

**CITY OF MIDLAND, TEXAS  
BRIEFING SESSION AGENDA**

**April 10, 2012 - 9:00 AM**

Council Chamber - City Hall  
300 North Loraine  
Midland, Texas

These items, as well as any other items on the regular posted agenda for the City Council Meeting on this date, may be discussed:

1. Receive introduction to new Citizen Action Center.
2. Receive history of the Litter Abatement Fee and its current uses.
3. Receive information on the water conservation recommendation by Freese and Nichols.

## AGENDA FOR CITY COUNCIL MEETING

April 10, 2012 – 10:00 AM  
Council Chamber - City Hall

The Midland City Council agenda is posted for public notice at least 72 hours prior to the Tuesday meetings. All requests to be placed on the Council agenda by the public must be submitted to the City Manager, in writing, at least one week before the Council meetings. Such written requests must be in sufficient detail to identify the subject matter as well as the contact person who will represent the matter before the Council. The City Council reserves the right to not consider matters over which the City has no jurisdiction.

### **OPENING ITEMS**

1. Invocation - Patrick Payton, Stonegate Fellowship Church
2. Pledge of Allegiance

### **PRESENTATIONS**

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
  - a. Receive presentation of 17th Annual Distinguished Budget Presentation Award from the Government Finance Officers Association.
  - b. Presentation of a proclamation for Parkinson's Disease Awareness Month.
  - c. Presentation of a proclamation for Fair Housing Month.

### **PUBLIC COMMENT**

4. Receive public comments where individuals may address the City Council on City related issues and projects. Any deliberation of or decision by the City Council regarding the item being discussed shall be limited to a motion to place the item on the agenda for a subsequent meeting.

### **CONSENT AGENDA**

5. Consider a motion approving the following minutes:
  - a. Regular Meeting of March 20, 2012.
  - b. Special Meeting of March 28, 2012.
6. Consider a resolution amending the authorized representatives of the City of



Midland, Texas, regarding investments of public funds. (Finance) (2012 - 096)

7. Consider a resolution changing the authorized representatives for the Local Government Investment Cooperative. (Finance) (2012 - 097)
8. Consider a resolution approving the purchase of five (5) heavy duty cab & chassis of assorted configurations from Roberts Truck Center of Texas, LLC, of Midland, Texas, at a total cost of \$395,860.00. (General Services) (2012 - 098)
9. Consider a resolution approving the purchase of one (1) boom truck body from Equipment Southwest, Incorporated, at a total cost of \$55,500.00. (General Services) (2012 - 099)
10. Consider a resolution approving the purchase of three (3) dump truck bodies of assorted sizes from Equipment Southwest, Incorporated, at a total cost of \$50,508.00; and Equipment Southwest, Incorporated, was the sole bidder. (General Services) (2012 - 100)
11. Consider a resolution approving the purchase of four (4) caterpillar model 420F backhoe/loaders and two (2) Caterpillar Model 930K 3-CubicYard Rubber Tire Loaders from Warren Power and Machinery, Incorporated, DBA Warren Cat, of Odessa, Texas, at a total cost of \$692,939.00; and Warren Power and Machinery, Incorporated, DBA Warren Cat was not the low bidder on the four (4) backhoe/loaders; and accepting the City Manager's recommendation that the low bid for the four (4) backhoe/loaders did not meet advertised specifications. (General Services) (2012 - 101)
12. Consider a resolution approving the purchase of four thousand three hundred seventy-eight (4,378) water meters of various configurations, from the low bidders, HD Supply Waterworks, Ltd, and Badger Meter, Incorporated, at a total cost of \$365,221.58. (General Services) (2012 - 102)
13. Consider a resolution awarding the Sparks Park Target Area Development Utility Improvements Project to TEC Excavation, Incorporated, of Midland, Texas, at a total cost of \$333,328.00. (General Services) (2012 - 103)
14. Consider a resolution authorizing the acceptance of \$19,536.00 in reimbursement funds from the Texas Department of State Health Services to assist the Health and Senior Service Division with the delivery of public health emergency preparedness services; and authorizing the execution of acceptance documents; and appropriating funds. (Community Services) (2012 - 104)
15. Consider a resolution authorizing the execution of a Public Improvement Development Agreement with Pecos Gathering and Marketing, LLC for the expansion of Fairgrounds Road; and appropriating funds therefor; said

agreement being authorized by section 395.081 of the Texas Local Government Code. (Engineering) (2012 - 105)

16. Consider a resolution authorizing the execution of a Temporary Water and Sewer Service Agreement between the City of Midland and Pecos Gathering and Marketing, LLC for services to 1310 South Fairgrounds Road, Midland, Texas, 79701; said property is outside the City limits; Pecos Gathering and Marketing, LLC has executed a letter agreeing to annexation if and when the property is annexed; Pecos Gathering and Marketing, LLC shall be charged a rate for service which is one and one-half times the rate charged customers in the City limits; and ordering recordation by the City Secretary. (Engineering) (2012 - 106)
17. Consider a resolution accepting a grant from the Southwest Border High Intensity Drug Trafficking Areas Program in the amount of \$168,714.00; this grant will be utilized for the purpose of enhancing and coordinating drug control efforts among Federal, State, and local law enforcement agencies to better combat drug trafficking; and appropriating funds. (Police) (2012 - 107)
18. Receive by motion the Water Conservation Report as developed by Freese and Nichols. (Utilities)

## **SECOND READINGS**

19. Consider an ordinance on second reading extending the boundaries of the City of Midland, Texas, by adding thereto certain areas adjoining the present City limits, being a 28.31-acre tract of land out of Section 24, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas, and being more specifically described by metes and bounds in Section One hereof (generally located on the northwest corner of the intersection of Briarwood Avenue and Holiday Hill Road); and approving a Public Service Plan. (Planning) (8992)
20. Consider an ordinance on second reading establishing the zoning classification of the area indicated as being a 20.21-acre tract of land out of Section 24, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas, and being more specifically described by metes and bounds in Section One hereof, as an MF-1, Multiple Family Dwelling District; said tract is generally located on the northwest corner of the intersection of Briarwood Avenue and Holiday Hill Road; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2,000.00); and ordering publication. (Planning) (8993)
21. Consider an ordinance on second reading establishing the zoning classification of the area indicated as being an 8.11-acre tract of land out of Section 24, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas, and being more specifically described by metes and bounds in Section One hereof, as an LR-2,

Local Retail District; said tract is generally located on the northwest corner of the intersection of Briarwood Avenue and Holiday Hill Road; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2,000.00); and ordering publication. (Planning) (8994)

22. Consider an ordinance on second reading extending the boundaries of the City of Midland, Texas, by adding thereto certain areas adjoining the present City limits, being a 108.453-acre tract of land out of Section 37, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas, and being more specifically described by metes and bounds in Section One hereof (generally located northwest of the intersection of Tradewinds Boulevard and Champions Drive); and approving a Public Service Plan. (Planning) (8995)
23. Consider an ordinance on second reading establishing the zoning classification of the area indicated as being an 108.453-acre tract of land out of Section 37, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas, and being more specifically described by metes and bounds in Section One hereof, as an FD, Future Development District; said tract is generally located northwest of the intersection of Tradewinds Boulevard and Champions Drive; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2,000.00); and ordering publication. (Planning) (8996)

## **PUBLIC HEARINGS**

24. At approximately 10:30 a.m. hold a public hearing and consider an ordinance changing the zoning classification by amending Chapter One, Title XI, of the City Code of Midland, Texas, by permitting a 10.00-acre tract of land out of the northwest quarter of Section 40, Block 38, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas, which is presently zoned AE, Agriculture Estate District, to be used as a C-3, Commercial District (generally located on the northeast corner of Elkins Road and East Business Interstate 20); containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2,000.00); and ordering publication. (Planning) (9004)
25. At approximately 10:33 a.m. hold a public hearing on a request by Vector Oil and Gas LP, to Drill an Oil and Gas Well within the City Limits, (Barron #1) located 1910.4' from the north line and 820.8' from the west line of the land described as Section 6, block 'X' H.P. Hilliard Survey, City and County of Midland, Texas. (Generally located on the east side of Holiday Hill Road, approximately 1/2 mile south of Mockingbird Lane.) (Planning)
26. At approximately 10:36 a.m. hold a public hearing on a request by Vector Oil and Gas LP, to Drill an Oil and Gas Well within the City Limits, (Barron #3) located

714' from the north line and 730.4' from the west line of the land described as Section 6, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas. (Generally located on the east side of Holiday Hill Road, approximately 720 feet south of Mockingbird Lane.) (Planning)

27. At approximately 10:39 a.m. hold a public hearing on a request from Bluestem Energy Holding, LLC (Evans N 1) to drill an oil and gas well on property located 623' from the south line and 2,035' from the east line of the land described as Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the west side of the North Midkiff Road, approximately 625 north of Mockingbird Lane.) (Planning)
28. At approximately 10:42 a.m. hold a public hearing on a request from Bluestem Energy Holding, LLC (Evans M 1) to drill an oil and gas well on property located 1,949' from the south line and 1,927' from the west line of the land described as Section 8, Block "X", H.P. Hilliard Survey, Midland County Texas. (Generally located on the east side of the North Midland Drive, approximately 1/3 mile north of Mockingbird Lane.) (Planning)

### **MISCELLANEOUS**

29. Consider a resolution approving the issuance of a permit to Callon Petroleum Operating Company ("Operator") to drill an oil and gas well within the City limits located 704 feet from the north line and 2,007 feet from the west line, Section 23, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas (Generally located on the west side of Golden Gate Drive, approximately 3/4 of a mile north of Briarwood Avenue); and providing that said permit does not require a new Road Repair Agreement but shall be consolidated under an existing Road Repair Agreement (Pecan Acres 23 #3). (Planning) (2012 - 108)
30. Consider a resolution approving the issuance of a permit to Callon Petroleum Operating Company ("Operator") to drill an oil and gas well within the City limits located 651 feet from the south line and 2,040 feet from the west line, Section 23, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas (Generally located on the west side of Golden Gate Drive, approximately 650 feet north of Briarwood Avenue); and providing that said permit does not require a new road repair agreement but shall be consolidated under an existing road repair agreement (Pecan Acres 23 #6). (Planning) (2012 - 109)
31. Consider a resolution approving the issuance of a permit to Callon Petroleum Operating Company ("Operator") to drill an oil and gas well within the City limits located 1,911 feet from the east line and 2,009 feet from the north line, Section 23, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas (Generally located on the west side of Golden Gate Drive, approximately 1/2 mile north of Briarwood Avenue); and providing that said permit does not require a new road repair agreement but shall be consolidated under an existing road

repair agreement (Pecan Acres 23 #12). (Planning) (2012 - 110)

32. Consider a motion on a request by SMBC Inc. to approve street/paving improvement deferrals in the amount of \$24,855, and to waive the associated public improvement guarantee for 601 West Florida. This property is positioned in the City Limits, generally located on the northeast corner of side of West Florida Avenue and Connell Street. (Engineering)
33. Consider a resolution awarding the Ward Street Bridge Rehabilitation and Garfield Street Bridge Rail Retrofit Project to Onyx Contractors Operations, LP, of Midland, Texas, at a total cost of \$735,178.90. (General Services) (2012 - 111)
34. Consider a resolution authorizing the Mayor to execute an Amended and Restated Interlocal Agreement between the City of Midland and the Midland County Freshwater Supply District No. 1 regarding the delivery of water from the T-Bar Ranch; the T-Bar Ranch is located in Winkler County and Loving County, Texas. (City Attorney) (2012 - 112)
35. Consider making appointments to various Boards and Commissions.

#### **EXECUTIVE SESSION**

36. Pursuant to Texas Government Code §551.101, the Council will hold an Executive Session which is closed to the public to discuss the following matters as permitted under the following Texas Government Code Sections:
  - a. Section 551.071, Consultation with the City Attorney
    - a.1. Discuss potential litigation with Cajun Constructors, Inc. regarding its claims under the construction contract for the City of Midland Water Purification Plant Improvement project and Progress Pay Application, and the change order requests to said contract.
  - b. Section 551.074, Personnel Matters
    - b.1. Deliberate the employment, evaluation, duties, and salary of the Presiding Municipal Court Judge, the Associate Municipal Court Judge, the City Manager, the City Attorney and the City Secretary.

Respectfully Submitted,

Courtney B. Sharp  
City Manager

**MIDLAND CITY COUNCIL  
MINUTES  
March 20, 2012**

**BRIEFING SESSION**

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at 9:00 a.m. on March 20, 2012.

Council Members present: Mayor Pro Tem Jerry Morales (At-Large), Council Member Scott Dufford (At-Large), Council Member Jeff Sparks (District 1), Council Member Vicky Hailey (District 2), Council Member John James (District 3), and Council Member Michael Trost (District 4).

Council Members absent: Mayor W. Wesley Perry (Perry arrived at 9:10 a.m.), Council Member Vicky Hailey (District 2) (Hailey arrived at 9:15 a.m.).

Staff members present: City Manager Courtney Sharp, City Attorney Keith Stretcher, Deputy City Manager Tommy Hudson, Assistant City Manager Jim Nichols, City Secretary Amy Turner, Finance Director Bob McNaughton, Development Services Director Rick Crownover, Solid Waste Director Morris Williams, Utilities Director Stuart Purvis, Oil & Gas Compliance Officer Ron Jenkins, Planning Division Manager Cameron Walker, Building Official Steve Thorpe, City Engineer David Beard, Public Information Officer Tasa Watts, and Customer Service Manager Tony Goyang.

Mayor Pro Tem Morales called the briefing session to order at 9:00 a.m. He announced that number 2 would be heard first.

2. Receive and discuss presentation regarding amending the City of Midland Thoroughfare Plan.

Development Services Director Crownover explained that in 2005 the Midland Master Plan 2025 was adopted as a long range planning tool that city uses for decision makers to reduce land conflicts. Embedded in the master plan is the thoroughfare plan which requires a few changes.

Planning Division Manager Walker noted that most main thoroughfares are one mile apart in town and go out to 1 ½ miles in some areas. He reviewed the current thoroughfare plan and then showed a map explaining where changes would be made noting that a draft amendment would be brought to the City Council as early as April.

Discussion ensued about where home development was headed.

3. Presentation and Discussion regarding the Drought Contingency Plan and Water Restrictions.

Utilities Director Purvis noted he was available to answer questions. When asked what the feedback is regarding average usage, Mr. Purvis responded that the usage was not driven by the average but by the fact that there is only 10,000 gallons per connection per month

which should be enough to keep trees alive by watering one day a week. When asked about the timing he responded that if people were allowed to water in the morning, there may not be enough water for morning showers and coffee which is why evening water was chosen. When asked why the first 2000 gallons was more expensive than other water, he responded that was the connection charge but the City chose to include the first 2000 gallons with that fee which is basically enough to allow for fire protection.

Discussion ensued about workshops where people could learn to conserve water resources, how hardship cases would be handled, that swimming pools would be allowed, and that anyone who goes over the allotted 10,000 gallons would be imposing their own fine by paying a higher water bill at a multiplied rate. City Manager Sharp noted that letters and postcards would soon be going out to all residents notifying them of their watering date and that information would be available on the City's website.

1. Discussion regarding the appointment of a member to the Midland Central Appraisal District Board.

City Manager Sharp noted that the Council would need to make a nomination to appoint someone to fill the vacancy created by the resignation of Fred Poe on the Midland Central Appraisal District Board. It was noted that if a recommendation for appointment was not made before the next Council Meeting, the City would lose the opportunity to make a nomination.

Mayor Perry suggested that a special meeting should be called to consider potential nominations.

A special meeting was set for Wednesday, March 28 at 8 a.m. to consider appointments to the MCAD Board.

The foregoing agenda items were discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 9:55 a.m.

## **REGULAR SESSION**

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:03 a.m., March 20, 2012.

Council Members present: Mayor W. Wesley Perry, Mayor Pro Tem Jerry Morales (At-Large), Council Member Scott Dufford (At-Large), Council Member Jeff Sparks (District 1), Council Member Vicky Hailey (District 2), Council Member John James (District 3), and Council Member Michael Trost (District 4).

Staff members present at the annex table: City Manager Courtney Sharp, City Attorney Keith Stretcher, Deputy City Manager Tommy Hudson, and Assistant City Manager Jim Nichols.

The City Council heard the agenda items in the following order: 1, 2, 3, 4, 5a, 5b, 7, 8, 9, 11, 12, 13, 14, 16, 17, 18, 19, 20, 22, 23, 24, 25, 27, 28, 29, 5c, 6, 10, 15, 21, 26, 32, 30, 31, 33, 34, 35, 36, 37, 38, 39, 40, 45, 41, 42, 43, 44, 46, 47, 48, 49, 50, 52, 53, 51, 54, 55.

## **OPENING ITEMS**

1. Invocation - Reverend Terry Rothermich, Memorial Christian Church - Disciples of Christ
2. Pledge of Allegiance

## **PRESENTATIONS**

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
  - a. Presentation of a Proclamation for Midland High School Robotics.
  - b. Presentation of a Proclamation for the 90 Day RVLUTION Day.
  - c. Presentation of a Proclamation for the Midland Association of Retired School Personnel.

## **PUBLIC COMMENT**

4. Receive public comments where individuals may address the City Council on City related issues and projects. Any deliberation of or decision by the City Council regarding the item being discussed shall be limited to a motion to place the item on the agenda for a subsequent meeting.

There was no one present wishing to speak.

## **CONSENT AGENDA**

Council Member Dufford moved to approve Consent Agenda items 5a-29 excluding 5c, 6, 10, 15, 21 and 26; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

5. Approved a motion approving the following minutes:
  - a. Regular Minutes of February 28, 2012
  - b. Special Minutes of February 29, 2012
7. Received for information First Quarter Fiscal Year 2011-2012 Investment Report. (Finance)
8. Approved a resolution approving a master agreement for readymix concrete and caliche for the Transportation Division (General Services)

### **RESOLUTION NO. 2012 - 068**

RESOLUTION AUTHORIZING THE EXECUTION OF A PURCHASE AGREEMENT FOR AN ANNUAL SUPPLY OF READY-MIX CONCRETE AND STABILIZED CALICHE FROM TROY VINES, INCORPORATED, OF MIDLAND, TEXAS, AT A TOTAL COST OF \$65,040.00



9. Approved a resolution approving plans and specifications for the turnkey construction of a pavilion at Hogan Park. (General Services)

RESOLUTION NO. 2012 - 069

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR THE CONSTRUCTION OF A PAVILION AT HOGAN PARK; SAID PAVILION IS THE FINAL COMPONENT OF THE RENOVATIONS AT HOGAN PARK

11. Approved a resolution authorizing an Interlocal agreement allowing the City of Midland to participate in The Local Government Purchasing Cooperative operating as the BuyBoard. (General Services)

RESOLUTION NO. 2012 - 071

RESOLUTION AUTHORIZING THE EXECUTION OF AN INTERLOCAL PARTICIPATION AGREEMENT WITH THE LOCAL GOVERNMENT PURCHASING COOPERATIVE FOR THE CITY'S PARTICIPATION IN A PURCHASING PROGRAM; AND THE LOCAL GOVERNMENT PURCHASING COOPERATIVE IS OPERATING AS THE BUYBOARD

12. Approved a resolution approving a contract with Oncor to provide electrical service in the amount of \$54,276.00 for the Midland Airport Hangar Service Project. (General Services)

RESOLUTION NO. 2012 - 072

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LETTER OF AGREEMENT WITH ONCOR ELECTRIC DELIVERY COMPANY LLC, A DELAWARE LIMITED LIABILITY COMPANY FOR ADDITIONAL ELECTRIC FACILITIES SUFFICIENT TO PROVIDE ELECTRIC SERVICE FOR UNITS AT MIDLAND AIRPORT HANGAR PROJECT AT WINDECKER AND AIRWAYS; AND AUTHORIZING PAYMENT IN THE AMOUNT OF \$54,276.00 WHICH WAS PREVIOUSLY APPROPRIATED

13. Approved a resolution authorizing the execution of land lease agreement for Airport Hangar Facility between Absolute Investments, Inc. and the City of Midland, Texas in Lot 4B, Block 11, (Lease Tract 1) Midland International Airport, Industrial Park Addition, Section 6, Midland County, Texas. (Airport)

RESOLUTION NO. 2012 - 073

RESOLUTION AUTHORIZING THE EXECUTION OF A LAND LEASE AGREEMENT WITH ABSOLUTE INVESTMENTS, INC. FOR HANGAR DEVELOPMENT LOCATED ON A 0.46 ACRE TRACT OF LAND LOCATED IN LOT 4B, BLOCK 11, MIDLAND INTERNATIONAL AIRPORT, INDUSTRIAL PARK ADDITION, SECTION 6, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS

14. Approved a resolution authorizing the City Manager to execute a consent agreement between Security Bank and the City of Midland as required by Article 8 (K) of the Good Luck Investment L.L.C.'s lease agreement to encumber its leasehold interest in the lease by pledging said lease as collateral for a loan to construct a hangar on the

premises. (Airport)

RESOLUTION NO. 2012 - 074

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSENT AGREEMENT BETWEEN SECURITY BANK, THE CITY OF MIDLAND, TEXAS AND GOOD LUCK INVESTMENTS, L.L.C., AS AUTHORIZED BY ARTICLE 8(K) OF GOOD LUCK INVESTMENTS L.L.C.'S LEASE AGREEMENT IN ORDER TO ALLOW SECURITY BANK TO ENCUMBER GOOD LUCK INVESTMENTS L.L.C.'S LEASE HOLD INTEREST BY PLEDGING SAID LEASE AS COLLATERAL FOR A LOAN TO CONSTRUCT A HANGAR ON THE PREMISES AT THE MIDLAND INTERNATIONAL AIRPORT

16. Approved a resolution for the purchase of up to 200 computers from Dell for replacement of existing out-of-date computers and appropriating funds. (Communications and Information Systems)

RESOLUTION NO. 2012 - 076

RESOLUTION APPROVING THE PURCHASE OF UP TO TWO HUNDRED (200) COMPUTERS THROUGH THE TEXAS DEPARTMENT OF INFORMATION RESOURCES AT A TOTAL COST OF \$601,250.00; AND THIS ITEM WAS NOT BID BUT PURCHASED THROUGH A STATE OF TEXAS COOPERATIVE PROGRAM

17. Approved a resolution authorizing the transfer of Lot 2, Block 3, Glenn Francis Addition, City and County of Midland; Lots 9A, 10A, 11A, 12A, 13A, 14A and 14B, Block 1, Glenn Francis Addition Section 2, City and County of Midland; Lots 3A, 4A, 5A, 6A, 7A, 8A and 8B, Block 3, Glenn Francis Addition Section 2, City and County of Midland; Lots 3, 4 and 5, Block 6, Glenn Francis Addition Section 2, City and County of Midland to Midland Habitat for Humanity, Incorporated, in accordance with Section 253.011 and Section 272.001 of the Texas Local Government Code; and authorizing the City Manager and the City Attorney to execute all documents necessary to transfer ownership; the transfer of this property is not subject to notice, bidding, and obtaining a fair market value requirements of state law. (Community Development)

RESOLUTION NO. 2012 - 077

RESOLUTION AUTHORIZING THE TRANSFER OF LOT 2, BLOCK 3, GLENN FRANCES ADDITION, CITY AND COUNTY OF MIDLAND; LOTS 9A, 10A, 11A, 12A, 13A, 14A AND 14B, BLOCK 1, GLENN FRANCES ADDITION SECTION 2, CITY AND COUNTY OF MIDLAND; LOTS 3A, 4A, 5A, 6A, 7A, 8A AND 8B, BLOCK 3 GLENN FRANCES ADDITION SECTION 2, CITY AND COUNTY OF MIDLAND; LOTS 3, 4, AND 5, BLOCK 6, GLENN FRANCES ADDITION SECTION 2, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS, TO MIDLAND HABITAT FOR HUMANITY, INCORPORATED, IN ACCORDANCE WITH SECTION 253.011 AND SECTION 272.001 OF THE TEXAS LOCAL GOVERNMENT CODE; AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS NECESSARY TO TRANSFER OWNERSHIP; THE TRANSFER OF THIS PROPERTY IS NOT SUBJECT TO THE NOTICE, BIDDING, AND OBTAINING FAIR MARKET VALUE REQUIREMENTS OF STATE LAW; AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF MIDLAND AND HABITAT FOR HUMANITY, INCORPORATED

18. Approved a resolution authorizing the transfer of Lots 3A, 4A, 5A, 6A, 7A, 8A, 9A, 10A,

10B, 10C and 10D, Block 4, Glenn Francis Addition, Section 2, City and County of Midland; Lots 6 through 18, Block 6, Glenn Francis Addition, Section 2, City and County of Midland to the Midland Community Development Corporation, Incorporated, in accordance with Section 253.011 and Section 272.001 of the Texas Local Government Code; and authorizing the City Manager and the City Attorney to execute all documents necessary to transfer ownership; the transfer of this property is not subject to the notice, bidding, and obtaining of fair market value requirements of state law. (Community Development)

RESOLUTION NO. 2012 - 078

RESOLUTION AUTHORIZING THE TRANSFER OF LOTS 3A, 4A, 5A, 6A, 7A, 8A, 9A, 10A, 10B, 10C AND 10D, BLOCK 4, GLENN FRANCES ADDITION SECTION 2,CITY AND COUNTY OF MIDLAND; LOTS 6 THROUGH 18, BLOCK 6, GLENN FRANCES ADDITION SECTION 2,CITY AND COUNTY OF MIDLAND AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS, TO MIDLAND COMMUNITY DEVELOPMENT CORPORATION, INCORPORATED, IN ACCORDANCE WITH SECTION 253.011 AND SECTION 272.001 OF THE TEXAS LOCAL GOVERNMENT CODE; AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS NECESSARY TO TRANSFER OWNERSHIP; THE TRANSFER OF THIS PROPERTY IS NOT SUBJECT TO THE NOTICE, BIDDING, AND OBTAINING FAIR MARKET VALUE REQUIREMENTS OF STATE LAW; AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF MIDLAND AND MIDLAND COMMUNITY DEVELOPMENT CORPORATION, INCORPORATED

19. Approved a resolution authorizing the execution of a right of way license agreement between the City of Midland and Centurion Pipeline, L.P. (Engineering)

RESOLUTION NO. 2012 - 079

RESOLUTION AUTHORIZING A RIGHT OF WAY LICENSE WITH THE CITY OF MIDLAND, TEXAS AND CENTURION PIPELINE, L.P.; SAID RIGHT OF WAY LICENSE IS FOR THE PURPOSE OF PLACING, OPERATING, AND MAINTAINING A 12 INCH AND 16 INCH CRUDE OIL PIPELINE; THE PIPELINE IS LOCATED WITHIN THE CITY OF MIDLAND RIGHT OF WAY WITHIN A PORTION OF TODD ROAD, SECTION 32, BLOCK 39, T-1-S, T&P RR CO., MIDLAND COUNTY, TEXAS, AND A PORTION OF CYNTHIA ROAD, SECTION 30 AND 31, BLOCK 38, T-1-S, T&P RR. CO., MIDLAND COUNTY, TEXAS; THE LICENSE TERM IS FOR TWENTY-FIVE (25) YEARS, COMMENCING WITH THE DATE OF THIS LICENSE AND SHALL AUTOMATICALLY RENEW AT THE END OF THE TERM FOR ONE ADDITIONAL TWENTY-FIVE (25) YEAR TERM UPON 90 DAYS WRITTEN REQUEST PRIOR TO EXPIRATION

20. Approved a resolution authorizing a professional services agreement with Parkhill, Smith & Cooper with the extension of Market Street. (Engineering)

RESOLUTION NO. 2012 - 080

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH PARKHILL, SMITH & COOPER, INC. FOR ENGINEERING SERVICES IN CONNECTION WITH THE MARKET STREET PAVING AND WATER UTILITY EXTENSION PROJECT; AND APPROPRIATING FUNDS THEREFOR

22. Approved a resolution authorizing staff to advertise for bids the CDBG Sidewalk

Improvement Project. The project is located in the vicinity of the Midland Freshman School along Hicks Ave. (Engineering)

