days after receipt of written notice from the Lessee of the existence of such breach.

c. Abatement of Rent

In lieu of a termination of this Agreement pursuant to subparagraph b. above, Lessee may elect to receive a full abatement of rent for each month in which there is an occurrence of any event set forth in subparagraphs (1) through (4) of subparagraph b.

d. Leasehold Mortgagee Compliance

The City agrees that while any leasehold mortgage remains in effect, if, before the expiration of the sixty (60) day default period as provided for in subparagraph a. (1) above, the

leasehold mortgagee cures the default, or has commenced and is diligently proceeding to cure the default in lieu of Lessee, to the satisfaction of the City which shall be established in writing, then any written notice of termination by City shall be void and of no effect.

## 10. SURRENDER OF OCCUPANCY

a. When this Agreement expires or is terminated in whole or in part as provided for elsewhere in this Agreement, the Lessee shall surrender its Leased Premises therein in good condition, with the exception of reasonable wear and tear.

b. The Lessee shall be deemed to have abandoned to the City any personal property which it has failed to remove from its Leased Premises within sixty (60) calendar days after the end of the Term of this Agreement or the effective date of termination thereof, unless the City grants additional time for this purpose in writing. After the expiration of the sixty (60) day period, or any extension thereof granted by City, the City shall have the right to remove the property and restore the area to a satisfactory condition and hold the Lessee liable for all costs incident thereto. In the event it is necessary for the City to remove such property, the City shall not sustain or be charged with any liability by reason of the removal or custodial care of the same.

## 11. ASSIGNMENT AND SUBLETTING

The Lessee shall not transfer or assign this Agreement, or any part hereof, or interest herein, or sublease any of the Leased Premises hereunder, except with the prior written approval of the Director of Aviation, which approval shall not be unreasonably withheld. Any other attempted transfer, assignment or sublease shall be void and shall confer no rights upon any third person. No assignment or sublease shall relieve the Lessee of any obligation under this Agreement unless otherwise agreed by the City. Notwithstanding the foregoing, this section shall not be interpreted to preclude the assignment of this Agreement to a parent, subsidiary, or merged company, if such parent, subsidiary, or merged company assumes all rights and obligations of this Agreement. Written notice of such assumption shall be provided to the City by the parent, subsidiary, or merged company thirty (30) days prior to the effective date of such assignment.

## 12. GOVERNMENT REQUIREMENTS

a. Sponsor's Assurances

This Agreement shall be subordinate to the provisions of any existing or future agreements between the City and the United States Government, and any applicable federal laws or regulations relative to the operation, security or maintenance of the Airport at Lubbock, the execution of or compliance with which is, or will be, required as a condition precedent to the granting of federal funds for the development of the Airport, including but not limited to, the compliance requirements as set forth in the Sponsor's Assurances, attached as Exhibit "B", and as may be amended from time to time.

In the event that the Federal Aviation Administration or its successors requires modifications or changes in this Agreement as a condition precedent to the granting of funds for the improvement of the Airport, Lessee agrees to consent to such amendments, modifications, revisions, supplements, or deletions or any of the terms, conditions or requirements of this Agreement as may be reasonably required to obtain such funds.

b. Nondiscrimination and Affirmative Action

Lessee hereby agrees to comply with the following requirements as they pertain to Lessee's operations at the Airport.

(1) Lessee for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby agree as a covenant running with the land that: (a) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Leased Premises, (b) in the construction of any improvements on, over, or under the Leased Premises and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and (c) Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federal-Assisted Programs of the Department of Transportation, and as said Title and Regulations may be amended.

(2) In conducting or engaging in any aeronautical activity for furnishing services to the public at the Airport, Lessee shall furnish said services on a fair, equal, and not unjustly discriminatory basis to all users thereof, and shall charge fair, reasonable, and not unjustly discriminatory prices for each unit or service as required pursuant to 14 CFR 152. Lessee may make

reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

(3) Lessee acknowledges that the provisions of 49 CFR Part 23, Disadvantaged Business Enterprises (DBE), as said regulations may be amended, and such other similar regulations may be enacted, may be applicable to the activities of Lessee under the terms of this Agreement, unless exempted by said regulations, and Lessee hereby agrees to comply with the regulatory agencies, in reference thereto. These requirements may include, but not be limited to, compliance with DBE participation goals, the keeping of certain records of good faith compliance efforts, which would be subject to review by the various agencies, the submission of various reports and, if so directed, the contracting of specified percentages of goods and services contracts to DBEs.

(4) In the event of breach of any of the above nondiscrimination covenants which is not cured, City shall have the right to cancel this Agreement after such action as the United States Government may direct to enforce this covenant has been followed and completed, including exercise or expiration of appeal rights.

c. Airport Safety/Security

(1) Lessee shall observe all security requirements of Federal Aviation Regulations, Transportation Security Administration and Airport Security Program, applicable parts, as the same may be amended from time to time, which will be furnished to Lessee as approved by the Federal Aviation Administration and/or Transportation Security Administration, and to take such steps as may be necessary or directed by City to ensure that sublessees, employees, invitees, and guests observe these requirements.

(2) If City incurs any fines and/or penalties imposed by federal, state or other governmental agencies any expense in enforcing the regulations of Federal Aviation Regulations, Transportation Security Administration and/or Airport Security Program, as a result of the acts or omissions of Lessee, Lessee agrees to pay and/or reimburse all such costs and expense. Lessee further agrees to rectify any deficiency as may be determined by such federal, state, or other governmental agency. City reserves the right to take whatever action necessary to rectify any security deficiency, in the event Lessee fails to remedy the security deficiency.

d. Non Exclusive

Nothing herein contained shall be deemed to grant the Lessee any exclusive right or privilege within the meaning of the Sponsor's Assurances in Exhibit "B" or the conduct of any activity on Airport, except that, subject to the terms and provisions hereof, Lessee shall have the right to possess the Leased Premises under the provisions of this Agreement.

e. Right of First Refusal

In the event any acceptable offer from a third party is received by the City to lease any of the property described in Exhibit "E," attached hereto and incorporated herein by reference, the City prior to acceptance of such offer shall give Lessee written notice thereof including a copy of the offer so that the Lessee shall have a right of first refusal for ninety (90) days after receipt of the notice within which to elect in writing to lease the property on the terms of the offer.

If Lessee elects to lease the property and notifies the City of its election in writing, City and Lessee shall negotiate a lease agreement based upon the terms of the offer. Lessee acknowledges that such negotiated lease agreement shall be distinct from the terms, conditions and covenants of this Agreement and that City shall not be under any obligation to enter a lease agreement with the Lessee that is identical to this Agreement.

If Lessee fails to respond within the ninety (90) day period or elects to decline the offer, City may accept the offer from the third party.

Lessee's failure at any time to exercise its right of first refusal as set forth in this paragraph shall not affect this Agreement.

Lessee shall have this right of first refusal for a fifteen (15) year period commencing on the execution date of this Agreement.

f. Height Restrictions

Lessee expressly agrees for itself, its successors and assigns to restrict the height of structures, objects or natural growth, and other obstructions on the Leased Premises in accordance with CFR Part 77 of the Federal Aviation Regulations and in accordance with the City's approved height restriction ordinance.

g. Right of Flight

(1) City reserves unto itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the Leased Premises,

together with the right to cause in the airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in the said airspace, and for the use of said airspace for landing on, taking off from or operation on the Airport.

(2) City reserves to itself, its successors and assigns, for the use and benefit of the public, a continuing right and easement over the Leased Premises to take any action it deems necessary to prevent the construction, erection, alteration or growth of any structure, tree or other object in the vicinity of the runways of the Airport which would constitute an obstruction to air navigation according to the criteria or standards prescribed in Subpart C of Part 77 of the Federal Aviation Regulations.

(3) City reserves for itself, its successors and assigns, the right to prevent any use of the Leased Premises which would interfere with aircraft landing on or taking off from the Airport and the right to prevent any other use which would constitute an airport hazard.

h. Disadvantaged Business Enterprise

(1) In accordance with the requirements of the U. S. Department of Transportation (DOT), Disadvantaged Business Enterprises (DBE) as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds and in concession agreements at Airports. Consequently, the DBE requirements of 49 CFR Part 23 are hereby included in this Agreement. Lessee agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement covered by 49 CFR Part 23. Lessee agrees to include the immediately preceding sentence in any subsequent concession agreements (subcontracts) that it enters and cause those businesses to similarly include the statements in further agreements.

(2) Lessee shall submit information as required concerning the DBE(s) that will participate in this concession. This information will include the names and addresses of each DBE and/or DBE suppliers of goods and services, a description of the work to be performed by each DBE, the dollar value (annual estimated gross receipts) of the DBE's contracted participation, and a description of the legal arrangements to be utilized. At the sole discretion of the City, a DBE goal may be established for each year of the Term of the Agreement, as measured by total estimated annual gross receipts.

(3) The Lessee shall make good faith efforts to explore all available opportunities to meet the goal to the maximum extent practicable, or, if Lessee fails to meet the goal, Lessee must document acceptable good faith efforts to meet the goal as required by the City.

(4) DBE participation may be in the form of one or more subleases, joint ventures, partnerships, or other legal arrangement meeting the eligibility standards in 49 CFR Part23. In the event that the Lessee qualifies as a DBE, the goal shall be deemed to have been met. Should Lessee be unable to attain participation as provided for above, Lessee may use or obtain the services, goods and products from DBEs as allowed by 49 CFR Part23.

(5) The Lessee shall replace a DBE firm whose contract is terminated with another DBE firm in order to meet the goal, unless otherwise approved by the City.

(6) Lessee shall maintain records and documents of payments to DBEs for three (3) years following their performance under this Agreement.

## 13. FIRE REGULATIONS

a. Lessee shall at all times comply with all applicable laws, ordinances, and regulations pertaining to fire prevention.

b. If Lessee receives an inspection notice or a deficiency notice following inspection by the Fire Department or authorized City or insurance inspector, Lessee agrees to make any and all reasonable corrections, in the manner required by the Fire Department or insurance inspector, within ten (10) days after receipt of the notice.

## 14. HAZARDOUS MATERIALS/OPERATIONS

Further, Lessee shall, at Lessee's expense, comply with all present and hereinafter enacted Environmental Laws and any amendments thereto, affecting Lessee's use, operation, occupation or alteration of the Premises including any improvements thereon.

a. Definitions.

(1) "Environmental Laws" means any one or all of the following as the same are amended from time to time: the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6941 et seq.; the Toxic

Substances Control Act, 15 U.S.C. Section 2601 et seq.; the Safe Drinking Water Act, 42 U.S.C. Section 300h et seq.; the Clean Water Act, 33 U.S.C. Section 1251 et seq.; the Clean Air Act, 42 U.S.C. Section 7401 et seq.; and the regulations promulgated thereunder and any other laws, regulations and ordinances (whether enacted by the local, state or federal government) now in effect or hereinafter enacted that deal with the regulation or protection of the environment, including the ambient air, ground water, surface water, and land use, including substrata land.

(2) "Hazardous Material" shall mean all substances, materials and wastes that are, or that become, regulated under or classified as hazardous or toxic under any Environmental Law.

(3) "Release" shall mean any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing or dumping into the environment.

b. Compliance.

(1) Lessee shall not cause or permit any hazardous material to be used, generated, manufactured, produced, stored, brought upon, or released, on, under or about the Premises, or transported to and from the Premises, by Lessee, its agents, employees, contractors, invitees, or a third party in violation of any Environmental Law. **Lessee shall indemnify, defend and hold harmless City, its successors and assigns, its officers, directors, employees, agents and attorneys from and against any and all liability, loss, damage, expense, penalties and legal and investigation fees or costs, arising from or related to any claim or action for injury, liability, breach of warranty or representation, or damage to persons or property and any and all claims or actions brought by any person, entity or governmental body, alleging or arising in connection with contamination of, or adverse effects on, the environment or violation of any Environmental Law or other statute, ordinance, rule, regulation, judgment or order of any government or judicial entity which are incurred or assessed as a result (whether in part or in whole) of any activity or operation by Lessee or its employees, sublessees, invitees, contractors or agents on or discharge from the Premises or any improvements**

**thereon.** This obligation includes, but is not limited to, all costs and expenses related to cleaning up the Premises, improvements, land, soil, underground or surface water as required under the law. Lessee's obligations and liabilities under this paragraph shall continue so long as City bears any liability or responsibility under the Environmental Laws for any action that occurred on the Premises or any improvements thereon, save and except those incurred or assessed as a result of any activity, operation or use of the Premises by City or its lessees, employees, contractors, invitees prior to this Agreement or occurring on or as a result of the City's or public's use of the public roads, streets, entryways, and alleys adjoining the Premises. This indemnification of City by Lessee includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of hazardous material located on the Premises or any improvements thereon, or present in the soil or ground water on, under or about the Premises. However, excluding any environmental conditions that occurred and existed prior to the effective date of this Agreement. The parties agree that City's right to enforce Lessee's promise to indemnify is not an adequate remedy at law for Lessee's violation of any provision of this Section. City shall also have all other rights and remedies provided by law or otherwise provided in this Agreement.

(2) Without limiting the foregoing, if the presence of any hazardous material on, under or about the Premises or in any improvements thereon or permitted by Lessee results in any contamination of the Premises, any improvements thereon, or any surrounding property, Lessee shall promptly take all actions at its sole cost and expense as are necessary to return the Premises or any improvements thereon to the condition existing prior to the introduction of any such hazardous material to the Premises or in any improvements thereon; provided that City's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions would not potentially have any material adverse long-term effect on the Premises or on any improvements thereon.

(3) Lessee shall, at Lessee's own cost and expense, make all submissions to, provide all information to, and comply with all requirements of the appropriate governmental authority (the "Government") pursuant to the Environmental Laws. Should the Government determine that site characterization, site assessment and/or a cleanup plan be prepared or that a cleanup should be undertaken on the Premises or in any improvements thereon, then Lessee shall, at Lessee's own cost and expense, prepare and submit the required plans and financial assurances, and carry out the approved plans. At no cost or expense to City, Lessee shall promptly provide all information requested by City to determine the applicability of the Environmental Laws to the Premises or to respond to any governmental investigation or to respond to any claim of liability by third parties which is related to environmental contamination.

(4) Lessee shall immediately notify City of any of the following: (a) any correspondence or communication from any governmental entity regarding the application of Environmental Laws to the Premises or Lessee's operation on the Premises; or (b) any change in Lessee's operation on the Premises that will change or has the potential to change Lessee's or City's obligations or liabilities under the Environmental Laws.

(5) Lessee shall insert the provisions of this Section in any sublease agreement or other contract by which Lessee grants a right or privilege to any person, firm or corporation pursuant to this Agreement.

c. Emergency.

In the event of an emergency (meaning a Release of Hazardous Materials in violation of Environmental Laws on the Premises that presents an immediate threat of injury to persons or property) or the expiration of cure periods provided for in this Agreement, then notwithstanding any other provision in this Agreement to the contrary, City shall have the right of "self-help" or similar remedy in order to minimize any damages, expenses, penalties and related fees or costs, arising from or related to a violation of any law on, under or about the Premises, the cost of which including attorneys fees, shall be borne by Lessee. City shall use its best efforts to notify Lessee prior to its exercise of such self-help rights.

Lessee's failure or the failure of its agents, employees, contractors, invitees or the failure of a third party to comply with any of the requirements and obligations of this Section shall constitute a material default of this Agreement and shall permit City to pursue the remedies as set forth herein in addition to all other rights and remedies provided by law or otherwise provided in the Agreement, to which City may resort cumulatively, or in the alternative.

Notwithstanding anything to the contrary contained herein, City acknowledges that Lessee's agreement to comply with the Environmental Laws does not equate to or require Lessee's waiver of any grandfathered or vested rights.

d. Compliance Upon Termination

Prior to the expiration of this Agreement or vacation of the Leased Premises, Lessee shall complete a Phase I environmental assessment to determine whether any Hazardous Substances are located on, at, in or under the Leased Premises. If the assessment reveals that Hazardous Substances are located on, at, in or under the Leased Premises, Lessee shall, at Lessee's sole expense, remove or permanently clean all such Hazardous Substances that Lessee, or anyone for whom Lessee is responsible, including, but not limited to, a customer, invitee, employee, agent, or person having a contractual relationship with the Lessee, caused to be situated on, at, in or under the Leased Premises. This shall be done in compliance with all applicable federal, state and local laws, regulations and ordinances and shall include the performance of any necessary cleanup or remedial action. Lessee shall provide City with copies of all records related to any Hazardous Substances that are required to be maintained by any applicable federal, state or local laws or regulations.

e. City's Representation

To the best of the City's current actual knowledge and belief as of the date of Agreement execution, City is not aware of any disposal of any Hazardous Substances on the Leased Premises prior to the date of Agreement execution. City has provided Lessee with an opportunity to inspect the Leased Premises or to conduct a Phase I Environmental Assessment at Lessee's own cost prior to the execution of the Agreement and date of possession.

f. Underground/Above Ground Storage Tanks

(1) Installation

All storage tanks shall be installed according to the requirements of the Texas Commission on Environmental Quality, the Environmental Protection Agency, the City of Lubbock,

and any other applicable government related authorized agencies collectively hereinafter referred to as the "Appropriate Governmental Agencies." All installation, design and construction of the storage tanks shall be at the Lessee's expense and in accordance with the Appropriate Governmental Agencies' regulations and certified by an independent professional engineer registered in the State of Texas. All installation specifications and drawings shall be submitted in advance to the City.

(2) Removal

At the time the Lessee removes a storage tank, such removal shall be at the Lessee's expense and pursuant to rules and regulations as required by the Appropriate Governmental Agencies. Upon removal of the storage tank, the Lessee shall perform site assessment in order to demonstrate that there have not been any leaks from the storage tank to the environment during the period in which the storage tank has been in service. The Lessee shall perform initial abatement, site characterization and corrective action as outlined herein upon termination of this Agreement.

(3) Leak Detection

The Lessee shall be responsible for regularly monitoring and inspecting the storage tanks on its Leased Premises and performing leak detection tests thereon in accordance with state and federal law. The City shall be notified immediately of any leaks or releases discovered at any time by the Lessee.

g. Lessee shall arrange for the storage and for the daily disposal, at its own expense, of all waste material in a manner satisfactory to the Director of Aviation.

## 15. SERVICE STANDARDS

a. Quality of Service

It is an express condition of this Agreement that Lessee maintains a high standard of product quality and service and maintains a reasonable level of prices comparable with prices of similar businesses within the Lubbock area. Questions or complaints regarding the quality of its products or services and/or prices, whether raised by patrons' complaints or on the City's own initiative or otherwise, may be submitted to Lessee for response.

b. Complaints by Public

In the event the Lessee receives (or the City receives and forwards to the Lessee) any written complaint concerning the Lessee's operations at the Airport, the Lessee shall promptly

respond to such complaint in writing within thirty (30) days of its receipt. Without further notice or demand, the Lessee shall keep a copy of each such complaint and the Lessee's written response for a period of one (1) year from the date of the complaint and shall make the complaint and the written response available to the City upon its request.

c. Hours of Operation

Lodging services shall be provided by Lessee twenty-four (24) hours a day, seven (7) days a week, including holidays, unless otherwise permitted by the prior written consent of the Director of Aviation.

d. Covenant Against Waste and Nuisance

Lessee covenants and agrees that it shall not use the Leased Premises in any manner that will constitute waste, and that it shall not cause or permit any unlawful conduct, unreasonable annoyance or nuisance to exist or arise in the course of or as a result of its use of the Premises, nor permit any activity or omission which constitutes or results in unlawful conduct, unreasonable annoyance or nuisance.

## 16. EMINENT DOMAIN

a. If at any time during the Term of this Agreement or any extension thereof, the entire Premises, or such portion thereof as would render it impossible or impractical to operate a hotel, shall be taken or appropriated by virtue of eminent domain, or other similar proceedings, or be condemned for any public or quasi-public use, the Lessee shall have the right and privilege of terminating this Agreement. Such termination shall not affect the Lessee's right to recover the apportionment of damages as herein provided. All the rents and other charges and payments reserved herein shall be permanently abated from the time of such taking or appropriation.

b. In the event of a partial taking or appropriation of the Premises not resulting in a termination of this Agreement, Lessee shall be entitled to an abatement of rent, immediately upon the taking, in such amount as shall be just and equitable.

c. It is understood and agreed that in the event of a partial or complete taking or appropriation, whether or not this Agreement be terminated as above provided, the City and the Lessee may, if permissible by applicable law, prosecute at their option their respective claims

against the public or private body designated as the taking authority on account of any taking or appropriation of the Premises.

d. Any damage claimed by Lessee as a result of any loss to or of improvements paid for or contributed by the Lessee on the Premises, shall be without diminution by reason of any provision in this Agreement or by operation of law that the said leasehold improvements may be or shall become the property of the City at any time prior to or at the expiration of the full Term hereof.

e. In ascertaining the Lessee's interest and the damages sustained by the Lessee, the Term of this Agreement shall be deemed to run for the full Term allowable, including any extensions under the terms of this Agreement, notwithstanding any prior termination thereof which may result as provided in this Agreement in the case of a taking or appropriation.

## 17. MORTGAGING OF LEASEHOLD

The Lessee and every successor is given and has the right to mortgage its interest in this Agreement, subject to giving written notification to the City which shall be deemed validly given, serviced or delivered upon deposit in the United States mail, certified, and with proper postage and fees prepaid, addressed to City at the most recent address, at any time and from time-to-time during the term hereof. If the Lessee or any successor or assign shall mortgage this leasehold, then so long as such mortgage shall remain in effect the following provisions shall apply:

a. Notice of Default, Cure

The City shall, upon serving on the Lessee any notice of default, simultaneously serve a copy of such notice upon the leasehold mortgagee. The mortgagee shall thereupon have the same time within which to remedy or cause to be remedied the defaults complained of as is allowed to the Lessee, and the City shall accept such performance by or at the instigation of the mortgagee as if such performance had been accomplished by the Lessee.

b. Insurance

The name of the leasehold mortgagee may be added to the "loss payable endorsement" of any and all insurance policies required to be carried by the Lessee hereunder. The City will make available to the Lessee all insurance or condemnation proceeds to which the Lessee may be entitled hereunder for purposes of restoration of the Premises.

c. Estoppel Certificate

The City, within ten (10) days after a request in writing by the Lessee or the leasehold mortgagee, shall furnish a written statement, duly acknowledged, that this Agreement is in full force and effect and that there is no default hereunder by the Lessee, or if there is a default, such statement shall specify the default which the City claims to exist.

d. No Mortgage by City

The City may not place any mortgage or encumbrance on its fee interest in the Leased Premises for the City's special benefit during the Term of this Agreement, and covenants not to do so.

## 18. CONTINGENCIES

This Agreement is contingent upon the following:

a. Financing

This Agreement is contingent upon Lessee's ability to obtain a loan from a lender acceptable to Lessee to be secured by a first lien security deed on the leasehold estate. If a firm commitment for said loan is not obtained within ninety (90) days of the execution of this Agreement, the Agreement may be rescinded at the option of Lessee.

b. Franchise Agreements

(1) This Agreement is contingent on Lessee obtaining a franchise commitment to operate a minimum 70-room hotel on the Premises on terms acceptable to Lessee. Lessee shall obtain a franchise commitment within forty-five (45) days after the execution of the Agreement. The City reserves the right to terminate this Agreement at any time after the forty-five (45) days, if Lessee fails to obtain a franchise agreement.

(2) Lessee agrees to provide the City with a fully executed copy of the Franchise Agreement.

c. Permits

This Agreement is contingent on the ability of the Lessee to obtain all necessary permits (including any appropriate zoning classification) for the construction of a minimum 70-room guest hotel and restaurant on the Premises. If Lessee has been unable to obtain all necessary permits for the construction of said hotel within one hundred eighty (180) days of the execution of this Agreement, this Agreement may be rescinded at the option of Lessee.

d. Environmental Assessment

Lessee has the option to complete a Phase I environmental assessment to determine whether any Hazardous Substances (as defined in Section 14.) are located in, on, or under the Leased Premises in excess of allowable levels established by all applicable federal, state and local laws and regulations. If Lessee elects to perform said environmental assessment, it shall be completed within ninety (90) days of the execution of this Agreement, and the cost of said assessment shall be paid by the Lessee. If any Hazardous Substances are located on the Leased Premises as a result of said environmental assessment, this Agreement may be rescinded at the option of the Lessee on the date that written notice is given to the City provided that written notice is given within ten (10) days of the ninety (90) day period stipulated herein. Lessee shall provide a copy of the Environmental Assessment to the City upon its completion.