RESOLUTION NO. 2012 - 081

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT SIDEWALK IMPROVEMENT PROJECT; SAID PROJECT IMPROVEMENTS WILL CONSIST OF CONSTRUCTING NEW SIDEWALKS AND ADA ACCESSIBLE RAMPS IN ORDER TO PROVIDE A SAFE PEDESTRIAN ROUTE AT INTERSECTIONS

23. Approved a resolution approving the 2012 "Fill the Boot" campaign benefiting the Muscular Dystrophy Association (MDA). (Fire Department)

RESOLUTION NO. 2012 - 082

RESOLUTION APPROVING THE CITY OF MIDLAND FIRE DEPARTMENT'S APPLICATION TO SOLICIT CHARITABLE CONTRIBUTIONS IN ROADWAYS ON BEHALF OF THE MUSCULAR DYSTROPHY ASSOCIATION BY PARTICIPATING IN THE "FILL-THE-BOOT" FUNDRAISER; THIS IS AUTHORIZED BY SECTION 552.0071 OF THE TEXAS TRANSPORTATION CODE; THE DATES AND TIMES OF THE SOLICITATION ARE APRIL 11TH, 12TH, AND 13TH, 2012, FROM 8:00A.M. TO 6:00 P.M., ALTERNATE DATES DUE TO INCLEMENT WEATHER ARE MAY 2ND, 3RD AND 4TH, FROM 8:00A.M. TO 6:00 P.M.; THE INTERSECTION LOCATIONS AT WHICH THE SOLICITATIONS SHALL OCCUR ARE MIDKIFF ROAD AND WADLEY AVENUE, MIDLAND DRIVE AND LOOP 250, MIDLAND DRIVE AND ANDREWS HIGHWAY, AND GARFIELD STREET AND GOLF COURSE ROAD; THERE WILL BE FIFTEEN (15) SOLICITORS INVOLVED IN SOLICITATIONS AT EACH LOCATION; AND THE MUSCULAR DYSTROPHY ASSOCIATION, INCORPORATED IS REQUIRED TO PROVIDE GENERAL LIABILITY INSURANCE PRIOR TO THE EVENT AND THE FIRE CHIEF SHALL ENSURE THAT THE INSURANCE IS RECEIVED AND APPROVED PRIOR TO THE "FILL THE BOOT" FUNDRAISER

24. Approved a resolution requesting the appropriation of funds to the Police Equipment and Technology Project. (Police Department)

RESOLUTION NO. 2012 - 083

RESOLUTION APPROPRIATING UNCLAIMED OR ABANDONED FUNDS IN THE AMOUNT OF \$11,054.00 TO THE MIDLAND POLICE DEPARTMENT; THE PROCEEDS WILL BE USED TO PURCHASE EQUIPMENT AND TECHNOLOGY ESSENTIAL TO THE LAW ENFORCEMENT FUNCTION FOR THE MIDLAND POLICE DEPARTMENT

25. Approved a resolution authorizing the acceptance of granting funding in the amount of \$3,068 from the High Intensity Drug Trafficking Areas (HIDTA) Program and appropriating funds. (Police Department)

RESOLUTION NO. 2012 - 084

RESOLUTION ACCEPTING ADDITIONAL GRANT FUNDING FROM THE SOUTHWEST BORDER HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM IN THE AMOUNT OF \$3,068.00; THESE FUNDS WILL BE DIRECTED TO THE FISCAL YEAR 2010 HIGH INTENSITY DRUG TRAFFICKING AREAS PROJECT 7037;

AND APPROPRIATING FUNDS

27. Approved a resolution approving plans and specifications for the MBR Satellite Reclaimed Water Production Facility Project and authorizing advertisement of bids. (Utilities)

RESOLUTION NO. 2012 - 086

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR COMPETITIVE BIDS FOR THE MEMBRANE BIOLOGICAL REACTOR SATELLITE RECLAIMED WATER PRODUCTION FACILITY PROJECT; AND THE PROJECT WILL INCLUDE THE CONSTRUCTION OF A WATER RECLAMATION FACILITY TO PROVIDE IRRIGATION WATER TO MIDLAND COLLEGE

28. Approved a motion authorizing the staff to proceed with the voluntary annexation process for approximately 145 acres of Schlumberger land, 78 acres of Midland Development Corporation land, and approximately 30 acres of City owned land out of Section 11, Block 40, T-2-S, T&P RR. Co., Midland County, Texas. (Planning)
29. Approved a resolution authorizing an economic development agreement between the Midland Development Corporation (MDC) and the City of Midland for infrastructure improvements to Market Street. (City Attorney)

RESOLUTION NO. 2012 - 087

RESOLUTION APPROVING AN ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND THE CITY OF MIDLAND FOR THE MARKET STREET PAVING PROJECT AND THE MARKET STREET WATER LINE PROJECT, AS AUTHORIZED BY CHAPTER 501 OF THE TEXAS LOCAL GOVERNMENT CODE; AND APPROPRIATING FUNDS THEREFOR

The following items were pulled from Consent Calendar and considered individually.

- 5c. Consider approval of the Special Minutes of March 1-2, 2012

Council Member Sparks moved to approve the minutes of the Special Meeting of March 1-2 with the amendment that the meeting was adjourned at 3 p.m. to reflect two separate meetings; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

6. Consider a resolution approving and authorizing advertisement of request for proposals for depository and other commercial banking services. (Finance)

RESOLUTION NO. 2012 - 067

RESOLUTION APPROVING AND AUTHORIZING ADVERTISEMENT OF REQUEST FOR PROPOSALS FOR DEPOSITORY AND OTHER COMMERCIAL BANKING SERVICES; THE CITY OF MIDLAND IS ENGAGING IN A REQUEST FOR PROPOSALS TO SELECT A BANK TO PERFORM AS THE PRIMARY DEPOSITORY FOR THE INVESTMENT OF CITY FUNDS AND SOURCE OF COMMERCIAL BANKING SERVICES, AND TO SELECT A BANK OR BANKS TO SERVE AS A SECONDARY DEPOSITORY OR DEPOSITORIES FOR THE INVESTMENT OF THE

CITY FUNDS; PROPOSALS FOR CONSIDERATION MUST BE RECEIVED BY THE CITY SECRETARY BY 4:00 P.M. ON APRIL 17, 2012; AND IT IS ANTICIPATED THAT RECOMMENDATIONS SHALL BE MADE TO THE COUNCIL ON MAY 22, 2012

Council Member Hailey moved to adopt Resolution No. 2012-067; seconded by Council Member James. The motion carried by the following vote: AYE: Trost, Hailey, Perry, James. NAY: None. ABSTAIN: Morales, Dufford, Sparks. ABSENT: None.

10. Consider a resolution approving a contract for the renovation of the Washington Park aquatic center for the Community Services Department. (General Services)

RESOLUTION NO. 2012 - 070

RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH POOLS BY RANAE, INC, DBA BLUESCAPE POOLS BY RANAE, IN ORDER TO RESURFACE THE INTERIOR OF THE WASHINGTON PARK AQUATIC CENTER POOLS IN THE AMOUNT OF \$70,047.00; AND APPROPRIATING FUNDS

Following discussion about ADA compliance, a motion was made by Council Member Hailey moved to adopt Resolution No. 2012-070; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

15. Consider a resolution authorizing the release of a request for proposal for an uninterrupted power supply to provide emergency power to the Communication and Police building. (Communication and Information Systems)

RESOLUTION NO. 2012 - 075

RESOLUTION AUTHORIZING ISSUANCE OF A REQUEST FOR PROPOSALS FOR AN UNINTERRUPTED POWER SYSTEM FOR THE PUBLIC SAFETY COMMUNICATION CENTER; AND THIS ITEM SHALL PREVENT EQUIPMENT FROM SHUTTING DOWN IN A POWER OUTAGE

Following discussion, a motion was made by Council Member Morales moved to adopt Resolution No. 2012-075; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Morales, Hailey, Perry, Dufford, James, Sparks. NAY: Trost. ABSTAIN: None. ABSENT: None.

21. Consider a motion on a request by Landgraf, Crutcher & Associates (LCA) for Mayfield Place (Midland Bible Church), to approve items requested for deferral in the amount of \$77,347, and to waive the associated public improvement guarantee. This subdivision is positioned in the City Limits, generally located on the east side of Whitman Drive approximately 1,600 feet north of Mockingbird Lane. The items to be deferred are street-paving improvements, water main improvements, wastewater main improvements and sidewalk improvements. (Engineering)

Council Member Sparks asked if the City Attorney had an opportunity to review the letter of agreement. City Attorney Stretcher responded that they saw it that morning and suggested that the City have an agreement with the land owner so that the requirement that if any of the property was platted they would be responsible for the public improvements. He suggested it be done with a 395 agreement and be filed in the deed of records of Midland County so that future purchasers would be bound when

and if the property were platted. He stated that currently the only agreement is between the church and the adjoining property owner noting that the City was not party to that agreement.

Council Member Sparks moved to defer the item to the April 10, 2012 meeting; adopt Resolution No. 2012-067; seconded by Council Member Hailey.

Mayor Perry noted he would abstain because he owns property to the north.

Following discussion, the motion carried by the following vote: AYE: Morales, Trost, Hailey, Dufford, James, Sparks. NAY: None. ABSTAIN: Perry. ABSENT: None.

26. Consider a resolution approving a task order for the existing professional services agreement with Parkhill, Smith & Cooper and appropriating funds for the construction of Landfill Cell 7. (Solid Waste)

RESOLUTION NO. 2012 - 085

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH PARKHILL, SMITH & COOPER, INCORPORATED, OF MIDLAND, TEXAS, FOR PROFESSIONAL DESIGN AND ENGINEERING SERVICES AT THE CITY LANDFILL; IT IS ESTIMATED THAT THE DESIGN AND ENGINEERING WORK SHALL COST \$453,400.00; AND APPROPRIATING FUNDS

Following discussion about opening and closing landfill cells and moving of a pipeline, Council Member Hailey moved to adopt Resolution No. 2012-085; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Morales, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: Trost. ABSENT: None.

**SECOND READINGS**

30. Consider an ordinance on second reading on a request by Panda Express for a zone change from PD, Planned District for a Shopping Center to an Amended Planned District on 1.075-acres out of Lot 1A, Block 33, Northgate Addition, Section 24, City and County of Midland, Texas. (Generally located near the northwest corner of the intersection of West Loop 250 North and North Midland Drive.) (Planning)

ORDINANCE NO. 8989

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 1.075-ACRE TRACT OF LAND OUT OF LOT 1A, BLOCK 33, NORTHGATE ADDITION, SECTION 24, CITY AND COUNTY OF MIDLAND, TEXAS, AND MORE SPECIFICALLY DESCRIBED IN SECTION ONE HEREOF, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS AN AMENDED PLANNED DISTRICT (GENERALLY LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF WEST LOOP 250 NORTH AND NORTH MIDLAND DRIVE); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary Reyes read the caption of Ordinance No. 8989.

Council Member James moved to approve the second and final reading of Ordinance No. 8989 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

31. Consider an ordinance on second reading amending ordinance number 8400 which established fees and charges of the City of Midland Community Services Department, Animal Services, Parks and Recreation, Hogan Park Golf Course, Health and Senior Services and fees charged for water bacteriological testing. (Community Services)

ORDINANCE NO. 8990

AN ORDINANCE ESTABLISHING FEES AND CHARGES OF THE CITY OF MIDLAND COMMUNITY SERVICES DEPARTMENT, ANIMAL SERVICES, PARKS AND RECREATION, HOGAN PARK GOLF COURSE, HEALTH AND SENIOR SERVICES, AND UTILITIES DEPARTMENT; AND REPEALING ORDINANCES SPECIFICALLY IN CONFLICT WITH SUCH FEES AND CHARGES ESTABLISHED HEREIN

Deputy City Secretary Reyes read the caption of Ordinance No. 8990.

Council Member Dufford moved to approve the second and final reading of Ordinance No. 8990 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

32. Consider an ordinance on second reading for changing the structure of water rates. (Utilities)

ORDINANCE NO. 8991

AN ORDINANCE AMENDING TITLE III, "DEPARTMENTS" , CHAPTER 1 , "WATER DEPARTMENT", SECTION 2, "RATES," SUBSECTION (A), "CUSTOMERS INSIDE OF CITY LIMITS," OF THE CITY CODE OF MIDLAND, TEXAS, SO AS TO CHANGE THE RATES CHARGED FOR WATER AND SEWER SERVICES; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION; AND THE CITY MANAGER SHALL NOTIFY ALL CUSTOMERS OUTSIDE THE CITY LIMITS AS REQUIRED BY STATE LAW

City Secretary Turner read the caption of Ordinance No. 8991.

Council Member Sparks moved to amend Exhibit A of the Ordinance by removing residential addresses from the list; seconded by Council Member Morales. The motion to amend carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

Council Member James moved to approve the second and final reading of Ordinance No. 8991 in accordance with the Charter of the City of Midland as amended; seconded by Council Member Hailey.



Bill Bankston, 1308 W. Kentucky, expressed concern of raising prices for those who use more than 10,000 gallons per month noting that his household of two uses 6,000-9,000 gallons in the winter. He expressed concern for senior citizens or low income. Discussion ensued regarding checking for leaks and outdoor use in general.

John Muldrow, 501 W Scharbauer, stated he owns several apartment complexes in Midland. One of his properties is 8 units with a single meter and wanted to know if the 10,000 gallon limit would be applied to his property. Staff clarified that as an apartment complex, his property would be exempt.

Jim Blischke, 2104 Freeport, asked what were the permissible means to water. Staff responded that each resident can water on their one day per week for two hours between the hours of 6 p.m. to midnight by any means necessary.

Rita Wheeler, 2102 W. College, was told her watering day was Wednesday but it would be a conflict and asked if she could be given another time or another day. She was instructed to see the City Manager to receive a variance.

The motion, as amended, carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

33. Consider an ordinance on second reading declaring certain dilapidated structures as dangerous public nuisances, and ordering their removal. (Code Administration)

#### ORDINANCE NO. 8907

AN ORDINANCE ON SECOND READING DECLARING CERTAIN STRUCTURES LOCATED AT 105 SOUTH LAMESA ROAD, 701 NORTH CALHOUN STREET, 303 SOUTH JEFFERSON STREET, 408 NORTH LEE STREET, 506 SOUTH BAIRD STREET, 505 EAST FLORIDA AVENUE, 602 EAST CUTHBERT AVENUE, 700 SOUTH BENTON STREET, 806 SOUTH LORAIN STREET, 1211 BELMONT STREET, 907 SOUTH DALLAS STREET, 909 SOUTH DALLAS STREET, 911 SOUTH DALLAS STREET, 507 EAST PECK AVENUE, 503 EAST LONGVIEW AVENUE, 200 EAST LONGVIEW AVENUE, AND 2100 SOUTH FORT WORTH STREET TO BE DILAPIDATED, SUBSTANDARD OR UNFIT FOR HUMAN HABITATION AND A HAZARD TO THE PUBLIC HEALTH, SAFETY AND WELFARE; ORDERING THEIR DESTRUCTION OR REMOVAL; DIRECTING THE CITY SECRETARY TO PUBLISH NOTICE; AND DIRECTING THE BUILDING OFFICIAL TO DELIVER A COPY OF THIS ORDINANCE TO AFFECTED OWNERS, LIENHOLDERS AND MORTGAGEES; SAID ORDINANCE BEING AUTHORIZED BY CHAPTER 214 OF THE TEXAS LOCAL GOVERNMENT CODE.

Deputy City Secretary Reyes read the caption of Ordinance No. 8907.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 8907 in accordance with the Charter of the City of Midland; seconded by Council Member Trost

Building Official Steve Thorpe reported that six of the structures have been removed and asked that the Ordinance be amended to remove the following structures: 105 South Lamesa Road, 303 South Jefferson Street, 505 East Florida Avenue, 602 East Cuthbert Avenue, 507 East Peck Avenue, and 503 East Longview Avenue.

Council Member Hailey moved to amend the motion by removing the following addresses: 105 South Lamesa Road, 303 South Jefferson Street, 505 East Florida Avenue, 602 East Cuthbert Avenue, 507 East Peck Avenue, and 503 East Longview Avenue; seconded by Council Member Morales. The motion to amend carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

The motion, as amended, carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

## **PUBLIC HEARINGS**

34. Consider an ordinance annexing a 28.31-acre tract of land (Tract 7) out of Section 24, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the northwest corner of the intersection of Briarwood Avenue and Holiday Hill Road.) (Planning)

### **ORDINANCE NO. 8992**

ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 28.31-ACRE TRACT OF LAND OUT OF SECTION 24, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF BRIARWOOD AVENUE AND HOLIDAY HILL ROAD); AND APPROVING A PUBLIC SERVICE PLAN

Planning Division Manager Walker gave an overview of the item noting that the public hearings were already held and that it is now appropriate to add the land to the City through an Ordinance.

Mayor Pro Tem Morales opened the public hearing at 11:47 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Reyes read the caption of Ordinance No. 8992.

Council Member Trost moved to approve the first of two readings of Ordinance No. 8992 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

35. At approximately 10:30 a.m. hold a public hearing and consider an ordinance for initial zoning of annexed land to MF-1, Multiple Family Dwelling on a 20.21-acre tract of land (Tract 7A) out of Section 24, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the northwest corner of the intersection of Briarwood Avenue and Holiday Hill Road.) (Planning)

### **ORDINANCE NO. 8993**

ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 20.21-ACRE TRACT OF LAND OUT OF SECTION 24,

BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS AN MF-1, MULTIPLE-FAMILY DWELLING DISTRICT; SAID TRACT IS GENERALLY LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF BRIARWOOD AVENUE AND HOLIDAY HILL ROAD; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Planning Division Manager Walker gave an overview of the item noting it was the same as the previous item that was just annexed and that the owner was requesting two separate zoning proposals. He noted that no letters of objection had been received.

Mayor Perry opened the public hearing at 11:49 a.m.

Rooney Mestas, 5004 Apple Creek Road, noted she was speaking as the president of Greathouse Homeowner's Association. They were in opposition to the zoning for three reasons. First there is already a tract in the area zoned for multi-family and there are two multi-family apartment complexes across the street currently. If approved, the high density will exacerbate the area including the school that already exceeds the state mandated student/teacher ratios. Finally, because of the current water restrictions, approving high density housing would be irresponsible. They asked that it be delayed until the infrastructure is put in place that could support the development responsibly.

There being no else present wishing to speak, the public hearing was closed at 11:51 a.m.

Deputy City Secretary Reyes read caption of Ordinance no .8993.

Council Member Morales moved to approve the first of two readings of Ordinance No. 8993 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford.

Discussion ensued about the need for housing and that infrastructure services for water and sewer are in place. Discussion ensued about traffic in the area, the surrounding wells, and how the road may be extended.

The motion carried by the following vote: AYE: Morales, Hailey, Perry, Dufford, James, and Sparks. NAY: Trost. ABSTAIN: None. ABSENT: None.

36. At approximately 10:33 a.m. hold a public hearing and consider an ordinance for initial zoning of annexed land to LR-2, Local Retail District on an 8.11-acre tract of land (Tract 7B) out of Section 24, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the northwest corner of the intersection of Briarwood Avenue and Holiday Hill Road.) (Planning)

#### ORDINANCE NO. 8994

ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING AN 8.11-ACRE TRACT OF LAND OUT OF SECTION 24, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE

HEREOF, AS AN LR-2, LOCAL RETAIL DISTRICT; SAID TRACT IS GENERALLY LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF BRIARWOOD AVENUE AND HOLIDAY HILL ROAD; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Planning Division Manager Walker gave an overview of the item noting that LR2 would be the initial zoning.

Mayor Perry opened the public hearing at 12:06 p.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Reyes read the caption of Ordinance No. 8994.

Council Member Morales moved to approve the first of two readings of Ordinance No. 8994 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

37. Consider an ordinance annexing a 108.453-acre tract of land (Tract 8) out of Section 37, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located northwest of the intersection of Tradewinds Boulevard and Champions Drive.) (Planning)

#### ORDINANCE NO. 8995

ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 108.453-ACRE TRACT OF LAND OUT OF SECTION 37, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF(GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF TRADEWINDS BOULEVARD AND CHAMPIONS DRIVE); AND APPROVING A PUBLIC SERVICE PLAN

Planning Division Manager Walker gave an overview of the item noting that the land is owned by Betenbough Homes and they will be extending their residential neighborhood known as Legends Park.

Mayor Perry opened the public hearing at 12:08 p.m.

Chris Berry of Betenbough Homes reiterated how excited they are to get started on extending this neighborhood and noted they had submitted their preliminary plans to Planning.

There being no one else present wishing to speak, the public hearing was closed at 12:09 p.m.

Deputy City Secretary Reyes read the caption of Ordinance No. 8995.

Council Member Trost moved to approve the first of two readings of Ordinance No. 8995 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

38. At approximately 10:36 a.m. hold a public hearing and consider an ordinance for initial zoning of annexed land to FD, Future Development District on a 108.453-acre tract of land (Tract 8) out of Section 37, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located northwest of the intersection of Tradewinds Boulevard and Champions Drive.) (Planning)

ORDINANCE NO. 8996

ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING AN 108.453-ACRE TRACT OF LAND OUT OF SECTION 37, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS AN FD, FUTURE DEVELOPMENT DISTRICT; SAID TRACT IS GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF TRADEWINDS BOULEVARD AND CHAMPIONS DRIVE; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Planning Division Manager Walker gave an overview of the item noting that the Engineering group was not yet quite complete and staff recommended bringing in the property under the FD Future Development with the anticipation of zone change application in the future.

Mayor Perry opened the public hearing at 12:12 p.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Reyes read the caption of Ordinance No. 8996.

Council Member Trost moved to approve the first of two readings of Ordinance No. 8996 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

39. At approximately 10:39 a.m. hold a public hearing and consider an ordinance ON APPEAL on a request Kenny Urias for a Specific Use Permit without Term for an accessory building for living and sleeping quarters on Lot 1 and the south 22 feet of Lot 2, Block 11, Skyline Terrace, City and County of Midland, Texas. (Generally located on the east side of Skyline Drive, approximately 470 feet south of Haynes Avenue.) (Planning)

ORDINANCE NO. 8997

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF LOT 1 AND THE SOUTH 22 FEET OF LOT 2, BLOCK 11, SKYLINE TERRACE, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF

SKYLINE DRIVE, APPROXIMATELY 470 FEET SOUTH OF HAYNES AVENUE), WHICH IS PRESENTLY ZONED 1F-1, ONE FAMILY DWELLING DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITHOUT TERM FOR AN ACCESSORY BUILDING TO BE USED FOR LIVING OR SLEEPING QUARTERS; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Planning Division Manager Walker gave overview of the item noting that it was on appeal from the Planning & Zoning Commission who unanimously recommended denial because of the possibility of creating a rental condition. The applicant is using an existing building and is turning it into sleeping and living quarters. There was 28.96 percent opposition with concerns including parking in the alley, blocking the movement of traffic along the alley and overcrowding of the alley. Staff recommendation was to deny. He clarified that with the opposition the item would require 6 votes for approval.

Mayor Perry opened the public hearing at 12:18 p.m.

Ken Urias, 4100 Skyline, reported that he has a 300 square foot structure that is in need of remodeling. His home is three bedrooms and he needs a fourth bedroom for guests and has no intention of renting it out. He would like to add a bathroom to the space. He noted he has received signatures from everyone within 200 feet except for one person who now is on board with his use.

There being no one else present wishing to speak, the public hearing closed at 12:21 p.m.

It was noted that Council was concerned about how the property would be used in the future.

Building Official Steve Thorpe reported that there are three tests to meet separate living quarters: sleeping space, place to prepare food, and a full bathroom. He noted that if one of those elements were missing, it would not need to come before the City Council for approval. He suggested that if it is a fourth bedroom, the kitchen be removed and then his structure could be approved administratively.

City Secretary Reyes read the caption of Ordinance No. 8997.

Following discussion, Council Member Trost moved to deny Ordinance No. 8997; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

Mayor Perry clarified that the Council denied the item as is, but if they remove the kitchen and bring it back, it could be approved administratively.

40. At approximately 10:42 a.m. hold a public hearing and consider a resolution on a request by Fairmont Park Church of Christ for a Temporary Land Use Permit for RV parking on Lot 1, Block 5, the adjacent 0.26-acre vacated alley, Fairmont Park Addition,

Section 2 and on a 0.96-acre tract of land out of Section 18, Block 39, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the northwest corner of the intersection of North Midland Drive and Fairbanks Drive.) (Planning)

RESOLUTION NO. 2012 - 088

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR MOTOR HOME PARKING ON LOT 1, BLOCK 5, AND THE ADJACENT 0.26-ACRE VACATED ALLEY, FAIRMONT PARK ADDITION, SECTION 2, AND ON A 0.96-ACRE TRACT OF LAND OUT OF SECTION 18, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF NORTH MIDLAND DRIVE AND FAIRBANKS DRIVE); AND MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN

Planning Division Manager Walker gave an overview of the item noting it is for the temporary parking of 16-20 RV units on the northern portion of the property. Electricity will be provided by the church and therefore no generators would be used. The resolution requires the Building Official to inspect prior to placement of RV's on the property. He noted one letter of objection had been received and that staff was in favor of the item.

Mayor Perry opened the public hearing at 12:35 p.m.

Lon Ashley, 4501 Fairbank, reported he lives across from the church. He stated he did not feel the diagram was correct and that the RV's would take up all of the parking spaces because of electric cords and water hoses. He expressed concern about parking in the alley or in on the street making it difficult for him to access his property. He also worried about the increase of trash blowing off of their property. He also expressed concern on the people who would be staying there.

Eldon Schoolcraft, member of Fairmont Park Church Building Committee. He reported that this they are participating in the We Care Ministries campaign. They will be doing an outreach to the neighborhood with 60 people coming in from 15 states addressing spiritual and physical needs of the community. They would be taking distributed boxed food and conducting open bible studies. He reported they have an agreement with the Target store for use of their overflow parking. Temporary electrical service along the fence line will be installed for the RV's along with water hookups. He noted they would direct their parishioners to not park on Fairbank to accommodate the neighborhood.

There being no one else present wishing to speak, the public hearing was closed.

Council Member Morales moved to adopt Resolution No. 2012-088; seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

## DEVELOPMENT SERVICES

41. Consider a resolution on a request by Callon Petroleum Operating Company (Pecan Acres 23A No. 1) for a Permit to Drill an Oil and Gas Well inside the City Limits on 467' FEL and 1,958' FNL, located in Section 23, Block 40, T-1-S, T&P RR Co. Survey, City

and County of Midland, Texas. (Generally located on the east side of Golden Gate Drive, approximately  $\frac{3}{4}$  mile north of Briarwood Avenue.) (Planning)

RESOLUTION NO. 2012 - 090

RESOLUTION APPROVING THE ISSUANCE OF APERMIT TO CALLON PETROLEUM OPERATING COMPANY ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 467 FEET FROM THE EAST LINE AND 1,958 FEET FROM THE NORTH LINE, SECTION 23, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF GOLDEN GATE DRIVE, APPROXIMATELY  $\frac{3}{4}$  OF A MILE NORTH OF BRIARWOOD AVENUE)

Oil & Gas Compliance Office Ron Jenkins gave an overview of the item noting this was the first of three all on the same site pad that will be directionally drilled. The Oil & Gas Advisory Committee has reviewed the well and recommended approval. They recommended that a steel coated tank be allowed for water containment, ensured that the battery is in accordance with the wishes of the Fire Marshall, ensured the tank situation was in compliance with the ordinance. He reviewed the discussions with Callon Petroleum regarding tanks, ensured that the tanks would be signed off by the Fire Department before going into operation, and ensured that all parties were aware of conditions and requirements regarding tanks. The Oil & Gas Committee also recommended a vapor recovery unit and that the landscape variance not be postponed for longer than two years. There will be a 250 x 250 fresh water pit on their property where the tank battery is located, west of the wells. There are no residences or commercial structures within 800 feet.

Council Member Hailey moved to adopt Resolution No. 2012-090; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

42. Consider a resolution on a request by Callon Petroleum Operating Company (Pecan Acres 23A No. 2) for a Permit to Drill an Oil and Gas Well inside the City Limits on 467'FEL and 1,983' FNL located in Section 23, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the east side of Golden Gate Drive, approximately  $\frac{3}{4}$  mile north of Briarwood Avenue.) (Planning)

RESOLUTION NO. 2012 - 091

RESOLUTION APPROVING THE ISSUANCE OF APERMIT TO CALLON PETROLEUM OPERATING COMPANY ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 467 FEET FROM THE EAST LINE AND 1,983 FEET FROM THE NORTH LINE, SECTION 23, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF GOLDEN GATE DRIVE, APPROXIMATELY  $\frac{3}{4}$  OF A MILE NORTH OF BRIARWOOD AVENUE)

Oil & Gas Compliance Officer Jenkins gave a brief overview of the item noting that it is the same information as the previous with the difference in the location of the drill.

Council Member Sparks moved to adopt Resolution No. 2012-091; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT:



None.

43. Consider a resolution on a request by Callon Petroleum Operating Company (Pecan Acres 23A No. 3) for a Permit to Drill an Oil and Gas Well inside the City Limits on 467' FEL and 2,008' FNL located in Section 23, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the east side of Golden Gate Drive, approximately  $\frac{3}{4}$  mile north of Briarwood Avenue.) (Planning)

RESOLUTION NO. 2012 - 092

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO CALLON PETROLEUM OPERATING COMPANY ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 467 FEET FROM THE EAST LINE AND 2,008 FEET FROM THE NORTH LINE, SECTION 23, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF GOLDEN GATE DRIVE, APPROXIMATELY  $\frac{3}{4}$  OF A MILE NORTH OF BRIARWOOD AVENUE)

Oil & Gas Compliance Officer Jenkins reported this is the same as the previous two items.

Jimmy Wright, 521 Matthis, land manager for Callon Petroleum reported that the current spacing is 40-acres per well depending on how far the laterals will drill.

Council Member Dufford moved to adopt Resolution No. 2012-092; seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

44. Consider a resolution authorizing the execution of a road repair agreement with Callon Petroleum Operating Company related to the Pecan Acres 23A No.'s 1, 2 and 3 wells. (Planning)

RESOLUTION NO. 2012 - 089

RESOLUTION AUTHORIZING THE EXECUTION OF A ROAD REPAIR AGREEMENT WITH CALLON PETROLEUM OPERATING COMPANY REGARDING ITS APPLICATIONS TO DRILL OIL AND GAS WELLS WITHIN THE CITY LIMITS IN SECTION 23, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS

Oil & Gas Compliance Officer Jenkins reported the roads to be used to get to the well would be Briarwood and Avalon.

Discussion ensued about how road damage was tracked and assessed.

Mayor Perry commended Callon Petroleum for going above and beyond.

Council Member Dufford moved to adopt Resolution No. 2012-089; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

45. Consider a motion authorizing the HEB development to proceed with proposed demolition work under a previously approved site plan. The Council shall consider an interpretation of a Planned District Site Plan. HEB is located at 3325 West Wadley Avenue. (Development Services)

Planning Division Manager Walker gave an overview of the item noting that in 2009 the Council authorized an amendment to the site plan. The main interest at that time was the development of the store and there was no direction regarding the outlying buildings. HEB would like to demolish the rental space, rebuild the wall up against Ski Skeller and refurbish the area to parking. Requested determination if they are okay with allowing HEB to proceed with demolition without going to a full-blown planned district amendment.

Scott Ragan, 3327 West Wadley, expressed frustration over the HEB parking lot. He did not think the addition of 40 parking spots would solve the problem but the problem was with the design of the parking lot. He did not care if the other buildings were demolished as he felt it would increase the value of his building. He noted that they were under review by Code Administration for not having enough parking spots.

Building Official Thorpe reported that he would not issue a demolition permit without them showing how they will weatherproof the exposed building.

Following discussion, Council Member James moved to approve a motion authorizing the HEB development to proceed with proposed demolition work under a previously approved site plan; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Hailey, Perry, Dufford, James, Sparks. NAY: Trost. ABSTAIN: None. ABSENT: None.

## MISCELLANEOUS

46. Consider a resolution authorizing the nomination of a member to the Midland Central Appraisal District Board. (Finance)

### RESOLUTION NO. 2012 - 093

RESOLUTION NOMINATING A CANDIDATE FOR THE MIDLAND CENTRAL APPRAISAL DISTRICT BOARD OF DIRECTORS; AND DIRECTING THE CITY MANAGER TO DELIVER A COPY OF THIS RESOLUTION TO THE MIDLAND CENTRAL APPRAISAL DISTRICT

Council Member Trost moved to defer to special meeting of March 28, 2012; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

47. Consider an ordinance annexing a 40.46-acre tract of land (Tract 1) out of Section 45, Block 40, T-1-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located north of Midland International Airport.) (Planning)

### ORDINANCE NO. Ordinance No. 8998

ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS,

BEING A 40.46-ACRE TRACT OF LAND OUT OF SECTION 45, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED NORTH OF MIDLAND INTERNATIONAL AIRPORT); AND APPROVING A PUBLIC SERVICE PLAN

Planning Division Manager Walker gave an overview of the item noting that the six items were city owned properties and this was the first of six.

Deputy City Secretary Reyes read the caption of Ordinance No. 8998.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 8998 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

48. Consider an ordinance annexing a 96.28-acre tract of land (Tract 2) out of Sections 43 & 44, Block 40, T-1-S, and Sections 5 & 6, Block 40, T-2-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located northwest of Midland International Airport.) (Planning)

ORDINANCE NO. Ordinance No. 8999

ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 96.28-ACRE TRACT OF LAND OUT OF SECTIONS 43 AND 44, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND SECTIONS 5 AND 6, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED NORTHWEST OF MIDLAND INTERNATIONAL AIRPORT); AND APPROVING A PUBLIC SERVICE PLAN

Deputy City Secretary Reyes read the caption of Ordinance No. 8999.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 8999 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

49. Consider an ordinance annexing a 55.08-acre tract of land (Tract 3) out of Sections 8, 9, 16, & 17, Block 40, T-2-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located south of Midland International Airport District.) (Planning)

ORDINANCE NO. Ordinance No. 9000

ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 55.08-ACRE TRACT OF LAND OUT OF SECTION 8, 9, 16 AND 17, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED SOUTH OF MIDLAND INTERNATIONAL AIRPORT); AND APPROVING A PUBLIC SERVICE PLAN

Deputy City Secretary Reyes read the caption of Ordinance No. 9000.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 9000 in accordance with the Charter of the City of Midland; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

50. Consider an ordinance annexing a 2.25-acre tract of land (Tract 4) out of Section 10, Block 40, T-2-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located northeast of Midland International Airport.) (Planning)

ORDINANCE NO. Ordinance No. 9001

ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 2.25-ACRE TRACT OF LAND OUT OF SECTION 10, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED NORTHEAST OF MIDLAND INTERNATIONAL AIRPORT); AND APPROVING A PUBLIC SERVICE PLAN

Deputy City Secretary Reyes read the caption of Ordinance No. 9001.

Council Member Trost moved approval of the first of two readings of Ordinance No. 9001 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

51. Consider an ordinance annexing a 3.88-acre tract of land (Tract 5) out of Section 4, Block 40, T-2-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located southeast of Midland International Airport.) (Planning)

ORDINANCE NO. Ordinance No. 9002

ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 3.88-ACRE TRACT OF LAND OUT OF SECTION 4, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED SOUTHEAST OF MIDLAND INTERNATIONAL AIRPORT); AND APPROVING A PUBLIC SERVICE PLAN

Deputy City Secretary Reyes read the caption of Ordinance No. 9002.

Council Member James moved approval of the first of two readings of Ordinance No. 9002 in accordance with the Charter of the City of Midland; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

52. Consider an ordinance annexing a 3.57-acre tract of land (Tract 6) out of Section 13, Block 40, T-1-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located on the north side of the Mockingbird Lane extension, east of Avalon Drive.) (Planning)

ORDINANCE NO. Ordinance No. 9003

ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 3.57-ACRE TRACT OF LAND OUT OF SECTION 13, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED ON THE NORTH SIDE OF THE MOCKINGBIRD LANE EXTENSION, EAST OF AVALON DRIVE); AND APPROVING A PUBLIC SERVICE PLAN

Deputy City Secretary Reyes read the caption of Ordinance No. 9003.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 9003 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

53. Consider a resolution reconsidering the hours of the Mex-Tex operation. (City Manager)

RESOLUTION NO. Resolution No. 2012 - 094

RESOLUTION AUTHORIZING THE MIDLAND HISPANIC CHAMBER OF COMMERCE TO OPERATE THE MEX-TEX FAMILY FIESTA CONCERT UNTIL 1:00 A.M. ON SUNDAY, JUNE 10, 2012 AT THE SCHARBAUER SPORTS COMPLEX; AND THAT RESOLUTION NO. 2012-005 IS HEREBY RESCINDED

Council Member James reported he asked for reconsideration of this item because the Midland Hispanic Chamber of Commerce deserved clarifications of the City Council's intentions. He stated it was unclear as to whether the intention of the Council was to face the stage in a specific direction. The previous year Council allowed them to go until 1 a.m. but required them to face the stage toward Loop 250. This year it was clear that the concert would go until midnight but it was not clarified which direction the stage should be turned.

Council Member James moved to deny approval of operating hours to 1 a.m. but allow the event to go until 12 midnight and require the stage to be turned away from Grasslands; seconded by Council Member Trost.

Council Member Morales moved to amend the motion by adding an additional \$5,000 from hotel/motel money to offset added expenses of turning the stage; seconded by; seconded by Council Member Hailey.

Discussion ensued about the additional costs involved and about requiring all events to have staging facing Loop 250 in the future.

Rachel Stone, 1902 N. Pecos, explained the additional costs incurred were due to an additional generator for adequate sound, additional fencing behind the stage, additional day to rent the scissors lift to remove speakers, additional speakers need, and electrician fees to stack the speakers. The total added cost was \$4770.

Following discussion, the motion to amend carried by the following vote: AYE: Morales,

Trost, Hailey, Perry, Dufford, Sparks. NAY: James. ABSTAIN: None. ABSENT: None.

The motion, as amended, carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

54. Consider making appointments to various Boards and Commissions.

Council Member Morales moved to appoint Kenny Harper to the Parks & Recreation Commission; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

### **EXECUTIVE SESSION**

55. Pursuant to Texas Government Code §551.101, the Council will hold an Executive Session which is closed to the public to discuss the following matters as permitted under the following Texas Government Code Sections:

- a. Section 551.071, Consultation with the City Attorney

- a.1. Discuss with the City Attorney a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter.

Mayor Perry noted that the executive session would not be heard.

All of the business at hand having been completed, the meeting adjourned at 1:59 p.m.

PASSED AND APPROVED the 10th day of April, 2012.

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W. Wesley Perry, Mayor

ATTEST:

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Amy M. Turner, City Secretary

**MIDLAND CITY COUNCIL  
MINUTES  
March 28, 2012**

The City Council convened in a Special Session in the Council Chamber, City Hall, Midland, Texas, at 8:01 a.m. on March 28, 2012.

Council Members present: Mayor W. Wesley Perry, Mayor Pro Tem Jerry Morales (At-Large), Council Member Scott Dufford (At-Large), Council Member Jeff Sparks (District 1), Council Member John James (District 3).

Council Members absent: Council Member Vicky Hailey (District 2), Council Member Michael Trost (District 4).

1. Consider a resolution authorizing the nomination of a member to the Midland Central Appraisal District Board. (Finance)

RESOLUTION NO. 2012 - 093

RESOLUTION NOMINATING A CANDIDATE FOR THE MIDLAND CENTRAL APPRAISAL DISTRICT BOARD OF DIRECTORS; AND DIRECTING THE CITY MANAGER TO DELIVER A COPY OF THIS RESOLUTION TO THE MIDLAND CENTRAL APPRAISAL DISTRICT

Jerry Bundick of Midland Central Appraisal District noted eligible candidates were required to be a resident for two years prior to serving and reviewed the qualifications and job duties.

Council Member Sparks nominated Chad Clark noting he would be available as of April 30th when he retired as a Captain from the Fire Department. Mr. Clark is also an estate planner.

Council Member Morales nominated Paul Porter, an Engineer for Concho Resources. Mr. Porter is actively involved on the school board and has a degree in accounting and engineering.

Council Member Sparks moved to adopt Resolution No. 2012-093 nominating Chad Clark; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Morales, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Trost, Hailey.

All of the business at hand having been completed, the meeting adjourned at 8:11 a.m.

PASSED AND APPROVED the 10th day of April, 2012.

\_\_\_\_\_  
W. Wesley Perry, Mayor

ATTEST:

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Amy M. Turner, Interim City Secretary





# City Council Agenda

Approved for Agenda:  
**CSharp**  
City Manager's Office

**MEETING DATE:** April 10, 2012  
**TO:** CITY COUNCIL/CITY MANAGER  
**FROM:** Bob McNaughton, Director of Finance  
**SUBJECT:** Amending Authorized Texpool Representatives

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## Purpose:

Replace representatives authorized to initiate transactions on City Texpool accounts

## Recommended City Council Action

☒ Approve      ☐ Deny      ☐ Direction/Informational

## Fiscal Impact:

None

## Discussion:

Subsequent to the retirement of Brenda Brown as City Comptroller, the City currently has only one authorized representative with access to Texpool accounts. Texpool is a local government investment pool in which the City is a participant that operates consistent with the Public Funds Investment Act.

Providing for backup, proper internal controls and continuity in the management of these funds is essential to the City business functions.

The new individuals to be named as authorized representatives are Thomas R. Howell, Comptroller and Charlene A. Fox, Accounting Manager. As the previous Accounting Manager, Mr. Howell is intimately acquainted with procedures and processes necessary to conduct transactions with Texpool and it is essential that Ms. Fox be acquainted with these procedures as well to maintain adequate backup and proper internal control.

I will continue to be the primary representative for all of these accounts.



**RESOLUTION NO.**

**RESOLUTION AMENDING THE AUTHORIZED  
REPRESENTATIVES OF THE CITY OF MIDLAND,  
TEXAS, REGARDING INVESTMENTS OF PUBLIC  
FUNDS**

**WHEREAS**, the City of Midland, Texas, 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 of Midland 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 objectives 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 MIDLAND, TEXAS:**

**SECTION ONE.** That Robert McNaughton, Thomas R. Howell and Charlene A. Fox are Authorized Representatives of the City of Midland 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 TWO.** That an Authorized Representative of the City of Midland may be deleted by a Resolution adopted by the Midland City Council.

**SECTION THREE.** The Authorized Representative of the City of Midland that will have primary responsibility for performing transactions and receiving confirmations and monthly statements under the Participation Agreement is:

Robert McNaughton  
bmчнаughton@midlandtexas.gov  
Fax No. 432/685-7223

**SECTION FOUR.** That this Resolution and its authorization shall continue in full force and effect until amended or revoked by the City of Midland, and until TexPool Participant Services receives a copy of any such amendment or revocation.

On motion of Council member \_\_\_\_\_, seconded by Council member \_\_\_\_\_, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2012, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

\_\_\_\_\_  
W. Wesley Perry, Mayor

ATTEST:

\_\_\_\_\_  
Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

\_\_\_\_\_  
Courtney Sharp, City Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
Keith Stretcher, City Attorney



# City Council Agenda

Approved for Agenda:  
**CSharp**  
City Manager's Office

**MEETING DATE:** April 10, 2012  
**TO:** CITY COUNCIL/CITY MANAGER  
**FROM:** Bob McNaughton, Director of Finance  
**SUBJECT:** Amending Authorized Logic Representatives

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## **Purpose:**

Replace representatives authorized to initiate transactions on City Logic accounts

## **Recommended City Council Action**

☒ Approve      ☐ Deny      ☐ Direction/Informational

## **Fiscal Impact:**

None

## **Discussion:**

Subsequent to the retirement of Brenda Brown as City Comptroller, the City currently has only one authorized representative with access to Logic accounts. Logic is a local government investment pool in which the City is a participant that operates consistent with the Public Funds Investment Act.

Providing for backup, proper internal controls and continuity in the management of these funds is essential to the City business functions.

The new individuals to be named as authorized representatives are Thomas R. Howell, Comptroller and Charlene A. Fox, Accounting Manager. As the previous Accounting Manager, Mr. Howell is intimately acquainted with procedures and processes necessary to conduct transactions with Logic and it is essential that Ms. Fox be acquainted with these procedures as well to maintain adequate backup and proper internal control.

I will continue to be the primary representative for all of these accounts.



**RESOLUTION NO.**

**RESOLUTION CHANGING THE AUTHORIZED  
REPRESENTATIVES FOR THE LOCAL GOVERNMENT  
INVESTMENT COOPERATIVE**

**WHEREAS**, the City of Midland, Texas (the “Government Entity”) by authority of the Local Government Investment Cooperative Resolution No. 94-244 (the “Resolution”) has entered into a certain Interlocal Agreement (the “Agreement”) and has become a participant in the public funds investment pool created thereunder known as Local Government Investment Cooperative (“LOGIC”); and

**WHEREAS**, the Resolution designated one or more “Authorized Representatives” within the meaning of the Agreement; and

**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 BY THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS:**

**SECTION ONE.** That the following officers, officials or employees of the Government Entity are hereby designated as “Authorized Representatives” within the meaning of the Agreement, with full power and authority to: deposit money to and withdraw money from the Government Entity’s LOGIC account or accounts from time to time in accordance with the Agreement and the Information Statement describing the Agreement, and to take all other actions deemed necessary or appropriate for the investment of funds of the Government Entity in LOGIC:

Robert McNaughton  
Director of Finance

Thomas R. Howell  
Comptroller

Charlene A. Fox  
Accounting Manager

**SECTION TWO.** That the following Authorized Representative is hereby designated as the Primary Contact and will receive all LOGIC correspondence including transaction

confirmations and monthly statements:

Robert McNaughton  
Director of Finance

**SECTION THREE.** That the foregoing supersedes and replaces the Government Entity's previous designation of officers, officials or employees of the Government Entity as Authorized Representatives under the Agreement. Except as hereby modified, the Resolution shall remain in full force and effect.

On motion of Council member \_\_\_\_\_, seconded by Council member \_\_\_\_\_, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2012, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

\_\_\_\_\_  
W. Wesley Perry, Mayor

ATTEST:

\_\_\_\_\_  
Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

\_\_\_\_\_  
Courtney Sharp, City Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
Keith Stretcher, City Attorney





# City Council Agenda

Approved For Agenda:  
**THudson**  
; City Manager's Office

**MEETING DATE:** April 10, 2012  
**TO:** CITY COUNCIL, CITY MANAGER  
**FROM:** Regina Stephenson, Purchasing Manager  
**SUBJECT:** 4604-12 Heavy Duty Cab & Chassis'

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**Purpose:**

Approval of a resolution authorizing the purchase of five (5) heavy duty cab and chassis' for the Garage Division.

**Recommended City Council Action:**

☒ Approve      ☐ Deny      ☐ Direction/Informational

**Fiscal Impact:**  
\$395,860 Garage Fund

**Discussion:**

These cab and chassis' will have two solid waste refuse bodies, one 4-6 cubic yard dump body, one 12-14 cubic yard dump body and one boom body mounted on them. The low bid meets our specifications and we are recommending the low bidder for this purchase.

Therefore, please consider approval of a resolution authorizing the purchase of five (5) heavy duty cab and chassis' from Roberts Truck Center of Texas, LLC of Midland, Texas for a total cost of \$395,860.00.

**RESOLUTION NO.**

**RESOLUTION APPROVING THE PURCHASE OF FIVE  
(5) HEAVY DUTY CAB & CHASSIS OF ASSORTED  
CONFIGURATIONS FROM ROBERTS TRUCK CENTER  
OF TEXAS, LLC, OF MIDLAND, TEXAS, AT A TOTAL  
COST OF \$395,860.00**

**WHEREAS**, the City Manager approved plans and specifications and authorized advertisement for bids for five (5) heavy duty cab & chassis of assorted configurations; and

**WHEREAS**, Bid No. 4604-12 was opened on March 14, 2012, with the lowest and most responsible bid being submitted from Roberts Truck Center of Texas, LLC, of Midland, Texas, as shown on the bid tabulation attached hereto as Exhibit “A” and incorporated herein for all legal purposes;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE  
CITY OF MIDLAND, TEXAS:**

**SECTION ONE.** That the City Manager is hereby authorized and directed to purchase the above listed cab & chassis from Roberts Truck Center of Texas, LLC, at an estimated total price not to exceed \$395,860.00.

**SECTION TWO.** That the City Treasurer is hereby authorized and directed to pay Roberts Truck Center of Texas, LLC, for said cab & chassis from funds available in the Fiscal Year 2011 – 2012 Garage Fund (750) General Services (040) Garage (0752) Other Equipment (8530) budget account upon proper receipt of invoices or statements approved by the City Manager.

On motion of Council member \_\_\_\_\_, seconded by Council member \_\_\_\_\_, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2012, by the following vote:

Council members voting “AYE”:

Council members voting “NAY”:

\_\_\_\_\_  
W. Wesley Perry, Mayor

ATTEST:

\_\_\_\_\_  
Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

\_\_\_\_\_  
Courtney Sharp, City Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
Keith Stretcher, City Attorney

## City of Midland - Bid Tabulation

| <b>BID NO.: 4604-12</b><br><b>FOR: Heavy Duty Cab &amp; Chassis</b><br><b>CLOSES: 3/14/2012</b> |     |                                                     | <b>Freightliner of Odessa</b><br><b>PO Box 7379</b><br><b>Odessa, TX 79760</b><br><b>Jason M</b><br><b>(432)580-8400</b> |               | <b>Roberts Truck Center of Texas LLC</b><br><b>10101 W I-20</b><br><b>Midland, TX 79706</b><br><b>Clay Barclay</b><br><b>(432)697-2241</b> |               |
|-------------------------------------------------------------------------------------------------|-----|-----------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|---------------|--------------------------------------------------------------------------------------------------------------------------------------------|---------------|
| ITEM                                                                                            | QTY | DESCRIPTION                                         | COST EA.                                                                                                                 | TOTAL         | COST EA.                                                                                                                                   | TOTAL         |
| <b>Please see notes following this list.....</b>                                                |     |                                                     |                                                                                                                          |               |                                                                                                                                            |               |
| 1                                                                                               | 1   | Single Axle Cab and Chassis for 4-6CY Dump Truck    | \$73,706.000                                                                                                             | \$73,706.00   | \$72,130.000                                                                                                                               | \$72,130.00   |
|                                                                                                 |     | Year/Make/Model                                     | None Specified                                                                                                           |               | 2013/International/Workstar 7400SBA 4 x 2                                                                                                  |               |
| 2                                                                                               | 1   | Single Axle Cab and Chassis for Boom Truck          | \$74,836.000                                                                                                             | \$74,836.00   | \$72,065.000                                                                                                                               | \$72,065.00   |
|                                                                                                 |     | Year/Make/Model                                     | 2013/Freightliner/108SD                                                                                                  |               | 2013/International/Workstar 7400SBA 4 x 2                                                                                                  |               |
| 3                                                                                               | 1   | Tandem Axle Cab and Chassis for 12-14 CY Dump Truck | \$79,715.00                                                                                                              | \$79,715.00   | \$78,865.00                                                                                                                                | \$78,865.00   |
|                                                                                                 |     | Year/Make/Model                                     | 2013/Freightliner/7                                                                                                      |               | 2013/International/Workstar 7400SBA 6 x 4                                                                                                  |               |
| 4                                                                                               | 2   | Tandem Axle Cab and Chassis for Refuse Truck        | \$87,298.000                                                                                                             | \$174,596.00  | \$86,400.000                                                                                                                               | \$172,800.00  |
|                                                                                                 |     | Year/Make/Model                                     | 2013/Freightliner/7                                                                                                      |               | 2013/International/Workstar 7500SBA 6 x 4                                                                                                  |               |
|                                                                                                 |     | Delivery                                            | 25-Jun-12                                                                                                                |               | Approx. 50-80 Days ARO                                                                                                                     |               |
| <b>TOTALS:</b>                                                                                  |     |                                                     |                                                                                                                          | \$402,853.00  |                                                                                                                                            | \$395,860.00  |
| Discount if all awarded to your company ... Discounted Total:                                   |     |                                                     |                                                                                                                          | \$ 402,853.00 |                                                                                                                                            | \$ 395,860.00 |

**Bidding Summary:**

5 Bid requests were issued.

2 Bids listed above

0 NO BIDS were received.

3 Bidders did not respond.

MHC Kenworth, Sam Pack's Five Star Ford, bid@spford.com



# City Council Agenda

Approved For Agenda:  
**THudson**  
City Manager's Office

**MEETING DATE:** April 10, 2012  
**TO:** CITY COUNCIL, CITY MANAGER  
**FROM:** Regina Stephenson, Purchasing Manager  
**SUBJECT:** 4589-12 Boom Truck Body

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**Purpose:**

Approval of a resolution authorizing the purchase of a boom truck body for the Garage Division.

**Recommended City Council Action:**

☒ Approve      ☐ Deny      ☐ Direction/Informational

**Fiscal Impact:**  
\$55,500 Garage Fund

**Discussion:**

Two bids for two different makes of boom truck bodies were received from one bidder, Equipment Southwest, Inc. of Irving, Texas. We recommend purchasing the 2012 Ferrari Boom 710/A3 which is the low bid.

Therefore, please consider approval of a resolution authorizing the purchase of a boom truck body from Equipment Southwest, Inc. of Irving Texas for \$55,500.00.

**RESOLUTION NO.**

**RESOLUTION APPROVING THE PURCHASE OF ONE  
(1) BOOM TRUCK BODY FROM EQUIPMENT  
SOUTHWEST, INCORPORATED, AT A TOTAL COST  
OF \$55,500.00**

**WHEREAS**, the City Manager approved plans and specifications and authorized advertisement for bids for a boom truck body; and

**WHEREAS**, Bid No. 4589-12 was opened on March 14, 2012, with the lowest and most responsible bid being submitted from Equipment Southwest, Inc., as shown on the bid tabulation attached hereto as Exhibit "A" and incorporated herein for all legal purposes;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE  
CITY OF MIDLAND, TEXAS:**

**SECTION ONE.** That the City Manager is hereby authorized and directed to purchase the above listed boom truck body from Equipment Southwest, Inc., at an estimated total price not to exceed \$55,500.00.

**SECTION TWO.** That the City Treasurer is hereby authorized and directed to pay Equipment Southwest, Inc., for said boom truck body from funds available in the Fiscal Year 2011 – 2012 Garage Fund (750) General Services (040) Garage (0752) Other Equipment (8530) budget account upon proper receipt of invoices or statements approved by the City Manager.