## 19. MISCELLANEOUS

a. Personal Liability

No member of the City or employee of either party shall be charged personally or held contractually liable by or to the other party under any term or provision of this Agreement because of any breach thereof or because of its execution or attempted execution.

b. Non-Waiver of Rights

No waiver of default by the City of any of the terms, conditions, covenants, or agreements hereof to be performed, kept, or observed by the Lessee shall be construed or act as a waiver of any subsequent default of any of the terms, covenants, conditions, and agreements, herein contained to be performed, kept, or observed by the Lessee, and City shall not be restricted from later enforcing any of the terms and conditions of this Agreement.

c. City Employees

Lessee shall not during the Term of this Agreement, hire or employ, on either a full-time or part-time basis, any person or persons so long as such person shall be employed by the City of Lubbock, Aviation Department.

d. Entire Agreement

This Agreement, including exhibits attached hereto at the time of its execution, constitutes the entire Agreement between the parties hereto, and all prior agreements covering the rights and privileges set out herein are superseded by and merged into this Agreement.

e. Amendment

This Agreement may be amended only by a written instrument executed by City and Lessee.

f. Governing Law

This Agreement shall be deemed to be governed by and construed in accordance with the laws of the State of Texas. Lessee agrees and consents to the exclusive jurisdiction of the courts of the State of Texas for all purposes regarding this Agreement and further agrees and consents that venue of any action brought hereunder shall be exclusively in the County of Lubbock.

g. Invalid Provisions

If any provision of this Agreement or any application thereof shall be held to be invalid by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby, unless one or both parties would be substantially and materially prejudiced.

h. Headings

The headings contained herein are for convenience in reference only and are not intended to define or limit the scope of this Agreement or any term thereof.

i. Notices

Any notice or other communication to City or Lessee pursuant hereto shall be deemed validly given, serviced or delivered upon deposit in the United States mail, certified, and with proper postage and fees prepaid, addressed to City or Lessee, respectively, at the addresses hereinafter shown or at the address hereafter specified in writing.

(1) The address of the City is:

Director of Aviation
Lubbock Preston Smith International Airport
5401 N. MLK Blvd., Unit 389
Lubbock, TX 79403

(2) The address of the Lessee is:

Boomer Development LLC
7704 Trenton Avenue
Lubbock, Texas 79424
Telephone: (806) 698-0990

j. Agreement Alteration

This Agreement, together with any riders and exhibits attached hereto forming a part hereof, sets forth all of the promises, agreements, conditions and understandings between the parties hereto, either oral or written. It is understood and agreed that no subsequent alteration, amendment, change or addition to the Agreement shall be binding upon City or Lessee unless reduced to writing by them and by direct reference made a part hereof.

k. Rules and Regulations

Lessee shall observe and obey and require its officers, employees, agents and invitees to obey and observe the duly enacted and lawful rules and regulations of the City and ordinances of the City of Lubbock and the duly enacted and lawful rules and regulations now in existence or hereafter promulgated by City, by the Federal Aviation Administration, or by any other local, state or federal agency of competent jurisdiction. Lessee shall comply with all federal, state and municipal laws, regulations and ordinances, including all promulgated which may apply to the operations of Lessee at the Airport.

l. Pest Control

Lessee agrees to provide adequate and lawful control of rodents and insects and other pests on its Leased Premises.

m. Permits and Taxes

The Lessee shall pay all expenses in connection with the use of the Leased Premises herein and the rights and privileges herein granted, including without limitation by reason of enumeration, taxes, including ad valorem taxes, permit fees, license fees, including tap fees and pure water fees, and assessments lawfully levied or assessed upon the Leased Premises or structures and improvements at any time situated thereon and that Lessee will secure all such permits and licenses. Failure to pay said taxes and/or fees shall be considered an event of default under the terms of this Agreement.

n. Access

During the term of this Agreement, Lessee shall have access to and from the Leased Premises by means of a public access road provided and maintained by the City or State.

o. Signs

Lessee may, at its own expense, install and operate necessary and appropriate identification signs on its Leased Premises in compliance with the City of Lubbock sign ordinance. All signs located on the Leased Premises, excluding signs located on Lessee's buildings, are subject to the approval of the Director of Aviation, which consent shall not be unreasonably withheld. Additionally, Lessee may, at its own expense, request directional signs be placed in other locations within the Airport property, subject to the approval of the Director of Aviation, which consent shall not be unreasonably withheld.

p. Bankruptcy

Lessee agrees not to file any petition by or on the behalf of Lessee seeking protection under the federal bankruptcy laws or similar relief under any law or statute of the United States or any State thereof without first giving City reasonable notice in advance.

q. Amendments

Lessee agrees not to terminate or make any material amendments of any long term franchise agreements without prior Director of Aviation approval, and shall provide the Director of Aviation with a copy of all proposed and finalized amendments.

r. Landlord's Lien.

It is expressly agreed that in the event of default in the payment of rent or any other sum due from Lessee to City under the terms of this Agreement, City shall have a lien upon all goods, chattels, personal property or equipment belonging to Lessee, which are placed in, or become a part of the Premises, as security for rent due and to become due for the remainder of the Agreement Term. City agrees that it will not levy a landlord's lien against any delivery vehicle or rolling stock or any of the goods or personal property of third parties in the possession of Lessee, any sublessee or any assignee of the Lessee.

In the event City exercises the option to terminate the leasehold as provided herein, the City, after providing reasonable notice to Lessee of its intent to take possession and giving an opportunity to cure the default, may take possession of all of Lessee's property on the Premises and sell it at a

public or private sale after giving Lessee reasonable notice of the time and place of any public sale or of the time after that any private sale is to be made for such prices and terms as City deems best. The proceeds of the sale shall be applied first to the necessary and proper expense of removing, storing and selling such property, then to the payment of any rent due or to become due under this Agreement, with the balance, if any, to be paid to Lessee. City acknowledges that any lien or security interest City may claim pursuant to this section is subordinated to any lien or security interest now or subsequently held by any mortgagee, when said mortgagee is pursuing its rights under the mortgage, as those terms are defined with this Agreement.

s. Liens against the City

In accordance with the laws of the State of Texas, Lessee understands and agrees that, for itself, and as a condition of doing business with the Lessee, its contractors, suppliers, vendors, tenants, agents, or any other person shall agree not to levy any lien against the real property of the City.

t. Non-Arbitration

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

u. No Joint Venture.

It is acknowledged and agreed by the Parties that the terms hereof are not intended to and shall not be deemed to create a partnership or joint venture among the Parties.

**IN WITNESS WHEREOF,** said parties have caused these presents to be duly executed by their proper officers thereunto authorized, and corporate seals affixed.

This document constitutes the entire Agreement between the City and Lessee, and any other written or parole agreement with the City is expressly waived by Lessee.

EXECUTED this 10th day of April, 2014.

THE CITY OF LUBBOCK

BY:_____

GLEN C. ROBERTSON, MAYOR

BOOMER DEVELOPMENT LLC

BY:_____

Print: ANDY HUTCHISON

Title: Principal

Date: 4-2-14

ATTEST:

_____

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

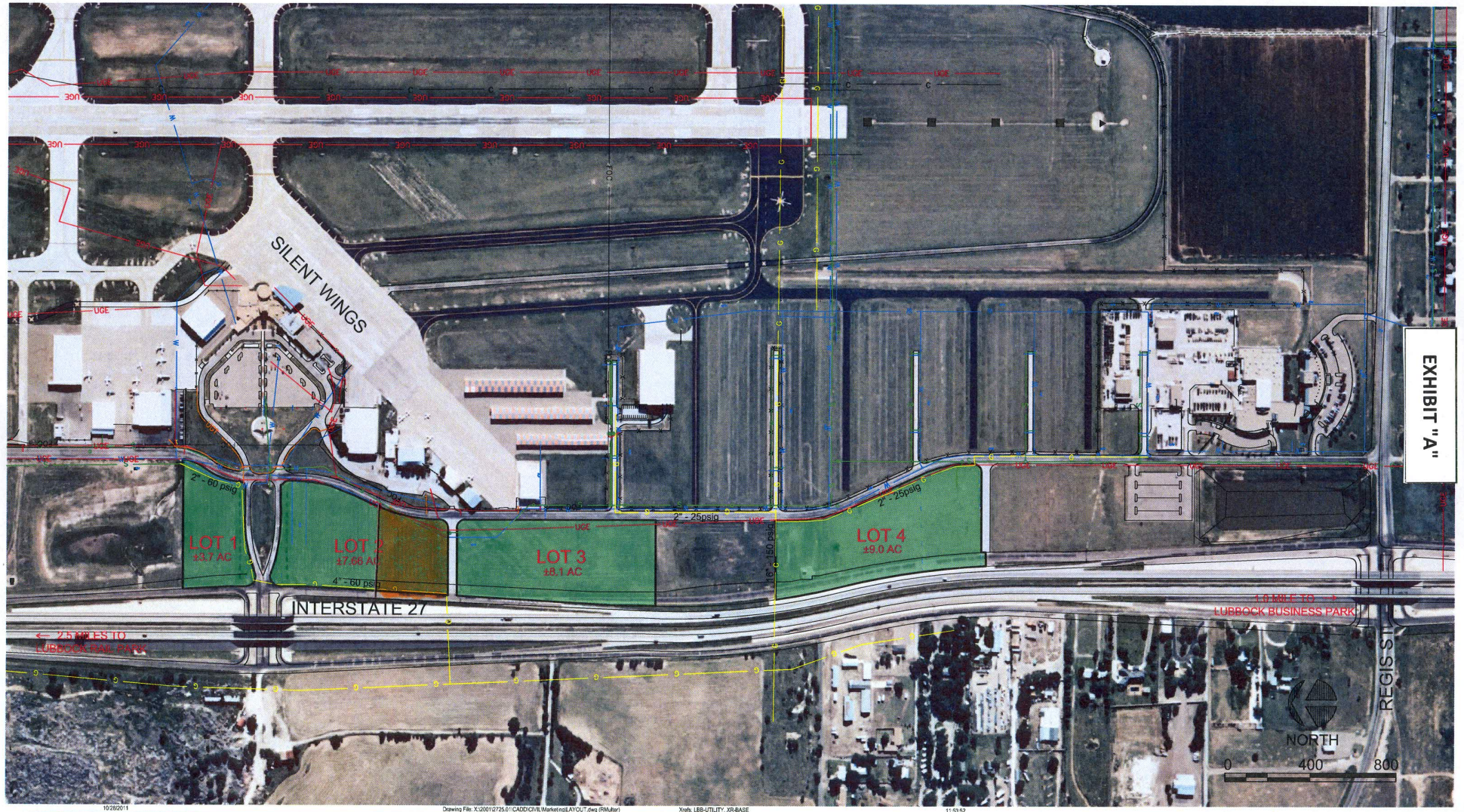
_____

Kelly Campbell, Interim Director of Aviation

APPROVED AS TO FORM:

_____

Chad Weaver, Assistant City Attorney




LEASED PREMISES

PARKHILL SMITH & COOPER

PSC

LOT LOCATIONS AT LBB

| | | | |
|---|---|---|---|
| Issue: | FOR REVIEW | Date: | 10-25-11 |
| Project No: | 01-2725-01 | Sheet: | 1 OF 1 |

## ASSURANCES
## Airport Sponsors

**A. General.**

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.

2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.

3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this grant agreement.

**B. Duration and Applicability.**

1. **Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor**. The terms, conditions and assurances of this grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor**. The preceding paragraph 1 also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

3. **Airport Planning Undertaken by a Sponsor.** Unless otherwise specified in this grant agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 30, 32, 33, and 34 in section C apply to planning projects. The terms, conditions, and assurances of this grant agreement shall remain in full force and effect during the life of the project.

C. **Sponsor Certification.** The sponsor hereby assures and certifies, with respect to this grant that:

1. **General Federal Requirements.** It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

**Federal Legislation**

a. Title 49, U.S.C., subtitle VII, as amended.
b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.[1]
c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
d. Hatch Act – 5 U.S.C. 1501, et seq.[2]
e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.[1 2]
f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).[1]
g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.[1]
h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
i. Clean Air Act, P.L. 90-148, as amended.
j. Coastal Zone Management Act, P.L. 93-205, as amended.
k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.[1]
l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f))
m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
n. Civil Rights Act of 1964 - Title VI - 42 U.S.C. 2000d through d-4.
o. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
p. American Indian Religious Freedom Act, P.L. 95-341, as amended.
q. Architectural Barriers Act of 1968 -42 U.S.C. 4151, et seq.[1]
r. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.[1]
s. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.[1]
t. Copeland Anti kickback Act - 18 U.S.C. 874.1
u. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.[1]
v. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
w. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.[2]
x. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.

**Executive Orders**

Executive Order 11246 - Equal Employment Opportunity[1]
Executive Order 11990 - Protection of Wetlands
Executive Order 11998 – Flood Plain Management
Executive Order 12372 - Intergovernmental Review of Federal Programs
Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction[1]
Executive Order 12898 - Environmental Justice

**Federal Regulations**

a. 14 CFR Part 13 - Investigative and Enforcement Procedures.
b. 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
c. 14 CFR Part 150 - Airport noise compatibility planning.
d. 29 CFR Part 1 - Procedures for predetermination of wage rates.[1]
e. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.[1]
f. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).[1]
g. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).[1]
h. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.[3]
i. 49 CFR Part 20 - New restrictions on lobbying.
j. 49 CFR Part 21 - Nondiscrimination in federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.
k. 49 CFR Part 23 - Participation by Disadvantage Business Enterprise in Airport Concessions.
l. 49 CFR Part 24 - Uniform relocation assistance and real property acquisition for Federal and federally assisted programs.[1 2]
m. 49 CFR Part 26 – Participation By Disadvantaged Business Enterprises in Department of Transportation Programs.
n. 49 CFR Part 27 - Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance.[1]
o. 49 CFR Part 29 – Government wide debarment and suspension (nonprocurement) and government wide requirements for drug-free workplace (grants).
p. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.
q. 49 CFR Part 41 - Seismic safety of Federal and federally assisted or regulated new building construction.[1]

**Office of Management and Budget Circulars**

a. A-87 - Cost Principles Applicable to Grants and Contracts with State and Local Governments.
b. A-133 - Audits of States, Local Governments, and Non-Profit Organizations

[1] These laws do not apply to airport planning sponsors.

[2] These laws do not apply to private sponsors.

[3] 49 CFR Part 18 and OMB Circular A-87 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation and circular shall also be applicable to private sponsors receiving Federal assistance under Title 49, United States Code.

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this grant agreement.

2. **Responsibility and Authority of the Sponsor**.

   a. **Public Agency Sponsor:** It has legal authority to apply for this grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

   b. **Private Sponsor:** It has legal authority to apply for this grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this grant agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. **Sponsor Fund Availability.** It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this grant agreement which it will own or control.

4. **Good Title**.

   a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.

   b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. **Preserving Rights and Powers**.

   a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or

modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.

b. It will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this grant agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this grant agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this grant agreement.

c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.

d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.

e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.

f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to insure that the airport will be operated and maintained in accordance Title 49, United States Code, the regulations and the terms, conditions and assurances in this grant agreement and shall insure that such arrangement also requires compliance therewith.

g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in

permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

6. **Consistency with Local Plans.** The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

7. **Consideration of Local Interest.** It has given fair consideration to the interest of communities in or near where the project may be located.

8. **Consultation with Users.** In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

9. **Public Hearings.** In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

10. **Air and Water Quality Standards.** In projects involving airport location, a major runway extension, or runway location it will provide for the Governor of the state in which the project is located to certify in writing to the Secretary that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty days after the project application has been received by the Secretary.

11. **Pavement Preventive Maintenance**. With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

12. **Terminal Development Prerequisites.** For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of

submittal of the project grant application, all the safety equipment required for certification of such airport under section 44706 of Title 49, United States Code, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

13. **Accounting System, Audit, and Record Keeping Requirements.**

    a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this grant, the total cost of the project in connection with which this grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.

    b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

14. **Minimum Wage Rates.** It shall include, in all contracts in excess of $2,000 for work on any projects funded under this grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

15. **Veteran's Preference.** It shall include in all contracts for work on any project funded under this grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in Section 47112 of Title 49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

16. **Conformity to Plans and Specifications.** It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to

commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval of the Secretary, shall be incorporated into this grant agreement. Any modification to the approved plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this grant agreement.

17. **Construction Inspection and Approval.** It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

18. **Planning Projects.** In carrying out planning projects:

    a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
    b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
    c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
    d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
    e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
    f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
    g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
    h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

19. **Operation and Maintenance**.

    a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition

and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for-

1) Operating the airport's aeronautical facilities whenever required;
2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
3) Promptly notifying airmen of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.

b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

**20. Hazard Removal and Mitigation.** It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

**21. Compatible Land Use.** It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

**22. Economic Nondiscrimination.**

a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.

b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for

furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to-

1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.

d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.

e. Each air carrier using such airport (whether as a tenant, non tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non tenants and signatory carriers and non signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.

f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees [including, but not limited to maintenance, repair, and fueling] that it may choose to perform.

g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.

h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.

i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

**23. Exclusive Rights.** It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public.

For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and

b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

**24. Fee and Rental Structure.** It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

**25. Airport Revenues.**

a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:

1) If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the

airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.

2) If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.

3) Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at Section 47102 of title 49 United States Code), if the FAA determines the airport sponsor meets the requirements set forth in Sec. 813 of Public Law 112-95.

b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.

c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of Section 47107 of Title 49, United States Code.

**26. Reports and Inspections.** It will:

a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;

b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;

c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms,

conditions, and assurances of this grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and

d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
   1) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
   2) all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

27. **Use by Government Aircraft.** It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that –

   a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
   b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

28. **Land for Federal Facilities.** It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. **Airport Layout Plan.**

   a. It will keep up to date at all times an airport layout plan of the airport showing (1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto; (2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars

and roads), including all proposed extensions and reductions of existing airport facilities; (3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon; and (4) all proposed and existing access points used to taxi aircraft across the airport's property boundary. Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.

b. If a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

30. **Civil Rights.** It will comply with such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from funds received from this grant. This assurance obligates the sponsor for the period during which Federal financial assistance is extended to the program, except where Federal financial assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon in which case the assurance obligates the sponsor or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits, or (b) the period during which the sponsor retains ownership or possession of the property.

31. **Disposal of Land.**

a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another

project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order, (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund. If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue.

b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, (1) upon application to the Secretary, be reinvested or transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order: (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund.

c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.

d. Disposition of such land under (a) (b) or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

32. **Engineering and Design Services.** It will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement **prescribed** for or by the sponsor of the airport.

33. **Foreign Market Restrictions.** It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

34. **Policies, Standards, and Specifications.** It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including but not limited to the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, dated (the latest approved version as of this grant offer) and included in this grant, and in accordance with applicable state policies, standards, and specifications approved by the Secretary.

35. **Relocation and Real Property Acquisition.** (1) It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B. (2) It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24. (3) It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

36. **Access By Intercity Buses**. The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

37. **Disadvantaged Business Enterprises.** The recipient shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non discrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26, and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation

and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801).

**38. Hangar Construction.** If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

**39. Competitive Access.**

a. If the airport owner or operator of a medium or large hub airport (as defined in section 47102 of title 49, U.S.C.) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that-

1) Describes the requests;
2) Provides an explanation as to why the requests could not be accommodated; and
3) Provides a time frame within which, if any, the airport will be able to accommodate the requests.

b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date.

**EXHIBIT "C"**

**HOTEL LAND LEASE AGREEMENT**
**LEASE COVENANTS AND RESTRICTIONS**

## ARTICLE I – DEFINITIONS

Whenever used in this instrument or as used within the Agreement to which this instrument is attached, the following terms shall have the following meanings:

**A.** **"AIRPORT"** shall mean the Lubbock Preston Smith International Airport.

**B.** **"BUILDING"** shall include all buildings and all projections or extensions there from, including any garages, outside platforms and docks, carports, canopies and porches, excluding ground cover.

**C.** **"LOT COVERAGE"** shall mean the surface area of the Premises that may be covered by Buildings, expressed as a percentage of the total area.

**D.** **"BUILDING SITE"** shall mean the entire Premises leased by Lessee and shown as "Premises" or "Leased Premises" in EXHIBIT "A" of the Agreement.

**E.** **"CITY"** shall mean the City of Lubbock, Texas, it's duly elected Council, or any duty constituted agent/committee appointed through said Council to fulfill the obligations herein required.

**F.** **"COVENANTS"** shall mean the lease agreement restrictions and covenants expressed within this instrument, as attached and incorporated into the Agreement.

**G.** **"DIRECTOR OF AVIATION"** or **"DIRECTOR"** shall mean the Director of Aviation of the Airport.

**H.** **"FAA"** shall mean the Federal Aviation Administration of the U. S. Government or any federal agencies succeeding to its jurisdiction.

**I.** **"LESSEE"** shall mean Boomer Development LLC.

**J.** **"PERMITTED USES"** shall mean the uses, which may be engaged in upon the Premises.

**K.** **"PREMISES"** the property as identified in Article 2a and more fully described in EXHIBIT "A" of the Agreement.

L. **"SETBACK"** shall mean the distance a building must be set back from the property line of the Premises.

M. **"STREET"** shall mean any street, highway or other public thoroughfare recognized by the City.

## ARTICLE II – PERMITTED USES AND PERFORMANCE STANDARDS

A. **Permitted Uses.** No building, structure or land provided to Lessee pursuant to the Agreement shall be used by Lessee for any purpose other than for a hotel and related facilities and improvements, including all uses commonly found in a hotel, and/or for commercial out parcels as more fully described within the Agreement. Lessee shall not operate or permit others to operate an auto rental concession or business on the Premises, except that Lessee may allow an auto rental company to maintain a direct telephone line, information or rental desk in the hotel lobby for the convenience of hotel guests, provided such auto rental company has an appropriate contractual arrangement with City permitting its operation on Airport property. Also, Lessee shall not operate or permit others to operate an auto parking concession or business on the Premises except to the extent necessary to provide parking for hotel guests and customers. Lessee may operate a Park and Stay Program with the written approval of the Director of Aviation. All uses not expressly granted in this section or otherwise expressly permitted by the Agreement are prohibited.

B. **Performance Standards.** Subject to the limited exceptions arising related to the construction activities required for the improvements contemplated by the Agreement and provided that such instances are the result of standard construction activities, the Premises shall not be used or occupied in any manner so as to create any dangerous, noxious, or otherwise objectionable conditions which may affect any other property, including, but not limited to:

**(i.)** Fire, explosive or other hazardous noise, vibration or shock;
**(ii.)** Smoke, dust, odor or other forms of air pollution;
**(iii.)** Heat;
**(iv.)** Glare;
**(v.)** Electrical or other disturbance; or
**(vi.)** Liquid or solid refuse wastes or other substances, conditions or elements in such a manner or in such an amount as to affect the surrounding area or adjoining properties.

C. **Fire and Explosive Hazards.** No activity shall be undertaken involving fire or explosive hazards which may endanger the property, improvements or employees of the City or any other property owner or Lessee.

D. **Noise.** No noise, other than from the operation of motor vehicles or aircraft, which is objectionable to a person of normal sensibilities shall be permitted within fifty (50) feet of the property line of the Premises.

E. **Air Pollution.** No activity of any type shall be conducted or permitted on the Premises which violate any applicable federal, state, or local law, rule or regulation.

F. **Dust Control.** All ground areas that will not be covered by structures shall be landscaped or surfaced with concrete, asphalt concrete, asphalt oil or other comparable dust free surfacing permitted by applicable City and State regulations, and shall be maintained in good condition.

G. **Heat or Glare.** Any operation producing intense glare or heat shall be performed within an enclosed or screened area in such manner that the glare or heat emitted will not be discernible from the property line of the Premises.

H. **Electronic or Radio Interference.** No electrical, electronic, or radio emissions shall be produced on the Premises that may interfere, obstruct, or adversely affect the operation of air navigation aids or Airport communications.

I. **Illumination/Exterior Lighting.**

(i) Exterior Lighting. The design and location of exterior lighting shall comply in all respects to the applicable requirements of the City, the FAA or successor agencies, and any other governmental agencies having applicable jurisdiction with respect to height, type, and placement of lighting standards as they may affect the safety of flight operations into, from, and around the Airport.

(ii) Interior Lighting. The source of illumination of any kind within any Building on the Premises shall not be visible at the property line, except for normal installation of standard interior lighting fixtures within buildings.

J. **Signs.** The number, size, design, and location of all signs displayed for observation from outside a Building whether displayed on, near, or within a Building shall be subject to prior written approval by the Director of Aviation. Further, all such signs shall comply with all applicable sign ordinances and building codes of the City of Lubbock, and with all rules and regulations of the FAA, or any successor agencies.

Signs on the Premises shall be limited to those identifying the uses conducted on the Premises and to those necessary for directional purposes. Notwithstanding anything to the contrary contained herein, the Director of Aviation will not unreasonably withhold approval of signs that, when applicable, are consistent with the prototype design of a nationally/regionally recognized retail brand licensor/franchisor; provided, however, that no outdoor advertising, billboards or flashing lighting shall be permitted.

K. **Refuse or Trash.** No refuse or trash shall be kept, stored or allowed to accumulate on the Premises, except as expressly permitted by the Agreement.

L. **Storage.** All storage of every type, except of automobiles, shall be within approved Buildings or enclosures. Storage shall be expressly prohibited outside of approved Buildings or enclosures, including but not limited to the storage of parts, service equipment or similar items.

M. **Sewage Disposal Systems.** No cesspool, septic tank or other sewage disposal system or device shall be installed, maintained or used upon the Premises without the written approval of the City.

## ARTICLE III – DEVELOPMENT OF SITE-REQUIRED IMPROVEMENTS

A. **Required Parking.** Parking facilities shall be provided in accordance with all applicable City, State and Federal Laws, rules and regulations, and shall be entirely sufficient for the parking of all vehicles necessary for the conduct of the hotel and other permitted uses of the Premises. Such parking facilities shall comply with all applicable City, State and Federal laws, including, but not limited to, the American with Disabilities Act. Each parking space shall be designated by white lines painted upon paved surface.

B. **Vehicle Loading.** All provisions for the loading and maneuvering of vehicles incidental to the operation of the hotel and other permitted uses on the Premises shall comply with all applicable City, State and Federal laws, rules and regulations.

C. **Setbacks.** All Building setbacks shall comply with the requirements of the City of Lubbock, through its planning and zoning requirements or otherwise, shall be more restrictive, in which case the more restrictive requirements shall apply.

D. **Landscaping.** Every lot on the Premises for which a Building shall be constructed must be landscaped. This provision applies to the entirety of the Premises, unless the requirements of the City of Lubbock, through its planning and zoning requirements or otherwise shall be more restrictive, in which case the more restrictive requirements shall apply. Lessee is also encouraged to expand landscape development plans to include such elements as sculptures, rock arrangements and sheltered outdoor seating areas, all subject to design approval by the Director of Aviation or authorized agent prior to installation. All landscaping shall be maintained in good condition, free of weeds, trash and other debris; and shall be properly drained and graded

E. **Building Heights.** All building heights shall conform to standards established by FAA rules and regulations and shall require prior written approval of the Director of Aviation. The term "building height" shall include any Building equipment, structures or other extrusions from the roof.

F. **Lot Coverage.** All Buildings and structures, or portions thereof, excluding paving and landscaping, placed on the Premises shall be constructed in compliance with the City of Lubbock, as amended. This provision applies to each individual lot.

G. **Type of Construction.** All Buildings shall be constructed in compliance with the Architectural Design Standards of the City of Lubbock, as amended. In addition, concrete or masonry units shall be kept neatly painted, if used. Pre-fabricated metal buildings are specifically prohibited. All Buildings shall conform to applicable laws, ordinances and building codes of the City.

H. **Storage and Vehicle Loading Area.** All outside storage and refuse areas shall be constructed and contained to eliminate odors, insects, dust, visual nuisances, and other similar nuisances.

No materials, supplies, or equipment, including Lessee-owned or Lessee-operated trucks, with the exception of the Hotel Shuttle Vehicle(s), shall be stored in an area on the Premises, except inside a closed Building, behind a barrier completely screened from view of adjoining Lots or Streets.

All provisions for the loading and maneuvering of vehicles incidental to the operation of the hotel or other permitted uses shall be placed on the Premises and shall not encroach into Setback areas except the side and rear setback area; on street vehicle loading shall not be permitted. Vehicle loading shall be permitted only at the rear of Buildings, or on a side, except that such loading performed at a side shall be completely screened from view of adjoining Lots or Streets.

I. **Pipes.** No water pipes, sewer pipes, or drainage pipes (other than those within structures) shall be installed or maintained upon the Premises above the surface of the ground, except hoses and moveable pipes used for irrigation or similar purposes, as approved by the Director of Aviation.

## ARTICLE IV – PREPARATION AND SUBMISSION OF PLANS FOR IMPROVEMENT

A. **General.** All plans for alterations to the Premises in excess of FIFTY THOUSAND AND 00/100 DOLLARS ($50,000.00) ("Material Amount"), either for the construction of additional facilities or alterations to existing Buildings, including repairs, shall be prepared, submitted and approved as outlined herein. This requirement shall be in addition to the requirements set forth in the Agreement but shall not be applicable to alterations that are less than the Material Amount. All initial plans for improvements to each site shall be prepared by a registered engineer or architect and shall be affixed with their signature and official seal, and further, shall require the prior written approval by the Director of Aviation before any construction may begin ("Initial Plans"). Such approval from the Director of Aviation shall not be unreasonably withheld. The architect or engineer who prepares the Initial Plans and other construction documents shall have full responsibility for complying with Texas Codes for Engineers and Architects, as applicable. Notwithstanding anything to the contrary contained herein, the Director of Aviation will not withhold its approval of the Initial Plans and Final Plans (including but not limited to the plans for repairs or alterations to existing Buildings) provided that, when applicable, such plans are

consistent with the prototype design of the hotel brand franchisor or the retail brand licensor/franchisor.

The Director of Aviation shall provide written approval or disapproval of any submitted plans, within the timelines established below. The Initial Plans for proposed improvements shall include the following:

(i) A plot plan at a scale not smaller than one (1) inch equaling one hundred (100) feet showing the relationship of the proposed improvements to the Premises and to the improvements on adjacent lots, utilities and access thereto, curbs, walks, driveways, parking areas, and other pertinent design information;

(ii) Preliminary schematic plans for the improvements showing typical, general layouts, including guest room areas, public spaces, back-of-house areas, and lounge and banquet areas for the hotel site and comparable plans for the other, non-hotel sites;

(iii) Ground cover plans, including landscaping;

(iv) A true architectural rendering of the proposed Buildings, including elevations, the proposed exterior color scheme, style, materials and design and placement of signs; and

(v) Any other plans, specifications or design features which the Director of Aviation may reasonably deem necessary and request.

**B.** **Codes and Regulations.** All improvements shall be planned and constructed in accordance with the laws and ordinances of the City, as amended, applicable building codes as amended, all applicable State and Federal laws as amended, and all rules and regulations of the FAA or any successor agencies; as amended. Notwithstanding anything to the contrary contained herein, City acknowledges that Lessee's agreement to comply with the Codes and Regulations does not equate to or require Lessee's waiver of any grandfathered or vested rights.

**C.** **Commitment to Construct.** Once the Director of Aviation approves Construction Specifications for any structure, a copy of the approved plans shall be deposited for permanent record with the Airport. Approval of these plans by the Director of Aviation shall constitute a commitment on the part of the Lessee to obtain all required permits and licenses and, to erect and maintain the improvements as proposed and approved, and to do so within the time period set forth in the Agreement.

**D.** **Construction Within Time Specified.** Any approved construction shall be prosecuted diligently in accordance with the approved plans and specifications and shall be completed within the time

specified, provided that in no event shall such construction period exceed those timelines established within the Agreement. Failure to complete such construction in the time specified shall be considered a default as set forth within the Agreement.

E. **Construction Without Approval.** If any structure shall be altered, erected, placed or maintained upon the Premises other than in accordance with the requirements of these Covenants and the Agreement, including the plans and specifications approved by the City, such alterations, erection and maintenance shall be deemed to have been undertaken without the approvals required herein. This restriction shall be applicable to landscaping plans and signage plans as well as architectural plans.

In the event of such construction without approval, the Lessee will be considered in default of the Agreement and the City may terminate said Agreement, in accordance with the provisions set forth therein.

## ARTICLE V – GENERAL PROVISIONS

A. **Maintenance of Premises.** Lessee shall, at its sole cost and expense, provide for the maintenance of the Premises and the Buildings, improvements and appurtenances thereto, in a presentable condition consistent with good business practice and equal in appearance and character to other similar improvements on the Airport.

B. **Maintenance of Landscaping.** If landscaped areas are not maintained in accordance with the standards prescribed under this Agreement and these Covenants, and the condition is not corrected within ten (10) days after written notice from the City or the Airport, the Director or authorized agent shall have the right to enter on the Premises and plant or replant such areas without being deemed guilty of trespass and without incurring any liability. The costs therefore, as determined by the City, shall be paid by the Lessee to the City within thirty (30) days from Lessee's receipt of notice of such costs.

C. **Use Permits.** Such use and occupancy permits as may be required by the Building Code of the City shall be maintained in force at all time by Lessee, at its sole cost. To the extent legally permitted, the City shall cooperate with Lessee in obtaining any such required use and occupancy permits.

D. **Failure to Enforce a Restriction.** The City may fail to enforce any restriction herein specified, but in no event should such failure be deemed a waiver of that particular restriction or of these Covenants or the right to enforce any restriction at a later date.

[END OF COVENANTS]

**EXHIBIT "D"**

**LUBBOCK PRESTON SMITH INTERNATIONAL AIRPORT**

Hotel Gross Revenues Reporting Form

Lessee Name:_____

Property Name:_____

Annual Reporting Period:_____(Year)

**REVENUE CATEGORIES**

**Room Sales**

| | |
|---|---|
| Gross Revenues | $_____ |
| Less Allowances | $_____ |
| Total Room Sales | $_____ |

**Alcoholic Beverage Sales**

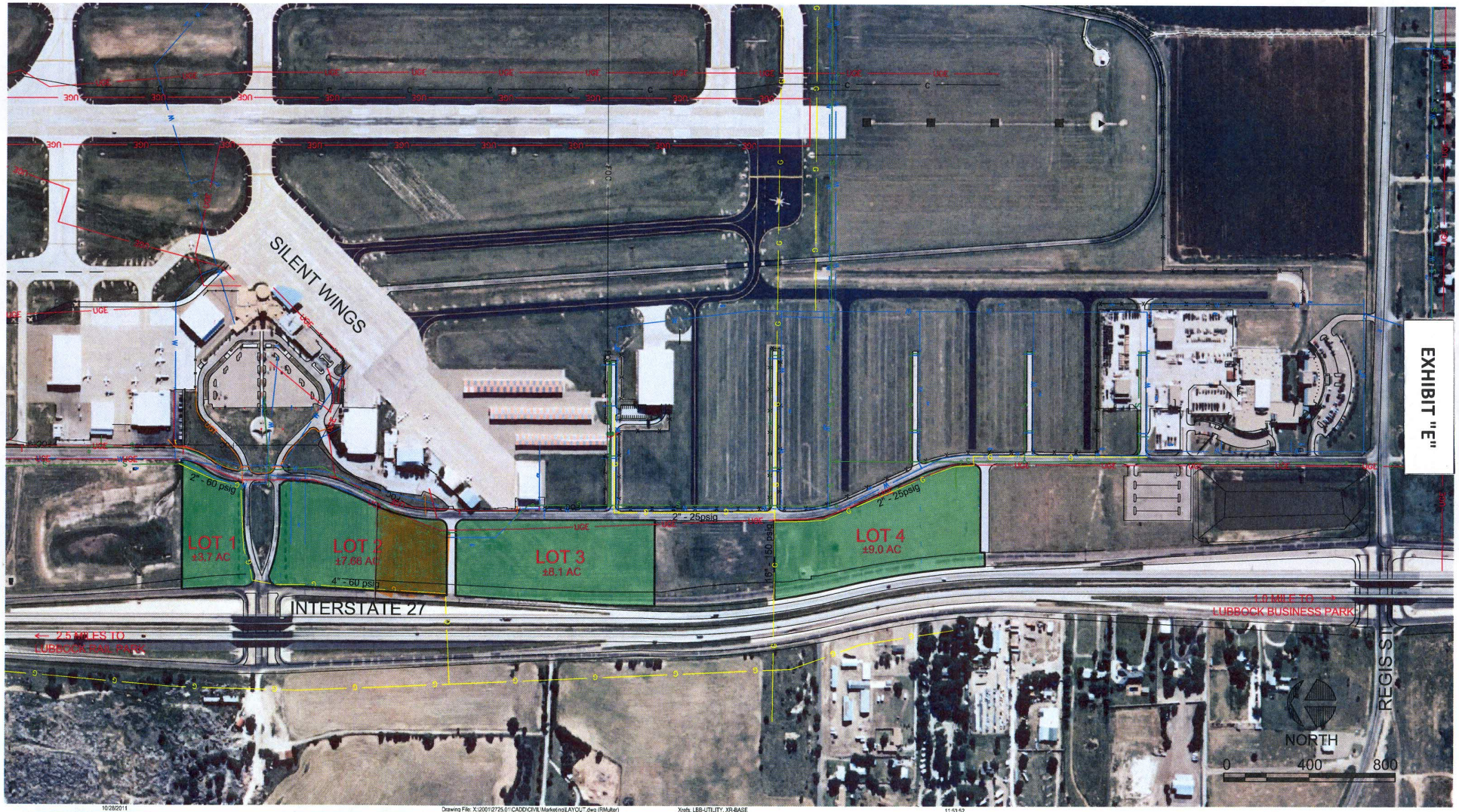
| | |
|---|---|
| Gross Revenues | $_____ |
| Less Allowances | $_____ |
| Total Alcoholic Beverage Sales | $_____ |

**Food Sales**

| | |
|---|---|
| Gross Revenues | $_____ |
| Less Allowances | $_____ |
| Total Food Sales | $_____ |

**Miscellaneous Sales**

| | |
|---|---|
| Gross Revenues | $_____ |
| Less Allowances | $_____ |
| Total Miscellaneous Sales | $_____ |




RIGHT OF FIRST REFUSAL

PARKHILL SMITH & COOPER

PSC

LOT LOCATIONS AT LBB

| | | | |
|---|---|---|---|
| Issue: | FOR REVIEW | Date: | 10-25-11 |
| Project No: | 01-2725-01 | Sheet: | 1 OF 1 |

**Regular City Council Meeting** **6. 2.**

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

Dedicated Public Comment for Item 6.3.

**Item Summary**

As stated above.

**Fiscal Impact**

None.

**Staff/Board Recommending**

Glen Robertson, Mayor

**Regular City Council Meeting** **6. 3.**

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

**Ordinance 2nd Reading – Planning**: Consider Ordinance 2014-O0050 Zone Case 2824-A, a request of Hugo Reed and Associates, Inc., for Love's Travel Stops & Country Stores, for a zoning change from R-1 to Interstate Highway Industrial (IHI) on 16.6 acres of unplatted land out of Block A, Section 9, west of Interstate 27 and south of Regis Street.

**Item Summary**

On March 27, 2014, the City Council approved the first reading of the ordinance.

General comments:
The request is to zone the property from R-1 single family, as it was originally annexed, to IHI. The proposal is for a truck stop.

Adjacent land uses:
A majority of the property is vacant around the site with a several commercial uses nearby to the south and northwest. The site, is more recognizable as the I-27 overpass to access the airport from Regis Street.

Comprehensive Land Use Plan (CLUP):
The request is consistent with the CLUP. The plan recommends industrial and the Interstate Highway district is consistent with the I-27 corridor from both a CLUP Policy and a Zoning Policy.

Effect on the adjacent street and thoroughfare system:
The new business will add a traffic load to Regis and the Interstate access roads, but no more than expected along a thoroughfare and access road intersection.

Recommendations:
On March 6, 2014, the P&Z recommended the request with a vote of 5-0.

**Fiscal Impact**

None.

**Staff/Board Recommending**

Quincy White, Assistant City Manager
P&Z Commission

**Attachments**

Ordinance - Zone Case 2824-A

Zone Case 2824-A

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. 2824-A;** A ZONING CHANGE FROM **R-1** TO **IHI** ZONING DISTRICT ON **16.6 ACRES OF UNPLATTED LAND OUT OF BLOCK, A, SECTION 9,** 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. 2824-A**

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

A change of zoning under the provisions of Section 40.01.005 of the Code of Ordinances of the City of Lubbock from **R-1** to **IHI** zoning district on **16.6 acres of unplatted land out of Block A, Section 9**, City of Lubbock, Lubbock County, Texas, located at **west of Interstate 27 and south of Regis Street.**

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

SECTION 2. THAT violation of any provision of this Ordinance shall be deemed a misdemeanor punishable by fine not to exceed Two Thousand and No/100 Dollars

($2,000.00) as provided in Section 40.01.006 of the Zoning Ordinance of the City of Lubbock.

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

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

AND IT IS SO ORDERED.

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

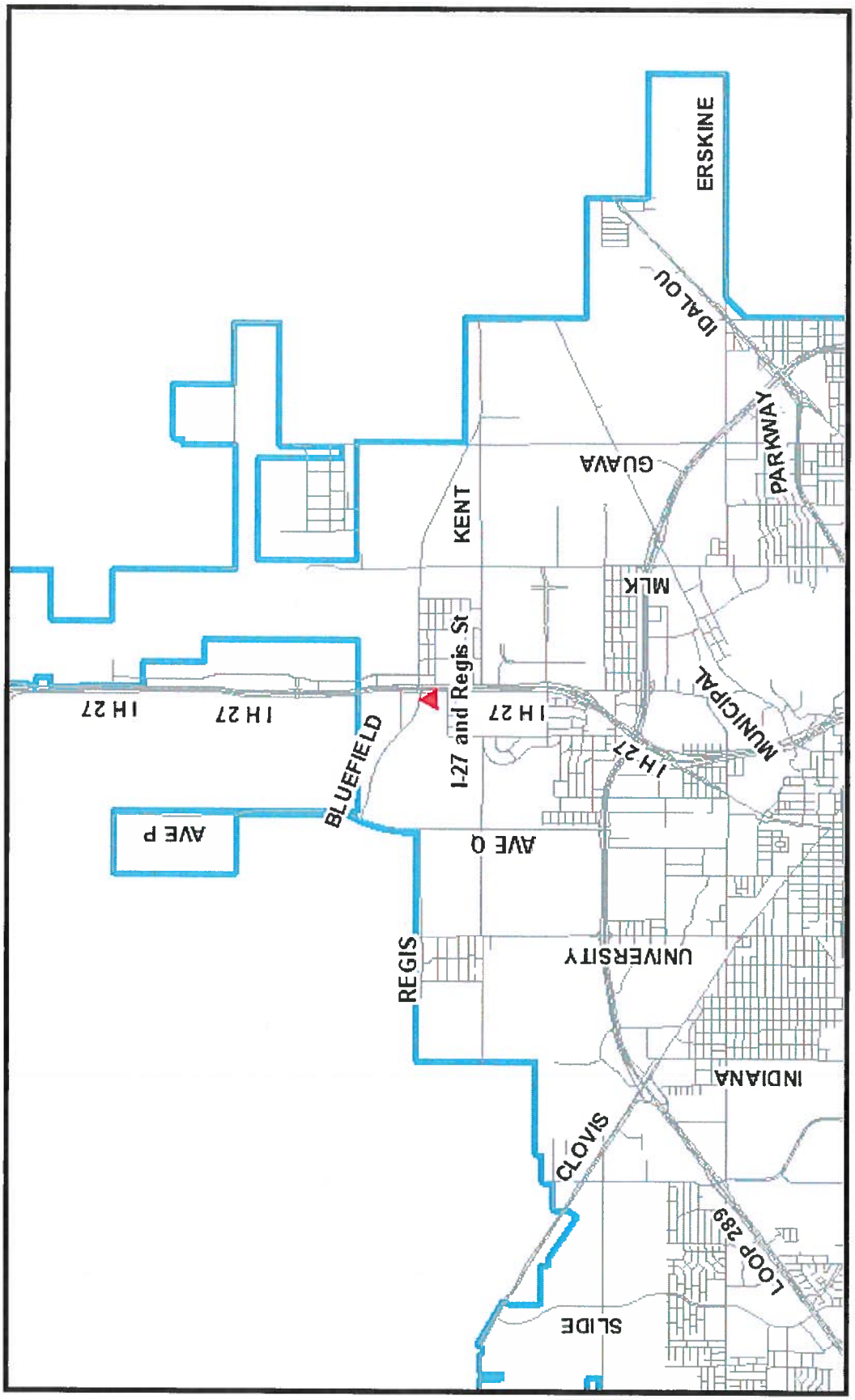
APPROVED AS TO CONTENT:

_____
Andrew Paxton, Director of Planning

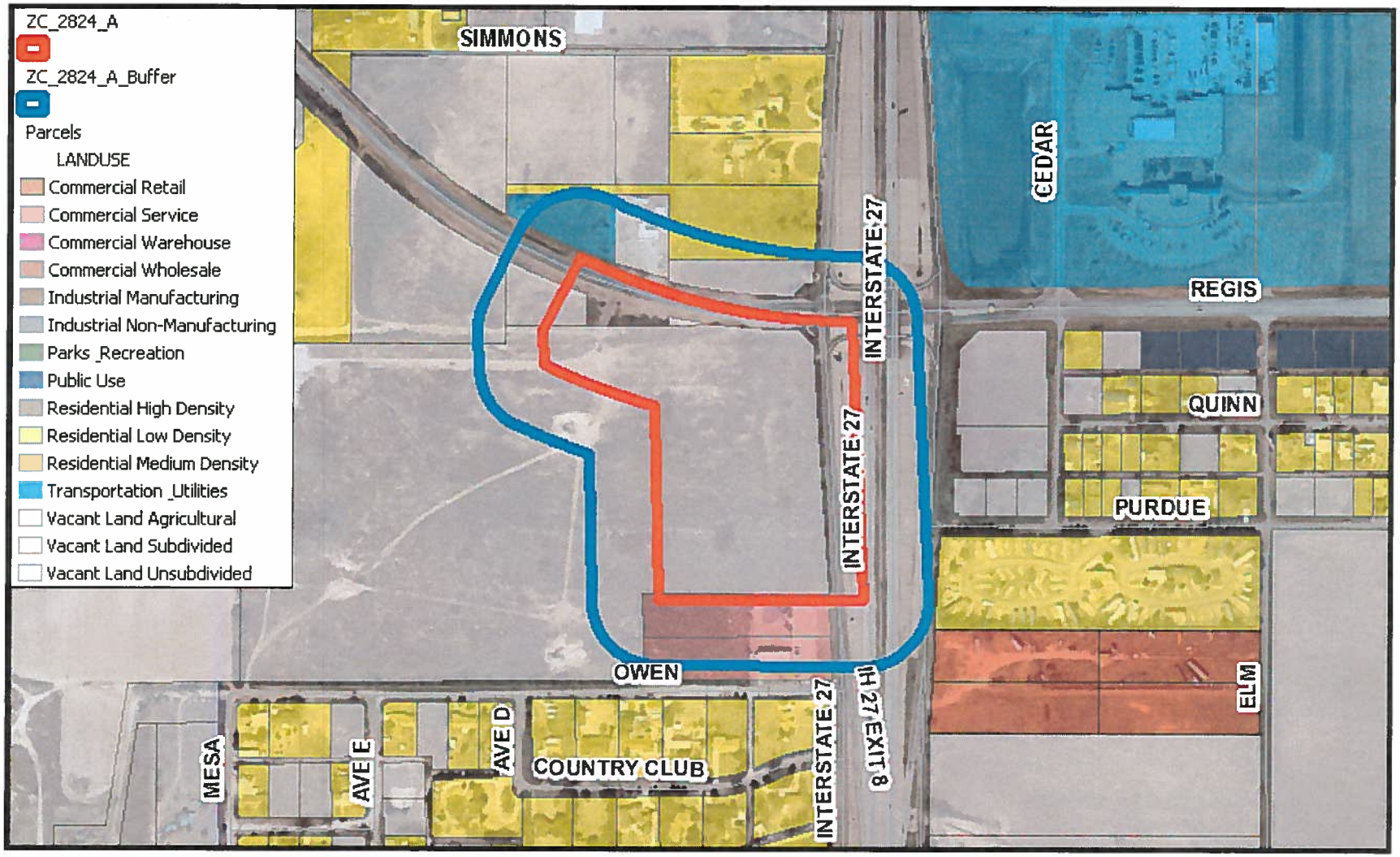
APPROVED AS TO FORM:

_____
Chad Weaver
Assistant City Attorney

vw/cityatt/Chad/ZoneCase/ZC2824-A
March 6, 2014

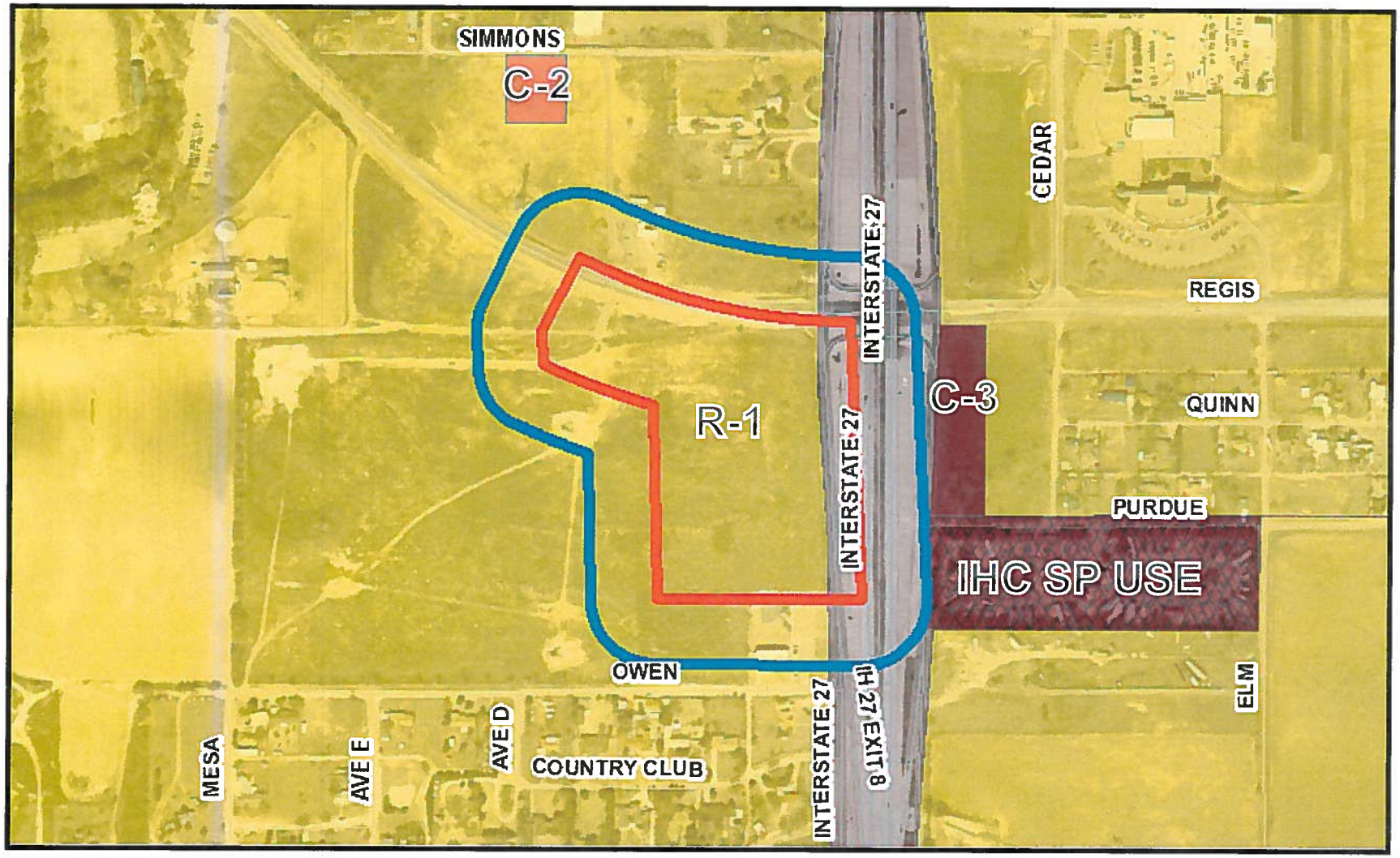



# P.Z.C. Case 2824-A




# P.Z.C. Case 2824-A

**Request of Hugo Reed and Associates, Inc. (for Love's Travel Stops & Country Stores) for a zoning change from R-1 to IHI, west of Interstate 27 and south of Regis Street**




# P.Z.C. Case 2824-A Zoning

# APPLICATION FOR ZONE CHANGE

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

**Applicant** (Please Print): Hugo Reed and Associates, Inc.
1601 Avenue N (Street/Post Office Box)
Lubbock (City) TX (State) 79401 (Zip)
(806) 763-5642 (Telephone)

**For**: Love's Travel Stops & Country Stores
10601 North Pennsylvania PO Box 26210 (Street/Post Office Box)
Oklahoma City (City) OK (State) 73126 (Zip)
405-302-6646 (Telephone)

**Location or Address:** Section 9, Block A

**Legal Description:*** See metes and bounds description attached

**Existing Land Use:** Vacant

**Existing Zoning:** ~~X~~ R-1

**Acreage or Square Footage of Property:** 16.6 Acres

**Zoning Requested:** IHI

**Proposed Development:** Travel Stop

**If property is not subdivided, will preliminary plat be submitted?** Yes _____ No X

Terry Holeman
**Applicant's Signature**

February 4, 2014
**Date**

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

**Filing Fee:** $523 (Love's #1087075)
($475.00 for the first acre; $3.00 for each additional acre; $165 for non-profit)

---

Receipt 68038 CK# 1087075 **For City Use Only** M+S map ~~#~~ 12

**Zone Case No.:** ~~2487-A~~ 2824-A

**Agenda No.:** 4

**Request for zoning change from:** X R-1

**To:** IHI

16.6 acres of unplatted land out of Block A, Section 9

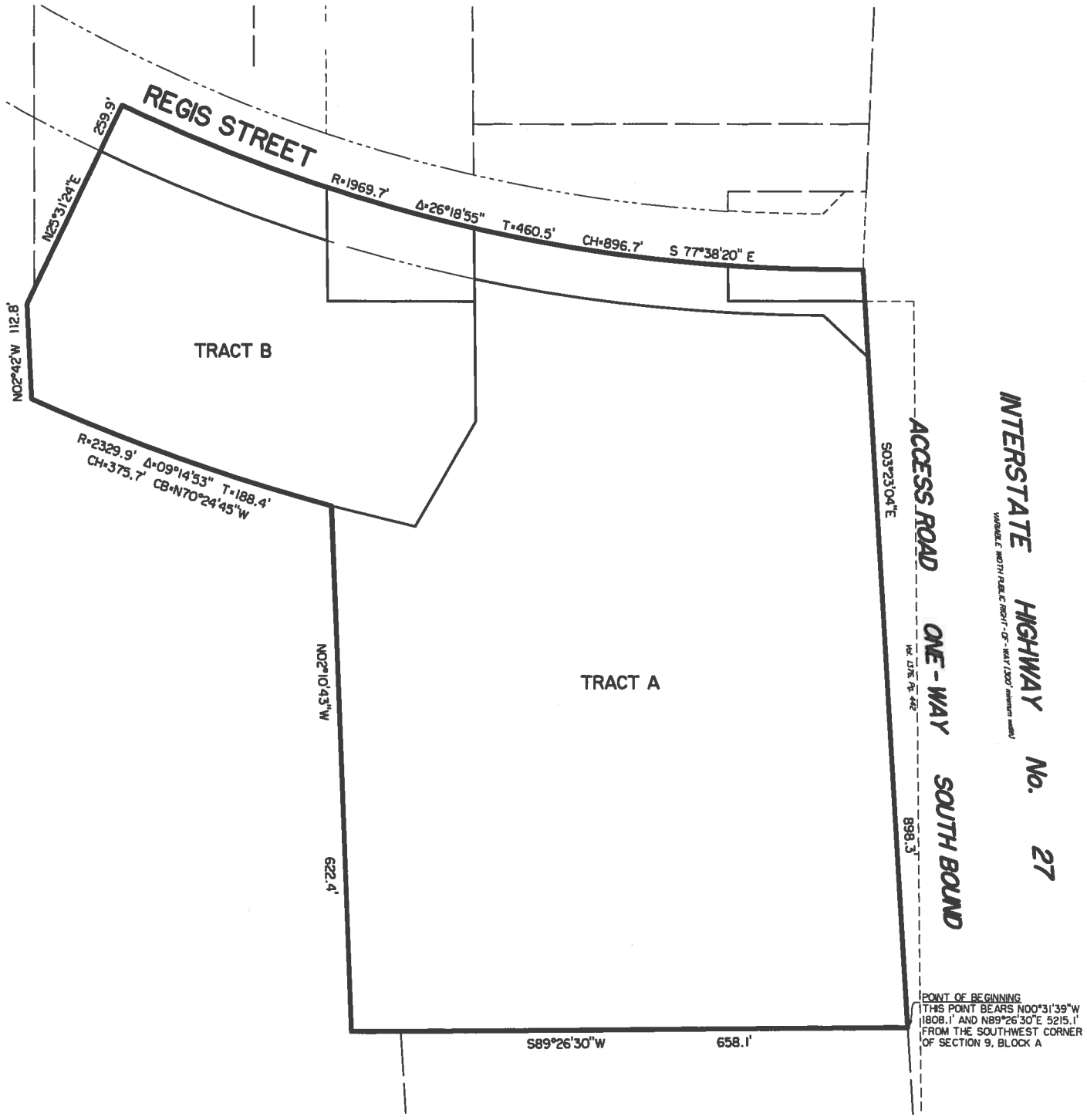
**on Lot(s):** —

**Block(s):** —

**Subdivision:** —

**Address:** ~~4407 84th St~~ West of I-27 and ~~North~~ South of Regis

# PROPOSED IHI ZONING LOCATED IN SECTION 9, BLOCK A




JANUARY 29, 2014

HUGO REED AND ASSOCIATES, INC.
LAND SURVEYORS
CIVIL ENGINEERS
TEXAS LICENSED SURVEYING FIRM 100678-00
TEXAS REGISTERED ENGINEERING FIRM F-760
1601 AVENUE N
LUBBOCK, TEXAS 79401
PHONE: 806 / 763-5642
FAX: 806 / 763-3891

HUGO REED AND ASSOCIATES, INC.
1601 AVENUE N / LUBBOCK, TEXAS 79401 / 806/763-5642 / FAX 806/763-3891
TEXAS REGISTERED ENGINEERING FIRM F-760
TEXAS LICENSED SURVEYING FIRM 100676-00

LAND SURVEYORS
CIVIL ENGINEERS

# PROPOSED IHI ZONING

METES AND BOUNDS DESCRIPTION of a tract of land located in Section 9, Block A, Lubbock County, Texas, being further described as follows:

BEGINNING at a point in the West right-of-way line of Interstate Highway No. 27, which bears N. 00°31'39" W. an approximate distance of 1808.1 feet and N. 89°26'30" E. an approximate distance of 5215.1 feet from the Southwest corner of Section 9, Block A, Lubbock County, Texas;

THENCE S. 89°26'30" W. an approximate distance of 658.1 feet to a point;

THENCE N. 02°10'43" W. an approximate distance of 622.4 feet to a point of intersection;

THENCE Northwesterly, around a curve to the right, said curve having a radius of approximately 2329.9 feet, a central angle of 09°14'53", approximate tangent lengths of 188.4 feet, a chord bearing of N. 70°24'45" W. and a chord distance of approximately 375.7 feet to a point;

THENCE N. 02°42'00" W. an approximate distance of 112.8 feet to a point;

THENCE N. 25°31'24" E. an approximate distance of 259.9 feet to a point in the center line of Regis Street;

THENCE Southeasterly, along a curve to the left, said curve having a radius of approximately 1969.7 feet, a central angle of 26°18'55", approximate tangent lengths of 460.5 feet, a chord bearing of S. 77°38'20" E. and a chord distance of approximately 896.7 feet to a point in the West right-of-way line of Interstate Highway No. 27;

THENCE S. 03°23'04" E., along the West right-of-way line of Interstate Highway No. 27, an approximate distance of 898.3 feet to the Point of Beginning.

Contains: Approximately 16.6 Acres

PREPARED FOR ZONE CHANGE REQUEST ONLY; DOES NOT REPESENT A SURVEY.

**Regular City Council Meeting** **6. 4.**

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

**Ordinance 1st Reading - Finance:** Consider an ordinance providing for the issuance of City of Lubbock, Texas, General Obligation Refunding Bonds, Series 2014; 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**

Upon approval of this ordinance, the City will be able to sell the General Obligation Refunding Bonds (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, 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 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 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 shall produce proceeds in an amount sufficient, as determined by the Authorized Officer, to refund the refunded obligations and related issuance costs, d) such aggregate principal amount shall not exceed $55,000,000, e) the refunding of the refunded obligations shall result in a positive gross debt service savings and net present value savings of at least five percent (5%), f) the maximum maturity for the Bonds shall not exceed fourteen years; and g) the Bonds to be issued, prior to delivery, must have been rated by a nationally recognized 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 (Raymond James, lead underwriter, Citigroup, Wells Fargo Securities, and Barclays Capital). 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 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. 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 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 Refunding Bonds

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Ordinance No. 2014 - _____

ORDINANCE

relating to

CITY OF LUBBOCK, TEXAS
GENERAL OBLIGATION REFUNDING BONDS,
SERIES 2014

Adopted: April 10, 2014

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AN ORDINANCE PROVIDING FOR THE ISSUANCE OF CITY OF LUBBOCK, TEXAS, GENERAL OBLIGATION REFUNDING BONDS, SERIES 2014; 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

WHEREAS, there are presently outstanding certain obligations of the City of Lubbock, Texas (the "City") described on Schedule I attached hereto (collectively, the "Refunded Obligation Candidates");

WHEREAS, the City now desires to refund all or a portion of such Refunded Obligation Candidates (such refunded obligations to be hereinafter referred to as the "Refunded Obligations");

WHEREAS, Chapter 1207, Texas Government Code, as amended ("Chapter 1207") authorizes the City to issue refunding bonds and to deposit the proceeds from the sale thereof, 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 (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) refund the Refunded Obligations and (ii) pay costs of issuance of such bonds;

WHEREAS, the City Council desires to delegate, pursuant to Chapter 1207 and the parameters of this Ordinance, to the Authorized Officer, the authority to approve the 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 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.

"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 signed by an Authorized Officer establishing the terms and features of the 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 I attached hereto.

"Refunded Obligations" means the Refunded Obligation Candidates designated as Refunded Obligations 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 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 2014 Certificates of Obligation" means the City's Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2014, 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).

"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 2014 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 limits prescribed by law, to pay the debt service requirements of the Bonds, being (i) the interest on the Bonds, and (ii) a sinking fund for their redemption at maturity or a sinking fund of two percent (2%) per annum (whichever amount is greater), when due and payable, full allowance being made for delinquencies and costs of collection.

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

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

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

Section 2.02 Interest and Sinking Fund.

(a) The City hereby establishes a special fund or account to be designated as the "City of Lubbock, Texas, General Obligation Refunding Bonds, Series 2014, Interest and Sinking Fund," or such other designation as is set forth in the Pricing Certificate for the Bonds, said fund or funds to be maintained at an official depository bank of the City separate and apart from all other funds and accounts of the City.

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

## ARTICLE III
## AUTHORIZATION; GENERAL TERMS AND PROVISIONS REGARDING THE BONDS

Section 3.01 Authorization.

The City's bonds, to be designated "City of Lubbock, Texas, General Obligation Refunding Bonds, Series 2014," or such other designation or designations as set forth in the Pricing Certificate, are hereby authorized to be issued and delivered in accordance with the Constitution and laws of the State of Texas, including specifically Chapter 1207, Texas Government Code, as amended, and Article VIII of the Charter of the City. The Bonds shall be issued in the number of series and 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

$55,000,000, for the purposes of (i) refunding the Refunded Obligations and (ii) paying the costs of issuing the Bonds and refunding the Refunded Obligations.

Section 3.02 Date, Denomination, Maturities and Interest.

(a) The Bonds shall be dated the date set forth in the Pricing Certificate. The Bonds shall be in fully registered form, without coupons, in the denomination of $5,000 or any integral multiple thereof, and shall be numbered separately from one upward, except the Initial Bond, which shall be numbered T-1, 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 definitive form; thereupon, upon the presentation and surrender of the Bonds in temporary form to the Paying Agent/Registrar, the Paying Agent/Registrar shall cancel the Bonds in temporary form and shall authenticate and deliver in exchange therefor Bonds of the same maturity and series, in definitive form, in the authorized denomination, and in the same aggregate principal amount, as the Bonds in temporary form

surrendered. Such exchange shall be made without the making of any charge therefor to any Owner.

Section 3.09 Replacement Bonds.

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

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

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

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

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

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

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

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

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

Section 3.10 Book-Entry Only System.

Notwithstanding any other provision hereof, upon initial issuance of the Bonds, the 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 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 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 Chapter 1207, Texas

Government Code, as amended, the Authorized Officer is authorized to act on behalf of the City, upon determining that the conditions set forth in Exhibit B can be satisfied, in selling and delivering the Bonds and carrying out the other procedures specified in this Ordinance, including determining (i) the total aggregate principal amount and the number of series of the Bonds, (ii) whether to acquire bond insurance for the Bonds, (iii) the price at which the Bonds will be sold, (iv) the Refunded Obligation Candidates to be refunded by the Bonds, and their redemption dates, (v) the number and any additional or different title or designation for the Bonds to be issued, (vi) the form in which the Bonds shall be issued, (vii) the dates on which the Bonds 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 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.

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 (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 2014 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 2014 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 as of and delivered on 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 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 any special accounts 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 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) 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 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.

## 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 10th day of April, 2014, 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, Executive Director of Finance

APPROVED AS TO FORM:

By:
JERRY W. KYLE, JR., Bond Counsel

*Signature Page for Ordinance*

HOU:3414315.1

## SCHEDULE I

## REFUNDED OBLIGATION CANDIDATES

All outstanding maturities of the following obligations of the City:

- 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
- General Obligation Bonds, Series 2005
- Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2006
- General Obligation Bonds, Series 2006
- General Obligation Bonds, Series 2007

## EXHIBIT A

## DESCRIPTION OF ANNUAL DISCLOSURE OF FINANCIAL INFORMATION

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

**Annual Financial Statements and Operating Data**

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

1. The portions of the financial statements of the City appended to the Official Statement as APPENDIX B, but for the most recently concluded fiscal year.

2. Statistical and financial data set forth in 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 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 fourteen (14) 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 REGISTERED
No. _____ $_____

United States of America
State of Texas
County of Lubbock
CITY OF LUBBOCK, TEXAS
GENERAL OBLIGATION REFUNDING BOND
SERIES 2014

| 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 capitalized terms used herein but not defined shall have the meaning assigned to them in the Ordinance (defined below).

[1] Information to be inserted from Pricing Certificate.
[2] Information to be inserted from Pricing Certificate.

The principal of this Bond shall be payable without exchange or collection charges in lawful money of the United States of America upon presentation and surrender of this Bond at the corporate trust office in Dallas, Texas (the "Designated Payment/Transfer Office") of _____, 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 refund certain outstanding obligations of the City, and to pay the costs of issuing the Bonds.

[The City has reserved the option to redeem the Bonds maturing on or after February 15, 20___ before their respective scheduled maturities in whole or in part in integral multiples of $5,000 on _____, 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

[3] Information to be inserted from Pricing Certificate.

redeemed and shall direct the Paying Agent/Registrar to call by lot or other customary method that results in a random selection of the Bonds, or portions thereof, within such maturity or maturities and in such principal amounts, for redemption.][4]

[Bonds maturing on February 15 in each of the years ____ through ___, inclusive (the "Term Bonds"), are subject to mandatory sinking fund redemption prior to their scheduled maturity, and will be redeemed by the City, in part at a redemption price equal to the principal amount thereof, without premium, plus interest accrued to the redemption date, on the dates and in the principal amounts shown in the following schedule:

Term Bonds Maturing February 15, 20____

| Redemption Date | Principal Amount |
|---|---|
| February 15, 20_ | |
| February 15, 20_ | |
| February 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 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 | § | REGISTER NO. _____ |
| OF THE STATE OF TEXAS | § | |

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

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

[SEAL]

_____
Comptroller of Public Accounts
of the State of Texas

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

CERTIFICATE OF PAYING AGENT/REGISTRAR

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

_____,
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. 5.**

**Meeting Date:** 04/10/2014

**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 2014; 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 27, 2014, the City Council approved the first step in the issuance process by authorizing publication of a Notice of Intent to Issue Tax and Waterworks System Surplus Revenue 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, 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 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 $80,000,000, 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 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 (Raymond James as lead underwriter and Citigroup, Wells Fargo Securities, and Barclays Capital as co-managers). 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 2013-2014 Capital Improvement Plan and are included in the attachments. City Council adopted a reimbursement resolution on October 24, 2013 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 cost of issuance related to the financing.

**Staff/Board Recommending**

Pamela Moon, CPA, Executive Director of Finance

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**Attachments**

2014 Ordinance Tax and Waterworks System Revised 4-1-14

CO Project List

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ORDINANCE

relating to

CITY OF LUBBOCK, TEXAS
TAX AND WATERWORKS SYSTEM SURPLUS REVENUE
CERTIFICATES OF OBLIGATION,
SERIES 2014

Adopted: April 10, 2014

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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 2014; 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.

"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 2014 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 2014 Bonds" means the City's General Obligation Refunding Bonds, Series 2014, 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 2014 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 2014, 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 2014" (the "Certificates"), 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, 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 $80,000,000, for the purpose of paying contractual obligations to be incurred for the following purposes, to wit: (i) improvements and extensions to City streets, including sidewalks, street lighting, traffic

signals/controllers and traffic signal communication systems, signage, landscaping, utility improvements, extensions, relocations and acquisition of land and rights-of-way in connection therewith; (ii) relocation and upgrading of public utility infrastructure in the Central Business District; (iii) park and recreation system improvements; (iv) upgrading of public safety radio communication systems; (v) renovations and improvements to the Lubbock Preston Smith International Airport facilities, including runway improvements; (vi) construction, improvement and equipment of fire department facilities; (vii) animal shelter expansion; (viii) renovation, improvement and expansion of Solid Waste Department facilities; (ix) improvements, renovations, replacements, relocations and extensions to the City's Wastewater System, including Southeast Water Reclamation Plant and office/warehouse replacement facility; (x) improvements, renovations, replacements, relocations and extensions to the City's Waterworks System (collectively, with items (i)-(ix), the "Project") and (xi) payment of professional services of attorneys, financial advisors, engineers and other professionals in connection with the Project and the issuance of the Certificates.

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

(a) The Certificates shall be dated the date set forth in the Pricing Certificate (the "Certificate Date"). The Certificates shall be in fully registered form, without coupons, in the denomination of $5,000 or any integral multiple thereof and shall be numbered separately from one upward, except the Initial Certificate, which shall be numbered T-1 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 definitive 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 2014 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 2014 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 as of and delivered on 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 any special accounts 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.

(j) Airport Facilities. The City will not spend more than 10 percent of the Proceeds of the Certificates for the purposes described in clause (v) of Section 3.01 of this Ordinance if the

resulting expenditures would cause the Certificates to be treated as "private activity bonds" under the Code.

## 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.

PRESENTED, FINALLY PASSED AND APPROVED, AND EFFECTIVE on the 10th day of April, 2014, 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, 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 REGISTERED
No. _____ $_____

United States of America
State of Texas
County of Lubbock
CITY OF LUBBOCK, TEXAS
TAX AND WATERWORKS SYSTEM SURPLUS REVENUE
CERTIFICATES OF OBLIGATION
SERIES 2014

| INTEREST RATE: | MATURITY DATE: | CERTIFICATE 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 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 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:

Term Certificates Maturing February 15, 20____

| Redemption Date | Principal Amount |
|---|---|
| February 15, 20_ | |
| February 15, 20_ | |
| February 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 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

[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.

redemption date if the City delivers a certificate of the City to the Paying Agent/Registrar instructing the Paying Agent/Registrar to rescind the redemption notice, and such notice and redemption shall be of no effect if such moneys and/or authorized securities are not so deposited or if the notice is rescinded. The Paying Agent/Registrar shall give prompt notice of any such rescission of a conditional notice of redemption to the affected owners. Any Certificates subject to conditional redemption where redemption has been rescinded shall remain Outstanding, and the rescission shall not constitute an event of default. Further, in the case of a conditional redemption, the failure of the City to make moneys and/or authorized securities available in part or in whole on or before the redemption date shall not constitute an event of default.

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

| Years | Principal Installments | Interest Rate |
|---|---|---|

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

**City of Lubbock, TX**
**Finance Department**
**Rating Agencies Presentation**
**Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2014**
**Projects Funded by this Issue**

## AIRPORT

**Runway 17R/35L Construction Phase II** Funded by 2014 CO: **$2,638,446**
Phase II of the rehabilitation of the airport's primary runway including construction observation services, surveying and testing fees, and construction services.

## CENTRAL BUSINESS DISTRICT TIF

**Underground Utilities** Funded by 2014 CO: **$2,472,148**
Design, relocation of the utilities underground, and upgrade of public utility infrastructure in downtown Lubbock as recommended by the Downtown Redevelopment Plan.

## PARKS AND RECREATION

**Park Playground Replacement** Funded by 2014 CO: **$793,163**
Replace old, worn, weathered, cracked, and rusted playground equipment with new colorful, metal, multi-activity choices for park user of all ages. The renovation includes installation of perimeter sidewalks and resilient safety surfacing.