On motion of Council member \_\_\_\_\_, seconded by Council member \_\_\_\_\_, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2012, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

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W. Wesley Perry, Mayor

ATTEST:

---

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

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Courtney Sharp, City Manager

APPROVED AS TO FORM:

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Keith Stretcher, City Attorney

## City of Midland - Bid Tabulation

|                                                                                    |     |                                                  |                                                                                              |             |                                                                                              |             |
|------------------------------------------------------------------------------------|-----|--------------------------------------------------|----------------------------------------------------------------------------------------------|-------------|----------------------------------------------------------------------------------------------|-------------|
| <b>BID NO.: 4589-12</b><br><b>FOR: Boom Truck Body</b><br><b>CLOSES: 3/14/2012</b> |     |                                                  | Equipment Southwest, Inc<br>425 S Loop 12<br>Irving, TX 75060<br>Mike Foley<br>(972)554-0725 |             | Equipment Southwest, Inc<br>425 S Loop 12<br>Irving, TX 75060<br>Mike Foley<br>(972)554-0725 |             |
| ITEM                                                                               | QTY | DESCRIPTION                                      | COST EA.                                                                                     | TOTAL       | COST EA.                                                                                     | TOTAL       |
|                                                                                    |     | <b>Please see notes following this list.....</b> |                                                                                              |             |                                                                                              |             |
| 1                                                                                  | 1   | Boom Truck Body                                  | \$55,800.000                                                                                 | \$55,800.00 | \$55,500.000                                                                                 | \$55,500.00 |
|                                                                                    |     | Year/Make/Model                                  | 2012/Rugby Body/Pac Mac Boom/KBF-20H                                                         |             | 2012/Farrat Boom/710 A3                                                                      |             |
| 2                                                                                  |     | Delivery                                         | 60 Days ARC                                                                                  |             | 60 Days ARC                                                                                  |             |
| <b>TOTALS:</b>                                                                     |     |                                                  |                                                                                              | \$55,800.00 |                                                                                              | \$55,500.00 |
| Discount if all awarded to your company... Discounted Total:                       |     |                                                  | \$                                                                                           | 55,800.00   | \$                                                                                           | 55,500.00   |

**Bidding Summary:**

9 Bid requests were issued.

1 Bids listed above

0 NO BIDS were received.

8 Bidders did not respond.

Prestige Ford-Baker Equip, American Crane & Equipment, J&B Trailers & Equipment, Watson Truck & Supply,  
 Kirby-Smith Machinery, Hollice Clark Truck, Fabco Industries, Basin Trailer & Equipment





# City Council Agenda

Approved For Agenda:  
**THudson**  
City Manager's Office

**MEETING DATE:** April 10, 2012

**TO:** CITY COUNCIL, CITY MANAGER

**FROM:** Regina Stephenson, Purchasing Manager

**SUBJECT:** 4691-12 3 Dump Bodies

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**Purpose:**

Approval of a resolution authorizing the purchase of a 2-3 CY dump body, a 4-6 CY dump body and a 12-14 CY dump body for the Garage Division.

**Recommended City Council Action:**

☒ Approve      ☐ Deny      ☐ Direction/Informational

**Fiscal Impact:**  
\$50,508 Garage Fund

**Discussion:**

We received a single bid from Equipment Southwest, Inc. The bid received from Equipment Southwest, Inc. is \$22,492.00 less than the budget estimate.

Therefore, please consider approval of a resolution authorizing the purchase of 3 dump bodies from Equipment Southwest, Inc. of Irving Texas for a total cost of \$50,508.00.

**RESOLUTION NO.**

**RESOLUTION APPROVING THE PURCHASE OF  
THREE (3) DUMP TRUCK BODIES OF ASSORTED  
SIZES FROM EQUIPMENT SOUTHWEST,  
INCORPORATED, AT A TOTAL COST OF \$50,508.00;  
AND EQUIPMENT SOUTHWEST, INCORPORATED,  
WAS THE SOLE BIDDER**

**WHEREAS**, the City Manager approved plans and specifications and authorized advertisement for bids for three (3) dump truck bodies of assorted sizes; and

**WHEREAS**, Bid No. 4691-12 was opened on March 21, 2012, with the only bid being being from Equipment Southwest, Inc., as shown on the bid tabulation attached hereto as Exhibit "A" and incorporated herein for all legal purposes;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE  
CITY OF MIDLAND, TEXAS:**

**SECTION ONE.** That the City Manager is hereby authorized and directed to purchase the above listed dump truck bodies from Equipment Southwest, Inc., at an estimated total price not to exceed \$50,508.00.

**SECTION TWO.** That the City Treasurer is hereby authorized and directed to pay Equipment Southwest, Inc., for said dump truck bodies from funds available in the Fiscal Year 2011 – 2012 Garage Fund (750) General Services (040) Garage (0752) Other Equipment (8530) budget account upon proper receipt of invoices or statements approved by the City Manager.

On motion of Council member \_\_\_\_\_, seconded by Council member \_\_\_\_\_, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2012, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

---

W. Wesley Perry, Mayor

ATTEST:

---

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

---

Courtney Sharp, City Manager

APPROVED AS TO FORM:

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Keith Stretcher, City Attorney

# City of Midland - Bid Tabulation

| <b>BID NO.: 4691-12</b><br><b>FOR: Dump Truck Bodies</b><br><b>CLOSES: 3/21/2012</b> |     |                                                          | <b>Equipment Southwest, Inc</b><br><b>425 S Loop 12</b><br><b>Irving, TX 75060</b><br><b>J.C. Capshaw</b><br><b>(972)554-0725</b> |              |
|--------------------------------------------------------------------------------------|-----|----------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|--------------|
| ITEM                                                                                 | QTY | DESCRIPTION                                              | COST EA.                                                                                                                          | TOTAL        |
| Please see notes following this list.....                                            |     |                                                          |                                                                                                                                   |              |
| 1                                                                                    | 1   | 2-3 Cubic Yard Dump Body for 1 ton Cab & Chassis         | \$14,125.000                                                                                                                      | \$14,125.00  |
|                                                                                      |     | Brand Name/Model #                                       |                                                                                                                                   |              |
|                                                                                      |     | TBEI-DuraClass (Heil)/MAB SDYB 3YD 10x7                  |                                                                                                                                   |              |
| 2                                                                                    | 1   | 4-6 Cubic Yard Dump body for Single Axle Cab & Chassis   | \$15,287.000                                                                                                                      | \$15,287.00  |
|                                                                                      |     | Brand Name/Model #                                       |                                                                                                                                   |              |
|                                                                                      |     | TBEI-DuraClass(Heil)/MAB Contrador 12x7                  |                                                                                                                                   |              |
| 3                                                                                    | 1   | 12-14 Cubic Yard Dump Body for Tandem Axle Cab & Chassis | \$21,096.000                                                                                                                      | \$21,096.00  |
|                                                                                      |     | Brand Name/Model #                                       |                                                                                                                                   |              |
|                                                                                      |     | TBEI-DuraClass(Heil)/MAB HPT 12-15YD 14x7                |                                                                                                                                   |              |
|                                                                                      |     | Delivery                                                 | 60-80 Days                                                                                                                        |              |
| <b>TOTALS:</b>                                                                       |     |                                                          |                                                                                                                                   | \$50,508.00  |
| Discount if all awarded to your company...Discounted Total:                          |     |                                                          |                                                                                                                                   | \$ 50,508.00 |

## Bidding Summary:

10 Bid requests were issued.

1 Bids listed above

0 NO BIDS were received.

9 Bidders did not respond.

J&B Trailers, Fabco, Roberts Truck Center, West Texas Truck Center, B&C Body Company, Grande Ford Truck Sales,  
 Heil of Texas, Texas Kenworth/MHC Kenworth Odessa, Basin Trailer & Equipment



# City Council Agenda

Approved For Agenda:  
**THudson**  
City Manager's Office

**MEETING DATE:** April 10, 2012

**TO:** CITY COUNCIL, CITY MANAGER

**FROM:** Robert Patrick, General Services Director

**SUBJECT:** Bid #4594-12 for 4 Backhoe/Loader Combinations and 2-3 cubic yard rubber tire loaders.

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**Purpose:**

To request Council approval of a resolution to approve the purchase of 4 Backhoe/Loader Combinations and 2-3 cubic yard rubber tire loaders for the Garage Division.

**Recommended City Council Action:**

☒ Approve

☐ Deny

☐ Direction/Informational

**Fiscal Impact:**

Total of \$692,939 to Warren Power and Machinery Inc. from the Garage Fund.

**Discussion:**

Please refer to the attached memo from Dennis Yates, Garage Superintendent, as well as the attached bid tabulations. Staff recommends approval of a resolution authorizing the purchase of 4 Caterpillar Model 420F Backhoe/Loaders. This recommendation is for the lowest qualified bid for the tractor that met our specifications in the amount of \$103,690 each for a total of \$414,760 as bid by Warren Power and Machinery Inc. dba Warren Cat.

Additionally, our recommendation for 2- 3 yard rubber tired loaders is for the purchase of 2 Caterpillar model 930K rubber tire loaders. This recommendation is for the lowest qualified bid for the tractor that met our specifications in the amount of \$139,089.50 each for a total of \$278,179 as bid by Warren Power and Machinery Inc. dba Warren Cat.

City of Midland  
**Office of Fleet Services**  
Interoffice Memorandum

**Date:** March 29, 2012

**To:** Robert Patrick

**From:** Dennis Yates

**Subject:** Bid # 4594-12; 4 backhoe/loaders combinations and 2 loaders recommendation

Bid # 4594-12 is for four backhoes and two rubber tire loaders. All recommendations are based on and including the five-year guaranteed buyback, projected maintenance and projected operating costs. Both vendors had to take minor exceptions to the specifications.

To compound this Mr. Adam Allgood with Warren Cat is offering 4 different configurations of bids on two different backhoes. He submitted eight bids for item # 1, backhoe loaders. The four lowest bids are only if we buy all four backhoes and both loaders from him. After reviewing everything, it is in our best interest to include the lower price bids on an all or none basis.

ITEM # 1 is for four backhoes. Three are on the buyback program and one is not. Low bid is from Warren Cat out of Odessa. Mr. Adam Allgood offered 2012 Cat 416F's for \$ 84,131.03. The 416F falls short of our specifications. The lifting capacity from ground level to full dump height we asked for 7,300 lbs, the 416F only has 6,535 lbs. The tipping load capacity from ground level to full dump height we asked for 17,000 lbs, the 416F only has 13,947 lbs. There are more shortages with the 416F. None of these are serious but we all know Cat makes a backhoe that can meet the requirements. We recommend the next low bid.

The next low bid is also from Warren Cat out of Odessa. Mr. Adam Allgood offered a 2012 Cat 420F for \$ 85,064.17 per backhoe or \$ 360,202.51 for all four. We recommend buying this item from Warren Cat. NOTE: \$ 85,064.17 times 3 (buyback included) is \$ 255,192.51 plus one backhoe without a buyback \$ 105,010 is \$ 360,202.51.

ITEM # 2 is for two 3 cubic yard rubber tire loaders. One is on the buyback program and one is not. Low bid is from Warren Cat out of Odessa. Mr. Adam Allgood offered 2012 Cat 924K for \$ 112,177. This loader does not meet our specifications. We requested 167 net HP and they offered 144 horsepower. We asked for a breakout force of 24,250 lbs. and they offered 22,576 lbs. We asked for the ground level and tipping capacity of 22,000 lbs. and Cat offered 19,051 lbs. None of these are serious but we all know Cat makes a loader that can meet the requirements. We recommend the next low bid.

The next low bid is also from Warren Cat out of Odessa. Mr. Adam Allgood offered a 2012 Cat 930K for \$ 47,810.78 loader after the buyback or \$ 186,900.28 for both. We recommend buying this item from Warren Cat. NOTE: \$ 47,810.78 for one loader on a buyback plus one backhoe without a buyback \$ 139,089.50 is \$ 186,900.28.

If I can answer any questions please feel to call me at 7451. Thank you.

**RESOLUTION NO.**

**RESOLUTION APPROVING THE PURCHASE OF FOUR (4) CATERPILLAR MODEL 420F BACKHOE/LOADERS AND TWO (2) CATERPILLAR MODEL 930K 3-CUBIC-YARD RUBBER TIRE LOADERS FROM WARREN POWER AND MACHINERY, INCORPORATED, DBA WARREN CAT, OF ODESSA, TEXAS, AT A TOTAL COST OF \$692,939.00; AND WARREN POWER AND MACHINERY, INCORPORATED, DBA WARREN CAT WAS NOT THE LOW BIDDER ON THE FOUR (4) BACKHOE/LOADERS; AND ACCEPTING THE CITY MANAGER'S RECOMMENDATION THAT THE LOW BID FOR THE FOUR (4) BACKHOE/LOADERS DID NOT MEET ADVERTISED SPECIFICATIONS**

**WHEREAS**, the City Manager approved plans and specifications and authorized advertisement for bids for four (4) backhoe/loaders and two (2) 3-cubic-yard rubber tire loaders; and

**WHEREAS**, Bid No. 4594-12 was opened on March 21, 2012, with the lowest bids being submitted from Yellowhouse Machinery Company, and Warren Power and Machinery, Inc., dba Warren Cat, respectively, as shown on the bid tabulation attached hereto as Exhibit "A" and incorporated herein for all legal purposes; and

**WHEREAS**, it is the City Manager's recommendation that the low bid for the four (4) backhoe/loaders as received from Yellowhouse Machinery Company did not meet advertised specifications; and

**WHEREAS**, it is the City Manager's recommendation that the next lowest bid for the four (4) backhoe/loaders as received from Warren Power and Machinery, Inc., dba Warren Cat meets advertised specifications and should be chosen;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS:**

**SECTION ONE.** That the City Manager's recommendations are hereby adopted.

**SECTION TWO.** That the City Manager is hereby authorized and directed to purchase the above listed Caterpillar Model 420F backhoe/loaders and Caterpillar Model 930K 3-cubic-yard rubber tire loaders from Warren Power and Machinery, Inc., dba Warren

Cat, at an estimated total price not to exceed \$692,939.00.

**SECTION THREE.** That the City Treasurer is hereby authorized and directed to pay Warren Power and Machinery, Inc., dba Warren Cat for said backhoe/loaders and rubber tire loaders from funds available in the Fiscal Year 2011 – 2012 Garage Fund (750) General Services (040) Garage (0752) Construction Equipment (8421) budget account upon proper receipt of invoices or statements approved by the City Manager.

On motion of Council member \_\_\_\_\_, seconded by Council member \_\_\_\_\_, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2012, by the following vote:

Council members voting “AYE”:

Council members voting “NAY”:

\_\_\_\_\_  
W. Wesley Perry, Mayor

ATTEST:

\_\_\_\_\_  
Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

\_\_\_\_\_  
Courtney Sharp, City Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
Keith Stretcher, City Attorney



## City of Midland Total Cost Bid Tabulation

| BID # 4594-12 Backhoe/Loader Combinations |                                                                                                                               | Warren CAT<br>2301 Production<br>Odessa, TX 79761<br>Adam Allgood<br>(432) 331-0030 | Warren CAT<br>2301 Production<br>Odessa, TX 79761<br>Adam Allgood<br>(432) 331-0030 | YellowHouse Machinery Co.<br>2121 E 2nd<br>Odessa, TX 79761<br>Eric Schiel<br>(432) 580-3337 |
|-------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------|
| ITEM                                      | DESCRIPTION                                                                                                                   |                                                                                     |                                                                                     |                                                                                              |
|                                           | <b>Make &amp; Model of Equipment Offered: Backhoe/Loader Combination</b>                                                      | Caterpillar 420 F                                                                   | Caterpillar 416F                                                                    | 2012 John Deere 310SK w/Kent DF-6 Breaker                                                    |
| 1                                         | Bid Amount for one unit (The City is planning to purchase 4)                                                                  | \$103,690.00                                                                        | 96,877.00                                                                           | 94,421.00                                                                                    |
| 2                                         | Performance Bond                                                                                                              | \$1,320.00                                                                          | \$1,086.25                                                                          | \$860.00                                                                                     |
| 3                                         | Total of Items 1 & 2 (Amount paid to bidder)                                                                                  | <b>\$105,010.00</b>                                                                 | <b>\$97,963.25</b>                                                                  | <b>\$95,281.00</b>                                                                           |
| 4                                         | Trade-In Price* (Highlighted cell is higher of the current equipment buyback or trade in offered)                             |                                                                                     |                                                                                     |                                                                                              |
|                                           | Guaranteed Repurchase of: Unit 2807, 3417, 3427                                                                               | \$35,000.00                                                                         | 35,000.00                                                                           |                                                                                              |
| 5                                         | Sub-total (3)-(4)                                                                                                             | \$70,010.00                                                                         | \$62,963.25                                                                         | \$95,281.00                                                                                  |
| 6                                         | Guaranteed Maintenance (from delivery to (5) years or seven thousand (7,000) hours, whichever comes first) shall not exceed : | Total of pro-rata<br>Not Bid                                                        | Not Bid                                                                             | Not Bid                                                                                      |
| 7                                         | Sub-Total Evaluated Cost Items (5) plus (6) as applicable                                                                     | <b>\$70,010.00</b>                                                                  | <b>\$62,963.25</b>                                                                  | <b>\$95,281.00</b>                                                                           |
| 9                                         | Guaranteed Re-purchase of NEW Equipment (Buy Back) Price at the end of 5 years or 7,000 Hours:                                | \$48,000.00                                                                         | \$39,500.00                                                                         | \$40,000.00                                                                                  |
| 10                                        | Total Evaluated Cost excluding interest penalty - (7) less (9)                                                                | \$22,010.00                                                                         | \$23,463.25                                                                         | \$55,281.00                                                                                  |
| 11                                        | GOAL: To determine the least monthly cost                                                                                     | Annual Rate: 6%                                                                     | Annual Rate: 6%                                                                     | Annual Rate: 6%                                                                              |
| 12                                        | Cost of Money Penalty: (Interest paid on (5) for five years.) including Pro-rated maintenance cap                             | \$23,679.17                                                                         | \$21,295.78                                                                         | \$32,226.47                                                                                  |
| 13                                        | Evaluated Cost Sub-Total (Less Fuel Consideration): (10)+(12)                                                                 | \$45,689.17                                                                         | \$44,759.03                                                                         | \$87,507.47                                                                                  |
| 14                                        | Fuel Cost                                                                                                                     | Gal per hr   cost per year<br>1.8                                                   | \$7,875.00                                                                          | \$9,187.50                                                                                   |
| 15                                        | Hours per year   Total Five Year Cost of Fuel:                                                                                | \$39,375.00                                                                         | \$39,375.00                                                                         | \$45,937.50                                                                                  |
| 16                                        | Total (five year) Evaluated Cost: (13)+(15)                                                                                   | \$85,064.17                                                                         | \$84,134.03                                                                         | \$133,444.97                                                                                 |
| 17                                        | Bottom Line Evaluated Monthly Cost:                                                                                           | \$1,417.74                                                                          | \$1,402.23                                                                          | \$2,224.08                                                                                   |
| 18                                        |                                                                                                                               | Front Tires                                                                         | Front Tires                                                                         | Front Tires                                                                                  |
| 19                                        | Remaining tire tread, not less than:                                                                                          | 50%                                                                                 | 50%                                                                                 | Not Specified                                                                                |
| 20                                        | Delivery in calendar days:                                                                                                    | 90 days ARO                                                                         | 90 days ARO                                                                         | 35 - 45 days ARO                                                                             |

## City of Midland Total Cost Bid Tabulation

| BID # 4594-12 Rubber Tire Loaders |                                                                                                                              | Warren CAT<br>2301 Production<br>Odessa, TX 79761<br>Adam Allgood<br>(432) 331-0030 |  | Warren CAT<br>2301 Production<br>Odessa, TX 79761<br>Adam Allgood<br>(432) 331-0030 |  | YellowHouse Machinery Co.<br>2121 E 2nd<br>Odessa, TX 79761<br>Eric Schiel<br>(432) 580-3337 |  |
|-----------------------------------|------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|--|-------------------------------------------------------------------------------------|--|----------------------------------------------------------------------------------------------|--|
| Estimated Cost:                   |                                                                                                                              |                                                                                     |  |                                                                                     |  |                                                                                              |  |
| ITEM                              | DESCRIPTION                                                                                                                  |                                                                                     |  |                                                                                     |  |                                                                                              |  |
|                                   | Make & Model of Equipment Offered: <b>3CY Rubber Tire Loader</b>                                                             | Caterpillar 924K                                                                    |  | Caterpillar 930K                                                                    |  | 2012 John Deere 544K                                                                         |  |
| 1                                 | Bid Amount for one unit (The City is planning to purchase 2)                                                                 | \$110,527.00                                                                        |  | 137,027.00                                                                          |  | 143,876.00                                                                                   |  |
| 2                                 | Performance Bond                                                                                                             | \$1,650.00                                                                          |  | \$2,062.50                                                                          |  | \$1,699.00                                                                                   |  |
| 3                                 | Total of Items 1 & 2. (Amount paid to bidder)                                                                                | <b>\$112,177.00</b>                                                                 |  | <b>\$139,089.50</b>                                                                 |  | <b>\$145,575.00</b>                                                                          |  |
| 4                                 | Trade-In Price* (highlighted cell is higher of the current equipment buyback or trade in offered)                            | \$72,000.00                                                                         |  | \$72,000.00                                                                         |  | \$0.00                                                                                       |  |
|                                   | Guaranteed Repurchase of: Unit 2807, 3417, 3427                                                                              | \$72,000.00                                                                         |  | 72,000.00                                                                           |  | 0.00                                                                                         |  |
| 5                                 | Sub-total (3)-(4)                                                                                                            | \$40,177.00                                                                         |  | \$67,085.50                                                                         |  | \$145,575.00                                                                                 |  |
| 6                                 | Guaranteed Maintenance (from delivery to (5) years or seven thousand (7,000) hours, whichever comes first) shall not exceed: | Total of pro-rata                                                                   |  | Not Bid                                                                             |  | Not Bid                                                                                      |  |
| 7                                 | Sub-Total Evaluated Cost, Items (5) plus (6) as applicable                                                                   | <b>\$40,177.00</b>                                                                  |  | <b>\$67,085.50</b>                                                                  |  | <b>\$145,575.00</b>                                                                          |  |
| 9                                 | Guaranteed Re-purchase of NEW Equipment (Buy Back) Price at the end of 5 years or 7,000 Hours.                               | \$60,000.00                                                                         |  | \$75,000.00                                                                         |  | \$79,000.00                                                                                  |  |
| 10                                | Total Evaluated Cost excluding interest penalty - (7) less (9)                                                               | (\$19,823.00)                                                                       |  | (\$7,910.50)                                                                        |  | \$66,575.00                                                                                  |  |
| 11                                | GOAL: To determine the least monthly cost                                                                                    | Annual Rate: 6%                                                                     |  | Annual Rate: 6%                                                                     |  | Annual Rate: #REF!                                                                           |  |
| 12                                | Cost of Money Penalty: (Interest paid on (5) for five years,) including Pro-rated maintenance cap                            | \$13,568.89                                                                         |  | \$22,690.03                                                                         |  | \$49,237.19                                                                                  |  |
| 13                                | Evaluated Cost Sub-Total (Less Fuel Consideration): (10)+(12)                                                                | (\$6,234.11)                                                                        |  | \$14,779.53                                                                         |  | \$115,812.19                                                                                 |  |
| 14                                | Fuel Cost                                                                                                                    | Gal per hr cost per year 1.8                                                        |  | \$6,606.25                                                                          |  | \$10,500.00                                                                                  |  |
| 15                                | Hours per year   Total Five Year Cost of Fuel:                                                                               | \$33,031.25                                                                         |  | \$33,031.25                                                                         |  | \$52,500.00                                                                                  |  |
| 16                                | Total (five year) Evaluated Cost: (13)+(15)                                                                                  | \$26,797.14                                                                         |  | \$47,810.78                                                                         |  | \$168,312.19                                                                                 |  |
| 17                                | Bottom Line Evaluated Monthly Cost:                                                                                          | \$446.62                                                                            |  | \$796.85                                                                            |  | \$2,805.20                                                                                   |  |
| 18                                |                                                                                                                              | Front Tires                                                                         |  | Rear Tires                                                                          |  | Front Tires                                                                                  |  |
| 19                                | Remaining tire tread, not less than:                                                                                         | 50%                                                                                 |  | 50%                                                                                 |  | Not Specified                                                                                |  |
| 20                                | Delivery in calendar days:                                                                                                   | 90 days ARO                                                                         |  | 90 days ARO                                                                         |  | 35 - 45 days ARO                                                                             |  |

\*These numbers apply only if the City buys all 6 Caterpillar machines

**Bidding Summary:**

**\*If the City of Midland elects to purchase all 6 Caterpillar machines, you can reduce line**

**6 Bid requests were issued.**

**0 NO BIDS were received.**

**4 Bidders did not respond.**

**Cisco Ford Equipment, Associated Supply Co (Odessa), Associated Supply Co (Midland), Permian Tractor Sales**



# City Council Agenda

Approved For Agenda:

**THudson**  
City Manager's Office

**MEETING DATE:** April 10, 2012  
**TO:** CITY COUNCIL, CITY MANAGER  
**FROM:** Regina Stephenson, Purchasing Manager  
**SUBJECT:** 4654-12 Water Meters

---

**Purpose:**

Approval of a resolution authorizing the execution of a master agreement for an annual supply of water meters.

**Recommended City Council Action:**

☒ Approve      ☐ Deny      ☐ Direction/Informational

**Fiscal Impact:**

\$365,221.58 Warehouse Fund

**Discussion:**

The water meters were bid as an annual agreement with a single one year renewal with both parties assent. These meters are ordered as needed. We are recommending the low bidder for each item.

Therefore, please consider approval of a resolution authorizing the execution of master agreements as follows:

Items 1, 2, 3, 4, 6 and 7 to HD Supply Waterworks, Ltd of El Paso, Texas for an estimated annual cost of \$355,232.58.

Item 5 to Badger Meter, Inc. of Milwaukee, Wisconsin for an estimated annual cost of \$9,989.00.

**RESOLUTION NO.**

**RESOLUTION APPROVING THE PURCHASE OF FOUR THOUSAND THREE HUNDRED SEVENTY-EIGHT (4,378) WATER METERS OF VARIOUS CONFIGURATIONS, FROM THE LOW BIDDERS, HD SUPPLY WATERWORKS, LTD, AND BADGER METER, INCORPORATED, AT A TOTAL COST OF \$365,221.58**

**WHEREAS**, the City Manager approved plans and specifications and authorized advertisement for bids for four thousand three hundred seventy-eight (4,378) water meters of various configurations as submitted below; and

**WHEREAS**, Bid No. 4654-12 was opened on March 21, 2012, with the low and/or most advantageous bids being submitted as follows and as shown on the attached tabulation:

| <u>Item#</u>        | <u>Qty.</u> | <u>Description</u>          | <u>Supplier</u>                            | <u>Cost</u>  |
|---------------------|-------------|-----------------------------|--------------------------------------------|--------------|
| 1                   | 3,000       | 5/8" (3/4")<br>Water Meters | HD Supply Waterworks, Ltd.<br>Orlando, FL. | \$106,500.00 |
| 2                   | 800         | 1" Water Meters             | HD Supply Waterworks, Ltd.<br>Orlando, FL. | \$70,800.00  |
| 3                   | 150         | 1&1/2"<br>Water Meters      | HD Supply Waterworks, Ltd.<br>Orlando, FL. | \$30,928.50  |
| 4                   | 400         | 2" Water Meters             | HD Supply Waterworks, Ltd.<br>Orlando, FL. | \$140,208.00 |
| 5                   | 20          | 3" Water Meters             | Badger Meter, Inc.<br>Milwaukee, WI.       | \$9,989.00   |
| 6                   | 6           | 4" Water Meters             | HD Supply Waterworks, Ltd.<br>Orlando, FL. | \$4,375.02   |
| 7                   | 2           | 6" Water Meters             | HD Supply Waterworks, Ltd.<br>Orlando, FL. | \$2,421.06   |
| Total Costs to City |             |                             |                                            | \$365,221.58 |

**WHEREAS**, the City Council finds it to be in the public interest to award contracts to the lowest bidders for the purchase of the above-referenced water meters;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS:**

**SECTION ONE.** That the City Manager is hereby authorized and directed to

purchase the above listed water meters from the suppliers indicated above and at the prices indicated, as specified in the bid tabulation, attached hereto as Exhibit “A”, and incorporated herein for all purposes, via the execution of purchase agreements approved herein, at an estimated total price not to exceed \$365,221.58.

**SECTION TWO.** That purchase agreements for the purchase of the above-referenced water meters, from the suppliers indicated above, Badger Mater, Inc., and HD Supply Waterworks, Ltd., respectively, are hereby approved, said agreements being on file in the office of the City Secretary, referenced by the date and number of this Resolution.

**SECTION THREE.** That the City Treasurer is hereby authorized and directed to pay said suppliers the sums indicated above from funds available in the Fiscal Year 2011 – 2012 Warehouse Fund (760) General Services (040) Warehouse (0760) budget accounts upon proper receipt of invoices or statements approved by the City Manager.