**Mose Hood Park Restroom** Funded by 2014 CO: **$300,000**
Installation of a pre-cast concrete restroom including site work, plumbing, and electrical at Mose Hood Park. The location of the restroom is in the flood plain; therefore dirt work will be required to raise the facility above the flood line.

## GATEWAY STREETS

**98$^{th}$ Street – University Avenue to US 87** Funded by 2014 CO: **$1,560,348**
Replace the current strip paving with a T-2 thoroughfare with six travel lanes, continuous left turn lane, and full intersection located at Avenue P. Traffic signals will be required at the Avenue P and 98$^{th}$ street intersection. Street lighting, drainage features, and pedestrian access will be constructed with this project.

**INTERNAL SERVICES**

**Upgrade 800 MHZ Radio System to P25 Compliance - 10 Year** Funded by 2014 CO: **$3,490,000**
Upgrade the City radio system to P25 compliance. Phase II consists of adding a backup network server switch, five C3 radio dispatch consoles, five 800MHZ master V channels to the west tower, five master V channels to the primary site, changing 505 non-P25 compliant radios to P25 compliant radios, and upgrading 273 radios to P25 compliance.

**PUBLIC SAFETY**

**Multi-Company Fire Station #19** Funded by 2014 CO: **$1,000,000**
Construction of a multi-company fire station and CPAT building. The fire station will serve the area south of 98th Street between Frankford Avenue and Alcove Avenue south of FM 1585. The fire station will be located at 5826 98th Street.

**Animal Shelter Expansion** Funded by 2014 CO: **$400,000**
Addition of one pod to the new animal shelter to provide space for additional animals. Also includes video equipment for the animal shelter facility and vehicles, and telephone recording system for Animal Shelter, water dispatch, municipal court, and street dispatch.

**PUBLIC WORKS**

**Sign Upgrades and Replacement** Funded by 2014 CO: **$150,000**
All signs poles in the City will be evaluated using the new Inventory System. Based on the results of the evaluation, school signs and pavement markings, and regulatory signs will be replaced throughout the City. Sign poles will also be replaced to the new "slip-base" standard.

**Communication System Expansion** Funded by 2014 CO: **$350,000**
Expand the fiber communications for approximately 40 miles, and improve detection at 96 signalized intersections. The extension of the fiber communication will provide bandwidth for other city department facilities.

**Traffic Signals/Controllers – 10 year** Funded by 2014 CO: **$300,000**
Install signals at un-signalized intersections and school zones as warranted, upgrade new controllers, and perform necessary repairs. Items include replacing crushed current conduit and wiring, rebuilding failing signal arm assemblies, and exchanging cabinets and signal assemblies.

**Street Maintenance Program – 10 Year** Funded by 2014 CO: **$9,622,300**

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.

**SOLID WASTE**

**Southside Office Building Expansion** Funded by 2014 CO: **$275,380**

Design and expansion of the office building at 1631 84th Street to include wall removal and enclosing the open air section. Work would include floor replacement, wall structure, electrical work, roof, and concrete base.

**WASTEWATER**

**Sewer Line Replacement** Funded by 2014 CO: **$390,000**

Replacement of deteriorated or damaged sanitary sewer lines and manholes.

**Sewer Lines Ahead of Street Paving** Funded by 2014 CO: **$250,000**

Installation of sewer lines ahead of municipal, county, and state paving projects including but not limited to Gateway Paving Projects.

**SEWRP Solids Handling Facility Replacements** Funded by 2014 CO: **$38,033,565**

The project improves the wastewater treatment facilities so that the plant can produce a consistent supply of stream quality discharge into the North Fork of the Double Mountain Fork of the Brazos River. This project is one of the objectives of the Strategic Water Supply Plan adopted by the City Council in 2007 to utilize the City's effluent as a valuable water resource asset.

**South Lubbock Sanitary Sewer Expansion Phase II** Funded by 2014 CO: **$1,000,000**

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.

**Office/Warehouse Facility Renovation** Funded by 2014 CO: **$1,250,000**

Renovation and repair of existing storm damaged facility which hosts wastewater and water staff to accommodate the function lost because of the weather event of June 6, 2013. The renovations and repairs include an office building as well as a warehouse structure. Estimated cost is $2,100,000 for the office and $400,000 for the warehouse, with Wastewater Fund and Water Fund sharing the cost.

**SEWRP Emergency Generator and Switch Gear – 10 Year** Funded by 2014 CO: **$926,517**
Design and construct 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. Design and install automatic switch gear on effluent pump station 2 to ensure automatic start of effluent pumps during power outages.

**Water Reclamation Plant Replacements – 10 Year** Funded by 2014 CO: **$300,000**
Purchase and install new equipment; modify and/or rehabilitate existing equipment, facility, and piping system; and other major maintenance activities.

**WATER**

**Water Line Replacement** Funded by 2014 CO: **$500,000**
Replace substandard and aging water lines.

**Water Lines Ahead of Street Pavings** Funded by 2014 CO: **$800,000**
Relocate and install water lines ahead of municipal, county, and state paving projects and future development including but not limited to the Gateway Paving Project.

**Pump Station Emergency Electric Generators** Funded by 2014 CO: **$1,387,128**
Design and install permanent stationary emergency electric generators with automatic switchover capabilities at the water booster pump stations.

**South Lubbock Water Treatment Plant Expansion** Funded by 2014 CO: **$1,000,000**
Design and construction of additional membrane treatment process equipment at the South Lubbock Water Treatment Plant associated with the Lake Alan Henry Water Supply Project. This will increase the treatment capacity of the plant beyond the current 15 million gallons per day to 30 million gallons per day.

**Electrical Distribution Oil Contact Recloser Units** Funded by 2014 CO: **$250,000**
Replacement of five electrical distribution oil contact recloser units along with the related control systems and ground fault trip indicators.

**Office/Warehouse Facility Renovation** Funded by 2014 CO: **$1,250,000**

Renovation and repair of existing storm damaged facility which hosts wastewater and water staff to accommodate the function lost because of the weather event of June 6, 2013. The renovations and repairs include an office building as well as a warehouse structure. Estimated cost is $2,100,000 for the office and $400,000 for the warehouse, with Wastewater Fund and Water Fund sharing the cost.

**Water Meter Replacements – 10 Year** Funded by 2014 CO: **$450,000**

Purchase and installation of new water meters, water meter boxes with lids, and meter valves for existing and new customers.

**Locate and Replace Water Valves – 10 Year** Funded by 2014 CO: **$700,000**

Locate missing or broken valves and replace the valves or valve boxes as necessary to maintain accessibility to the water valves for operation of the water distribution system.

**TOTAL 2014 CO:** **$71,838,995**

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

**Meeting Date:** 04/10/2014

**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 Bonds, Series 2014; 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 27, 2014, 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 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, 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 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 $19,500,000 for the projects, d) the maximum maturity for the Bonds shall not exceed twenty-one years; and e) the Bonds to be issued, prior to delivery, must have been rated by a nationally recognized 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 (Citigroup, lead underwriter, Barclays Capital, co-managers). 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 have been approved by City Council in the FY 2013-2014 Capital Improvement Plan. City Council has adopted a reimbursement resolution on October 24, 2013 allowing projects to start prior to the issuance of the 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, fund a debt service reserve, and pay issuance costs of the Bonds.

**Staff/Board Recommending**

Pamela Moon, CPA, Executive Director of Finance

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**Attachments**

2014 Ordinance Electric Light & Power System Revised 4-1-14

2014 Ordinance Electric Light & Power System Revised 4-1-14

LP&L Project List

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Ordinance No. 2014-_____

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ORDINANCE

relating to

CITY OF LUBBOCK, TEXAS
ELECTRIC LIGHT AND POWER SYSTEM REVENUE BONDS,
SERIES 2014

Adopted: April 10, 2014

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AN ORDINANCE PROVIDING FOR THE ISSUANCE OF CITY OF LUBBOCK, TEXAS, ELECTRIC LIGHT AND POWER SYSTEM REVENUE BONDS, SERIES 2014; 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, 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, the revenue bonds hereinafter authorized are to be issued and delivered pursuant to Chapter 1502 and in accordance with the general laws of the State of Texas;

WHEREAS, the City Council desires to delegate, pursuant to 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.

"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.

"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 2010, dated October 15, 2010, issued in the original principal amount of $73,295,000, currently outstanding in the aggregate principal amount of $53,195,000, and maturing on April 15 in each of the years 2014 through 2020, inclusive; and

(2) City of Lubbock, Texas, Electric Light and Power System Revenue Refunding and Improvement Bonds, Series 2013, dated April 15, 2013, issued in the original principal amount of $16,570,000, currently outstanding in the aggregate principal amount of $16,570,000, and maturing on April 15 in each of the years 2014 through 2024, 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.

"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 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 Bonds, Series 2014," 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 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 $19,500,000, 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.

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 the form of bond attached hereto as Exhibit C, 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 the form of bond attached hereto as Exhibit C, 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 into 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 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.

(c) 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.

(d) For the purpose of determining compliance with the requirements of subsection (b) 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.

(e) 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 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.

(f) 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.

(g) 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.

(h) 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 (h), 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.

(i) 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 (g) 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.

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 Chapter 1371, Texas Government Code, as amended, the Authorized Officer is authorized to act on behalf of the City upon determining that the conditions set forth in Exhibit B can be satisfied, in selling and delivering 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 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, 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 as of and delivered on 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 obligations 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) 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.

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 ail 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 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 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 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.

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 of 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
## 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 10th day of April, 2014, 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., Bond Counsel

*Signature Page for Ordinance*

HOU:3414669.1

## 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 8.0l(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 maximum maturity for the Bonds shall not exceed twenty-one (21) years from the date of their delivery; and

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

**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 BOND
SERIES 2014

| 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, 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 provided for, at the per annum rate of interest specified above, computed on the basis of a 360-

[1] Information to be inserted from Pricing Certificate.

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 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 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) funding the reserve fund requirement for the Bonds 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.

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.

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[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 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____

| Redemption Date | Principal Amount |
|---|---|
| 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, 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

[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.

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

By:_____
Authorized Representative

Dated:_____

(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.

ORDINANCE

relating to

CITY OF LUBBOCK, TEXAS
ELECTRIC LIGHT AND POWER SYSTEM REVENUE BONDS,
SERIES 2014

Adopted: April 10, 2014

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AN ORDINANCE PROVIDING FOR THE ISSUANCE OF CITY OF LUBBOCK, TEXAS, ELECTRIC LIGHT AND POWER SYSTEM REVENUE BONDS, SERIES 2014; 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, 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, the revenue bonds hereinafter authorized are to be issued and delivered pursuant to Chapter 1502 and in accordance with the general laws of the State of Texas;

WHEREAS, the City Council desires to delegate, pursuant to 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.

"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.

"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 2010, dated October 15, 2010, issued in the original principal amount of $73,295,000, currently outstanding in the aggregate principal amount of $53,195,000, and maturing on April 15 in each of the years 2014 through 2020, inclusive; and

(2) City of Lubbock, Texas, Electric Light and Power System Revenue Refunding and Improvement Bonds, Series 2013, dated April 15, 2013, issued in the original principal amount of $16,570,000, currently outstanding in the aggregate principal amount of $16,570,000, and maturing on April 15 in each of the years 2014 through 2024, 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.

"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 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 Bonds, Series 2014," 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 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 $19,500,000, 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.

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 the form of bond attached hereto as Exhibit C, 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 the form of bond attached hereto as Exhibit C, 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 into 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 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.

(c) 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.

(d) For the purpose of determining compliance with the requirements of subsection (b) 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.

(e) 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 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.

(f) 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.

(g) 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.

(h) 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 (h), 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.

(i) 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 (g) 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.

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 Chapter 1371, Texas Government Code, as amended, the Authorized Officer is authorized to act on behalf of the City upon determining that the conditions set forth in Exhibit B can be satisfied, in selling and delivering 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 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, 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 as of and delivered on 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 obligations 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) 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.

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 ail 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 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 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 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.

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 of 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
## 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 10th day of April, 2014, 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., 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 - 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 8.0l(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 maximum maturity for the Bonds shall not exceed twenty-one (21) years from the date of their delivery; and

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

**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 REGISTERED
No._____ $_____

United States of America
State of Texas
County of Lubbock
CITY OF LUBBOCK, TEXAS
ELECTRIC LIGHT AND POWER SYSTEM REVENUE BOND
SERIES 2014

| 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, 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 provided for, at the per annum rate of interest specified above, computed on the basis of a 360-

[1] Information to be inserted from Pricing Certificate.

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 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 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) funding the reserve fund requirement for the Bonds 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.

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.

---

[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 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____

| Redemption Date | Principal Amount |
|---|---|
| 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, 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

[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.

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

By:_____
Authorized Representative

Dated:_____

(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**
**Rating Agencies Presentation**
**LP&L Revenue Bonds, Series 2014**
**Projects Funded by this Issue**

## LUBBOCK POWER & LIGHT

**230 kV Transmission Loop, Phase 1** Funded by LP&L Rev Bonds: **$6,300,000**

The 230 kV loop will connect all four of Lubbock Power & Light's (LP&L) existing interconnection points with Xcel Energy. This phase will include new transmission lines from a future generation substation to the existing Wadsworth Substation. A second transmission line will be built between a new substation to the existing Holly Substation. (The new generation substation and new substation are funded in other capital projects in future years). Existing transmission lines will also be evaluated to determine if they can continue to adequately serve, or if they will need to be rebuilt. Costs include professional services (including studies, engineering design, right-of-way/easement acquisition assistance, geotechnical work, surveying, and public/community involvement), material, easements, construction, and construction management. The construction of the loop will ensure a reliable transmission system that will have the capability of moving new generation power around the city of Lubbock.

**Substation Land Acquisition** Funded by LP&L Rev Bonds: **$2,000,000**

Purchase property for four new substations necessary for the 230 kV Transmission Loop project.

**Cooke Station Outage, Long-Term** Funded by LP&L Rev Bonds: **$1,250,000**

Upgrades, repairs, replacements, and maintenance of Cooke Station, including the refurbishment of the Cooke 2 boiler and the purchase and installation of a motor control center.

**Massengale Outage, Long-Term** Funded by LP&L Rev Bonds: **$850,000**

Upgrades, repairs, replacements, and maintenance of Massengale Station, including power plant safety upgrades and emergency power upgrades.

**FY 2013-14 Distribution Transformers – 10 Year** Funded by LP&L Rev Bonds: **$2,400,000**

Purchase and installation of overhead transformers, pad mount transformers, switches, enclosures, and related equipment to be used to upgrade capacity or serve new customers in LP&L's service territory.

**FY 2013-14 Underground Electric – 10 Year** Funded by LP&L Rev Bonds: **$2,400,000**
Purchase and installation of primary and/or secondary underground distribution lines to serve new and existing customers.

**FY 2013-14 Overhead Lines – 10 Year** Funded by LP&L Rev Bonds: **$1,055,000**
Purchase and installation of primary and/or secondary overhead distribution lines, including poles, wire, insulators, ties, guys, and other equipment necessary to serve new and existing customers.

**Cooke Station Outage, Medium-Term – 10 Year** Funded by LP&L Rev Bonds: **$750,000**
Upgrades, repairs, replacements, and maintenance of Cooke Station, including the overhaul of the Cooke 2 generator and the purchase and installation of perimeter lighting.

**Massengale Outage, Medium-Term – 10 Year** Funded by LP&L Rev Bonds: **$350,000**
Upgrades, repairs, replacements, and maintenance of Massengale Station, including the refurbishment of six boilers.

**TOTAL 2014 REVENUE BONDS** **$17,355,000**

**Regular City Council Meeting** **6. 7.**

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

**Resolution - Finance:** Consider a resolution designating authorized representatives on the City's investment accounts with the Texas Local Government Investment Pools (TexPool).

**Item Summary**

The City previously entered into a Participation Agreement with the Texas Local Government Investment Pool (TexPool). TexPool is a local government investment pool organized under the authority of the Interlocal Cooperation Act, Chapter 791, Texas Government Code, and the Public Funds Investment Act, Chapter 2256, Texas Government Code. The Comptroller of Public Accounts is the sole officer, director and shareholder of the Texas Treasury Safekeeping Trust Company, which is authorized to operate the TexPool Portfolios. Pursuant to the TexPool Participation Agreement, administrative and investment services to the TexPool Portfolios are provided by Federated Investors, Inc. In addition, the TexPool Advisory Board advises on the Investment Policies and approves any fee increases. The primary objectives of TexPool are preservation and safety of principal; liquidity; and yield. The resolution updates and designates new authorized City representatives. The designation of "Authorized Representative" provides full power and authority to transmit funds for investment, withdraw funds, issue letters of instruction, and all other actions deemed necessary or appropriate for the investment of local funds.

"Authorized Representatives" include the following persons:
Pam Moon, Executive Director of Finance
Kevin Rule, Debt and Investment Analyst
Linda Cuellar, Accounting Supervisor
Danielle Whitfill, Senior Financial Analyst

**Fiscal Impact**

No Fiscal Impact.

**Staff/Board Recommending**

Pam Moon, Executive Director of Finance

**Attachments**

TexPool Resolution

**A RESOLUTION AMENDING**
**AUTHORIZED REPRESENTATIVES FOR TEXPOOL**

WHEREAS, CITY OF LUBBOCK (the "City") is a local government of the State of Texas and is empowered to delegate to a public funds investment pool the authority to invest funds and to act as custodian of investments purchased with local investment funds; and

WHEREAS, it is in the best interest of the City to invest local funds in investments that provide for the preservation and safety of principal, liquidity, and yield consistent with the Public Funds Investment Act; and

WHEREAS, the Texas Local Government Investment Pool ("TexPool/Texpool *Prime*"), a public funds investment pool, was created on behalf of entities whose investment objective in order of priority are preservation and safety of principal, liquidity, and yield consistent with the Public Funds Investment Act; NOW THEREFORE:

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

SECTION 1. THAT the individuals, whose signatures appear in this Resolution, are Authorized Representatives of the City and are each hereby authorized to transmit funds for investment in TexPool/Texpool Prime and are each further authorized to withdraw funds from time to time, to issue letters of instruction, and to take all other actions deemed necessary or appropriate for the investment of local funds.

SECTION 2. THAT an Authorized Representative of the City may be deleted by a written instrument signed by all remaining Authorized Representatives provided that the deleted Authorized Representative (1) is assigned job duties that no longer require access to the City's TexPool/TexPool Prime account or (2) is no longer employed by the City; and

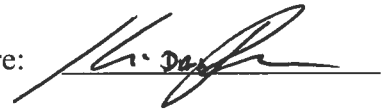
SECTION 3. THAT the City may, by Amending Resolution signed by the City, add an Authorized Representative provided the additional Authorized Representative is an officer, employee, or agent of the City;

SECTION 4. THAT the following persons are Authorized Representatives of the City of Lubbock. Any new individuals will be issued personal identification numbers to transact business with TexPool Participant Services.

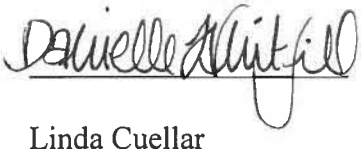
1. Name: Pamela Moon Title: Executive Director of Finance

Signature: Pamela Moon Direct Phone Number 806.775.2148

2. Name: Kevin Rule Title: Debt and Investment Analyst

Signature:  Direct Phone Number 806.775.2183

3. Name: Danielle Whitfill Title: Senior Financial Analyst

Signature:  Direct Phone Number 806.775.2985

4. Name: Linda Cuellar Title: Accounting Supervisor

Signature: Direct Phone Number 806.775.3253

The Authorized Representative listed above that will have primary responsibility for performing transactions and receiving confirmations and monthly statements under the Participation Agreement is as follows:

Name: Kevin Rule
Email: krule@mylubbock.us Fax Number 806.775.3273

In addition and at the option of the City, one additional Authorized Representative can be designated to perform only inquiry of selected information. This limited representative cannot perform transactions. The City desires to designate the following representative with inquiry rights only:

Name: Brack Bullock Title: Accounting Supervisor

SECTION 5. THAT this Resolution and its authorization shall continue in full force and effect until amended or revoked by the City, and until TexPool Participant Services receives a copy of any such amendment or revocation. This Resolution is hereby introduced and adopted by the City at its regular meeting held on the 10th day of April, 2014.

Passed by the City Council on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Pamela Moon, Executive Director of Finance

APPROVED AS TO FORM:

Chad Weaver, Assistant City Attorney

RES TexPool Representatives
April 1, 2014

**Regular City Council Meeting** **6. 8.**

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

**Resolution - Finance**: Consider a resolution designating authorized representatives on the City's investment accounts with the Texas Short Term Asset Reserve Program (TexSTAR).

**Item Summary**

The City has previously entered into a Participant Agreement with the Texas Short Term Asset Reserve Program (TexSTAR). TexSTAR is a local government investment pool organized under the authority of the Interlocal Cooperation Act, Chapter 791, Texas Government Code, and the Public Funds Investment Act, Chapter 2256, Texas Government Code. TexSTAR is governed by a board of directors to provide for the joint investment of participants' public funds and funds under their control. J.P. Morgan Investment Management Inc. and First Southwest Company serve as co-administrators for TexSTAR. The primary objective of TexSTAR are, in order of priority, preservation and protection of principal, maintenance of sufficient liquidity to meet Participants' needs, diversification to avoid unreasonable or avoidable risks, and yield. The resolution updates and designates new authorized City representatives and/or removes prior authorizations. The designation of "Authorized Representative" provides full power and authority to transmit funds for investment, withdraw funds, issue letters of instruction, and all other actions deemed necessary or appropriate for the investment of local funds.

"Authorized Representatives" include the following persons:
Pam Moon, Executive Director of Finance
Kevin Rule, Debt and Investment Analyst
Linda Cuellar, Accounting Supervisor
Danielle Whitfill, Senior Financial Analyst

**Fiscal Impact**

No Fiscal Impact.

**Staff/Board Recommending**

Pam Moon, Executive Director of Finance

**Attachments**

TexSTAR Resolution

# RESOLUTION

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

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, a resolution amending the designation of authorized City representative for the purpose of transacting any and all business on behalf of the City of Lubbock for TexSTAR Short Term Assert Reserve Fund, a public funds investment pool, and all other related documents. Said Resolution is attached hereto as Exhibit "A" 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:

Pamela Moon
_____
Pamela Moon, Executive Director of Finance

APPROVED AS TO FORM:

_____
Chad Weaver, Assistant City Attorney

RES.TexSTAR Representative
April 1, 2014

TexSTAR

## AMENDING RESOLUTION

WHEREAS, City of Lubbock, TX

(the "Government Entity") by authority of the Application for Participation in TexSTAR (the "Application") has entered into an Interlocal Agreement (the "Agreement") and has become a participant in the public funds investment pool created there under known as TexSTAR Short Term Assert Reserve Fund ("TexSTAR");

WHEREAS, the Application designated on one or more "Authorized Representatives" within the meaning of the Agreement;

WHEREAS, the Government Entity now wishes to update and designate the following persons as the "Authorized Representatives" within the meaning of the Agreement;

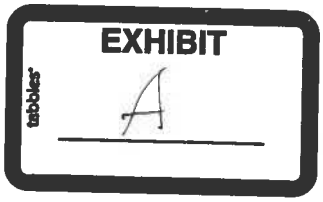
NOW, THEREFORE, BE IT RESOLVED:

SECTION 1. The following officers, officials or employees of the Government Entity specified in this document are hereby designated as "Authorized Representatives" within the meaning of the Agreement, with full power and authority to open accounts, to deposit and withdraw funds, to agree to the terms for use of the website for online transactions, to designate other authorized representatives, and to take all other action required or permitted by Government Entity under the Agreement created by the application, all in the name and on behalf of the Government Entity.

SECTION 2. This document supersedes and replaces the Government Entity's previous designation of officers, officials or employees of the Government Entity as Authorized Representatives under the Agreement

SECTION 3. This resolution will continue in full force and effect until amended or revoked by Government Entity and written notice of the amendment or revocation is delivered to the TEXSTAR Board.

SECTION 4. Terms used in this resolution have the meanings given to them by the Application.



**Authorized Representatives.** Each of the following Participant officials is designated as Participant's Authorized Representative authorized to give notices and instructions to the Board in accordance with the Agreement, the Bylaws, the Investment Policy, and the Operating Procedures:

1. Name: Pamela Moon — Title: Executive Director of Finance
   Signature: Pamela Moon — Phone: 806.775.2148
   Email: pmoon@mylubbock.us

2. Name: Danielle Whitfill — Title: Senior Financial Analyst
   Signature: Danielle Whitfill — Phone: 806.775.2985
   Email: dwhitfill@mylubbock.us

3. Name: Kevin Rule — Title: Investment and Debt Analyst
   Signature: K. Rule — Phone: 806.775.2183
   Email: krule@mylubbock.us

4. Name: Linda Cuellar — Title: Accounting Supervisor
   Signature: Linda Cuellar — Phone: 806.775.3273
   Email: lcuellar@mylubbock.us

***{REQUIRED} PRIMARY CONTACT:*** List the name of the Authorized Representative **listed above** that will be designated as the Primary Contact and will receive all TexSTAR correspondence including transaction confirmations and monthly statements

*Name:* Kevin Rule

***{OPTIONAL} INQUIRY ONLY CONTACT:*** In addition, the following additional Participant representative (***not listed above***) is designated as an ***Inquiry Only*** Representative authorized to obtain account information:

Name: Brack Bullock — Title: Accounting Supervisor
Signature: Brack Bullock — Phone: 806.775.2147
Email: bbullock@mylubbock.us

Participant may designate other authorized representatives by written instrument signed by an existing Participant Authorized Representative or Participant's chief executive officer.

**DATED** April 10, 2014

City of Lubbock, TX
(NAME OF PARTICIPANT)

**SIGNED BY:** _____
(Signature of official)
Glen C. Robertson, Mayor
(Printed name and title)

**ATTESTED BY:** _____
(Signature of official)
Rebecca Garza, City Secretary
(Printed name and title)

***REQUIRED***
**PLACE OFFICIAL SEAL OF ENTITY HERE**

**FOR INTERNAL USE ONLY**
**APPROVED AND ACCEPTED: TEXAS SHORT TERM ASSET RESERVE FUND**

.....
**AUTHORIZED SIGNER**

**Regular City Council Meeting** **6. 9.**

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

**Ordinance 1st Reading - Mayor Pro Tem Karen Gibson**: Consider an ordinance amending Chapter 14 of the City of Lubbock Code of Ordinances with regard to Section 14.01.010 (Sale, public display for sale, attempted sale, gift, barter, delivery, possession, or use of illicit synthetic drugs and misbranded drugs.) to include new chemical structures found in illicit synthetic drug products, conforming the ordinance to state law, providing for publication, providing a penalty, and providing a savings clause.

**Item Summary**

As stated above.

**Fiscal Impact**

None.

**Staff/Board Recommending**

Karen Gibson, Mayor Pro Tem, District 5

**Attachments**

Ordinance - Synthetic Drugs

Synthetic Drug Ordinance 2014 Update Redline_2

**ORDINANCE NO. 2014-O_____**

AN ORDINANCE AMENDING CHAPTER 14 (OFFENSES AND ADDITIONAL PROVISIONS) OF THE CODE OF ORDINANCES OF THE CITY OF LUBBOCK, TEXAS, WITH REGARD TO AMENDING SECTION 14.01.010 RELATING TO ILLICIT SYNTHETIC DRUGS; TO AMEND BY REMOVING CERTAIN SUBSTANCES FROM THE LIST OF PROHIBITED SUBSTANCES; TO AMEND PROVISIONS TO INCLUDE NEW CHEMICAL STRUCTURES FOUND IN ILLICIT SYNTHETIC DRUG PRODUCTS INCLUDING "SPICE," SYNTHETIC CANNABINOIDS, SYNTHETIC MARIHUANA, "BATH SALTS," SYNTHETIC CATHINONES, SYNTHETIC STIMULANTS, OR OTHER MISBRANDED DRUGS; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE, AND PROVIDING FOR PUBLICATION.

WHEREAS, on February 14, 2013, the City of Lubbock enacted an ordinance, codified as Section 14.01.010 of the Code of Ordinances, City of Lubbock, Texas, prohibiting the sale, public display for sale, attempted sale, gift, barter, delivery, possession, or use of illicit synthetic drugs and misbranded drugs; and

WHEREAS, since the passage of the ordinance, new illicit synthetic drugs and substances have been discovered; and

WHEREAS, since the passage of the ordinance, the state legislature of the State of Texas has amended Chapter 481 of the Texas Health and Safety Code to add additional prohibited substances; and

WHEREAS, since the passage of that ordinance, the Deputy Administrator of the Drug Enforcement Administration (DEA) of the U.S. Department of Justice has issued a notice of intent to temporarily place additional prohibited substances into Schedule I of the Controlled Substances Act (CSA) pursuant to the temporary scheduling provisions of the CSA; and

WHEREAS, the City Council deems it to be in the best interests of the citizens and residents of the City of Lubbock to make the following amendments to Chapter 14 (Offenses and Additional Provisions) of the Code of Ordinances of the City of Lubbock

NOW THEREFORE,

SECTION 1. THAT, Section 14.01.010(a)(2) of the Code of Ordinances, City of Lubbock, Texas, is hereby repealed.

SECTION 2. THAT, Section 14.01.010(a) of the Code of Ordinances, City of Lubbock, Texas, is hereby amended to read as follows:

(a) It shall be unlawful for any person, knowingly, to sell, publicly display for sale, attempt to sell, give, barter, deliver, possess, or use the following substances within the city limits of the City of Lubbock, Texas:

(1) Any substance listed as a controlled substance or a controlled substance analogue as defined in Chapter 481 of the Texas Health and Safety Code;

(2) [(1R, 2R, 5R)-2-[2,6-dimethoxy-4-(2-methyloctan-2-yl)phenyl]-7,7-dimethyl-4-bicyclo[3.1.1]hept-3-enyl]methanol, commonly known as HU-308;

(3) (6aR, 10aR)-3-(1,1-Dimethylbutyl)-6a, 7, 10, 10a-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo[b,d]pyran, commonly known as JWH-133;

(4) (−)-2β-Carbomethoxy-3β-(4-fluorophenyl)tropane, commonly known as β-CFT, WIN-35, 428;

(5) (6aR, 10aR)-1-methoxy-6, 6, 9-trimethyl-3-(2-methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo[c]chromene, commonly known as L-759, 633;

(6) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-caboxamide, commonly known as AB-PINACA

(7) 1-pentyl-N-tricyclo[3.3.1.13,7]dec-1-yl-1H-indazole-3-carboxamide, commonly known as APINACA

(8) (2-iodophenyl)(1-pentyl-1H-indol-3-yl)-methanone, commonly known as AM-679

(9) 1-[(5-fluoropentyl)-1H-indol-3-yl]-(2-iodophenyl)methanone, commonly known as AM-694

(10) 1-[(5-fluoropentyl)-6-nitro-1H-indol-3-yl]-(naphthalen-1-yl)methanone, commonly known as AM-1235

(11) (2-iodo-5-nitrophenyl)-[1-[(1-methylpiperidin-2-yl)methyl]indol-3-yl]methanone, commonly known as AM-1241

(12) 3-(1-naphthalenylcarbonyl)-1H-Indole-1-pentanenitrile, commonly known as AM-2232

(13) (1-(5-fluoropentyl)-1H-indol-3-yl)(4-ethyl-1-naphthalenyl)-methanone, commonly known as EMA-2201

(14) 2-phenyl-1-(1-pentylindol-3-yl)ethanone or 1-(1-pentyl-1H-indol-3-yl)-2-phenylethanone, commonly known as JWH-167

(15) (1-pentylindol-3-yl)naphthalen-1-ylmethane, commonly known as JWH-175

(16) 1-[(E)-(3-pentyl-1H-inden-1-ylidene)methyl]-naphthalene, commonly known as JWH-176

(17) 3-[(4-methyl-1-naphthalenyl)methyl]-1-pentyl-1H-indole, commonly known as JWH-184

(18) 3-[(4-methoxy-1-naphthalenyl)methyl]-1-pentyl-1H-indole, commonly known as JWH-185

(19) 2-methyl-3-(1-naphthalenylmethyl)-1-pentyl-1H-indole, commonly known as JWH-196

(20) 2-methyl-1-pentyl-1H-indol-3-yl-(4-methoxy-1-naphthyl)methane, commonly known as JWH-197

(21) 1-[2-(4-morpholino)ethyl]-1H-indol-3-yl-(4-methoxy-1-naphthyl)methane, commonly known as JWH-199

(22) 1-pentyl-3-(2-chlorophenylacetyl)indole, commonly known as JWH-203

(23) 1-pentyl-2-methyl-3-(phenylacetyl)indole, commonly known as JWH-205

(24) 1-pentyl-3-(4-methylphenylacetyl)indole, commonly known as JWH-208

(25) 1-pentyl-3-(3-methoxyphenylacetyl)indole, commonly known as JWH-238

(26) 1-pentyl-3-(4-bromophenylacetyl)indole, commonly known as JWH-248

(27) 1-pentyl-3-(2-bromophenylacetyl)indole, commonly known as JWH-249

(28) 1-pentyl-3-(2-methoxyphenylacetyl)indole, commonly known as JWH-250

(29) 1-pentyl-3-(2-methylphenylacetyl)indole, commonly known as JWH-251

(30) 1-pentyl-2-methyl-3-(2-methylphenylacetyl)indole, commonly known as JWH-252

(31) 2-(3-methoxyphenyl)-1-(1-pentylindol-3-yl)ethanone, commonly known as JWH-302

(32) 2-(3-Chlorophenyl)-1-(2-methyl-1-pentyl-1H-indol-3-yl)ethanone, commonly known as JWH-303

(33) 2-(2-Bromophenyl)-1-(2-methyl-1-pentyl-1H-indol-3-yl)ethanone, commonly known as JWH-305

(34) 2-(2-Methoxyphenyl)-1-(2-methyl-1-pentyl-1H-indol-3-yl)ethanone, commonly known as JWH-306

(35) 1-pentyl-3-(2-fluorophenylacetyl)indole, commonly known as JWH-311

(36) 2-(3-Fluorophenyl)-1-(1-pentyl-1H-indol-3-yl)ethanone, commonly known as JWH-312

(37) 2-(4-Fluorophenyl)-1-(1-pentyl-1H-indol-3-yl)ethanone, commonly known as JWH-313

(38) 2-(2-fluorophenyl)-1-(2-methyl-1-pentylindol-3-yl)ethanone, commonly known as JWH-314

(39) 2-(3-fluorophenyl)-1-(2-methyl-1-pentylindol-3-yl)ethanone, commonly known as JWH-315

SECTION 3. THAT, unless otherwise provided herein, a violation of any provision of this Ordinance shall be deemed a misdemeanor punishable as provided by Section 1.01.004 of the Code of Ordinances of the City of Lubbock. Any person who violates this article shall be guilty of a class C misdemeanor and be subject to a fine of up to two thousand dollars ($2,000.00) upon conviction in municipal court.

SECTION 4. THAT should any paragraph, section, sentence, phrase, clause or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

SECTION 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.

SECTION 6. THAT this Ordinance shall become effective, except as may otherwise be provided herein, from and after its publication as provided by law.

AND IT IS SO ORDERED.

Passed by the City Council on first reading this _____, 2014.

Passed by the City Council on second reading this _____, 2014.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Karen Gibson
Karen Gibson,
Mayor Pro Tem
District #5 Councilwoman

APPROVED AS TO FORM:

Laura A. Pratt
Laura Pratt, Assistant City Attorney

Synthetic Drug Ordinance 2014 Update FINAL
3.31.14

**Section 14.01.010 Sale, public display for sale, attempted sale, gift, barter, delivery, possession, or use of illicit synthetic drugs and misbranded drugs**

(a) It shall be unlawful for any person, knowingly, to sell, publicly display for sale, attempt to sell, give, barter, deliver, possess, or use the following substances within the city limits of the City of Lubbock, Texas:

(1) Any substance listed as a controlled substance or a controlled substance analogue as defined in Chapter 481 of the Texas Health and Safety Code~~;~~

~~(2) Salvia divinorum or Salvinorum A; all parts of the plant presently classified botanically as salvia divinorum, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture, or preparation of such plant, its seeds, or extracts;~~

~~(3)~~

~~(4)~~(2) [(1R, 2R, 5R)-2-[2,6-dimethoxy-4-(2-methyloctan-2-yl)phenyl]-7,7-dimethyl-4-bicyclo[3.1.1]hept-3-enyl]methanol, commonly known as HU-308~~;~~

~~(5)~~(3) (6aR, 10aR)-3-(1,1-Dimethylbutyl)-6a, 7, 10, 10a-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo[b,d]pyran, commonly known as JWH-133~~;~~

~~(6)~~(4) (−)-2β-Carbomethoxy-3β-(4-fluorophenyl)tropane, commonly known as β-CFT, WIN-35, 428~~;~~

(5) (6aR, 10aR)-1-methoxy-6, 6, 9-trimethyl-3-(2-methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo[c]chromene, commonly known as L-759, 633~~;~~

(6) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-caboxamide, commonly known as AB-PINACA

(7) 1-pentyl-N-tricyclo[3.3.1.13,7]dec-1-yl-1H-indazole-3-carboxamide, commonly known as APINACA

(8) (2-iodophenyl)(1-pentyl-1H-indol-3-yl)-methanone, commonly known as AM-679

(9) 1-[(5-fluoropentyl)-1H-indol-3-yl]-(2-iodophenyl)methanone, commonly known as AM-694

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(12) 3-(1-naphthalenylcarbonyl)-1H-Indole-1-pentanenitrile, commonly known as AM-2232

(13) (1-(5-fluoropentyl)-1H-indol-3-yl)(4-ethyl-1-naphthalenyl)-methanone, commonly known as EMA-2201

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(19) 2-methyl-3-(1-naphthalenylmethyl)-1-pentyl-1H-indole, commonly known as JWH-196

(20) 2-methyl-1-pentyl-1H-indol-3-yl-(4-methoxy-1-naphthyl)methane, commonly known as JWH-197

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(27) 1-pentyl-3-(2-bromophenylacetyl)indole, commonly known as JWH-249

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(33) 2-(2-Bromophenyl)-1-(2-methyl-1-pentyl-1H-indol-3-yl)ethanone, commonly known as JWH-305

(34) 2-(2-Methoxyphenyl)-1-(2-methyl-1-pentyl-1H-indol-3-yl)ethanone, commonly known as JWH-306

(35) 1-pentyl-3-(2-fluorophenylacetyl)indole, commonly known as JWH-311

(36) 2-(3-Fluorophenyl)-1-(1-pentyl-1H-indol-3-yl)ethanone, commonly known as JWH-312

(37) 2-(4-Fluorophenyl)-1-(1-pentyl-1H-indol-3-yl)ethanone, commonly known as JWH-313

(38) 2-(2-fluorophenyl)-1-(2-methyl-1-pentylindol-3-yl)ethanone, commonly known as JWH-314

~~(7)~~(39) 2-(3-fluorophenyl)-1-(2-methyl-1-pentylindol-3-yl)ethanone, commonly known as JWH-315

**Regular City Council Meeting** **6. 10.**

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

**Resolution - Councilman Todd Klein**: Consider a resolution establishing and charging a Citizens Task Force to Study Payday Lending, and making recommendations to State of Texas officials to mitigate predatory lending in Texas.

**Item Summary**

As stated above.

**Fiscal Impact**

None.

**Staff/Board Recommending**

Todd R. Klein, Councilman, District 3

**Attachments**

Resolution - Payday Loans

## RESOLUTION

WHEREAS, certain lending practices have recently proliferated in the City of Lubbock, Texas, including the offering of certain "payday" loans and other unsecured installment loans whereby exorbitant interest rates are charged and collected from certain consumers, in circumvention of the State of Texas consumer protection laws; and

WHEREAS, efforts have been undertaken in other cities and states to stem or outright prohibit similar practices in which often triple-digit interest rates were charged to consumers; and

WHEREAS, the City Council of the City of Lubbock, Texas, represents the citizens of the City of Lubbock, Texas; and

WHEREAS, the City Council of the City of Lubbock, Texas senses from the citizens of the City a significant concern over what are widely perceived to be patently exploitative, if not predatory, payday lending practices in the City of Lubbock and elsewhere in the State of Texas, including practices which may exploit that segment of our population that is most vulnerable to such practices; and

WHEREAS, the City Council of the City of Lubbock, Texas further finds that the proliferation of predatory lending stifles economic development in Lubbock by draining vitality from the local economy, and through the redirection of funds that might otherwise reach local businesses and other legitimate ends; and

WHEREAS, the City Council of the City of Lubbock shares these same significant concerns and wishes to initiate both local effort to explore possible responses to these concerns, and further to express the collective sentiments of the People of the City of Lubbock, Texas, that the Texas State Legislature and the Governor of Texas should take additional appropriate action to prevent further exploitative payday lending practices; and

WHEREAS, it is critical that the Texas Legislature and the Governor of Texas give their earnest attention to this matter in the upcoming regular session of the Texas Legislature and enact legislation that will prevent further exploitative payday lending practices.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lubbock, Texas:

1. THAT the City Council of the City of Lubbock hereby creates a Citizens Task Force to Study Payday Lending (the "Task Force") that shall be comprised of seven (7) members, with each member of the City Council appointing one (1) member to the Task Force, and the chairperson of the Task Force elected from and by the membership of the Task Force. Appointments to the Task Force shall be made within thirty (30) days of the adoption hereof.

2. THAT meetings will be held at times and locations established by the chairperson of the Task Force, and shall be open to the public.

3. THAT the Task Force shall study and promptly report back to the City Council a summary of, and recommendations regarding, potential opportunities to reduce or eliminate predatory lending in Lubbock, Texas, including but not limited to mechanisms used by other communities in Texas and the United States that might likewise be available to the City of Lubbock or the State of Texas, or other creative solutions examined by the Task Force at its discretion.

4. THAT the Texas Legislature and the Governor of the State of Texas are hereby requested to take action in the upcoming Eighty-fourth regular session of the Texas Legislature to enact any laws necessary and appropriate to prevent further exploitative payday lending practices; and

5. THAT the City Council of the City of Lubbock, Texas authorizes and directs the City Manager to send an official copy of this resolution to the Governor of the State of Texas, Lieutenant Governor of the State of Texas, and legislators in whose districts the City of Lubbock is located, for proper consideration by the membership and committees in each chamber of the Texas Legislature.

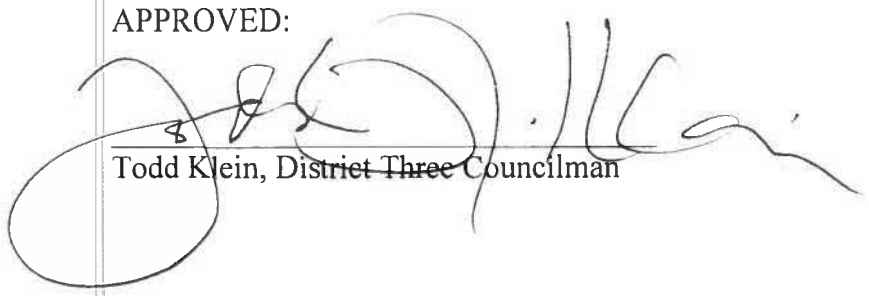
Passed by the City Council this _____ day of _____, 2014.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED:



_____
Todd Klein, District Three Councilman

Res.Payday Lending 3.25.2014

**Regular City Council Meeting** **6. 11.**

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

**Resolution - Councilman Todd Klein -** Consider a resolution increasing the membership of the Veterans Advisory Committee to thirteen members.

**Item Summary**

As stated above.

**Fiscal Impact**

None.

**Staff/Board Recommending**

Todd R. Klein, Councilman, District 3

**Attachments**

Resolution - VAC member increase

**RESOLUTION**

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

THAT the membership of the Veterans Advisory Committee created by the City Council by Resolution No. 2014-R0053 on February 27, 2014, shall increase from eleven (11) members to thirteen (13) members.

Passed by the City Council on _____.

_____
GLEN C. ROBERTSON, MAYOR

ATTEST:

_____
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

_____
Todd Klein, City Councilman District 3

APPROVED AS TO FORM:

_____
Chad Weaver, Assistant City Attorney

vw:ccdocs/RES.Amend Reso #2014-R0053
March 19, 2014

**Regular City Council Meeting** **6. 12.**

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

**Board Appointments - City Secretary:** Consider appointments to the Veterans Advisory Committee.

**Item Summary**

During the February 27, 2014, the City Council adopted Resolution 2014-R0053 creating the Veterans Advisory Committee, in order to study and report back to the Council a summary of, and recommendations regarding, any benefits, services, and assistance available to veterans in the City of Lubbock. Per the aforementioned Resolution, appointments to the Committee shall be made within 30 days of the adoption of the Resolution.

**Fiscal Impact**

None.

**Staff/Board Recommending**

Rebecca Garza, City Secretary

**Attachments**

VAC Resolution

Resolution No. 2014-R0053
February 27, 2014
Item No. 6.15

**RESOLUTION**

WHEREAS, the City of Lubbock, Texas is home to many United States armed forces veterans and their families; and

WHEREAS, veterans and their families are often eligible for public and private assistance, but there must be a more meaningful and effective mechanism to ensure that they have knowledge of, and access to, that assistance, so that veterans will not unnecessarily endure difficulties that could otherwise be mitigated by available veteran assistance programs and services; and

WHEREAS, in the interest of recognizing the contributions of one of the most honorable segments of our local citizenry, the City Council of the City of Lubbock desires to establish a permanent veteran's advisory commission to deliberate, identify, and communicate to the City Council and local veterans the various benefits and assistance available to veterans, and to recommend methods for coordinating and otherwise improving the delivery of services to the women and men who have served our country in the armed services, and further to offer recommendations on a continuing basis as to any unfulfilled needs of those veterans; NOW, THEREFORE:

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

1. THAT the City Council of the City of Lubbock hereby creates a Veterans Advisory Committee (the "Commission") that shall be comprised of eleven (11) members, with each member and the chairperson of the committee being appointed by the City Council as a whole. Appointments to the Commission shall be made within thirty (30) days of the adoption hereof.

2. THAT regular meetings will be held at times and locations established by a majority of the Commission members, at least once every three (3) months, unless otherwise determined by the Commission. A simple majority shall constitute a quorum, and a majority vote of the quorum shall be required for any action to be taken by the Commission. All meetings and procedures shall be consistent with the policies of the City of Lubbock concerning advisory Commissions and Boards.

3. THAT the Commission members shall serve as follows: Five (5) Commission members shall serve for a term of one (1) year and six (6) Commission members shall serve for a term of two (2) years, said terms to be determined by the Commission by a drawing of straws. At the expiration of the terms of the initial Commission members, all terms shall be for two (2) years, or under such time as their successors are appointed.

4. THAT all Commission members shall serve at the pleasure of, and may be removed by, the City Council of the City of Lubbock. There shall be no limit upon the number of terms, including successive terms, that a Commission member may serve.

5. THAT the Commission shall study and report back, on a continuing basis, to the City Council a summary of, and recommendations regarding, any benefits, services, and assistance available to veterans in the City of Lubbock, including but not limited to housing, job training, career placement, hospitalization, rehabilitation, and promotion of veteran networking opportunities.

6. THAT the Commission shall also make recommendations to the City Council for potential partnerships and improved points of contact and outreach efforts to coordinate, enhance, and improve the delivery of existing and available benefits, services, and assistance to eligible veterans.

7. THAT to the extent the Commission identifies unfulfilled needs of the City of Lubbock veteran population, it shall communicate those needs to the City Council, and make recommendations for the meeting of those needs. Particular attention should be given to the practicability and advisability of a "veteran's specialty court" that would recognize veterans' unique status at initial intake to the criminal justice system, and the expansion by public and private employers of preferential hiring practices, and other best employment practices, for eligible veterans.

8. Of exceptional importance to the charge of the Commission shall be a study, report, and recommendation regarding medical services available to local veterans, including but not limited to the services of out-patient and in-patient veteran medical care facilities.

9. THAT upon receiving recommendations, if any, from the Commission, the City Council shall reduce said recommendations to writing, and forward them to each member of the South Plains delegation in the United States Congress and the Texas Legislature.

10. THAT there is no financial commitment required, requested, or provided by, or of, the City of Lubbock, Texas by virtue of this Resolution.

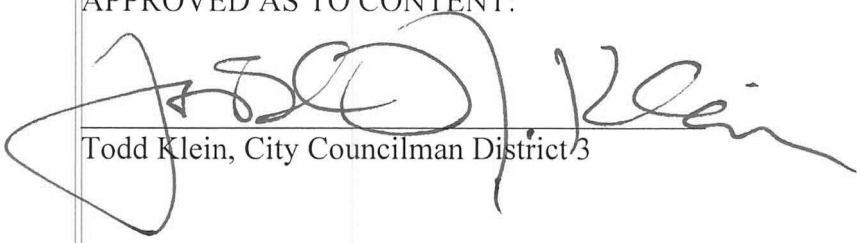
Passed by the City Council this 27th day of February, 2014.