On motion of Council member \_\_\_\_\_, seconded by Council member \_\_\_\_\_, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2012, by the following vote:

Council members voting “AYE”:

Council members voting “NAY”:

\_\_\_\_\_  
W. Wesley Perry, Mayor

ATTEST:

\_\_\_\_\_  
Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

---

Courtney Sharp, City Manager

APPROVED AS TO FORM:

---

Keith Stretcher, City Attorney

| <b>BID NO.: 4654-12</b><br><b>FOR: Water Meters Master Agreement</b><br><br><b>CLOSES: 3/21/2012</b> |       | <b>HD Supply Waterworks, Ltd</b><br>930 Pendale Rd<br>El Paso, TX 79907<br>Arnold Osuna<br>(800)783-6730 | <b>Western Industrial Supply</b><br>2103 W 42nd<br>Odessa, TX 79764<br>M. Clinton<br>(800)747-1914 | <b>Badger Meter, Inc</b><br>4545 West Brown Deer Rd<br>Milwaukee, WI 53223<br>Pamela Stokke-Ceci<br>(800)876-3837 | <b>Badger Meter, Inc</b><br>4545 West Brown Deer Rd<br>Milwaukee, WI 53223<br>Pamela Stokke-Ceci<br>(800)876-3837 |              |                                                        |              |
|------------------------------------------------------------------------------------------------------|-------|----------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|--------------|--------------------------------------------------------|--------------|
| ITEM#                                                                                                | QTY   | DESCRIPTION                                                                                              | COST EA.                                                                                           | TOTAL                                                                                                             | COST EA.                                                                                                          | TOTAL        | COST EA.                                               | TOTAL        |
| <b>Please see notes following this list.....</b>                                                     |       |                                                                                                          |                                                                                                    |                                                                                                                   |                                                                                                                   |              |                                                        |              |
| 1                                                                                                    | 3,000 | 5/8" (3/4") Water Meters (6680300102) to be ordered 540 meters                                           | \$35,500                                                                                           | \$106,500.00                                                                                                      | \$47,700                                                                                                          | \$143,100.00 | \$35,690                                               | \$107,070.00 |
| 2                                                                                                    | 800   | Brand & Model #                                                                                          | Neptune T-10                                                                                       |                                                                                                                   | Sensus AccuStream                                                                                                 |              | Badger Recordal Model L.P. low lead bronze, local read |              |
|                                                                                                      |       | 1" Water Meters (6680300202) to be ordered 200 meters                                                    | \$88,500                                                                                           | \$70,800.00                                                                                                       | \$106,450                                                                                                         | \$85,160.00  | \$100,310                                              | \$80,248.00  |
| 3                                                                                                    | 150   | Brand & Model #                                                                                          | Neptune T-10                                                                                       |                                                                                                                   | Sensus AccuStream                                                                                                 |              | Badger Recordal Model 55, low lead bronze, local read  |              |
|                                                                                                      |       | 1 1/2" Water Meters (6680300302) to be ordered 25 meters                                                 | \$206,190                                                                                          | \$30,928.50                                                                                                       | \$437,150                                                                                                         | \$65,572.50  | \$243,000                                              | \$36,450.00  |
| 4                                                                                                    | 400   | Brand & Model #                                                                                          | Neptune T-10                                                                                       |                                                                                                                   | Sensus R2/13" Length, Strainer                                                                                    |              | Badger Recordal Model 120, low lead bronze, local read |              |
|                                                                                                      |       | 2" Water Meters (6680300402) to be ordered 25 meters                                                     | \$350,520                                                                                          | \$140,208.00                                                                                                      | \$501,550                                                                                                         | \$200,620.00 | \$385,350                                              | \$154,140.00 |
| 5                                                                                                    | 20    | Brand & Model #                                                                                          | Neptune HPT                                                                                        |                                                                                                                   | Sensus R2/10" Length                                                                                              |              | Badger Recordal Turb 200, low lead bronze, local read  |              |
|                                                                                                      |       | 3" Water Meters (6680300502) to be delivered in one delivery                                             | \$600,000                                                                                          | \$12,000.00                                                                                                       | \$1,325,000                                                                                                       | \$26,500.00  | \$499,450                                              | \$9,989.00   |
| 6                                                                                                    | 6     | Brand & Model #                                                                                          | Neptune HPT                                                                                        |                                                                                                                   | Sensus T2 19" length, Strainer, Test Port                                                                         |              | Badger Recordal Turb 450, low lead bronze, local read  |              |
|                                                                                                      |       | 4" Water Meters (6680300602) to be delivered in one delivery                                             | \$729,170                                                                                          | \$4,375.02                                                                                                        | \$2,585,000                                                                                                       | \$15,510.00  | \$762,050                                              | \$4,572.30   |
| 7                                                                                                    | 2     | Brand & Model #                                                                                          | Neptune HPT                                                                                        |                                                                                                                   | Sensus T2 23" Length, strainer, test port                                                                         |              | Badger Recordal Turb 1000, low lead bronze, local read |              |
|                                                                                                      |       | 6" Water Meter (6680300702) to be delivered in one delivery                                              | \$1,210,530                                                                                        | \$2,421.06                                                                                                        | \$4,655,000                                                                                                       | \$9,310.00   | \$1,757,550                                            | \$3,515.10   |
|                                                                                                      |       | Delivery                                                                                                 | Neptune HPT                                                                                        |                                                                                                                   | Sensus T2 27" length, Strainer, Test Port                                                                         |              | Badger Recordal Turb 2000, low lead bronze, local read |              |
|                                                                                                      |       |                                                                                                          | 20 Days                                                                                            |                                                                                                                   | 1-4 Weeks                                                                                                         |              | Deliveries according to attached delivery Schedule     |              |
|                                                                                                      |       |                                                                                                          |                                                                                                    |                                                                                                                   |                                                                                                                   |              | *Price quotes firm for 1 yr. *                         |              |
| <b>TOTALS:</b>                                                                                       |       |                                                                                                          |                                                                                                    | \$367,232.58                                                                                                      |                                                                                                                   | \$545,772.50 |                                                        | \$395,984.40 |
| Discount if all awarded to your company..Discounted Total:                                           |       |                                                                                                          | \$                                                                                                 | 367,232.58                                                                                                        | \$                                                                                                                | 545,772.50   | \$                                                     | 395,984.40   |
|                                                                                                      |       |                                                                                                          |                                                                                                    |                                                                                                                   |                                                                                                                   |              | \$                                                     | 245,508.00   |

**6 Bid requests were issued.**

**3 Bids listed above**

0 NO BIDS were received.

**3 Bidders did not respond.**

54-LZ tabulation, XIS





Master Agreement

4654-12-02

For  
Water Meters

THIS AGREEMENT, made this 11th day of April, 2012, by and between the City of Midland, Texas, a home rule municipal corporation, hereinafter referred to as "City", and Badger Meter, Inc., hereinafter referred to as "Company".

1. Company agrees to sell Water Meters listed in the attached Cost Summary, as submitted by Company, which shall conform to the City's specifications set forth in that request, being incorporated herein and made a part of this agreement for all purposes.

Total Projected Cost: \$9,989.00

The above stated prices shall remain in effect for the full term of this agreement.

2. Said Water Meters are to be delivered in such quantities and at such time as designated by the Purchasing Agent of the City. The total quantity of products which the City is obliged to purchase shall be the total of the quantities from time to time ordered by the Purchasing Agent of the City, and which are delivered and accepted.

3. Payment by the City shall be made within 30 days after receipt of invoices from the Company which shall be subject to verification as to quantities and quality delivered as herein provided.

4. Such Water Meters shall be delivered to the City's Municipal Warehouse, 1606 E Orchard Lane, Bldg 4, Midland, Texas. Freight and delivery charges are included in the purchase prices stated above.

5. The term of this agreement shall be for a period of 1 year(s) commencing on April 11, 2012, and terminating on April 10, 2013 unless sooner terminated as provided in this agreement. The City may at its option, renew this agreement for a period of one additional year. In order to exercise this option, the City must give Company notice of its intent to renew not less than 30 days prior to the expiration of this agreement.

In the event no funds or insufficient funds are appropriated and budgeted or are otherwise unavailable in any fiscal period for master agreement payments due under the master agreement, then this master agreement shall terminate on the last day of the fiscal period for which full appropriations were made, without penalty or expense to the City of any kind whatsoever.

6. If Company fails in any manner to fully perform and carry out each and all of the terms, covenants and conditions of this agreement, Company shall be in default and notice in writing shall be given it of such default by the Purchasing Agent of the City. If Company fails to cure such default within 30 days of such notice, City, acting by and through the Purchasing Agent, may at its option terminate and cancel this agreement, and, at the expense of the Company, complete the agreement or cause the same to be completed.

In the event of such termination, all monies due Company under the terms of this agreement shall be retained by the City, but such retention shall not release Company from liability for its default. In such event, however, Company will be credited with the amount of money so retained toward any amount by which the cost of completion

of the agreement, as above provided, exceeds the agreement price.

Such termination shall not effect or terminate any of the rights of the City as against Company then existing, or which may thereafter accrue because of such default, and the foregoing provision shall be in addition to all other rights and remedies available to the City under the law.

The waiver of a breach of any term, covenant or condition hereof shall not operate as a waiver of any subsequent breach of the same or any other term, covenant or condition hereof.

7. **Assignment:** Company shall not, either directly or indirectly, assign all or any part of this agreement or any interest, right or privilege herein, without the prior written consent of the City. The issue on whether or not to grant consent to an assignment is in the sole discretion of the City.

8. **Governing Law & Venue:** This agreement shall be governed by the laws of the State of Texas. All performance and payment made pursuant to this agreement shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this agreement or the performance of this agreement shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this agreement shall be deemed to have occurred in Midland County, Texas.

9. **WAIVER OF ATTORNEY FEES:** BY EXECUTING THIS AGREEMENT, COMPANY AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST THE CITY, REGARDING THE AWARD OR ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THE AGREEMENT, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THE AGREEMENT. THE COMPANY SPECIFICALLY AGREES THAT IF THE COMPANY BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS AGREEMENT, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET. SEQ., AS AMENDED), OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, THE COMPANY AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH COMPANY MIGHT OTHERWISE BE ENTITLED.

COMPANY AGREES THAT THIS IS THE VOLUNTARY AND INTENTIONAL RELINQUISHMENT AND ABANDONMENT OF A PRESENTLY EXISTING KNOWN RIGHT. THE COMPANY ACKNOWLEDGES THAT IT UNDERSTANDS ALL TERMS AND CONDITIONS OF THE AGREEMENT. THE COMPANY FURTHER ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN THE CITY AND THE COMPANY. THIS SECTION SHALL NOT BE CONSTRUED OR INTERPRETED AS A WAIVER OR SOVEREIGN IMMUNITY.

THE COMPANY AND CITY ARE RELYING ON THEIR OWN JUDGMENT. EACH PARTY HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH COMPETENT LEGAL COUNSEL PRIOR TO ITS EXECUTION.

10. **RELEASE:** NOTWITHSTANDING ANY OTHER PROVISION, COMPANY HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES CITY, CITY'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH COMPANY HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM



**MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR CITY'S NEGLIGENCE.**

11. **Independent Contractor:** It is expressly understood and agreed that Company shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant, or employee of the City; that Company shall have exclusive control of, and the exclusive right to control the details of the services and work to be performed hereunder, and all persons performing the same; and shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors; that the doctrine of respondeat superior shall not apply as between City and Company, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between City and Company. No person performing any of the work and services described hereunder by Company shall be considered an officer, agent, servant or employee of the City. Further, it is specifically understood and agreed that nothing in this agreement is intended or construed as creating a "Community of Pecuniary Interest" or an "Equal Right of Control" which would give rise to vicarious liability.

Company shall be an independent contractor under this agreement and shall assume all of the rights, obligations and liabilities, applicable to it as such independent contractor hereunder. The City does not have the power to direct the order in which the work is done. The City shall not have the right to control the means, methods or details of Company's work. Company shall assume exclusive responsibility for the work. Company is entirely free to do the work in its own way.

12. **NOTICE OF ALLEGED BREACH; STATUTORY PREREQUISITES**

As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this agreement, Company or his legal representative, shall give the City Manager, or any other reasonable official of the City, notice in writing (consisting of one original and seven copies of notice attached to a copy of this agreement) of such damages, duly verified, within one-hundred-twenty (120) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which the Company will settle, the physical and mailing addresses of Company at the time and date the claim was presented and the physical and mailing addresses of Company for the six months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom the Company relies to establish its claim; and a failure to so notify the City Manager within the time and manner provided herein shall exonerate, excuse and except the City from any liability whatsoever. The City is under no obligation to provide notice to Company that Company's notice is insufficient. City reserves the right to request additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

The statutory prerequisites outlined herein constitute jurisdictional requirements pursuant to Section 271.154 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision, Company's failure to comply with the requirements herein shall perpetually bar Company's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless if City has actual or constructive notice or knowledge of said claim or alleged damages. Company agrees that the requirements of this entire agreement are reasonable.

13. **Third Party Beneficiary:** The City's approval of this Agreement does not create a third party beneficiary. There is no third party beneficiary to this Agreement. No person or entity who is not a party to this Agreement shall have any third party beneficiary or other rights hereunder.

14. **Sovereign Immunity:** By executing this agreement, the City is not waiving its right of Sovereign immunity. The City is retaining its immunity from suit. The City is not granting consent to be sued by legislative resolution or

action.

**THERE IS NO WAIVER OF SOVEREIGN IMMUNITY.**

15. **Consideration:** The terms of this master agreement are supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties named herein.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed on the date first above written.

Badger Meter, Inc.

By \_\_\_\_\_

\_\_\_\_\_  
Please Print Name

\_\_\_\_\_  
Please Print Title

CITY OF MIDLAND, TEXAS

By \_\_\_\_\_  
Courtney B. Sharp, City Manager

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Amy M. Turner, City Secretary

\_\_\_\_\_  
Keith Stretcher, City Attorney

Corporate Acknowledgment: Master Agreement No. 4654-12

THE STATE OF TEXAS     §  
                                     §  
COUNTY OF MIDLAND   §

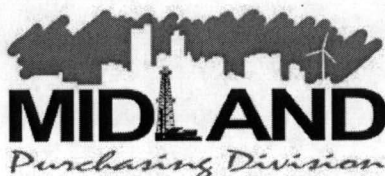
BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_, an officer of Badger Meter, Inc., known to me to be the person and official whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as an act and deed of said corporation, for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Notary Public, State of Texas

## City of Midland - Cost Summary

| <b>BID NO.:</b> 4654-12<br><b>FOR:</b> Water Meters Master Agreement |     |                                                              | Badger Meter, Inc<br>4545 West Brown Deer Rd<br>Milwaukee, WI 53223<br>Pamela Stokke-Ceci<br>(800)876-3837 |            |
|----------------------------------------------------------------------|-----|--------------------------------------------------------------|------------------------------------------------------------------------------------------------------------|------------|
| ITEM                                                                 | QTY | DESCRIPTION                                                  | COST EA.                                                                                                   | TOTAL      |
|                                                                      |     | <b>Please see notes following this list.....</b>             |                                                                                                            |            |
| 5                                                                    | 20  | 3" Water Meters (6680300502) to be delivered in one delivery | \$499.450                                                                                                  | \$9,989.00 |
|                                                                      |     | Brand & Model #                                              | Badger Recordall Turbo 450, low lead bronze, local read                                                    |            |
|                                                                      |     | Delivery                                                     | Deliveries according to attached delivery Schedule                                                         |            |
|                                                                      |     |                                                              | *Price quotes firm for 1 yr.*                                                                              |            |
| <b>TOTALS:</b>                                                       |     |                                                              |                                                                                                            | \$9,989.00 |



Master Agreement

4654-12-01

For  
Water Meters

THIS AGREEMENT, made this 11th day of April, 2012, by and between the City of Midland, Texas, a home rule municipal corporation, hereinafter referred to as "City", and HD Supply Waterworks Ltd, hereinafter referred to as "Company".

1. Company agrees to sell Water Meters listed in the attached Cost Summary, as submitted by Company, which shall conform to the City's specifications set forth in that request, being incorporated herein and made a part of this agreement for all purposes.

Total Projected Cost: \$355,232.58

The above stated prices shall remain in effect for the full term of this agreement.

2. Said Water Meters are to be delivered in such quantities and at such time as designated by the Purchasing Agent of the City. The total quantity of products which the City is obliged to purchase shall be the total of the quantities from time to time ordered by the Purchasing Agent of the City, and which are delivered and accepted.

3. Payment by the City shall be made within 30 days after receipt of invoices from the Company which shall be subject to verification as to quantities and quality delivered as herein provided.

4. Such Water Meters shall be delivered to the City's Municipal Warehouse, 1606 E Orchard Lane, Bldg 4, Midland, Texas. Freight and delivery charges are included in the purchase prices stated above.

5. The term of this agreement shall be for a period of 1 year(s) commencing on April 11, 2012, and terminating on April 10, 2013 unless sooner terminated as provided in this agreement. The City may at its option, renew this agreement for a period of one additional year. In order to exercise this option, the City must give Company notice of its intent to renew not less than 30 days prior to the expiration of this agreement.

In the event no funds or insufficient funds are appropriated and budgeted or are otherwise unavailable in any fiscal period for master agreement payments due under the master agreement, then this master agreement shall terminate on the last day of the fiscal period for which full appropriations were made, without penalty or expense to the City of any kind whatsoever.

6. If Company fails in any manner to fully perform and carry out each and all of the terms, covenants and conditions of this agreement, Company shall be in default and notice in writing shall be given it of such default by the Purchasing Agent of the City. If Company fails to cure such default within 30 days of such notice, City, acting by and through the Purchasing Agent, may at its option terminate and cancel this agreement, and, at the expense of the Company, complete the agreement or cause the same to be completed.

In the event of such termination, all monies due Company under the terms of this agreement shall be retained by the City, but such retention shall not release Company from liability for its default. In such event, however, Company will be credited with the amount of money so retained toward any amount by which the cost of completion



of the agreement, as above provided, exceeds the agreement price.

Such termination shall not effect or terminate any of the rights of the City as against Company then existing, or which may thereafter accrue because of such default, and the foregoing provision shall be in addition to all other rights and remedies available to the City under the law.

The waiver of a breach of any term, covenant or condition hereof shall not operate as a waiver of any subsequent breach of the same or any other term, covenant or condition hereof.

7. **Assignment:** Company shall not, either directly or indirectly, assign all or any part of this agreement or any interest, right or privilege herein, without the prior written consent of the City. The issue on whether or not to grant consent to an assignment is in the sole discretion of the City.

8. **Governing Law & Venue:** This agreement shall be governed by the laws of the State of Texas. All performance and payment made pursuant to this agreement shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this agreement or the performance of this agreement shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this agreement shall be deemed to have occurred in Midland County, Texas.

9. **WAIVER OF ATTORNEY FEES:** BY EXECUTING THIS AGREEMENT, COMPANY AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST THE CITY, REGARDING THE AWARD OR ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THE AGREEMENT, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THE AGREEMENT. THE COMPANY SPECIFICALLY AGREES THAT IF THE COMPANY BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS AGREEMENT, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET. SEQ., AS AMENDED), OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, THE COMPANY AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH COMPANY MIGHT OTHERWISE BE ENTITLED.

COMPANY AGREES THAT THIS IS THE VOLUNTARY AND INTENTIONAL RELINQUISHMENT AND ABANDONMENT OF A PRESENTLY EXISTING KNOWN RIGHT. THE COMPANY ACKNOWLEDGES THAT IT UNDERSTANDS ALL TERMS AND CONDITIONS OF THE AGREEMENT. THE COMPANY FURTHER ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN THE CITY AND THE COMPANY. THIS SECTION SHALL NOT BE CONSTRUED OR INTERPRETED AS A WAIVER OR SOVEREIGN IMMUNITY.

THE COMPANY AND CITY ARE RELYING ON THEIR OWN JUDGMENT. EACH PARTY HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH COMPETENT LEGAL COUNSEL PRIOR TO ITS EXECUTION.

10. **RELEASE:** NOTWITHSTANDING ANY OTHER PROVISION, COMPANY HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES CITY, CITY'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH COMPANY HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM

**MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR CITY'S NEGLIGENCE.**

11. **Independent Contractor:** It is expressly understood and agreed that Company shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant, or employee of the City; that Company shall have exclusive control of, and the exclusive right to control the details of the services and work to be performed hereunder, and all persons performing the same; and shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors; that the doctrine of respondeat superior shall not apply as between City and Company, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between City and Company. No person performing any of the work and services described hereunder by Company shall be considered an officer, agent, servant or employee of the City. Further, it is specifically understood and agreed that nothing in this agreement is intended or construed as creating a "Community of Pecuniary Interest" or an "Equal Right of Control" which would give rise to vicarious liability.

Company shall be an independent contractor under this agreement and shall assume all of the rights, obligations and liabilities, applicable to it as such independent contractor hereunder. The City does not have the power to direct the order in which the work is done. The City shall not have the right to control the means, methods or details of Company's work. Company shall assume exclusive responsibility for the work. Company is entirely free to do the work in its own way.

12. **NOTICE OF ALLEGED BREACH; STATUTORY PREREQUISITES**

As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this agreement, Company or his legal representative, shall give the City Manager, or any other reasonable official of the City, notice in writing (consisting of one original and seven copies of notice attached to a copy of this agreement) of such damages, duly verified, within one-hundred-twenty (120) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which the Company will settle, the physical and mailing addresses of Company at the time and date the claim was presented and the physical and mailing addresses of Company for the six months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom the Company relies to establish its claim; and a failure to so notify the City Manager within the time and manner provided herein shall exonerate, excuse and except the City from any liability whatsoever. The City is under no obligation to provide notice to Company that Company's notice is insufficient. City reserves the right to request additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

The statutory prerequisites outlined herein constitute jurisdictional requirements pursuant to Section 271.154 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision, Company's failure to comply with the requirements herein shall perpetually bar Company's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless if City has actual or constructive notice or knowledge of said claim or alleged damages. Company agrees that the requirements of this entire agreement are reasonable.

13. **Third Party Beneficiary:** The City's approval of this Agreement does not create a third party beneficiary. There is no third party beneficiary to this Agreement. No person or entity who is not a party to this Agreement shall have any third party beneficiary or other rights hereunder.

14. **Sovereign Immunity:** By executing this agreement, the City is not waiving its right of Sovereign immunity. The City is retaining its immunity from suit. The City is not granting consent to be sued by legislative resolution or



action.

**THERE IS NO WAIVER OF SOVEREIGN IMMUNITY.**

15. **Consideration:** The terms of this master agreement are supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties named herein.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed on the date first above written.

HD Supply Waterworks Ltd

By \_\_\_\_\_

\_\_\_\_\_  
Please Print Name

\_\_\_\_\_  
Please Print Title

CITY OF MIDLAND, TEXAS

By \_\_\_\_\_  
Courtney B. Sharp, City Manager

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Amy M. Turner, City Secretary

\_\_\_\_\_  
Keith Stretcher, City Attorney

Corporate Acknowledgment: Master Agreement No. 4654-12

THE STATE OF TEXAS   §  
                                  §  
COUNTY OF MIDLAND   §

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_, an officer of HD Supply Waterworks Ltd, known to me to be the person and official whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as an act and deed of said corporation, for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Notary Public, State of Texas

## City of Midland - Cost Summary

| <b>BID NO.:</b> 4654-12<br><b>FOR:</b> Water Meters Master Agreement |       |                                                                | HD Supply Waterworks, Ltd<br>930 Pendale Rd<br>El Paso, TX 79907<br>Arnold Osuna<br>(800)783-6730 |              |
|----------------------------------------------------------------------|-------|----------------------------------------------------------------|---------------------------------------------------------------------------------------------------|--------------|
| ITEM                                                                 | QTY   | DESCRIPTION                                                    | COST EA.                                                                                          | TOTAL        |
|                                                                      |       | <b>Please see notes following this list.....</b>               |                                                                                                   |              |
| 1                                                                    | 3,000 | 5/8" (3/4") Water Meters (6680300102) to be ordered 540 meters | \$35.500                                                                                          | \$106,500.00 |
|                                                                      |       | Brand & Model #                                                | Neptune T-10                                                                                      |              |
| 2                                                                    | 800   | 1" Water Meters (6680300202) to be ordered 200 meters          | \$88.500                                                                                          | \$70,800.00  |
|                                                                      |       | Brand & Model #                                                | Neptune T-10                                                                                      |              |
| 3                                                                    | 150   | 1 1/2" Water Meters (6680300302) to be ordered 25 meters       | \$206.190                                                                                         | \$30,928.50  |
|                                                                      |       | Brand & Model #                                                | Neptune T-10                                                                                      |              |
| 4                                                                    | 400   | 2" Water Meters (6680300402) to be ordered 25 meters           | \$350.520                                                                                         | \$140,208.00 |
|                                                                      |       | Brand & Model #                                                | Neptune HPT                                                                                       |              |
| 6                                                                    | 6     | 4" Water Meters (6680300602) to be delivered in one delivery   | \$729.170                                                                                         | \$4,375.02   |
|                                                                      |       | Brand & Model #                                                | Neptune HPT                                                                                       |              |
| 7                                                                    | 2     | 6" Water Meter (6680300702) to be delivered in one delivery    | \$1,210.530                                                                                       | \$2,421.06   |
|                                                                      |       |                                                                | Neptune HPT                                                                                       |              |
|                                                                      |       | Delivery                                                       | 20 Days                                                                                           |              |
| <b>TOTALS:</b>                                                       |       |                                                                |                                                                                                   | \$355,232.58 |



# City Council Agenda

Approved For Agenda:  
**THudson**  
City Manager's Office

**MEETING DATE:** April 10, 2012

**TO:** CITY COUNCIL, CITY MANAGER

**FROM:** Robert Patrick, General Services Director

**SUBJECT:** Bid #4712-12 for Sparks Park Target Area Development.

---

**Purpose:**

To request City Council approval of a resolution awarding the bid for the Utility Improvements project for Sparks Park Target Area Development.

**Recommended City Council Action:**

☒ Approve

☐ Deny

☐ Direction/Informational

**Fiscal Impact:**

\$333,328.00 from CDBG funds.

**Discussion:**

This bid is for 2585 linear feet of water line, 785 linear feet of sewer line, 41 connections, along with valves, manholes, and 5 fire hydrants. Please refer to the attached memo from David Beard, City Engineer, as well as the attached bid tabulation.

Staff recommends that the bid be awarded to the apparent low bidder TEC Excavation, Inc. in the amount of \$289,850.50, and approve a 15% contingency for the project of \$43,477.50 for a total projected cost of \$333,328.00.



## MEMO

**TO:** Regina Stephenson; City of Midland, Purchasing Manager  
**FR:** David D. Beard, P.E.; City of Midland, City Engineer  
**DA:** 26 March 2012  
**RE:** Sparks Park Target Area Development - Utility Improvements ♦ Project No. CD 37 / 7052 ♦ Recommend Award

---

Regina --

I have reviewed the bid tabulation for the Sparks Park Target Area Development - Utility Improvements project. TEC Excavation, Inc. is the apparent low bidder. TEC Excavation, Inc. has a track record of successfully completing work in the City of Midland and the surrounding areas. In addition, the unit prices appear to be in line with current pricing and trends. Therefore, I am recommending award of the Sparks Park Target Area Development - Utility Improvements project to TEC Excavation, Inc. in the amount of \$333,328.00 (Base Bid + 15% Contingency).

|                  |                    |
|------------------|--------------------|
| Base Bid         | \$289,850.50       |
| Contingency, 15% | \$ 43,477.50       |
| Total            | <hr/> \$333,328.00 |

The CDBG grant for this project is \$492,000 for engineering, paving and utility construction. To-date, we have spent approximately \$41,000 to complete the engineering work for the utility component of this project. To complete this project, including contingency, we will have spent \$374,328, and we will have approximately \$117,672 remaining in the CDBG budget to engineer and pave the streets.

Attached are the contract and bond forms, filled-out and ready for signatures.