GLEN C. ROBERTSON, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Todd Klein, City Councilman District 3

Reso.Veteran Assistance 2.20.14

**Regular City Council Meeting** **6. 13.**

**Meeting Date:** 04/10/2014

**Information**

**Agenda Item**

**Board Appointments - City Secretary:** Consider one appointment to the Board of Health, one appointment to Keep Lubbock Beautiful Advisory Committee, and one appointment to the Zoning Board of Adjustment.

**Item Summary**

As stated above.

**Fiscal Impact**

None.

**Staff/Board Recommending**

Rebecca Garza, City Secretary

**Attachments**

Regular Session Board Appointments

**BOARD APPOINTMENTS FOR**
**REGULAR CITY COUNCIL MEETING, APRIL 10, 2014 - REGULAR SESSION**

| Officer of City | | Board Name & No. | Member Name | Term Expires | Attend % | Membership Requirements | Recommended Action | Eligible? |
|---|---|---|---|---|---|---|---|---|
| | 1 | BOARD OF HEALTH | MAY, DONALD | 04.01.14 | 70% | | REAPPOINT | Y |
| | | | | | | | | |
| | 2 | KEEP LUBBOCK BEAUTIFUL ADVISORY COMMITTEE | LOZADA, ALICE | 04.01.14 | N/A | | REPLACE | N/A |
| | | | | | | | | |

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

## *Applicants No Preference*

| Update Date | Last Name | First Name | Gender | Ethnicity | Age | Occupation | Business Name | District |
|---|---|---|---|---|---|---|---|---|
| 01/27/2011 | Aguero | Olga | Female | Hispanic or Latino | | | | 1 |
| 11/04/2010 | Arnett | Claire | Female | Anglo | 50-59 | Education | Covenant School of Nursing | 4 |
| 10/29/2012 | Ashe | John | Male | Anglo | 60+ | Realtor | Action Realtors | 5 |
| 06/18/2010 | Ashley | Kyle | Male | Anglo | 40-49 | CEO | Alliance Federal Credit Union | 4 |
| 01/27/2011 | Bass | Byrn | Male | Anglo | | | | 6 |
| 02/01/2006 | Bass | Mark | Male | Anglo | 60+ | Financial Planner | Pennington, Bass & Associates | 3 |
| 10/28/2010 | Beck | Jim | Male | Anglo | 50-59 | Professor of Mission | Lubbock Christian University | 6 |
| 07/01/2003 | Bennett | James | Male | Anglo | 50-59 | | Economic Development | 4 |
| 11/02/2010 | Bentley | Donnie | Male | Anglo | 60+ | Owner | Don Bentley Roofing Co. | 3 |
| 02/17/2010 | Berk | Shirley | Female | Anglo | 50-59 | | | 6 |
| 02/02/2010 | Berry | Timothy | Male | Anglo | 40-49 | Paramedic | UMC Lubbock EMS | 5 |
| 03/24/2010 | Berryhill | Korbi | Female | Anglo | | RN Instructor | South Plains College, Reese | 5 |
| 11/01/2010 | Beversdorf | Cynthia | Female | Anglo | 40-49 | | | 5 |
| 10/27/2010 | Beversdorf | Fredrick | Male | Anglo | 50-59 | Senior Training Instructor | Atmos Energy | 5 |
| 10/28/2010 | Billings | Toby | Male | Anglo | 30-39 | Custodial Staff | Broadway Church of Christ | 1 |
| 10/28/2010 | Bosscher | Karen | Female | Anglo | 50-59 | Business Manager | Hemmo A. Bosscher, MD. | 4 |
| 10/26/2010 | Bryant | Gary | Male | African-American | 40-49 | House Manager | Lubbock Faith Center | 2 |
| 10/28/2010 | Bustos | Claudia | Female | Hispanic or Latino | 30-39 | Case Manager/Homeless | Community Health Center of Lubbock | 1 |
| 03/05/2013 | Castro | Joel | Male | Hispanic or Latino | 50-59 | Associate Superintendent | LISD | 3 |
| 10/28/2010 | Clayton | Letitia | Female | Anglo | 40-49 | Orthopedic Tech | Dr. Kenneth Stephenson | 5 |
| 07/06/2009 | Coppola | Martin | Male | Anglo | 40-49 | Associate Professor & Program Director | Texas Tech HSC | 5 |
| 10/25/2010 | Craig | Karl | Male | Anglo | 60+ | | | 5 |
| 07/22/2004 | Craig | Mickey | Male | Anglo | 60+ | | Retired | 2 |
| 07/01/2010 | Davenport | Cory | Male | Anglo | | Graduate Student | Texas Tech University | 6 |
| 11/15/2010 | Dingle | Darnell | Female | Anglo | 60+ | | | 5 |
| 02/17/2010 | Dotts | Ted | Male | Anglo | 60+ | | | 6 |
| 09/05/2013 | Doyle | Casey | Male | Anglo | 30-39 | General Manager | Casey Carpet One | 4 |
| 01/14/2010 | Dulin | Jim | Male | Anglo | 60+ | Judge | Lubbock County | 4 |
| 12/06/2010 | Dumas | Seanloui | Male | African-American | 18-29 | CEO | Unite Clothing | |
| 02/15/2010 | Eggenberger | Florence | Female | Anglo | 60+ | | | 6 |
| 11/29/2010 | Elliott | John | Male | Anglo | 60+ | Banking | Southwest Bank | 4 |
| 01/14/2010 | Epps | Mike | Male | Anglo | 50-59 | CFO | American State Bank | 5 |
| 11/02/2010 | Finley | Kathleen | Female | Anglo | 40-49 | Captain | Lubbock Co. Sheriff's Office | 4 |
| 10/27/2010 | Ford | Laura | Female | Hispanic or Latino | 30-39 | Clinic Manager | Lubbock Regional MHMR | 1 |
| 12/01/2010 | Gerlach | Mary | Female | Anglo | 40-49 | | | 3 |
| 10/29/2010 | Gifford | Gretchen | Female | Anglo | 18-29 | Legal Secretary | Buerner, Dennis, & Franklin | 4 |

| Update Date | Last Name | First Name | Gender | Ethnicity | Age | Occupation | Business Name | District |
|---|---|---|---|---|---|---|---|---|
| 11/08/2010 | Green | Velda | Female | Anglo | 50-59 | Non-Profit Relations | | 5 |
| 04/19/2010 | Griswold | Mary | Female | Anglo | 50-59 | Activities/Edcuation Director | Redr Frame & Art | 4 |
| 10/28/2010 | Guetersloh | Mary | Female | Anglo | 60+ | | Self-Employed | |
| 03/05/2008 | Hamer | Darla | Female | Anglo | 40-49 | Banker | Peoples Bank | 6 |
| 01/27/2011 | Hamilton | Charlie | Male | Anglo | | | | 4 |
| 09/06/2006 | Harvey | Larry | Male | Anglo | 40-49 | Architect | Chapman Harvey Architects | 4 |
| 08/23/2005 | Harvill | Natalie | Female | Anglo | 30-39 | Structural Engineer | Parkhill, Smith & Cooper | 5 |
| 01/14/2010 | Henry | Alan | Male | Anglo | 60+ | Insurance Agent | Alan Henry Insurance | 3 |
| 06/10/2009 | Henson | Matthew | Male | Anglo | 30-39 | Self Employed | Matt Henson Inc. | 5 |
| 11/11/2010 | Herrera | Gilbert | Male | Hispanic or Latino | 60+ | Evangelist | Gilbert Herrera Evangelistic Association | 4 |
| 11/15/2010 | Jackson | Emma | Female | African-American | 60+ | | | 2 |
| 02/22/2010 | Jackson | Winnie | Male | Anglo | 60+ | Retired Minister | | 4 |
| 02/19/2010 | Jones | Glenn | Male | Anglo | 60+ | | | 5 |
| 11/01/2010 | Kinserlow | Ray | Male | Anglo | 60+ | | | 4 |
| | Ladd | Rusty | Male | Anglo | | Judge | Lubbock County Courthouse | |
| 02/22/2010 | Letalien | Sharon | Female | Anglo | 50-59 | Registered Nurse LISD | Lubbock ISD | 4 |
| 12/08/2010 | Madison | Harvey | Male | Anglo | 60+ | Photography | Madison Photography | 4 |
| 11/03/2010 | McClendon | Lynn | Female | Anglo | 60+ | | | 4 |
| 10/27/2011 | McDonald | Carroll | Male | Anglo | 60+ | | | 1 |
| 10/27/2011 | McDougal | Marc | Male | Anglo | 40-49 | | McDougal Companies | 4 |
| 12/02/2009 | McMahon | Kevin | Male | Anglo | | CPA | | 5 |
| 07/01/2003 | Merritt | Earnest | Male | African-American | | Youth Director | Texas Workforce Center | 4 |
| 11/09/2010 | Mitchell | Walter | Male | Anglo | 30-39 | Pastor | Westminister Presbyterian Church | 4 |
| 11/05/2010 | Moret | Mary | Female | Anglo | 60+ | | | |
| 10/29/2010 | Morton | Michael | Male | Anglo | 50-59 | Captain | Salvation Army | 5 |
| 11/30/2010 | Morton | Philip | Male | Anglo | 30-39 | Associate Director | Texas Tech | 5 |
| 10/27/2011 | Musselman | Robert | Male | Anglo | | | | 6 |
| 01/10/2002 | Noble | Brent | Male | Anglo | | | Service Title | 4 |
| 11/12/2012 | Osborne | John | Male | Anglo | 40-49 | President & CEO | LEDA / MLI | |
| 10/26/2010 | Peel | James | Male | Anglo | 30-39 | Pastor | First Christian Church | 4 |
| 11/05/2010 | Perry | Wilson | Male | African-American | 50-59 | | City of Lubbock | 1 |
| 11/01/2010 | Pickett | Benjamin | Male | Anglo | 40-49 | Associate Minister | Monterey Church of Christ | 4 |
| 12/01/2006 | Podrebartz | Keith | Male | Anglo | 30-39 | Counselor | Texas Tech University | 1 |
| 11/29/2010 | Pope | Catherine | Female | Anglo | 60+ | CEO | Lubbock Regional MHMR Center | 6 |
| | Putteet | Janis | Female | Anglo | | Vice President | United Way - Lubbock | |
| 08/01/2003 | Rangel | Andrea | Female | Hispanic or Latino | 40-49 | | South Plains College | 5 |
| 11/01/2010 | Read | Alan | Male | Anglo | 60+ | Agent | AFLAC | 5 |
| | Rios | Roy | Male | Hispanic or Latino | | | Women's Protective Services | 2 |

| Update Date | Last Name | First Name | Gender | Ethnicity | Age | Occupation | Business Name | District |
|---|---|---|---|---|---|---|---|---|
| 10/19/2010 | Rothwell | Gary | Male | Anglo | 50-59 | Real Estate Investor | Gary Rothwell Inc | 5 |
| 08/09/2012 | Ruiz | Pete | Male | Hispanic or Latino | 30-39 | Accountant | Gene Messer | 5 |
| 01/13/2010 | Satterwhite | Letha | Female | Anglo | 50-59 | Registered Nurse | University Medical Center | 3 |
| 04/29/2008 | Schmedes | Gregg | Male | Anglo | | Medical Student | Texas Tech | 6 |
| 06/08/2004 | Sepeda | Esther | Female | Hispanic or Latino | | President/CEO | Lubbock Hispanic Chamber of Commerce | 4 |
| 05/27/2010 | Smith | David | Male | Anglo | 30-39 | Construction Director | Lee Lewis Construction | 5 |
| 06/28/2012 | Spitzer | Michelle | Female | Anglo | 50-59 | CFO | Sunwest Construction Inc. | 4 |
| 04/01/2008 | Stephens | Sherry | Female | Anglo | 30-39 | Administrative Assistant | High Plains Water District | 5 |
| 05/17/2012 | Stephenson | Pat | Male | Anglo | 50-59 | Service Manager | Bruce Thornton Air Conditioning | 4 |
| 01/27/2011 | Stevens | Mike | Male | Anglo | | | | 5 |
| 11/01/2010 | Swoboda | Tami | Female | Anglo | 40-49 | Grants & Communications | Lubbock Area Foundation | 3 |
| 05/08/2013 | Tinsley | Matt | Male | Anglo | 40-49 | Practice Administrator | Lubbock Surgical Associates | 5 |
| 11/30/2010 | Triplett | Douglass | Male | Anglo | 60+ | Adjunct Professor | Lubbock Christian University | 6 |
| 11/18/2010 | Vaughn | Denette | Female | Anglo | 50-59 | Attorney (Disability Law) | Advocacy, Inc. | 5 |
| 08/08/2013 | Walz | Donna | Female | Anglo | | | | 5 |
| 12/01/2006 | Walz | John | Male | Anglo | 60+ | Attorney | Retired | 5 |
| 01/27/2011 | Warnick | J.Q. | Male | Anglo | 60+ | | | 4 |
| 02/20/2004 | Warren | Steven | Male | Anglo | 50-59 | Engineer | (806) 748-4490 | 1 |
| 10/01/2007 | Wierzba | Susan | Female | Anglo | 40-49 | Partner/ Director | 8067982299 | 5 |
| 10/06/2006 | Wilkerson | David | Male | Anglo | 40-49 | Real Estate Developer | Wilkerson Properties | 5 |
| 01/27/2011 | Wilkes | Morris | Male | Anglo | | | | |
| 12/02/2010 | Williams | Shirley | Female | African-American | 60+ | Career Consultant | Workforce Solutions | 2 |
| 02/24/2010 | Woordward | Tracey | Female | Anglo | 50-59 | Registered Nurse | Covenant School of Nursing | 4 |
| 11/20/2007 | York | Martha | Female | Anglo | | Real Estate Broker | The Real Estate Company | 5 |
| | Young | Andy | Male | Anglo | | | | 5 |

## BOARD OF HEALTH

| | Lubbock Population | Lubbock Adult Population | All City Boards | This Board |
|---|---|---|---|---|
| **ETHNICITY** | | | | |
| Anglo | 55.0% | 61.0% | 77.8% | 66.7% (6) |
| 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% | 22.2% (2) |
| **GENDER** | | | | |
| Male | 48.5% | 47.0% | 73.2% | 77.7% (7) |
| Female | 51.5% | 53.0% | 26.8% | 22.2% (2) |
| **GEOGRAPHIC DISTRIBUTION** | | | | |
| 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% | 11.1% (1) |
| District 4 | 17.0% | 17.0% | 21.3% | 11.1% (1) |
| District 5 | 16.7% | 19.4% | 28.7% | 33.3% (3) |
| 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 & Demographic Facts | Attend | Eligible | Action |
|---|---|---|---|
| May, Donald (M,A,6) | 70% | Y | Reappoint/Replace |

**APPOINTMENT ADVISORY BOARD RECOMMENDATIONS:**
To reappoint Donald May

*To replace Donald May:*
Claudia Bustos[1] (F,H,1) Community Health Center of Lubbock

[1] Ms. Bustos did not select any preferences on her application.

Home Citizen Admin Boards Admin Reports User Account Management My Account

Login as Thomas Harris | Role: ADMIN ***Logout***

# Boards & Commissions Admin Site

**Application #: 1882** **Entry Date: 10/28/2010** **Active?** ☑ **Last Login Date: 11/1/2013** << Application List

Email: cbustos@chcl.tachc.org Change Email

**Personal Information** **Edit**

**Name:** Ms. Claudia Bustos **Nick Name:** **District:** 1

**Address:** 3013 East 2nd Place, Lubbock, TX 79403 **Phone:** 8064386766 (home)

**Demographic Information** **Edit**

**Registered Voter:** YES **Resident of Lubbock:** 38 year(s)

**Ethnic Background:** Hispanic or Latino **Gender:** Female **Age:** 30-39

**Work Information** **Edit**

**Occupation:** Case Manager/Homeless & Migrant **Work Email:** cbustos@chcl.tachc.org **Fax Number:** 8067652604 **Business Telephone:** 8067652611 - 1024

**Business Name:** Community Health Center of Lubbock **Business Address:** Lubbock, TX 79401

**Experience and education or interest:** **Edit**

NONE

**Prior service on a Board and/or Commission for the City of Lubbock:** **Edit**

NONE

**Boards Preference** **Add Preference**

| Pref # | Board | Qualification |
|---|---|---|
| No records to display. | | |

**Reason that may cause a conflict of interest:** **Edit**

NONE

**Contracts or perform services with the City of Lubbock:** **Edit**

NONE

**Reference** **Add Reference**

| Ref # | First Name | Last Name | Daytime Phone | Business Phone |
|---|---|---|---|---|
| No records to display. | | | | |

**Agreement:**

☑ Agree to have the information entered in The Volunteer Center of Lubbock Agency Board Bank

**Areas of Interest:** **Edit**

**Referred By:** **Edit**

**Current Service:** Add To Board

**City of Lubbock**
**Board and Commision Recruiting Database**

**Updated:** **2/21/2014**

**Board of Health**

| Date Updated | Last Name | First Name | Gender M/F | Ethnicity A,H,AA,O | Age | Occupation | Business | District |
|---|---|---|---|---|---|---|---|---|
| **First Preference** | | | | | | | | |
| 06/14/2006 | Daughtry | Steve | M | A | 40-49 | Engineer | Allied Associates Consulting Engineers | 4 |
| 01/28/2014 | KEEL | JAMES | M | A | 30-39 | REGISTERED NURSE | STARCARE | 3 |
| 11/01/2005 | Kirby | John | M | A | 50-59 | | KTXT-TV | 5 |
| 09/26/2008 | Landress | Michael | M | A | 50-59 | | | 3 |
| 09/06/2012 | Landusky | Lance | M | A | 30-39 | Structural Engineer | MWM Architects | 6 |
| | Miller | David | M | A | 50-59 | Construction Engineer | McDougal Construction | 5 |
| 05/26/2006 | Perez | Jody | M | H | 50-59 | | JMP Consultants | 4 |
| 08/09/2011 | Rushing | Joe | M | A | 30-39 | Plumber | Water Heaters Unlimited, Inc | 3 |
| 08/29/2006 | Tate | David | M | A | 50-59 | Insurance Sales | David Tate Insurance | 5 |
| 09/06/2012 | Wood | Robert | M | A | 50-59 | Homebuilder | Custom Homes by Robert Wood | 5 |
| **Second Preference** | | | | | | | | |
| 08/09/2011 | Amor | Cherif | M | AI | 50-59 | Dept. Chair/Assoc. Prof. | Texas Tech | 5 |
| 05/05/2009 | Bloodworth | David | M | A | 50-59 | Commercial Real Estate Agent | Coldwell Banker Commerical | 4 |
| **Third Preference** | | | | | | | | |
| 11/01/2005 | Campbell | Jesse | M | A | 40-49 | Account Executive Service Sales | Johnson Controls, Inc | 4 |
| **Fourth Preference** | | | | | | | | |
| 07/01/2005 | Trombley | Trudy | F | A | 60+ | | Retired Educator | 5 |
| **Fifith Preference** | | | | | | | | |
| **Sixth Preference** | | | | | | | | |

| *Committee #* 4 | *Board of Health* | | | *Perm/Temp Board:* P |
|---|---|---|---|---|

| | *Confidential* | *Home* | *Business* | | | *Reappt Elig.* |
|---|---|---|---|---|---|---|
| Chair | | | | *Curr:* | 04/01/2013-04/01/2016 | *Y* |
| Citizen | Y | *3709-22nd Place, Suite C* | | *2nd:* | 04/01/2010-04/01/2013 | |
| **Carr** | | | | *1st:* | | |
| **Dr. Brian** | | *Lubbock, TX 79410* | | | | |
| *Email:* | Y | *(806) 787-0761* | *8067953911* | *Fax:* | *8067952315* | |
| bha@healingtalk.com | Y | *(806) 787-0761* | *bha@healingtalk.com* | | | |
| Member | | | *Pulmonary Associates* | *Curr:* | 04/01/2013-04/01/2016 | *N* |
| Citizen | Y | *5010 21st St.* | *3621 22nd Street, Suite* | *2nd:* | 04/01/2010-04/01/2013 | |
| **Chekuru** | | *Lubbock, TX 79407* | *400* | *1st:* | | |
| **Dr. Naidu** | | | *Lubbock, TX 79410* | | | |
| *Email:* | Y | *8067962852* | *8067918484* | *Fax:* | *8067918438* | |
| naidukc1@suddenlink.net | Y | *8064412055* | *naidukc1@suddenlink.net* | | | |
| Member | | | | *Curr:* | 04/01/2013-04/01/2016 | *N* |
| Citizen | N | *8502 Oxford Avenue* | | *2nd:* | 04/01/2010-04/01/2013 | |
| **Culp** | | *Lubbock, TX 79423* | | *1st:* | | |
| **Dr. Wayne** | | | | | | |
| *Email:* | N | *8067949109* | | *Fax:* | *8067948993* | |
| cwculp@suddenlink.net | | | *cwculp@suddenlink.net* | | | |
| Secretary/Treasurer | | | *8067931939* | *Curr:* | 04/01/2013-04/01/2016 | *N* |
| Citizen | Y | *1924 31st Street* | *3411 20th Street* | *2nd:* | 09/27/2010-04/01/2013 | |
| **Epstein** | | *Lubbock, TX 79411* | *Lubbock, TX 79410* | *1st:* | | |
| **Dr. Anne** | | | | | | |
| *Email:* | Y | *(806) 765-6751* | *8067931939* | *Fax:* | *(806) 793-1952* | |
| acepstein@sbcglobal.net | Y | *(806) 777-1888* | *acepstein@sbcglobal.net* | | | |
| Member | | | | *Curr:* | 04/01/2012-04/01/2015 | *N* |
| Citizen | N | *4601 88th St* | | *2nd:* | 04/01/2009-04/01/2012 | |
| **Hentges** | | *Lubbock, TX 79424* | | *1st:* | 04/01/2006-04/01/2009 | |
| **Ms. Kae** | | | | | | |
| *Email:* | N | *8067945529* | | *Fax:* | | |
| KAEHENTGES@YAHOO.COM | Y | *8062810321* | | | | |
| Member | | | | *Curr:* | 04/01/2011-04/01/2014 | *Y* |
| Citizen | N | *P.O. Box 1678* | | *2nd:* | 01/09/2006-04/01/2009 | |
| **May** **MD** | | *Lubbock, TX 79408* | | *1st:* | 01/09/2003-01/09/2006 | |
| **Dr. Donald** | | | | | | |
| *Email:* | Y | *(806) 721-5941* | | *Fax:* | *8067915942* | |
| donaldrmay@sbcglobal.net | Y | *(806) 543-0672* | | | | |
| Member | | | *Texas Tech University* | *Curr:* | 04/01/2012-04/01/2015 | *Y* |
| Citizen | Y | *4612 10th Street* | *Box 41163* | *2nd:* | | |
| **Presley** | | *Lubbock, TX 79416* | *Lubbock, TX 79409* | *1st:* | | |
| **Dr. Steven** | | | | | | |
| *Email:* | Y | *8067852527* | *8068850236* | *Fax:* | *8068852132* | |
| steve.presley@tiehh.ttu.edu | | | *steve.presley@tiehh.ttu.edu* | | | |
| Member | | | | *Curr:* | 04/01/2012-04/01/2015 | *N* |
| Citizen | N | *6038 75th Street* | | *2nd:* | 04/01/2009-04/01/2012 | |
| **Reid** | | *Lubbock, TX 79424* | | *1st:* | | |
| **Dr. Ted** | | | | | | |
| *Email:* | N | *8067944967* | *8067432417* | *Fax:* | | |
| ted.reid@ttuhsc.edu | Y | *5129131898* | *ted.reid@ttuhsc.edu* | | | |
| Member | | | *Walgreen Company* | *Curr:* | 04/01/2013-04/01/2016 | *Y* |
| Citizen | Y | *5537 50th Street #2010* | *6502 Slide Road #409* | *2nd:* | 11/29/2012-04/01/2013 | |
| **Thomas** **Jr.** | | *Lubbock, TX 79414* | *Lubbock, TX 79424* | *1st:* | | |
| **Mr. Ollie** | | | | | | |
| *Email:* | Y | *4404790395* | *8067838307* | *Fax:* | *8067838376* | |
| olliethomasjr@gmail.com | | | *ollie.thomas@walgreens.com* | | | |

## KEEP LUBBOCK BEAUTIFUL ADVISORY COMMITTEE

| | Lubbock Population | Lubbock Adult Population | All City Boards | This Board |
|---|---|---|---|---|
| **ETHNICITY** | | | | |
| Anglo | 55.0% | 61.0% | 73.4% | 81.8% (9) |
| Hispanic | 32.6% | 27.6% | 10.1% | 18.2% (2) |
| African-American | 8.7% | 7.4% | 10.1% | 0.0% (0) |
| Other | 3.7% | 4.0% | 6.3% | 0.0% (0) |
| **GENDER** | | | | |
| Male | 48.5% | 47.0% | 75.3% | 36.4% (4) |
| Female | 51.5% | 53.0% | 24.7% | 63.6% (7) |
| **GEOGRAPHIC DISTRIBUTION** | | | | |
| District 1 | 16.1% | 14.9% | 10.1% | 27.3% (3) |
| District 2 | 16.4% | 12.7% | 4.1% | 0.0% (0) |
| District 3 | 16.3% | 16.1% | 13.3% | 9.1% (1) |
| District 4 | 17.0% | 17.0% | 20.6% | 9.1% (1) |
| District 5 | 16.7% | 19.4% | 27.5% | 27.3% (3) |
| District 6 | 17.2% | 19.9% | 19.3% | 27.3% (3) |
| Other/Unknown | 0.0% | 0.0% | 5.1% | 0.0% (0) |

**PURPOSE:**
Work with the Keep America Beautiful System, which includes Keep Texas Beautiful; to preserve a beautiful and sanitary environment that is beneficial to the health, safety and welfare of the citizens of Lubbock.