City of Midland

David D. Beard, P.E.  
City Engineer

**RESOLUTION NO.**

**RESOLUTION AWARDING THE SPARKS PARK  
TARGET AREA DEVELOPMENT UTILITY  
IMPROVEMENTS PROJECT TO TEC EXCAVATION,  
INCORPORATED, OF MIDLAND, TEXAS, AT A TOTAL  
COST OF \$333,328.00**

**WHEREAS**, the City Manager advertised the Sparks Park Target Area Development Utility Improvements Project for competitive bids; and

**WHEREAS**, TEC Excavation, Inc., has submitted the lowest and most responsible bid for the performance of said project in the total amount of \$333,328.00, as shown on the bid tabulation attached hereto as Exhibit "A" and incorporated herein for all legal purposes; and

**WHEREAS**, the City Council finds it to be in the public interest to execute a contract with TEC Excavation, Inc., for said project;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS:**

**SECTION ONE.** That the Mayor and City Secretary are hereby authorized and directed to execute and attest, respectively, on behalf of the City of Midland, a contract with TEC Excavation, Inc., for said project at a cost not to exceed \$333,328.00, said contract being on file in the office of the City Secretary, referenced by the date and number of this Resolution.

**SECTION TWO.** That the City Treasurer is hereby authorized and directed to pay TEC Excavation, Inc., pursuant to the terms of said contract from funds available in the Community Development 12 (062) Development Services (075) Sparks Park Target Area Infra 11 (7052) project account upon receipt of proper invoices or statements approved by the City Manager.

On motion of Council member \_\_\_\_\_, seconded by Council member \_\_\_\_\_, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2012, by

the following vote:

Council members voting "AYE":

Council members voting "NAY":

\_\_\_\_\_  
W. Wesley Perry, Mayor

ATTEST:

\_\_\_\_\_  
Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

\_\_\_\_\_  
Courtney Sharp, City Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
Keith Stretcher, City Attorney

**CITY OF MIDLAND**  
DEPT. OF ENGINEERING SERVICES

BID T A B

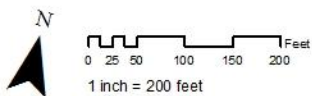
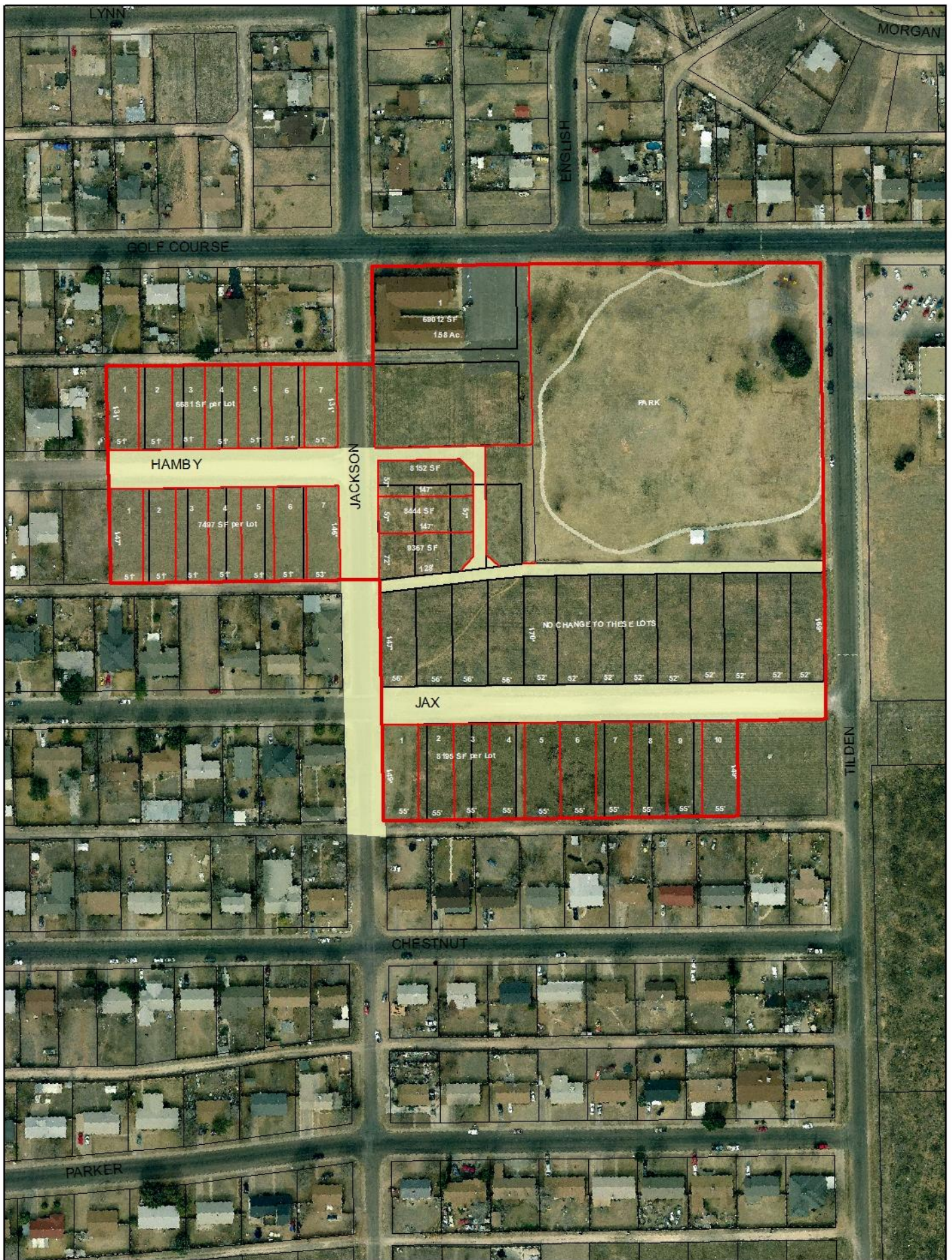
**Sparks Park Project CD - 37 / 7052**

| Sparks Park Project CD - 37 / 7052 |                                              |      |      | TEC Excavation |              | Scott Thane Ditching |               |
|------------------------------------|----------------------------------------------|------|------|----------------|--------------|----------------------|---------------|
| Item                               | Description                                  | Qty  | Unit | Unit Price     | Total Price  | Unit Price           | Total Price   |
| 1                                  | 8" Water Line                                | 60   | LF   | \$ 34.00       | \$ 2,040.00  | \$ 43.62             | \$ 2,617.20   |
| 2                                  | 6" Water Line                                | 2525 | LF   | \$ 30.00       | \$ 75,750.00 | \$ 38.36             | \$ 96,859.00  |
| 3                                  | Chat Backfill                                | 200  | TN   | \$ 15.00       | \$ 3,000.00  | \$ 18.45             | \$ 3,690.00   |
| 4                                  | 4" Water Line                                | 25   | LF   | \$ 25.00       | \$ 625.00    | \$ 46.50             | \$ 1,162.50   |
| 5                                  | 6" Valve and Box                             | 13   | EA   | \$ 930.00      | \$ 12,090.00 | \$ 914.00            | \$ 11,882.00  |
| 6                                  | 8" Valve and Box                             | 1    | EA   | \$ 1,600.00    | \$ 1,600.00  | \$ 1,250.50          | \$ 1,250.50   |
| 7                                  | Concrete Collar around Valve Box             | 12   | EA   | \$ 100.00      | \$ 1,200.00  | \$ 110.00            | \$ 1,320.00   |
| 8                                  | Fire Hydrants                                | 5    | EA   | \$ 3,380.00    | \$ 16,900.00 | \$ 2,660.00          | \$ 13,300.00  |
| 9                                  | Fittings                                     | 0.42 | TN   | \$ 10,900.00   | \$ 4,578.00  | \$ 5,335.00          | \$ 2,240.70   |
| 10                                 | 1" Water Meter Service Connections           | 42   | EA   | \$ 740.00      | \$ 31,080.00 | \$ 654.00            | \$ 27,468.00  |
| 11                                 | 6"x6" Tapping Sleeve with 6" Valve           | 1    | EA   | \$ 2,560.00    | \$ 2,560.00  | \$ 1,910.60          | \$ 1,910.60   |
| 12                                 | 4"x4" Tapping Sleeve with 4" Valve           | 1    | EA   | \$ 2,400.00    | \$ 2,400.00  | \$ 1,648.20          | \$ 1,648.20   |
| 13                                 | 8" Sewer Line                                | 500  | LF   | \$ 40.00       | \$ 20,000.00 | \$ 43.37             | \$ 21,685.00  |
| 14                                 | 6" Sewer Line                                | 285  | LF   | \$ 33.00       | \$ 9,405.00  | \$ 42.00             | \$ 11,970.00  |
| 15                                 | Manholes on new line                         | 2    | EA   | \$ 2,960.00    | \$ 5,920.00  | \$ 2,845.00          | \$ 5,690.00   |
| 16                                 | Manholes on existing line                    | 2    | EA   | \$ 3,500.00    | \$ 7,000.00  | \$ 3,214.00          | \$ 6,428.00   |
| 17                                 | Concrete collar around manhole               | 2    | EA   | \$ 100.00      | \$ 200.00    | \$ 210.00            | \$ 420.00     |
| 18                                 | 4" Sanitary Sewer Service Connection (new)   | 13   | EA   | \$ 525.00      | \$ 6,825.00  | \$ 535.15            | \$ 6,956.95   |
| 19                                 | 4" Sanitary Sewer Service Connection (exist) | 28   | EA   | \$ 1,000.00    | \$ 28,000.00 | \$ 685.20            | \$ 19,185.60  |
| 20                                 | Trench Safety                                | 785  | LF   | \$ 1.50        | \$ 1,177.50  | \$ 2.05              | \$ 1,609.25   |
| 21                                 | Traffic Control                              | 1    | LS   | \$ 2,750.00    | \$ 2,750.00  | \$ 3,075.00          | \$ 3,075.00   |
| 22                                 | Erosion Control                              | 1    | LS   | \$ 6,300.00    | \$ 6,300.00  | \$ 2,820.00          | \$ 2,820.00   |
| 23                                 | Asphaltic Pavement Replacement               | 850  | SY   | \$ 57.00       | \$ 48,450.00 | \$ 71.75             | \$ 60,987.50  |
|                                    |                                              |      |      |                |              |                      |               |
| TOTAL                              |                                              |      |      | \$             | 289,850.50   |                      | \$ 306,176.00 |

denotes apparent low bidder

denotes math error; bid form is written as \$306,206.00.





Legend

- topo\_required
- Plat Limits
- Parcels

SPARKS PARK TARGET AREA  
**PROPOSED LOTTING  
AND SURVEYING REQUIRE 13.6**





# City Council Agenda

Approved for Agenda:  
**THudson**  
City Manager's Office

**MEETING DATE: APRIL 10, 2012**

**TO: CITY COUNCIL/CITY MANAGER**

**FROM: CELESTINO GARCIS/HEALTH MANAGER**

**SUBJECT: ADDITIONAL GRANT FUNDS**

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**Purpose:**

Consider a resolution authorizing the acceptance and appropriation of \$19,536 in reimbursement funds from Texas Department of State Health Services to assist the Health and Senior Services Division with the delivery of Public Health Emergency Preparedness Services.

**Recommended City Council Action**

☒ Approve

☐ Deny

☐ Direction/Informational

**Fiscal Impact:**

\$19,536 from the Texas Department of Services used to reimburse the operating budget of Health & Senior Services Division.

**Discussion:**

On November 8, 2011, the City Council approved acceptance of a grant from the State for \$101,889 to assist with the delivery of Bioterrorism Preparedness Program Services. Additional funds became available earlier this year and the Midland Health Department made a request for the funding. If approved, this item would add \$19,536 to that grant project.

The Midland Health Department would use the funds to purchase equipment (laptop computers) and supplies. \$11,796 would be used to purchase equipment and \$7,740 for supplies.

This reimbursement is provided from federal funds allocated to the state as part of public health emergency practices.



**RESOLUTION NO.**

**RESOLUTION AUTHORIZING THE ACCEPTANCE OF \$19,536.00 IN REIMBURSEMENT FUNDS FROM THE TEXAS DEPARTMENT OF STATE HEALTH SERVICES TO ASSIST THE HEALTH AND SENIOR SERVICE DIVISION WITH THE DELIVERY OF PUBLIC HEALTH EMERGENCY PREPAREDNESS SERVICES; AND AUTHORIZING THE EXECUTION OF ACCEPTANCE DOCUMENTS; AND APPROPRIATING FUNDS**

**WHEREAS**, the City of Midland Health & Senior Services Division will be awarded \$19,536.00 in financial reimbursement from the Texas Department of State Health Services to assist the Health and Senior Service Division with the delivery of Public Health Emergency Preparedness Services; and

**WHEREAS**, the City Council finds it to be in the public interest to accept \$19,536.00 in financial assistance from the Texas Department of State Health Services to assist the Health and Senior Service Division with the delivery of Public Health Emergency Preparedness Services;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS:**

**SECTION ONE.** That the City of Midland Health and Senior Services Division is authorized to receive \$19,536.00 in financial assistance from the Texas Department of State Health Services to assist the Health and Senior Service Division with the delivery of Public Health Emergency Preparedness Services.

**SECTION TWO.** That the City Manager is hereby authorized and directed to execute all documents necessary to accept said funds from the Texas Department of State Health Services to assist the Health and Senior Service Division with the delivery of Public Health Emergency Preparedness Services.

**SECTION THREE.** That the additional Fiscal Year 2012 Public Health Emergency Preparedness Grant in the amount of \$19,536 is hereby accepted and directed to be deposited into the General Fund (001) of the City.

**SECTION FOUR.** That the appropriation to the General Fund (001) Nondepartmental (150) Interfund Transfer (0199) General Construction Fund (6299) is hereby reduced by \$19,536 and the appropriation to the General Fund (001) Community Services (090) Health and Senior Services (0100) Data Processing Equipment (8490) is increased by the amount of the referenced reduction.

On motion of Council member \_\_\_\_\_, seconded by Council member \_\_\_\_\_, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2012, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

\_\_\_\_\_  
W. Wesley Perry, Mayor

ATTEST:

\_\_\_\_\_  
Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

\_\_\_\_\_  
Courtney Sharp, City Manager

APPROVED AS TO CONTENT  
AND COMPLETENESS:

\_\_\_\_\_  
Tina Jauz, Director of Community Services

APPROVED AS TO FORM:

\_\_\_\_\_  
Keith Stretcher, City Attorney

**EXHIBIT A**

**Public Health Emergency Preparedness Work Plan  
For  
Local Health Departments  
PPCPS/HAZARDS**

**Budget Period 11  
(August 2011 through July 2012)**

## **Introduction**

DSHS developed this work plan in support of the Public Health Emergency Preparedness Cooperative Agreement (Funding Opportunity Number CDC-RFA-TP11-1101) from the Centers for Disease Control and Prevention (CDC). CDC's new five-year Public Health Emergency Preparedness (PHEP) Cooperative Agreement seeks to advance public health preparedness as noted in Section I. Statement of Work of the Program Attachment.

DSHS also developed this work plan in the spirit of flexibility and continuous quality improvement providing local health departments the ability to accomplish the intent of the PHEP Cooperative Agreement with as much latitude as possible while adhering to the guidance of the funding opportunity announcement.

The work plan consists of the following sections that describe the activities and deliverables for PHEP 2011 to 2012, Budget Period 11 (August 1, 2011 to July 31, 2012):

- I. Public Health Preparedness Capabilities
- II. Annual Requirements
- III. CDC-Defined Performance Measures
- IV. Evidence-based Benchmarks and Objective Standards and Pandemic Influenza Plans (PAHPA Benchmarks)

### **I. Public Health Preparedness Capabilities**

Public health departments continue to face multiple challenges, including an ever-evolving list of public health threats. The Centers for Disease Control and Prevention (CDC) developed fifteen (15) capabilities to assist health departments with assessing preparedness capacity as well as developing strategic plans. The CDC's *Public Health Preparedness Capabilities: National Standards for State and Local Planning* is a published document found at the following link:  
[http://www.cdc.gov/phpr/capabilities/Capabilities\\_March\\_2011.pdf](http://www.cdc.gov/phpr/capabilities/Capabilities_March_2011.pdf)

The activities associated with this work plan link directly to the standardized capabilities briefly outlined in Section I. Statement of Work of the Program Attachment and found in full detail in the PDF document referenced above.

CDC developed a Public Health Capabilities Planning Model that describes a high-level planning process public health departments may wish to follow. The planning model consists of a three phase process to assist public health departments in using the public health preparedness capabilities to determine preparedness priorities, plan appropriate preparedness activities, and demonstrate and evaluate achievement of capabilities.

To develop a complete assessment of Texas state preparedness, the Texas Department of State Health Services (DSHS) with consultation from the CDC has determined the benefit of local health departments using the CDC Public Health Preparedness Capabilities

Planning Model for conducting assessments of capacities related to the fifteen (15) public health capabilities.

Appendix 3 of Exhibit A is a set of instructions on how to complete the capability assessment worksheets to assist Contractors in assessing preparedness capacity of the fifteen (15) capabilities. The worksheets and instructions provide Contractors with a tool to organize planning activities, determine priorities, and select which capabilities health departments have the resources to build or sustain. The worksheets will be provided to Contractor by DSHS at a later date.

This assessment includes a three (3) phase process for year one of the new project period. Contractors may conduct Phases I and II concurrently.

### **Phase 1: Perform a Capabilities Assessment**

The CDC public health preparedness capabilities evaluation process provides a tool for Contractors to:

- A) Assess their current preparedness state, including organizational roles and responsibilities.
- B) Determine the extent to which the priority and recommended resource elements for each capability function exist in the jurisdiction. Contractors are encouraged to first self-assess their ability to address the priority resource elements of each capability followed by their ability to demonstrate the functions and tasks within each capability.

Note: Contractors are not expected to “own” each resource element. Contractors are encouraged to partner with both internal and external jurisdictional partners to have or have access to resources as needed (e.g. DSHS Regions or DSHS Central Office).

- C) Determine performance of each capability and function and whether or not it meets the jurisdiction’s needs.

Due Date: ~~Due to DSHS by January 31, 2012.~~ **Contractor shall complete and report to DSHS Phase 1 activities within established timeframe designated by DSHS.**

### **Phase 2: Perform a Jurisdictional Risk Assessment**

Phase two of the Public Health Preparedness Capability Model consists of a jurisdictional risk assessment performed by the Contractor to determine vulnerabilities and hazards unique to each jurisdiction. Contractors may use the Hazard Risk Assessment Instrument from the University of California, Los Angeles UCLA Center for Public Health and Disasters ([http://www.cphd.ucla.edu/npdfs/HRAI\\_Workbook.pdf](http://www.cphd.ucla.edu/npdfs/HRAI_Workbook.pdf)) to conduct this assessment. The UCLA tool is recommended by CDC because the tool includes an assessment of the impact to public health and medical needs of communities/jurisdictions. The jurisdictional risk assessment is a tool for Contractors to:

- A) Determine goals by identifying needs and gaps using jurisdictional inputs such as hazards and vulnerability analyses, emergency management plans, after-action reports/improvement plans, and previous performance measurement results.
- B) Prioritize capabilities and functions and develop plans. The capability definitions are broad. No Contractor is expected to be able to address all issues, gaps, and needs across all capabilities in the immediate short term.
- C) Review jurisdictional inputs, analyze priorities, and determine both short-term (one year) and long-term goals (two years to five years).

Due Date: ~~Due to DSHS by January 31, 2012.~~ **Contractor shall complete and report to DSHS Phase 2 activities within established timeframe designated by DSHS.**

### **Phase 3: Develop or Revise Plans**

The final phase of the Public Health Capabilities Planning Model is plan development.

- A) Contractors will revise existing plans or develop additional plans by engaging in concrete initiative planning, particularly for the short-term goals.
- B) For each capability and function, Contractors generally will either build, sustain, or, perhaps, scale back the capability and/or function, depending on the needs, gaps, priorities, and goals that have been identified.
- C) For “build” and “sustain” scenarios, Contractors are encouraged to pursue partnerships, through memoranda of understanding with other agencies, partners, and jurisdictions.
- D) For “scale back” scenarios, Contractors should identify the challenges and barriers causing them to scale back their efforts.
- E) Develop plans for demonstrating and evaluating the capabilities and functions, especially those that have been newly developed. Demonstrations of capabilities can be through many different means such as exercises, planned events, and real incidents. Contractors are strongly encouraged to use routine public health activities to demonstrate and evaluate their capabilities. Documentation of the exercise, event, or incident, and the use of quality improvement-focused After Action Reports/Improvement Plans is a vital part of this process.
- F) For those capabilities and functions where CDC-defined performance measures have been developed, Contractors will collect data for those measures.

Due Date: Contractor ~~will~~ **shall** provide demonstrations of methods for evaluating capabilities and functions as described above to DSHS **on a template provided by DSHS and shall be submitted to DSHS within established timeframe designated by**



**DSHS so as to complete consolidation of the statewide report to CDC. by August 15, 2012 in a format provided by DSHS.**

**Additional Resources:**

In addition to the CDC Public Health Preparedness Capabilities Planning Model, the DSHS Community Preparedness Section developed additional resources to assist Contractors with adopting the capability model and developing preparedness plans which will be provided to Contractor either electronically or hard copy within 60 days of the beginning of the contract term:

- Texas Public Health and Medical Emergency Management 5-Year Strategic Plan 2012 to 2016: a guide for planning throughout the five year project period.
- Tactical Guide: a companion document to the Texas Public Health and Medical Emergency Management 5-Year Strategic Plan 2012-2016 outlining specific tactics, activities, and tasks for implementing the goals outlined in the strategic plan associated with each of the fifteen (15) capabilities.
- Strategic Planning Document from CDC:  
<http://www.cdc.gov/phpr/capabilities/usingthisdocument.pdf>

Year One Priority Goals: DSHS consulted with public health and community leaders responsible for public health and emergency preparedness activities to select the three capabilities for Texas to address in the first year of the new project period. These capabilities include: 1) Public Health Surveillance and Epidemiological Investigation, 2) Community Preparedness and 3) Community Recovery. DSHS acknowledges that local and regional jurisdictional needs and preferences may lead to the selection of other capabilities. DSHS also acknowledges the existence of cross-over functions, tasks, and resources between and among the capabilities.

If a Contractor chooses capabilities different than those listed above, the Contractor must provide justification for this decision based on the capability and jurisdictional risk assessments to DSHS as notification of completion of the capabilities assessment and jurisdictional risk assessment.

## **II. Annual Requirements**

Contractors are required to submit plans, status reports, and program and financial data, including progress in achieving evidence-based benchmarks and objective standards and the outcomes of annual preparedness exercises including strengths, weaknesses and associated corrective actions. Reports must describe the preparedness activities that were conducted with PHEP funds, the purposes for which PHEP funds were spent and the recipients of the funds; describe the extent to which the Contractor has met stated goals and objectives; and describe the extent to which funds were expended consistent with the contractor's funding application. DSHS will provide a template for planning and

reporting to assist Contractors.

Following is a summary of the PHEP annual planning/reporting program requirements for 2011-2012:

A) Submit status reports on how the Contractor will address the following elements:

- 1) Administrative Preparedness Strategies (Capability 1, Community Preparedness): Describe administrative processes and approaches to receive and use emergency funds to respond to emergency situations in a timely manner and actions to overcome challenges and barriers. Capability 1: Community Preparedness.
- 2) Volunteer Recruitment and Management (Capability 15, Volunteer Management): Document efforts for volunteer recruitment and management such as development of a Medical Reserve Corps or community equivalent and use of the Texas Disaster Volunteer Registry. Contractors will provide volunteer recruitment data to DSHS and indicate whether this number is increasing, declining or remaining level.
- 3) Stakeholder Engagement (Capability 1, Community Preparedness and Capability 2, Community Recovery): Identify the appropriate jurisdictional partner to address the emergency preparedness, response, and recovery needs of the elderly regarding public health, medical and mental health behavioral needs including planned improvements and accomplishments to meet these needs.
- 4) Public Comment Solicitation on Emergency Preparedness Plans (Capability 1, Community Preparedness): Describe processes for solicitation of public comment on emergency preparedness plans and their implementation such as the establishment of an advisory committee or similar mechanism to ensure ongoing public comment. Include a description for performance measures for public comment solicitation.
- 5) National Incident Management System (NIMS) (Capability 3, Emergency Operations Centers): Meet NIMS compliance requirements.
- 6) Public Health and Medical Needs of At-risk Individuals (Capability 1, Community Preparedness; Capability 2, Community Recovery; Capability 4, Emergency Public Information and Warning; Capability 7, Mass Care; Capability 10, Medical Surge; and Capability 13, Public Health Surveillance and Epidemiological Investigation): Describe plans to address the public health and medical needs of at-risk individuals in the event of a public health emergency.
- 7) Hospital Preparedness Program Coordination (Capability 10m Medical

Surge): Provide current status of coordination with the local Hospital Preparedness Program representatives to inform and educate hospital staff on their roles in public health emergency preparedness and response and describe improvement.

- 8) Pandemic Influenza Plan Updates: Submit Pandemic Influenza Plan Updates annually to DSHS per the Evidence-based Benchmarks and Objective Standards and Pandemic Influenza Plans Section 319C of the Public Health Service (PHS) Act as amended by the Pandemic and All-Hazards Preparedness Act (PAHPA) of 2006 requiring that CDC's PHEP cooperative agreement meet evidence-based benchmarks and objective standards.
- B) Contractors will have in place fiscal and programmatic systems to document accountability and improvement.
- C) Contractors will conduct at least one (1) preparedness exercise annually according to the Contractor's exercise plan and developed in accordance with Homeland Security Exercise and Evaluation Program (HSEEP) standards. Submit to DSHS within 60 days of the exercise a final After Action Review/Improvement Plan.
- D) Contractors will provide DSHS with situational awareness data generated through interoperable networks of electronic data systems. (Capability 6, Information Sharing)

### **III. CDC-Defined Performance Measures**

DSHS with consultation from the CDC has determined the benefit of Contractors reporting on these capability-based performance measures. While Contractors will not have to report on all performance measures every year, Contractors will be required to collect and report select performance measure data annually on the following public health preparedness capabilities:

- A) Community Preparedness
- B) Emergency Operations Coordination
- C) Medical Countermeasures Dispensing
- D) Medical Material Management and Distribution
- E) Public Health Surveillance and Epidemiological Investigation

Performance measures, associated parameters, and data requirements for these capabilities are under development by CDC and will be provided to Contractors at a later date.

Contractors may be required to collect and report performance measure data for other public health preparedness capabilities. The list and requirements for reporting annual and other performance measures may change as performance measures are developed and

refined. Further detail on performance measures and reporting requirements for 2011-2012 will be provided to DSHS by the CDC in the future, and DSHS will share this information with Contractors.

### **III. Evidence-based Benchmarks and Objective Standards and Pandemic Influenza Plans (PAHPA Benchmarks)**

DSHS and CDC expect all Contractors to achieve, maintain, and report benchmarks throughout the five-year project period. CDC and DSHS reserve the right to modify benchmarks annually as needed and in accordance with CDC goals, objectives, and directives. Contractors shall maintain all documentation that substantiates achievement of benchmarks and make those documents available to DSHS staff as requested during site visits or through other requests.

DSHS has identified the following CDC benchmarks for year one. Contractors that fail to “substantially meet” the benchmarks are subject to withholding of funds with penalties to be applied the following fiscal year. Contractors that demonstrate achievement of these requirements are not subject to withholding of funds.

Contractors will meet all performance measures noted in Section II: Statement of Work Performance Measures of the Program Attachment.

Supplemental information for the benchmarks referenced in the Statement of Work follows:

#### Staff Assembly:

Contractors are strongly encouraged to report data from multiple exercises and/or real incidents; however, Contractors are required at a minimum to report data on the quickest staff assembly demonstration that occurs during the first six months of year one. The demonstration must occur during one of the following:

- 1) Drill
- 2) Functional exercise
- 3) Full-scale exercise
- 4) Real incident (preferable, if possible)

#### Receiving, Staging, Storing, Distributing, and Dispensing Medical Countermeasures:

Non-Cities Readiness Initiative (CRI) Contractors must meet a minimum overall Medical Countermeasure Distribution and Dispensing (MCMDD) composite score of 43 for budget period year one. The overall composite score will be derived from:

- 1) Contractors will conduct a minimum of three (3) different drills (not the same drill performed three times) conducted within each planning/local jurisdiction during year one. The range in scope of available drills provides Contractors with flexibility in meeting the annual drill requirements. The three (3) required drills may be chosen from any of the eight (8) available drills as indicated on the

Division of Strategic National Stockpile (DSNS) Extranet website. Drill data and/or Homeland Security Exercise and Evaluation Program (HSEEP) After Action Reports/Improvement Plans for drills (as indicated) must be submitted to DSHS by a date to be determined by DSHS.

- 2) Contractors must conduct one (1) full-scale exercise performed during any one of the five budget periods of the new PHEP cooperative agreement that tests and validates medical supplies distribution and dispensing plans and submit results and documentation to DSNS. Results and documentation of medical countermeasure distribution and dispensing full-scale exercise(s) must be developed in accordance with HSEEP standards and can be performed during any one of the five budget periods of the new PHEP project period. Each Contractor will be required to participate in one (1) exercise that demonstrates capabilities for medical countermeasure dispensing operations. Contractors are encouraged to work with other emergency response agencies or hospital preparedness programs to develop or leverage existing activities to meet the medical countermeasure distribution and dispensing exercise objectives. Details on the scope and format for reporting these exercise requirements will be provided by DSHS through subsequent guidance at a later date.
- 3) Contractors will demonstrate compliance with established medical countermeasure distribution and dispensing standards. Target measures and required data submission will be detailed in supplemental guidance at a later date.

## Appendix 1

### Definitions

**All Hazards Response Planning** refers to the systems used to respond and recover from Chemical, Biological, Radiological, Nuclear, Explosive (CBRNE) events, as well as natural disasters. In the case of the CDC Cooperative Agreement, standard operating procedures (SOP) or guidelines (SOG) (formally referred to as “all-hazards plans”) developed by local health departments (LHD) and DSHS health service regions (HSR) to respond to all public health emergencies.

**First Responders** are personnel who would be critical in the first phase of response efforts.

The **Implementation** process includes all steps necessary to complete the tasks; installation, training, and technical assistance.

The tracking of **Long-Term health consequences** identifies trends in physical or mental health resulting from the exposure to Chemical, Biological, Radiological, Nuclear, Explosive (CBRNE) elements during an all-hazards event. The length of tracking would be dependent upon the type of event.

**Public health** is the effort to protect, promote, maintain and restore a population’s health.

A **Public Health Emergency** is an immediate threat from a naturally occurring or intentional event 1) that poses a high risk of fatalities or serious long-term disability to large numbers of people, and/or 2) where there is substantial risk of public exposure because of a high level of contagion and the particular means of transmission of the infectious agent.

The **Public Health Information Network (PHIN)** is an interoperable information system for public health. The PHIN is a national initiative to implement a multi-organizational business and technical architecture for public health information systems which includes web-based and radio based communications with multiple levels of redundancy.

**Public Health Preparedness** is the capacity of public health jurisdictions to respond to a public health emergency. The CDC Cooperative Agreement enables public health jurisdictions to upgrade their preparedness and response capacity.

**Public Health First Responders (PHFRs)** are health department personnel who are required to deploy in the wake of a public health emergency. Hospital personnel may be considered PHFRs if their activities are aligned to support public health response

efforts. Emergency Medical Service (EMS) Responders are mostly covered through Department of Homeland Security (DHS).

**Standard Operating Guidelines (SOG)/Standard Operating Procedures (SOP)** are approved methods for accomplishing a task or set of tasks and are typically prepared at the department or agency level.

A **Project Plan** is a narrative of activities for the year, describing program activities/goals, how activities/goals will be accomplished, who will carry out activities/goals, when activities/goals will be accomplished.

## Appendix 2

### **Overview: CDC Public Health Capability Planning Model**

Contractors are encouraged to use the CDC Public Health Preparedness Capabilities Planning Model to assess preparedness capacities. The CDC Public Health Preparedness Capabilities are numbered and presented alphabetically. Each of the fifteen (15) capabilities includes a definition of the capability and list of the associated functions, performance measures, tasks, and resource considerations.

- A) The **Capability Definition** defines the capability as it applies to state, local, tribal, and territorial public health.
- B) The **Function** describes the critical elements that need to occur to achieve the capability.
- C) The **Performance Measure(s)** section lists the CDC-defined performance measures, if any, associated with a function.
- D) The **Tasks** section describes the steps that need to occur to complete the functions.
- E) The **Resource Elements** section lists resources, including priority items and other considerations, needed to build and maintain the ability to perform the function and its associated tasks. These resource elements are organized as follows:
  - 1) *Planning*: standard operating procedures or emergency operations guidance, including considerations for legal authorities and at-risk populations, for a Contractor's plans for delivering the capability.
  - 2) *Skills and Training*: baseline competencies and skills personnel and teams should possess or have access to when delivering a capability.
  - 3) *Equipment and Technology*: equipment Contractors should have or have access to in jurisdictionally defined quantities sufficient to achieve the capability.
  - 4) **Note**: Certain resource elements have been identified as priority resource elements. Contractors may not require all resource elements to fully achieve all of the functions within a capability, but they must *have* or *have access to* the priority resource elements. Remaining resource elements are recommended for consideration by Contractors.

The public health preparedness capabilities are listed below in their corresponding domains. These domains are intended to convey the significant dependencies between certain capabilities:



**Biosurveillance**

- Public Health Laboratory Testing
- Public Health Surveillance/Epidemiological Investigation

**Community Resilience**

- Community Preparedness
- Community Recovery

**Countermeasures and Mitigation**

- Medical Countermeasure Dispensing
- Medical Material Management and Distribution
- Non-pharmaceutical Interventions
- Responder Safety and Health

**Incident Management**

- Emergency Operations Coordination

**Information Management**

- Emergency Public Information and Warning
- Information Sharing

**Surge Management**

- Fatality Management
- Mass Care
- Medical Surge
- Volunteer Management

## Appendix 3

### **Worksheet Instructions: How to complete the Capability worksheets**

The following section provides instructions on how to complete the fifteen (15) Capability Worksheets associated with the CDC Public Health Preparedness Capability Model.

### **Functions**

#### **General instructions for completing the Capability Worksheets**

Submit an entry for every function for every capability. Each function entry must include the following data items:

- (1) Function Current Status
- (2) Function Current Status Narrative
- (3) Function Goal
- (4) Function Goal Narrative (or Planned Activity)
- (5) Function Funding Type
- (6) Function Other Funding Sources Funding Type

#### **A) Function Current Status**

Select a current status option in the table below that best reflects the current status of this function across the jurisdiction.

| Option                                                                  | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|-------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Infrastructure Fully in Place - Fully Evaluated and Demonstrated</b> | Select this option only if all the following conditions are met:<br><ol style="list-style-type: none"><li>1. All priority resource elements are fully in place and/or accessible via MOU or other written agreement.</li><li>2. Any other resource elements or other infrastructure that the Contractor has identified as required to meet jurisdictionally defined needs are fully in place and/or accessible via MOU or other written agreements.</li><li>3. Contractor has fully evaluated and demonstrated performance of this function within the past 24 months (August 2009 or later) and found that it meets jurisdictionally defined needs.</li></ol> |

|                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|-----------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Infrastructure Fully in Place - Not Fully Evaluated and Demonstrated</b> | <p>Select this option if all of the following conditions are met:</p> <ol style="list-style-type: none"> <li>1. All priority resource elements are fully in place and/or accessible via MOU or other written agreement.</li> <li>2. Any other resource elements or other infrastructure that the Contractor has identified as required to meet jurisdictionally defined needs are fully in place and/or accessible via MOU or other written agreement.</li> <li>3. Contractor has not attempted demonstration of this function, the demonstration was more than 24 months ago (before August 2009), <b>or</b> contractor has evaluated and demonstrated this function but found that it did not meet jurisdictionally defined needs.</li> </ol> |
| <b>Infrastructure Not Fully in Place</b>                                    | Select this option only if any priority resource elements and any other resource elements or other infrastructure that the Contractor has identified as required to meet jurisdictionally defined needs are not fully in place.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>No Infrastructure in Place</b>                                           | Select this option only if the Contractor has no resource elements or any other infrastructure in place to perform this function.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

**B) Function Current Status Narrative:**

Provide a function current status narrative.

| <b>Option</b>                                                               | <b>Description</b>                                                                                                                                                                                                                                                                                                                                                                       |
|-----------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Infrastructure Fully in Place - Fully Evaluated and Demonstrated</b>     | <p>The narrative should include the following:</p> <ol style="list-style-type: none"> <li>1. Date of demonstration (must be in past 24 months)</li> <li>2. Type of demonstration (exercise, planned event, real incident, or routine activity)</li> <li>3. Outcome (result) of demonstration</li> <li>4. Evidence that the demonstration aligns to the function's definition.</li> </ol> |
| <b>Infrastructure Fully in Place - Not Fully Evaluated and Demonstrated</b> | <p>The current status narrative should include the following:</p> <ol style="list-style-type: none"> <li>1. If the function was partially demonstrated, succinctly describe what has been demonstrated, how it was demonstrated, and what has not been demonstrated.</li> <li>2. If the function was demonstrated but issues were identified, succinctly describe</li> </ol>             |

|                                              |                                                                                                                                                                                                                                                                                                                  |
|----------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                              | <p>the issues that were identified.</p> <p>3. If the function has not been demonstrated, describe what, if any, are the barriers / challenges to demonstrating this function.</p> <p>4. If the function is to be demonstrated in a future budget period, identify the projected timeframe for demonstration.</p> |
| <b>Infrastructure Not Fully in Place</b>     | The narrative should include a succinct description of any missing resource elements or other infrastructure and any related barriers that are not described in the Resource Element section.                                                                                                                    |
| <b>No Infrastructure in Place</b>            | The narrative should include a succinct description of any barriers to having the infrastructure fully in place that are not described in the Resource Element section.                                                                                                                                          |
| <b>No Information Available at this time</b> | If any of the specific information requested is not available at the time of application, enter “information not available at this time” or similar language and indicate when this information will be available.                                                                                               |

### C) Function Goal

Select the function goal from the list below that most closely represents the result or achievement toward which the effort is being directed across the jurisdiction for the budget period.

| <b>Option</b>  | <b>Description</b>                                                                                                                                                                                                                                                                                                                                                                                                 |
|----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Build</b>   | <p>Contractor plans to increase the level of resource elements and/or performance for this function. This could be via any or all of the following (not intended to be an exhaustive list):</p> <ol style="list-style-type: none"> <li>1. Resource element(s) will be developed/ purchased/assured via MOU or other written agreement.</li> <li>2. Performance improvement steps are to be implemented.</li> </ol> |
| <b>Sustain</b> | <p>Contractor plans to maintain the current state/ status/level of resource elements for this function.</p> <p>Sustain may or may not require related activities, resources, and funding.</p> <p><b>Note:</b> “Sustain” is not an available option if current state is “no infrastructure.”</p>                                                                                                                    |

|                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Scale Back</b> | <p>Contractor plans to reduce, downsize, remove, or downgrade the resource elements within a function.</p> <p><b>Note:</b> The “scale back” option is not intended to include situations where reducing resource elements results in no or minimal impact to overall performance. For example, scaling back may include situations where excess capacity is purposely reduced. In those cases, “sustain” may be a more accurate selection. “Scale back” is intended to denote situations where needed capacity and/or performance is being lost or reduced in some way.</p> <p><b>Note:</b> “Scale back” is not an available option if current state is “no infrastructure.”</p> |
| <b>No Goal</b>    | <p>Contractor has no current infrastructure and no plans to develop any infrastructure this year.</p> <p><b>Note:</b> “No goal” is an option only if Contractor selects “no infrastructure” in current status. If current status is “fully in place” or “partially in place,” then goal must be either “build,” “sustain,” or “scale back.”</p>                                                                                                                                                                                                                                                                                                                                  |

#### D) Function Goal Narrative

Submit a function goal narrative.

**Note:** In the function goal narrative, the contractor should provide information about the function goal (or planned activities) that cannot be captured in the resource element goal narrative. If any requested information below is present in a resource element goal narrative, then do not repeat it.

| <b>Option</b>                                                                                                              | <b>Description</b>                                                                                                                     |
|----------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| <b>Build or Sustain</b>                                                                                                    | The narrative should include a brief description of what is intended to be built or sustained and how this is intended to be achieved. |
| <b>Function current status is “fully in place – fully evaluated and demonstrated” and the function goal is “Build”</b>     | Explain why the Contractor is continuing to build.                                                                                     |
| <b>Function current status is “not fully in place – fully evaluated and demonstrated,” and function goal is “sustain”.</b> | Provide a brief description of why there are no plans to fully build and/or demonstrate this function.                                 |
| <b>Scale Back</b>                                                                                                          | Provide a brief description of what is being                                                                                           |

|                |                                                                                                                                     |
|----------------|-------------------------------------------------------------------------------------------------------------------------------------|
|                | scaled back and why.                                                                                                                |
| <b>No Goal</b> | Provide a brief description of why there is no goal. Include a brief description of how this function is planned to be implemented. |

#### D) Function Funding Type

Select the types of funding that will be used to fund that function from the options defined below.

| Option                       | Description                                                                        |
|------------------------------|------------------------------------------------------------------------------------|
| <b>PHEP</b>                  | The function is entirely funded by the PHEP cooperative agreement (includes match) |
| <b>Partial PHEP</b>          | The function is funded by PHEP <b>and</b> by other funding source(s).              |
| <b>Other Funding Sources</b> | The function is funded by sources <b>other than</b> PHEP.                          |
| <b>No Funding</b>            | There is no funding for the function.                                              |

#### E) Other Funding Sources

If the funding type is “partial PHEP” or “other funding sources,” select one or more “other funding sources” to provide additional information about funding. The options are:

| Option                                           |
|--------------------------------------------------|
| <b>State Funds</b>                               |
| <b>Local Funds</b>                               |
| <b>Hospital Preparedness Program (HPP) Funds</b> |
| <b>Epi/Lab Capacity (ELC) Funds</b>              |
| <b>DHS Funds</b>                                 |
| <b>In-Kind/Partner Funds</b>                     |
| <b>Other (please specify)</b>                    |

#### Resource Elements

##### General Instructions:

- **Priority Resource Elements**  
Submit an entry for all priority resource elements for all functions for all capabilities.
- **Recommended Resource Elements**  
Submit an entry for any recommended resource element that has planned activities for this budget period to either build or sustain the element.

- **Contractor-Defined Resource Elements**

Submit an entry for any contractor-defined resource element that has planned activities for this budget period to either build or sustain the element. It is not necessary to provide contractor-defined resource elements. This task is optional.

Contractor-defined resource elements must be categorized as either “planning,” “skills and training,” or “equipment and technology.”

Contractor-defined resource elements must be within scope of the associated function and must directly contribute to the Contractor’s ability to carry out the associated capability, function, and/or task.

### **Resource Element Entry**

Each resource element entry submitted according to the instructions defined above must consist of the following data items:

- Resource Element Current Status
- Resource Element Current Status Narrative
- Resource Element Goal
- Resource Element Goal Narrative

Instructions for each of these data items are described below.

#### **A) Resource Element Current Status**

Select the resource element’s current status option below that most appropriately reflects the current status of the resource element across their jurisdiction.

| <b>Option</b>             | <b>Description</b>                                                      |
|---------------------------|-------------------------------------------------------------------------|
| <b>Fully in Place</b>     | All items identified in the resource element definition* are in place.  |
| <b>Partially in Place</b> | Some items identified in the resource element definition* are in place. |
| <b>Not in Place</b>       | No items identified in the resource element definition* are in place.   |

\*As defined in *Public Health Preparedness Capabilities: National Standards for State and Local Planning*.

Contractors should use their own judgment for contractor-defined resource elements as to whether these are fully in place, partially in place, or not in place.

#### **B) Resource Element Current Status Narrative**

Submit a resource element current status narrative.

**Note:** The information requested for the narrative will depend on the resource element’s current status. See instructions below for more details.

- 1) If the resource element's current status is "fully in place" or "partially in place," then the narrative must include the following:
  - i) Indication whether the resource element is via MOU or other written agreements.
  - ii) If applicable, brief description of any aspects of this resource element that are above and beyond the resource element description as described in the *Public Health Preparedness Capabilities: National Standards for State and Local Planning*.
  - iii) For a contractor-defined resource element, a brief description of what is in place.
  - iv) If the current status is "partially in place," identify the parts of the resource elements that are in place and those that are not in place.
  - v) A brief description of how this resource element is being implemented.
  - vi) If the resource element is in place in some parts of the jurisdiction but not others, please explain.
- 2) If the current status is "not in place," the narrative should include a brief description of why this resource element is not in place.
- 3) If the specific information is not available at the time of application, state "information not available at this time" and indicate when this information will be available.

### C) Resource Element Goal

Select the most appropriate match for the resource element goal for the current budget period as described in the table below that refers to their entire jurisdiction.

| Option                    | Description                                                                |
|---------------------------|----------------------------------------------------------------------------|
| <b>Fully in Place</b>     | All items identified in the resource element definition* will be in place  |
| <b>Partially in Place</b> | Some items identified in the resource element definition* will be in place |
| <b>Not in Place</b>       | No items identified in the resource element definition* will be in place   |

\*As defined in the *Public Health Preparedness Capabilities: National Standards for State and Local Planning*.

Contractors should use their own judgment for contractor-defined resource elements as to whether these are planned to be fully, partially or not in place.

### D) Resource Element Goal Narrative



- 1) Submit a resource element goal narrative that includes a description of any planned activities related to this resource element, including the following:
  - i) A description of resource element aspects that will be built and/or sustained during the upcoming budget period.
  - ii) The responsible/lead person or role for this activity.
  - iii) A description of how this resource element is going to be built and/or sustained (or via MOU or other written agreements) this upcoming budget period.
  - iv) Who will be involved in these activities, e.g., internal, contracts, partnerships.
  - v) Milestones and defined deliverables/outputs. Milestones should be specific, measureable, achievable, realistic, and refer to what is being built/sustained. At a minimum, milestones should be established prior to and after the mid-year period.
  - vi) For contractor-defined resource elements or when going “above and beyond” the resource element description, succinctly describe why the element or an excess are necessary.
- 2) For resource elements that have a resource element goal of “partially in place” or “not in place,” include a brief description of the barriers to having this resource element fully in place across the jurisdiction.
- 3) For resource elements that have a resource element goal of “fully in place or “partially in place,” contractors should include a brief description of how this resource element will be implemented.

DEPARTMENT OF STATE HEALTH SERVICES



Amendment  
To

The Department of State Health Services (DSHS) and MIDLAND HEALTH DEPARTMENT (Contractor) agree to amend the Program Attachment # 001 (Program Attachment) to Contract # 2011-038943 (Contract) in accordance with this Amendment No. 001A : Public Health Emergency Preparedness (PHEP), effective 03/01/2012.

The purpose of this Amendment is to add carry forward funds to the contract, revise due dates for affected reports, and to extend due date for equipment purchases.

Therefore, DSHS and Contractor agree as follows:

PROGRAM ATTACHMENT NO. ~~001~~ 001A

SECTION I. STATEMENT OF WORK, is revised as follows:

DSHS reserves the right, where allowed by legal authority, to redirect funds in the event of financial shortfalls. DSHS will monitor Contractor's expenditures on a quarterly basis. If expenditures are below that projected in Contractor's total Contract amount, as shown in SECTION VI. BUDGET, Contractor's budget may be subject to a decrease for the remainder of the Contract term. Vacant positions existing after ninety (90) days may result in a decrease in funds.

SECTION II. PERFORMANCE MEASURES, is revised as follows:

- D. ~~Submit H1N1 After Action Report Improvement Plan Status Reports.~~ Contractor shall submit H1N1 AAR Improvement Plan Status Reports to DSHS by November 30, 2011 in a format to be determined by DSHS.

SECTION II. PERFORMANCE MEASURES, B. Demonstrated adherence to PHEP reporting deadlines, is revised as follows:

1. Submit PHEP mid-year progress report, ~~due to DSHS on a template provided by DSHS and shall be submitted to DSHS on or before January 27, 2012, including within established timeframe designated by DSHS so as to complete consolidation of the statewide report to CDC. Activities to report shall include~~ a status update on work plan activities, Pandemic and All-Hazards Preparedness Act (PAHPA) benchmarks, performance measurement and demonstration plan activities, a five-year timeline for addressing the public health preparedness capabilities, and risk-based funding activities (if applicable).
2. Submit End-of-year progress report, ~~due to DSHS on a template provided by DSHS and shall be submitted to DSHS on or before August 15, 2012, including within established timeframe designated by DSHS so as to complete consolidation of statewide report to CDC. Activities to report shall include~~ an update on work plan activities, risk-based funding activities (if applicable), a budget expenditure report, performance measurement, and

demonstration plan activities.

SECTION II. PERFORMANCE MEASURES, D. Submit H1N1 After-Action Report Improvement Plan Status Reports, is revised as follows:

1. ~~Contractors~~ **Contractor** shall submit H1N1 AAR Improvement Plan Status Reports to DSHS by ~~October 31~~, **November 30**, 2011 in a format to be determined by DSHS. Submission of the H1N1 After-action Report (AAR) Improvement Plan Status Report for 2011 is intended to provide summary status updates of the key improvement plan items from H1N1 AAR and Improvement Plans following the 2009-2010 H1N1 influenza pandemic response. Submission of these reports fulfills the pandemic influenza plan submission requirement.

SECTION VII. BUDGET, is revised as per attached Categorical Budget and Equipment List.

SECTION VIII. SPECIAL PROVISIONS, is revised to include:

**General Provisions, General Business Operations of Contractor Article, Equipment Purchases, is revised as follows:**

**Contractor is required to initiate the purchase of equipment approved under the March 2012 amendment no later than April 30, 2012 as documented by issue of a purchase order or written order confirmation from the vendor on or before April 30, 2012. In addition, all equipment must be received no later than 60 calendar days following the end of the Program Attachment term.**

EXHIBIT A, is revised as per attached Exhibit A.

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

**Department of State Health Services**

\_\_\_\_\_  
Signature of Authorized Official

Date: \_\_\_\_\_

Bob Burnette, C.P.M., CTPM

Director, Client Services Contracting Unit

1100 WEST 49TH STREET  
AUSTIN, TEXAS 78756

(512) 458-7470

Bob.Burnette@dshs.state.tx.us

**Contractor**

\_\_\_\_\_  
Signature of Authorized Official

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_  
Phone: \_\_\_\_\_

Email: \_\_\_\_\_

**From:** Celastino Garcia  
**Sent:** Tuesday, March 27, 2012 5:08 PM  
**To:** Tina Jauz  
**Subject:** FW: Midland County Health Dept. 2012 LHD Carry-Forward Allocation  
**Attachments:** FY12 Budget Templates with Match-PPCPS-HAZARDS-6-14-11.xls

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**From:** [Lucia.Lundry@dshs.state.tx.us](mailto:Lucia.Lundry@dshs.state.tx.us) [<mailto:Lucia.Lundry@dshs.state.tx.us>]  
**Sent:** Thursday, January 19, 2012 4:11 PM  
**To:** Celastino Garcia; John Floyd  
**Cc:** [Jason.Adams@dshs.state.tx.us](mailto:Jason.Adams@dshs.state.tx.us); [Susana.Garcia@dshs.state.tx.us](mailto:Susana.Garcia@dshs.state.tx.us)  
**Subject:** Midland County Health Dept. 2012 LHD Carry-Forward Allocation

Dear Celestino Garcia,

During the negotiations between DSHS and Local Health Departments concerning FY12 PHEP allocations, DSHS committed to prioritizing Local Health Department (LHD) funding in the next carry-forward application. DSHS is pleased to announce that an interim financial status report has been filed and a PHEP carry-forward application can be submitted. The State of Texas may immediately apply for \$6 million of the \$8 million lapsed funds from prior PHEP budget periods.

DSHS remains committed to prioritizing restoration of operating funds for all LHDs. Therefore, \$3.8 million of the carry-forward application is allocated to restore FY12 LHD reductions. Of the \$500,000 difference between \$4.3 million and \$3.8 million, \$430,000 is set aside for TxPHIN/HAN operational costs and the remaining \$70,000 will be available to LHDs through a discretionary process. Each LHD will have access to an allocation equal to its FY12 contract reductions in base PHEP, CRI, LRN and EWIDS. The allocation is a not-to-exceed amount. LHDs may request the full amount but are not required to do so. Please note that 10% match is required on all carry-forward funds requested. Should LHDs choose not to request all of the funds offered as part of the reduction restoration, DSHS will set aside those funds for a discretionary process. Additionally, the \$1.7 million balance of the \$6 million carry-forward application is for DSHS Central Office and Regional operations. The remaining \$2 million of funds lapsed by DSHS will be included in the competitive discretionary process, and may be available to LHDs as well.

Current CDC guidance allows carry-forward applications to include operating costs in addition to one-time funding projects. In light of this guidance, DSHS will amend approved carry-forward funds into the existing base PHEP contracts. DSHS anticipates a contract amendment effective date of March 01, 2012 based on draft timelines. It is important to note that PHEP/HPP grant alignment efforts may affect the current budget period and project period end dates. At this time, CDC's intent is to end the current budget period on July 31, 2012. Carry-forward funds may be used through the budget period. However, the budget period may be altered due to grant alignment.

Attached is a categorical budget template. Midland County Health Dept.'s total FY12 reduction restoration allocation is \$19,536. Please complete the budget and return it to your Contract Manager Jason Adams by close of business, February 3, 2012.

Michael Keese

Lucia Lundry, CTPM  
Preparedness and Compliance Branch  
Contract Management Unit, MC1990  
Department of State Health Services  
P.O. Box 149347  
Austin, Texas 78714-9347  
W239  
(512) 776-2244 (Direct)  
(512) 776-7428, EXT. 2244  
Fax: (512) 776-7391  
Email: [Lucia.Lundry@dshs.state.tx.us](mailto:Lucia.Lundry@dshs.state.tx.us)



# City Council Agenda

Approved for Agenda:  
**JNichols**  
City Manager's Office

**MEETING DATE:** April 10, 2012

**TO:** CITY COUNCIL/CITY MANAGER

**FROM:** David D. Beard, P.E., City Engineer

**SUBJECT:** Consider a resolution to assign a project number and allocate money (\$25,147- collected from a development agreement) from the General Fund for the design and construction of paving and drainage improvements for Fairgrounds Rd. from Cloverdale Rd. (FM 307) to Garden City Hwy (SH 158). (District #2 – Hailey).

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## **Purpose:**

Consider a resolution to assign a project number and allocate funds from the General Fund for the design and construction of paving and drainage improvements for Fairgrounds Rd. from Cloverdale Rd. (FM 307) to Garden City Highway (SH 158).

## **Recommended City Council Action**

☒ Approve

☐ Deny

☐ Direction/Informational

## **Fiscal Impact:**

That the sum of \$25,147 is hereby appropriated from the General Fund (001) Unappropriated Fund Balance (5650) to the Fairgrounds Road Paving and Drainage Project (8981)

## **Discussion:**

At the January 24, 2012 council meeting, Council authorized staff to collect \$25,146.88 from the Developer of the City View Acres (Section 6) plat for the arterial street construction adjacent to the property. The money was accepted through a development agreement and deposited into the General Fund. The approval of this resolution will allow the money collected from the development agreement to be allocated from the General Fund to the newly created project.