**QUALIFICATIONS:** All members shall be appointed at large from within the corporate limits of the City of Lubbock

**APPOINTMENT INFORMATION:**

| Member Name & Demographic Facts | Attend | Eligible | Action |
|---|---|---|---|
| Lozada, Alice (F,H,1) | N/A | N | Replace |

**APPOINTMENTS ADVISORY BOARD RECOMMENDATIONS:**
To replace Alice Lozada:
Aundi Duke (F,A,3) McPherson Cellars
J.Q. Warnick (M,A,4)

**City of Lubbock**
**Board and Commision Recruiting Database**

**Updated:** **2/21/2014**

**Keep Lubbock Beautiful Advisory Committee**

| *Date Updated* | *Last Name* | *First Name* | *Gender M/F* | *Ethnicity A,H,AA,O* | *Age* | *Occupation* | *Business* | *District* |
|---|---|---|---|---|---|---|---|---|
| **First Preference** | | | | | | | | |
| 02/19/2014 | Bass | Totsey | M | AA | 50-59 | Case Manager | StarCare Specialty Health System | 5 |
| 01/24/2014 | Duke | Aundi | F | A | 30-39 | Event Coordinator | McPherson Cellars | 7 |
| **Second Preference** | | | | | | | | |
| 12/20/2013 | Chadwell | Christi | F | A | 18-29 | Communications and Recruiting Coordiantor | Texas Tech University | |
| **Third Preference** | | | | | | | | |
| **Fourth Preference** | | | | | | | | |
| **Fifith Preference** | | | | | | | | |
| 01/28/2014 | KEEL | JAMES | M | A | 30-39 | REGISTERED NURSE | STARCARE | 3 |
| **Sixth Preference** | | | | | | | | |

| *Committee #* | *13* | *Keep Lubbock Beautiful Advisory Committee* | *Perm/Temp Board:* | **P** |
|---|---|---|---|---|

| | *Confidential* | *Home* | *Business* | | | *Reappt Elig.* |
|---|---|---|---|---|---|---|
| Member | | | *Texas Tech University* | *Curr:* | **02/28/2013-04/01/2014** | ***Y*** |
| | N | *6534 84th St* | *Box 45024* | *2nd:* | | |
| **Abercia** **Jr.** | | *Lubbock, TX 79424* | *Lubbock, TX 79409* | *1st:* | | |
| **Mr. David** | | | | | | |
| ***Email:*** | N | *8525637054* | *(806) 742-7025* | *Fax:* | ***(806) 742-2364*** | |
| david.abercia@gmail.com | | | *david.abercia@ttu.edu* | | | |
| Member | | | *Citibus* | *Curr:* | **05/01/2013-04/01/2015** | ***Y*** |
| | N | *4512 62nd* | *801 Texas Ave* | *2nd:* | | |
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| Member | | | *University Massage* | *Curr:* | **04/01/2012-04/01/2014** | ***Y*** |
| | N | *1714 Ave X* | *1714 Ave X* | *2nd:* | **10/13/2011-04/01/2012** | |
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| Member | | | *Earth Angel* | *Curr:* | **04/01/2013-04/01/2015** | ***Y*** |
| | Y | *4818 16th Street* | *4818 16th Street* | *2nd:* | **05/10/2011-04/01/2013** | |
| **Horkey-Wolff** | | *Lubbock, TX 79416* | *Lubbock, TX 79416* | *1st:* | | |
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| Member | | | | *Curr:* | **04/01/2013-04/01/2015** | ***Y*** |
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| Member | | | *8064389089* | *Curr:* | **02/28/2013-04/01/2014** | ***Y*** |
| | N | *6315 Duke* | *6315 Duke* | *2nd:* | | |
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| Member | | | *Texas Tech Alumni* | *Curr:* | **11/21/2013-04/01/2015** | ***Y*** |
| Citizen | N | *8615 Utica Avenue* | *Association* | *2nd:* | | |
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| | Y | *122 S. Avenue N* | | *2nd:* | **04/19/2010-04/01/2012** | |
| **Lozada** | | *Lubbock, TX 79401* | | *1st:* | | |
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| Member | | | | *Curr:* | **04/01/2013-04/01/2015** | ***Y*** |
| | N | *5703 Geneva* | | *2nd:* | **08/23/2012-04/01/2013** | |
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## *Committee # 13 Keep Lubbock Beautiful Advisory Committee* — *Perm/Temp Board:* P

| | *Confidential* | ***Home*** | ***Business*** | | | *Reappt Elig.* |
|---|---|---|---|---|---|---|
| Member | | | | *Curr:* | 04/01/2013-04/01/2015 | *Y* |
| **Robertson** | N | *3007 Mesa Road* | | *2nd:* | | |
| **Ms. Barbara** | | *Lubbock, TX 79403* | | *1st:* | | |
| *Email:* | | | | *Fax:* | | |
| bbr1125@msn.com | N | *8064411148* | | | | |
| Chair | | | *TTU* | *Curr:* | 04/01/2013-04/01/2015 | *N* |
| | N | *6912 91st St* | *1301 Akron Avenue* | *2nd:* | 04/01/2011-04/01/2013 | |
| **Sanchez** | | *Lubbock, TX 79424* | *Lubbock, TX 79409* | *1st:* | 04/19/2010-04/01/2011 | |
| **Dr. Alfonso** | | | | | | |
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**City of Lubbock, Texas**
**Contract & Procurement Related Agenda Items**

The City Council has statutory obligations when awarding contracts and contract amendments. The following is provided to assist elected officials when considering contract and procurement related agenda items:

- There exists the general concept that the taxpaying public should receive the best price possible for purchases in the interest of the public good, and that the government should maximize, to the fullest extent practicable, the purchasing value of public funds. McQuillin Municipal Corporations, 3rd Ed.
- During the period between offer submission date and the contract award, offerors, including their agents and representatives, may not discuss or promote their offer with any member of the Lubbock City Council or City staff except upon the request of the Purchasing Department in the course of city-sponsored inquiries, briefings, interviews, or presentations. The provision is not meant to preclude offerors from discussing other matters with City Council members or City staff. The policy is intended to place all offerors upon the same plane of equality, assure that contract decisions are made in public, and to protect the integrity of the bid process. Its purpose is to stimulate competition, prevent favoritism and secure the best work and materials at the lowest practicable price, for the best interests and benefit of the taxpayers and property owners. Sterrett v. Bell, 240 S.W.2d 516, 520 (Tex. Civ. App. – Dallas 1951, no writ)
- Elected officials and employees are prohibited from participating in the profits of a City contract or having an interest in a sale to the City. §1, Art. IX, Sec. 4, City Charter
- Bids from bidders who reside in states that grant resident bidder preference for that state's purchases are reciprocated in the same manner when bidding against a Texas bidder. §2252.002, Texas Govt Code
- Architectural, engineering, and land surveying service providers are prohibited from submitting bids or cost proposals. The City selects the most highly qualified provider of services based on demonstrated competence and qualifications through a Request for Qualifications process; and then attempts to negotiate with that provider a contract at a fair and reasonable price. §2254.004, Texas Govt Code
- The total contract price caused by change orders may not increase more than 25%, and the total price may not be decreased by more than 25% without the consent of the contractor. §252.048, Texas Local Govt Code
- Proposals are opened in a manner that avoids disclosure of the contents to competing offerors and keeps the proposals secret during negotiations. §252.049, Texas Local Govt Code
- Participating in purchasing cooperatives with other local governments and cooperative purchasing organizations satisfies state law requiring the City to solicit competitive bids. §271.102, Texas Local Govt Code
- If the City receives two or more low bids that are identical, the selection of the winner is made be by the casting of lots. If only one of the bidders submitting identical bids is a resident of the City, that bidder will receive the award. §271.901, Texas Local Govt Code
- If the City receives a bid for personal property not affixed to real property, or services, from a resident bidder whose principal place of business is within Lubbock city limits and whose bid is within 5% of the lowest bid received from a bidder whose principal place of business is not within Lubbock city limits, the City may enter into a contract for an expenditure of less than $100,000 with the lowest bidder or the resident bidder if Council determines that the resident bidder offers the City the best combination of contract price and additional economic development opportunities for the City. §271.9051, Texas Local Govt Code
- If there is a conflict between the City's policies and procedures and a state law, or a rule adopted under a state law, the stricter of the two provisions prevails.

**Ethics** - The City subscribes to National Institute of Governmental Purchasing Code of Ethics. City Charter, Ch. 1, Art. IX, prohibits City Council members, officers, or employees, from having an interest in profits/emoluments of a contract, job, work, or service to the City.

**Purchasing Thresholds** - Methods for procurement vary depending upon the nature of the procurement, the dollar amount, and the type of vendor will be used. Flexibility in making small buys within a particular dollar range is allowed for efficiency purposes and minimal paperwork. Intermediate ranges in between the smallest procurements (micro purchases) to publicly announced procurements (large purchases) usually allow limited competition and abbreviated paperwork to promote efficiency. Large procurements are publicly announced and vendors are required to respond with written and signed proposals/bids. Tex. Local Govt. Code (LGC) §271.102 and 103 waive the requirement for quotes or bids/proposals if an opportunity to piggy-back another governmental entity's competitive bid is available.

| Goods and Services | Approval Authority | Procurement Method | Legal Authority |
|---|---|---|---|
| Up to $500 | Using department | No quotes required | City Procurement Policy |
| $501 – 2,500 | Using department | Verbal quotes/proposals, electronic bids | City Procurement Policy |
| $2,501 – 50,000 | City Manager | Written quotes/proposals, electronic bids | LGC §252.0215 |
| More than $50,000 | City Council | Written bids/proposals, electronic bids | LGC §252.021, 024, 041, 0415, 042, 043, |
| **Professional Services** | | | |
| Up to $50,000 | City Manager | Written proposals | GC §2254.003 |
| More than $50,000 | City Council | Written proposals | GC §2254.003 |
| **Architectural/Engineering Services** | | | |
| Up to $50,000 | City Manager | Rotation list | GC §2254.004 |
| More than $50,000 | City Council | Statement of qualifications | GC §2254.004 |
| **Construction** | | | |
| Up to $50,000 | City Manager | Written quotes/proposals | LGC §252.0215 |
| More than $50,000 | City Council | Written quotes/proposals | LGC §252.021, 0215, 043, 0435 |
| **Emergencies** | | | |
| Up to $50,000 | City Manager | Verbal or written quotes | City Procurement Policy |
| More than $50,000 | City Council | Verbal or written quotes | LGC §252.022 |
| **Interlocal/Real Property** | | | |
| Any amount | City Council | Negotiated | LGC §252.022, 050 and §272 |
| **Change Orders/Amendments** | | | |
| Up to $50,000 | City Manager | Negotiated | LGC §252.048 |
| More than $50,000 | City Council | Negotiated | LGC §252.048 |

**Public Notice** - For contracts involving an expenditure greater than $50,000, LGC §252 requires the City to publish bid notices in a local newspaper once a week for two consecutive weeks. The date of the first publication is before the 14th day before the date set to open the bid. Bids are posted on the Internet, and potential bidders contacted via E-mail.

**Public Works Construction –** Pursuant to LGC §271, the City uses the following delivery methods for construction of public works:

- Competitive bidding
- Competitive sealed proposals
- Design-build
- Construction manager
- Job order contract

Tex. Govt. Code (GC) §2253.021 and LGC §2267 require payment bonds for public works contracts more than $50,000 and performance bonds for public works contracts more than $100,000. The City requires a 5% bid bond for public works contracts.

Bidders are required to comply with GC §2258 with respect to payment of prevailing wage rates.

The City may contract with a developer of a subdivision or land for the developer to construct public improvements, excluding a building, provided the City's participation in the cost does not exceed 30%. LGC §212.072

**Professional Services** - Professional services require specialized skill, training and expertise, use of professional judgment/discretion, and/or a high degree of creativity, and often involve a relationship of personal trust and confidence, and different procurement processes are available, as such.

Generally, the competitive sealed proposal procedure is used to solicit proposals, including price, and to procure professional services.

GC §2254.004 requires that the City use a two-step procedure for procuring architectural, engineering, or surveying services. The most highly qualified provider is first selected on the basis of competence and qualifications, excluding price, and then a contract with the selected provider is negotiated at a fair and reasonable price.

**Emergency Purchases** - An emergency purchase more than $25,000 that results from the occurrence of a natural disaster, public calamity, or that might lead to impairment of the health, safety or welfare of the public if not immediately addressed is authorized by the City Manager and ratified by City Council. LGC §252.022(a)(2)

**Sole Source Purchases** - Sole source purchases are made when functional requirements of the City can only be satisfied by only one source involving patents, copyrights, secret processes or natural monopolies. LGC §252.022(a)(7)(A)

**Local Preference** - If the City receives a bid less than $100,000 from a local bidder whose bid is within 5% of the lowest bid received from a non-local bidder, LGC §271.9051 allows the City to contract with the lowest bidder, or the local bidder if Council determines that the local bidder offers the City the best combination of contract price and additional economic development opportunities.

GC §2252.002 requires that bids from bidders who reside in states that grant a resident bidder preference for that state's purchases are reciprocated in the same manner when bidding against a Texas bidder.

**Consideration and Award of Bid or Proposal Requests**

From *2008 Texas Municipal Procurement Laws Made Easy*, Texas Attorney General

**Can a city adopt additional criteria regarding the qualifications of potential bidders?**

Prior to 2001, a city could adopt additional criteria regarding the qualifications of bidders only if such criteria had a definite, objective relationship to matters of quality and competence. For example, prior rulings have allowed a city to consider such criteria as a bidder's experience, manpower, equipment, financial resources, business judgment, ability, efficiency, reliability, reputation, facilities, capacity to perform the work required, and likely supervisory requirements. A city may even consider the bidder's performance on similar contracts and the quality of the goods and services provided.

However, the city must be able to relate the criteria to matters of quality and competence of that specific bidder. For example, the Attorney General concluded that a school district could not adopt policies that judge a bidder based on the bidder's participation in voluntary school programs, the amount of local salaries, wages and taxes paid by the bidder, or the number of local jobs created by the bidder, etc. These criteria did not involve the quality or competence of the work the bidder would perform.

Legislation in 2001 modified the ability of cities to include various factors in awarding a contract. Under current law, if the city wishes to consider additional criteria, the city's bid specifications should clearly specify the various criteria that will be considered. When using additional criteria for competitive bidding, the contract must be awarded to the lowest responsible bidder or to the bidder who provides goods or services at the "best value" for the city using the following criteria:

- the purchase price;
- the reputation of the bidder and of the bidder's goods or services;
- the quality of the bidder's goods or services;
- the extent to which the goods or services meet the municipality's needs;
- the bidder's past relationship with the municipality;
- the impact on the ability of the municipality to comply with laws and rules relating to contracting with historically underutilized businesses and nonprofit organizations employing persons with disabilities;
- the total long-term cost to the municipality to acquire the bidder's goods or services; and
- any relevant criteria specifically listed in the request for bids or proposals.

If no such additional criteria are spelled out in the bid specifications, state law only allows the city to award the contract to the lowest responsible bidder if using competitive bidding.

**Can the city take into account the safety record of the bidder in making the award?**

When awarding a contract using traditional competitive bidding, the city may only consider a bidder's safety record in regards to the bidder's "responsiveness" if notice has been given that such a criteria is relevant. Specifically, the governing body must have adopted a written definition and criteria for assessing the bidder's safety record, and must have given notice in the bid specifications that the safety record will be considered. Of course, any decision that the city makes must not be arbitrary or capricious.

**What options does a city have if the lowest bidder has a prior history of poor performance?**

Prior to 2001, a city arguably had two options when faced with a low bidder who had a prior history of poor performance. First, Chapter 252 states that a city may choose to reject any or all of the bids. If all of the bids are rejected, the city can start the bidding process over. This is probably the safest method to use

if the city has not made it clear in the bid specifications that a bidder's prior performance on similar contracts would be a factor in awarding the bid. The city then has an opportunity to include such a requirement in its subsequent bid specifications. Second, some legal analysts argued that a city could individually reject a low bidder who has a poor work history. This theory is based on the argument that the low bidder with such a history would not be considered a "responsible" bidder due to the prior history of poor performance.

Legislation passed in 2001 modified the ability of cities to include various factors in awarding a contract. Under current law, if the city wishes to consider additional criteria, the city's bid specifications should clearly specify the various criteria that will be considered. When using additional criteria for competitive bidding, the contract must be awarded to the lowest responsible bidder or to the bidder who provides goods or services at the "best value" for the city using the following criteria:

- the purchase price;
- the reputation of the bidder and of the bidder's goods or services;
- the quality of the bidder's goods or services;
- the extent to which the goods or services meet the municipality's needs;
- the bidder's past relationship with the municipality;
- the impact on the ability of the municipality to comply with laws and rules relating to contracting with historically underutilized businesses and nonprofit organizations employing persons with disabilities;
- the total long-term cost to the municipality to acquire the bidder's goods or services; and
- any relevant criteria specifically listed in the request for bids or proposals.

Again, the best practice is to clearly indicate in the city's specifications that a bidder's prior performance on similar contracts may be considered in evaluating the bids.

**What options does the city have if the city receives no bids in response to a request?**

If competitive bids or proposals are required by Chapter 252 of the Local Government Code, there is no exception which would allow the city to avoid the statutory requirements due to a lack of bids. If a city receives no response to a request, the city must either re-advertise or decide not to undertake the contract.

**What options does the city have if the city receives only one bid or proposal in response to a bid request?**

If a city receives only one bid or proposal in response to its request, the city may accept the bid or proposal received, reject the bid or proposal and re-advertise, or reject the bid or proposal and decide not to undertake the project.

**May competitive bids be rejected by a city staff member or must the city council decide which bids to reject?**

State law provides that the governing body of the city may reject any and all bids. There is no provision that would allow the delegation of this decision to city staff. However, in certain cities the city staff will open the bids and provide a recommendation to the city council on whether the bid is responsive to the bid request and whether it should be accepted as the lowest responsible bid.

**What is the general procedure for awarding a contract pursuant to competitive bidding?**

First, bids must be publicly opened and the bid amounts read aloud at the time and place specified in the bid notice. The city council must then award the contract to the lowest responsible bidder or (if previously

noticed) the bidder that provides that best value to the city. In the alternative, the city may reject all bids. Once a bid has been opened, it may not be changed to correct minor errors in the bid price. However, under certain circumstances, a bidder may be able to withdraw a bid if it contains a substantial mistake that would cause a great hardship if enforced against the bidder.

**What is the general procedure for awarding a contract pursuant to competitive sealed proposals?**

If a city decides to use the competitive proposal procedures, it must first give notice of the request for proposals in the same manner as required for competitive bids. Generally, this means that the city must publish at least two newspaper notices of the time and place at which the proposals will be opened. These notices must be published at least once a week for two consecutive weeks, and the first notice must be published more than 14 days before the date set for opening the proposals. Requests for proposals must also solicit quotations and specify the relative importance of price and other evaluation factors.

Once proposals have been submitted, the city may conduct discussions with the offeror or offerors whom the city determines to be reasonably qualified for the award of the contract. Such discussions must comply with the request for proposals and with the regulations set by the city council. To obtain the best offers, the city may allow the submission of revisions after proposals are submitted and before the award of the contract. All offerors must be treated fairly and equally with respect to any opportunity for discussion and revision of the proposals.

In the end, the contract must be awarded to the offeror whose proposal is determined to be the most advantageous to the city. The city is to determine which proposal is the most advantageous based on the relative importance of price and the other evaluation factors included in the request for proposals.

**Is information contained in a bid or proposal confidential under the Public Information Act?**

Section 552.104 of the Government Code provides as follows:

(a) Information is excepted from the requirements of Section 552.021 if it is information that, if released, would give advantage to a competitor or bidder.

(b) The requirement of Section 552.022 that a category of information listed under Section 552.022(a) is public information and not excepted from required disclosure under this chapter unless expressly confidential under law does not apply to information that is excepted from required disclosure under this section.

The purpose of section 552.104(a) is to protect the interests of a governmental body in situations such as competitive bidding and requests for proposals, where the governmental body may wish to withhold information in order to obtain more favorable offers. Significantly, it is not designed to protect the interests of private parties that submit information such as bids and proposals to governmental bodies. Because section 552.104(a) protects only the interests of governmental bodies, it is an exception that a governmental body may waive by, for example, disclosing the information to the public or failing to raise the exception within the ten-day deadline.

Generally, section 552.104(a) protects information from public disclosure if the governmental body demonstrates potential harm to its interests in a particular competitive situation. A general allegation of a remote possibility of harm is not sufficient to invoke section 552.104(a). Section 552.104(a) is frequently raised to protect information submitted to a governmental body in response to a competitive bidding notice or request for proposals. In this context, the protection of section 552.104(a) is temporal in nature. Generally, section 552.104(a) does not except bids from public disclosure after bidding is completed and the contract has been executed. However, bids may continue to be withheld from public disclosure during the period in which the governmental body seeks to clarify bids and bidders remain at liberty to furnish additional information. Section 552.104(a) does not apply when a single individual or entity is seeking a contract as there are no “competitors” for that contract. Note that even when section 552.104(a) does not

protect bids from required public disclosure, section 552.110 will require the governmental body to withhold any portions of those bids that contain trade secrets or other commercial or financial information that is made confidential by law.

In addition to protecting the actual bid proposals, section 552.104(a) may protect information related to the bidding process that is not part of a bid. Although early decisions of the attorney general concluded that section 552.104(a) does not protect the interests of governmental bodies when they engage in competition with private entities in the marketplace, this line of opinions has been reexamined. In Open Records Decision No. 593 (1991), the attorney general concluded that a governmental body may claim section 552.104(a) to withhold information to maintain its competitive advantage in the marketplace if the governmental body can demonstrate: (1) that it has specific marketplace interests and (2) the possibility of specific harm to these marketplace interests from the release of the requested information. A governmental body that demonstrates that section 552.104 applies to information may withhold that information even if it falls within one of the categories of information listed in section 552.022(a).

**Is information within a bid request concerning historically underutilized businesses confidential?**

In 1997, the Texas Legislature amended the Public Information Act to make confidential certain information about disadvantaged or historically underutilized businesses. General information about these businesses is confidential if it is submitted to a governmental body in connection with an application for certification as a historically underutilized or disadvantaged business. With two exceptions, this information may be disclosed only with the express written consent of the applicant or the applicant's agent.

Without such consent, this information may be disclosed to a state or local governmental entity for one of the following two purposes: (1) to verify an applicant's status as a historically underutilized or disadvantaged business; or (2) to conduct a study of public purchasing programs established under state law for historically underutilized or disadvantaged businesses.

It is important to note that this new law protects only the information submitted with an application for certification as a historically underutilized or disadvantaged business. The business's actual bid is subject to the same rules of disclosure as any other bid. Additionally, information submitted in connection with a specific proposed contractual relationship or within an application to be placed on a bidders' list would be accessible under usual open records provisions. Thus, this information may be accessible even though it involves data that would be confidential if it were contained in the entity's application for certification as a historically underutilized or disadvantaged business.

**Must bidders be allowed to speak at a city council meeting to explain or defend their bids?**

A bidder does not have any special right to speak at an open meeting of the city council. The Texas Attorney General has concluded that the Open Meetings Act does not give members of the public a right to speak at an open meeting. Further, if the city chooses to allow members of the public to speak at a council meeting, the council may make reasonable rules regulating the number of speakers on a particular subject and the length of each presentation. However, the city council should not discriminate between one speaker and another, and the rules should be applied equally to all members of the public. The only situation in which the city council may be required to allow members of the public to speak would be if state law requires a public hearing on an issue or if state law requires that public comment be allowed on a particular subject.

However, there is no such public hearing or comment requirement that is applicable to competitive bidding issues.