**RESOLUTION NO.**

**RESOLUTION AUTHORIZING THE EXECUTION OF A  
PUBLIC IMPROVEMENT DEVELOPMENT  
AGREEMENT WITH PECOS GATHERING AND  
MARKETING, LLC FOR THE EXPANSION OF  
FAIRGROUNDS ROAD; AND APPROPRIATING FUNDS  
THEREFOR; SAID AGREEMENT BEING AUTHORIZED  
BY SECTION 395.081 OF THE TEXAS LOCAL  
GOVERNMENT CODE**

**WHEREAS**, an adjoining landowner of Fairgrounds Road, Pecos Gathering and Marketing, LLC (“Pecos”), has requested City participation in the expansion of Fairgrounds Road; and

**WHEREAS**, the City Council finds that in accordance with Section 395.081 of the Texas Local Government Code that the City of Midland will benefit from allowing Pecos to participate in the expansion of Fairgrounds Road and thereby promote the health, safety, and public welfare and provide for efficient and well-planned urban growth and development; and

**WHEREAS**, the City Council finds it to be in the public interest to execute an agreement with Pecos which sets forth the extent of the landowner’s participation in the construction of public improvements; and

**WHEREAS**, the City has not adopted an impact fee, any obligation incurred or owed by the adjoining landowner, Pecos, shall constitute payment of a proportional share of the cost of the capital improvements constructed as provided for in Section 395.081 of the Texas Local Government Code;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS:**

**SECTION ONE.** That the recitals stated above are hereby adopted and approved for all purposes.

**SECTION TWO.** That the City Manager and City Secretary are hereby authorized and directed to execute and attest, respectively, on behalf of the City of Midland, a public improvement development agreement with Pecos Gathering and Marketing, LLC. Said

agreement is attached hereto as Exhibit "A" and is incorporated herein for all purposes.

**SECTION THREE.** That the City Treasurer is hereby authorized and directed, upon receipt of \$25,147 from Pecos Gathering and Marketing, LLC under said agreement, to deposit said funds into the General Fund (001) of the City of Midland; and that said funds shall be appropriated from the General Fund (001) Unappropriated Fund Balance (5650) to the Fairgrounds Road Paving and Drainage Project (8981).

On motion of Council member \_\_\_\_\_, seconded by Council member \_\_\_\_\_, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2012, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

\_\_\_\_\_  
W. Wesley Perry, Mayor

ATTEST:

\_\_\_\_\_  
Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

\_\_\_\_\_  
Courtney Sharp, City Manager

\_\_\_\_\_  
Robert McNaughton, Director of Finance



APPROVED AS TO CONTENT  
AND COMPLETENESS:

---

David Beard, City Engineer

APPROVED AS TO FORM:

---

Keith Stretcher, City Attorney

**PUBLIC IMPROVEMENT DEVELOPMENT AGREEMENT  
BETWEEN PECOS GATHERING AND MARKETING, LLC  
AND THE CITY OF MIDLAND, TEXAS**

THIS AGREEMENT (“Agreement”) is made and effective as of the 11th day of April, 2012, by and between Pecos Gathering and Marketing, LLC (“Developer”) and the City of Midland, Texas (“City”), a home rule municipal corporation.

**WITNESSETH:**

WHEREAS, the City and Developer find it to be to their mutual advantage to enter into this agreement for the construction of appropriate and necessary public facilities; and

WHEREAS, the City finds that in accordance with Section 395.081 of the Texas Local Government Code that the City will benefit by allowing the Developer to participate in the paving expansion of Fairgrounds Road and thereby promote the health, safety, and public welfare and provide for efficient and well-planned urban growth and development;

NOW, THEREFORE, in consideration of the covenants, conditions, and promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree to the terms set forth in this Agreement:

**I.**

The Developer agrees to pay to the City its proportional share of the cost of the public improvements to be constructed as described in Section II hereof. The Developer’s proportional share for paving expansion shall be \$94.18 per foot of development that abuts Fairgrounds Road, not to exceed a total of \$25,146.88.

Developer’s payment of \$25,146.88 shall be due at or before the time of final approval of the plat regarding the public improvements described herein. The City agrees to place the funds paid by Developer under this Agreement in a separate project account of the City. The City shall manage

the project account and agrees to only expend funds therefrom for costs appropriate and necessary for the construction of the public improvements described in Section II.

In the event the City does not commence construction of the public improvements described in Section II within fifteen (15) years of the date of this Agreement, and diligently continue such construction to completion, then the City agrees to repay all funds received from Developer hereunder without interest or penalty.

## II.

The public improvements to be constructed by the City shall be generally described as follows: The expansion of Fairgrounds Road from two lanes of travel to approximately four lanes of travel, with center turn lane, approximately 267 feet adjacent to the property described in the City View Acres, Section 6 plat.

Costs appropriate and necessary for said public improvements shall include costs for mobilization, excavation/grading, sub-grade preparation, 12" flexible base, compact flexible base, tack coat, HMAC surface course, curb and gutter, concrete shoulder, striping, traffic signalization/intersection, job site safety/traffic control, construction staking, and contingencies.

## III.

The Developer agrees that its payment(s) pursuant to Section I above, constitutes only Developer's public improvement obligation for Fairgrounds Road abutting City View Acres, Section 6, Midland County, Texas, and the City agrees that such payment(s) constitute all of Developer's public improvement obligation for said portion of Fairgrounds Road.

## IV.

This Agreement may be modified or amended only by the mutual written consent of the parties hereto.

## V.

This Agreement contains the complete and entire agreement between the parties respecting the matters addressed herein, and supersedes all prior negotiations, agreements, representations and understandings, if any, between the parties respecting such matters.

VI.

Except as may be otherwise specifically provided in this Agreement, all notices required or permitted hereunder shall be in writing as follows:

If to Developer:

Chris Jensen  
Pecos Gathering and Marketing, LLC  
1001 Almont Pl.  
Midland, Texas 79705

If to City:

Director of Engineering Services  
City of Midland  
P.O. Box 1152  
Midland, Texas 79702

VII.

Any clause, sentence, provision, paragraph or article of this Agreement held by a court of competent jurisdiction to be invalid, illegal or ineffective shall not impair, invalidate or nullify the remainder of this Agreement, but the effect thereof shall be confined to the clause, sentence, provision, paragraph or article so held to be invalid, illegal or ineffective.

VIII.

This Agreement shall be construed under the laws of the State of Texas. Exclusive venue for any cause of action shall be in Midland County, Texas. All the obligations and undertakings of the parties shall be deemed to have occurred in Midland County, Texas.

IX.

In the event of any conflict between the parties hereto such that either party brings or commences any legal action or proceeding related to this Agreement, including but not limited to any action pursuant to the provisions of the Texas Uniform Declaratory Judgments Act (TEX. CIV. PRAC. & REM. CODE § 37.001 *et seq.*, as amended), the parties hereto agree to waive any and all rights to recovery of attorneys fees to which the prevailing party might otherwise be entitled.

**BY EXECUTING THIS AGREEMENT, DEVELOPER AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST THE CITY, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THE AGREEMENT, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THE AGREEMENT. THE DEVELOPER SPECIFICALLY AGREES THAT IF THE DEVELOPER BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS AGREEMENT, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET. SEQ., AS AMENDED), OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, THE DEVELOPER AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH DEVELOPER MIGHT OTHERWISE BE ENTITLED.**

**DEVELOPER AGREES THAT THIS IS THE VOLUNTARY AND INTENTIONAL RELINQUISHMENT AND ABANDONMENT OF A PRESENTLY EXISTING KNOWN**

**RIGHT. DEVELOPER ACKNOWLEDGES THAT IT UNDERSTANDS ALL TERMS AND CONDITIONS OF THE AGREEMENT. THE DEVELOPER FURTHER ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN THE CITY AND THE DEVELOPER. THIS SECTION SHALL NOT BE CONSTRUED OR INTERPRETED AS A WAIVER OF SOVEREIGN IMMUNITY.**

**THE DEVELOPER AND CITY ARE RELYING ON THEIR OWN JUDGMENT. EACH PARTY HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH LEGAL COUNSEL PRIOR TO ITS EXECUTION.**

**X.**

**DEVELOPER HEREBY RELEASES, RELINQUISHES, ACQUITS AND FOREVER DISCHARGES CITY, CITY'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH DEVELOPER HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, DUE PROCESS AND TAKINGS CLAUSES UNDER THE TEXAS AND UNITED STATES CONSTITUTION, TORT CLAIMS OR CITY'S NEGLIGENCE.**

**XI.**

By executing this Agreement the City is not waiving its right of sovereign immunity. The City is retaining its immunity from suit. The City is not granting consent to be sued by legislative resolution or action.

**THERE IS NO WAIVER OF SOVEREIGN IMMUNITY.**

**XII.**

The parties agree that this Agreement is made under the authority of Section 395.081 of the Texas Local Government Code and the laws of the State of Texas and Ordinances and the Charter of the City of Midland. The City finds in accordance with Section 395.081 of the Texas Local Government Code that the City of Midland will benefit by allowing the Developer to participate in funding the public improvements described herein. The City finds that this benefit will promote the public health, safety, and public welfare of the citizens of Midland. The City finds that the benefit the City of Midland receives will be efficient and well-planned urban growth and development, in coordination with public services. The benefit is also that this agreement will help preserve and increase the ad valorem tax base of the City. The City finds that the Developer's land adjoins the capital improvement or is within four (4) miles of the capital improvement. Four (4) miles is the specified distance required in Section 395.081 of the Texas Local Government Code.

EXECUTED in duplicate the day and year first above written.

CITY OF MIDLAND, TEXAS

By: \_\_\_\_\_  
Courtney Sharp, City Manager

ATTEST:

\_\_\_\_\_  
Amy M. Turner, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Keith Stretcher, City Attorney

PECOS GATHERING AND MARKETING,  
LLC

By: \_\_\_\_\_  
Christopher J. Jensen, Development Manager

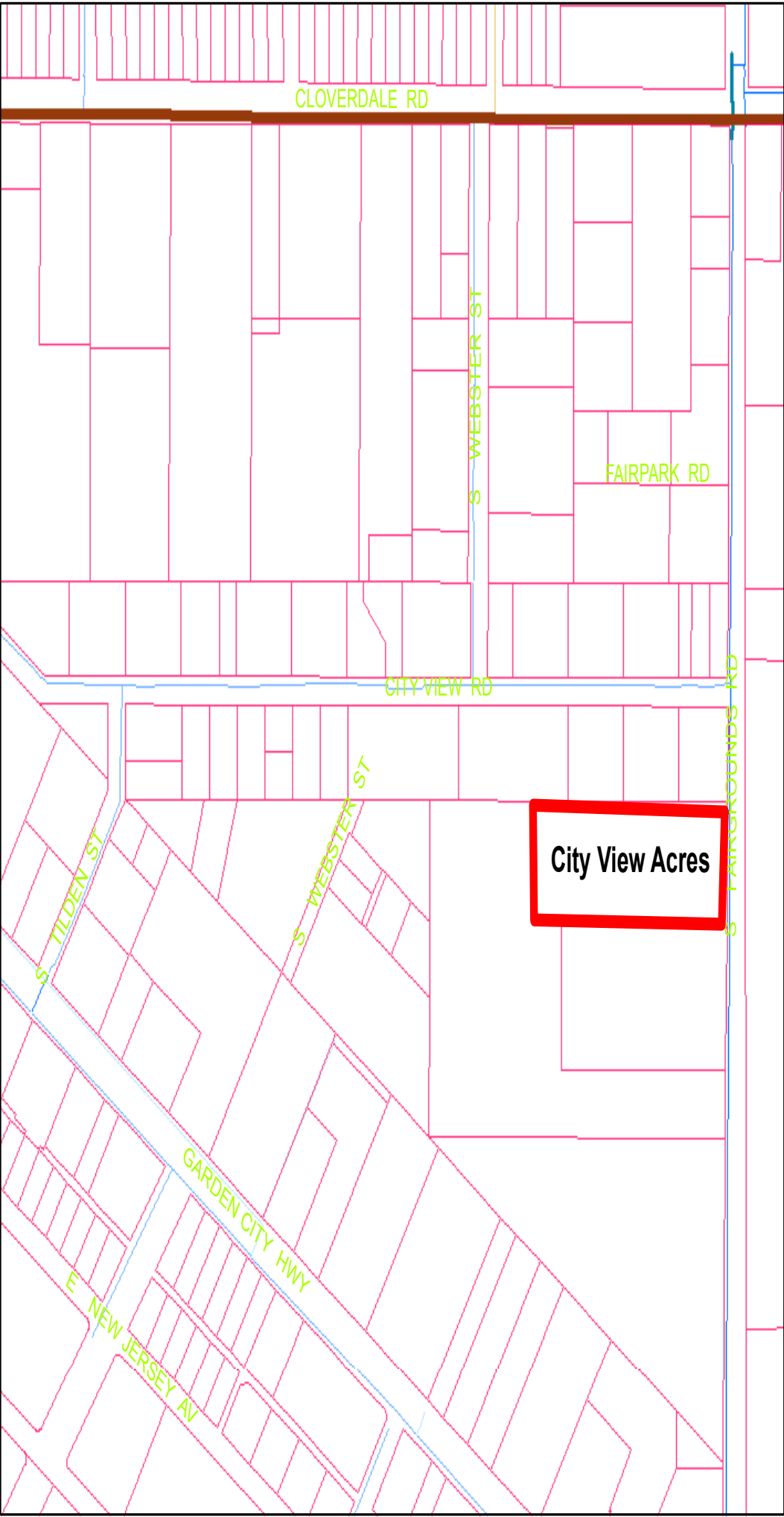
THE STATE OF TEXAS           §  
                                          §  
COUNTY OF MIDLAND       §

BEFORE ME, the undersigned authority, on this day personally appeared Christopher J. Jensen, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed and delivered the foregoing instrument for the purposes and consideration therein expressed on behalf of Pecos Gathering and Marketing, LLC.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Notary Public, State of Texas





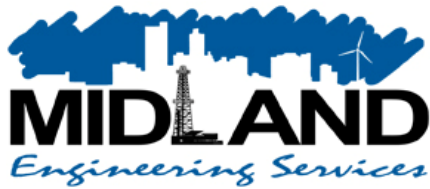
# ENGINEERING DIVISION

City View Acres (Section 6)

Development Agreement  
&  
Temporary Water Service Tap

City View Acres





# City Council Agenda

Approved for Agenda:  
**JNichols**  
City Manager's Office

**MEETING DATE:** April 10, 2012

**TO:** CITY COUNCIL/CITY MANAGER

**FROM:** David D. Beard, P.E. – City Engineer

**SUBJECT:** Consider a resolution approving a Temporary Water and Wastewater Service Agreement with Pecos Gathering and Marketing, LLC. – City View Acres (Section 6). This property is positioned in the ETJ less than ½ mile from the City Limits, generally located at 1301 S. Fairgrounds Ave. approximately 1,800 feet north of Garden City Hwy. (SH 158). (District #2 - Hailey)

---

## **Purpose:**

Consider a Temporary Water Service Agreement with Pecos Gathering and Marketing located at 1301 S. Fairgrounds Rd.

## **Recommended City Council Action**

☒ Approve

☐ Deny

☐ Direction/Informational

## **Fiscal Impact:**

The City will receive monthly payment for services equal to 150% of the cost for service inside the City Limits. This revenue will be deposited to the Water and Sewer Fund.

## **Discussion:**

Pecos Gathering and Marketing, LLC is proposing to establish water service to a business located at 1310 S. Fairgrounds Rd. There is a 12" water main on the west side of Fairgrounds Rd that is accessible for this purpose.

Staff supports approval of this request.

Attached is a location map.

**RESOLUTION NO.**

**RESOLUTION AUTHORIZING THE EXECUTION OF A TEMPORARY WATER AND SEWER SERVICE AGREEMENT BETWEEN THE CITY OF MIDLAND AND PECOS GATHERING AND MARKETING, LLC FOR SERVICES TO 1310 SOUTH FAIRGROUNDS ROAD, MIDLAND, TEXAS, 79701; SAID PROPERTY IS OUTSIDE THE CITY LIMITS; PECOS GATHERING AND MARKETING, LLC HAS EXECUTED A LETTER AGREEING TO ANNEXATION IF AND WHEN THE PROPERTY IS ANNEXED; PECOS GATHERING AND MARKETING, LLC SHALL BE CHARGED A RATE FOR SERVICE WHICH IS ONE AND ONE-HALF TIMES THE RATE CHARGED CUSTOMERS IN THE CITY LIMITS; AND ORDERING RECORDATION BY THE CITY SECRETARY**

**WHEREAS**, pursuant to Resolution No. 2003-285, the City Council may enter into an agreement to provide water and sewer service outside the City limits when such service will benefit the City of Midland and its economic development opportunities; and

**WHEREAS**, Pecos Gathering and Marketing, LLC owns a tract of land, located at 1310 South Fairgrounds Road, Midland, Texas, 79701, such land being situated outside the corporate limits of the City; and

**WHEREAS**, the City Council finds it to be in the public interest and of an economic benefit to the City of Midland to authorize the execution of a temporary water and sewer service agreement;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS:**

**SECTION ONE.** That the City Manager and City Secretary are hereby authorized and directed to execute and attest, respectively, on behalf of the City of Midland, Texas, a temporary water and sewer service agreement with Pecos Gathering and Marketing, LLC, the property owner at 1310 South Fairgrounds Road, Midland, Texas, 79701, for temporary water and sewer service outside the City limits, said agreement being attached hereto as Exhibit "A" and incorporated herein for all legal purposes.

**SECTION TWO.** That the City Secretary is hereby authorized and directed to file a certified copy of this Resolution in the Deed Records of Midland County, Texas.

On motion of Council member \_\_\_\_\_, seconded by Council member \_\_\_\_\_, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2012, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

\_\_\_\_\_  
W. Wesley Perry, Mayor

ATTEST:

\_\_\_\_\_  
Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

\_\_\_\_\_  
Courtney Sharp, City Manager

APPROVED AS TO CONTENT  
AND COMPLETENESS:

\_\_\_\_\_  
David Beard, City Engineer

APPROVED AS TO FORM:

---

Keith Stretcher, City Attorney

**STATE OF TEXAS** §  
**COUNTY OF MIDLAND** §

**WITNESSETH**

2. Customer shall construct and provide at its sole expense, according to City specifications, all necessary extensions of lines, fittings and appurtenances thereto and thereafter be responsible for the maintenance thereof. The City agrees to allow the water and sewer lines to be

temporarily attached or connected to the City's water and sewer lines, upon certification by the City's Director of Utilities that the lines constructed by Customer comply with City specifications.

3. Customer agrees that all lines, fittings and appurtenances which are to be constructed by the Customer to the property described in Paragraph One of this Contract, must comply with the regulations contained in Title IV, "Building Regulations", Chapter 3, "Plumbing Code", of the City Code of Midland, Texas.

4. In consideration of City's allowing Customer to temporarily connect or attach its water or sewer lines to the City's water or sewer lines, Customer agrees to pay for any services used promptly and when due, at the rates established by ordinance from time to time by the City Council for customers outside the City, which rate is presently one and one-half (1-1/2) times the rates established for customers inside the City. The City shall have the right to terminate service and this Agreement for nonpayment by Customer in accordance with standard City procedures as well as reasons stated in this Agreement. The City shall provide notice of rate increases as required by law.

5. Customer further agrees to pay the regular rates established in the City Code for tap fees and any paving cuts.

6. Customer agrees to pay the City an inspection fee of SEVEN HUNDRED FIFTY AND NO/100 DOLLARS (\$750.00) for the water and sewer lines installed on or to serve the property described in Paragraph One, as the cost of reimbursing the City for inspecting and approving the Customer's water and sewer lines and appurtenances prior to acceptance by the City. This fee shall be paid before service is provided to the property.

7. It is expressly understood and agreed that any extension of water or sewer lines from Customer's property described above so as to service any other persons or property is expressly prohibited unless approved in writing by the City.

8. It is expressly understood and agreed that the following undesirable plumbing practices are prohibited by State regulations:

(i) No direct connection between the public drinking water supply and a potential source of contamination is permitted. Potential sources of contamination shall be isolated from the public water system by an air-gap or an appropriate backflow prevention device.

(ii) No cross-connection between the public drinking water supply and a private water system is permitted. These potential threats to the public drinking water supply shall be eliminated at the service connection by the installation of an air-gap or a reduced pressure-zone backflow prevention device.

(iii) No connection which allows water to be returned to the public drinking water supply is permitted.

(iv) No pipe or pipe fitting which contains more than 8.0% lead may be used for the installation or repair of plumbing at any connection which provides water for human use.

(v) No solder or flux which contains more than 0.2% lead can be used for the installation or repair of plumbing at any connection which provides water for human use.

9. The Customer shall allow the property to be inspected for possible cross-connections and other undesirable plumbing practices. These inspections shall be conducted by City or its designated agent prior to initiating service and periodically thereafter upon prior written notice and at City's sole expense. The inspections shall be conducted during the City's normal business hours. The City shall notify the Customer in writing of any cross-connection or other undesirable plumbing practice which has been identified during the initial inspection or the periodic reinspection. The Customer shall immediately correct any undesirable plumbing practice on the property. The



Customer shall, at its expense, properly install, test and maintain any backflow prevention device required by the City.

10. Customer agrees that it shall not allow any unauthorized connection to any sewer line that is constructed pursuant to the provisions of this Agreement, or provide water service to any person, corporation, partnership or other entity on the above described property without the written permission of the City Manager. Customer also agrees that violation of the terms of this paragraph, or violation of any applicable federal, state or local rule or regulation, constitute grounds for immediate termination of this Agreement and immediate cessation of water and/or sewer services.

11. It is expressly agreed and understood that all present or future ordinances and regulations applicable to water customers and related to water service within the City limits are incorporated by reference as express conditions of this Agreement; and that the Customer expressly agrees to be bound by all such ordinances or regulations of City related to water or sewer service as if Customer were in fact within the corporate limits and that any violation of any such ordinance or regulation by the Customer, its agents, servants, or employees, shall constitute a breach of this Agreement and be grounds for the immediate cancellation by the City of this Agreement and/or discontinuance of the services furnished hereunder.

12. **ATTORNEY FEES - BY EXECUTING THIS AGREEMENT, CUSTOMER AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST THE CITY, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THE AGREEMENT, OR THE CONSTRUCTION, INTERPRETATION OR**

**BREACH OF THE AGREEMENT. THE CUSTOMER SPECIFICALLY AGREES THAT IF THE CUSTOMER BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS AGREEMENT, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET. SEQ., AS AMENDED), OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, THE CUSTOMER AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH CUSTOMER MIGHT OTHERWISE BE ENTITLED.**

**CUSTOMER AGREES THAT THIS IS THE VOLUNTARY AND INTENTIONAL RELINQUISHMENT AND ABANDONMENT OF A PRESENTLY EXISTING KNOWN RIGHT. CUSTOMER ACKNOWLEDGES THAT IT UNDERSTANDS ALL TERMS AND CONDITIONS OF THE AGREEMENT. THE CUSTOMER FURTHER ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN THE CITY AND THE CUSTOMER. THIS SECTION SHALL NOT BE CONSTRUED OR INTERPRETED AS A WAIVER OF SOVEREIGN IMMUNITY.**

**THE CUSTOMER AND CITY ARE RELYING ON THEIR OWN JUDGMENT. EACH PARTY HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH LEGAL COUNSEL PRIOR TO ITS EXECUTION.**

13. By executing this Agreement the City is not waiving its right of sovereign immunity. The City is retaining its immunity from suit. The City is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF SOVEREIGN IMMUNITY.**

14. This Agreement shall be governed by the laws of the State of Texas. All performance, and payment made pursuant to this Agreement shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this Agreement or the performance of this Agreement shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this Agreement shall be deemed to have occurred in Midland County, Texas.

**15. RELEASE - NOTWITHSTANDING ANY OTHER PROVISIONS, CUSTOMER HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES CITY, CITY'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH CUSTOMER HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS OR THE CITY'S NEGLIGENCE.**

16. The City's approval of this Agreement does not create a third party beneficiary. There is no third party beneficiary to this Agreement. No person or entity who is not a party to this Agreement shall have any third party beneficiary or other rights hereunder.

17. If the Customer fails to comply with the terms of this Agreement, the City shall, at its option, either terminate service immediately or properly install, test, and maintain an appropriate backflow prevention device at the service connection. Any expenses associated with the enforcement or termination of this Agreement shall be billed to the Customer.

18. Notwithstanding any other provisions, the City may terminate this Agreement at will for any reason, or no reason, and without penalty by giving at least one hundred eighty (180) days written notice to the Customer. The City and Customer have bargained for this flexibility. The parties understand that it is in City's sole and absolute discretion to terminate this Agreement by giving the requisite notice. The Customer also understands and acknowledges that Customer has no property right in water and sewer service by virtue of this Agreement. All water and sewer service shall cease and be suspended immediately upon termination of the Agreement becoming effective.

19. Customer understands and agrees that the City has entered into this Agreement with the explicit intention of annexing the property served by this Agreement, and would not have agreed to provide temporary water and sewer service in the absence of Customer's agreement that Customer will not contest, oppose or seek to delay said annexation proceedings in any manner. By executing this Agreement, Customer is requesting annexation by the City. The customer has provided the City a letter which is attached hereto and marked as Exhibit "B" requesting annexation.

20. All notices hereunder must be given in writing by certified mail return receipt requested. All notices under this agreement shall be sent as follows:

To the City of Midland, Texas:

Stuart Purvis  
Director of Utilities  
P.O. Box 1152  
Midland, Texas 79702

To Customer:

Christopher J. Jensen  
Pecos Gathering and Marketing, LLC  
1001 Almont Pl.  
Midland, Texas 79705

**21. CUSTOMER WILL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING REASONABLE ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF CUSTOMER,** its agents or employees, or any subcontractor, arising out of, or resulting from, Customer's use of, or activities on, the Agreement Premises, and Customer will be required to pay any judgment with costs which may be obtained against City or any of its officers, agents or employees, including reasonable attorney's fees.

**CUSTOMER SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, PROPERTY DAMAGE, LOSSES, AND EXPENSE OF ANY CHARACTER WHATSOEVER INCLUDING REASONABLE ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS**

**OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF CITY, CITY'S OFFICERS, AGENTS AND EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH CUSTOMER OR CUSTOMER'S EMPLOYEES, AGENTS OR SUBCONTRACTORS NEGLIGENCE, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS AGREEMENT AND CUSTOMER WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF CITY'S OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.**

22. This Agreement may not be assigned without the written consent of the Midland City Council. The decision on whether or not to approve an assignment shall be in the sole discretion of the Midland City Council.

23. The parties agree that this Agreement is supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged.

24. It is expressly understood and agreed that Customer shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of the City; that Customer shall have exclusive control of and the exclusive right to control the details of the services and work performed hereunder, and all persons performing the same; and shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors; that the doctrine of respondeat superior shall not apply as between City and Customer, its officers, agents, employees, contractors and subcontractors; and that nothing

herein shall be construed as creating a partnership or joint enterprise between City and Customer. No person performing any of the work and services described hereunder by Customer shall be considered an officer, agent, servant or employee of the City. Further, it is specifically understood and agreed that nothing in this agreement is intended or shall be construed as creating a “Community of Pecuniary Interest” or “An Equal Right of Control” which would give rise to vicarious liability. Customer shall be an independent contractor under this agreement and shall assume all of the rights, obligations and liabilities, applicable to it as such independent contractor hereunder. The City does not have the power to direct the order in which the work is done. The City shall not have the right to control the means, methods or details of the Customer’s work. Customer shall assume exclusive responsibility for the work. Customer is entirely free to do the work in its own way.

25. As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this agreement, Customer or his legal representative, shall give the City Manager, or any other reasonable official of the City, notice in writing (consisting of one original and seven copies of notice attached to a copy of this agreement) of such damages, duly verified, within one-hundred-twenty (120) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which the Customer will settle, the physical and mailing addresses of Customer at the time and date the claim was presented and the physical and mailing addresses of Customer for the six months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom the Customer relies to establish its claim; and a failure to so notify the City Manager within the time and manner provided herein shall exonerate, excuse and except the

City from any liability whatsoever. The City is under no obligation to provide notice to Customer that Customer's notice is insufficient. City reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

The statutory prerequisites outlined herein constitute jurisdictional requirements pursuant to Section 271.154 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision, Customer's failure to comply with the requirements herein shall perpetually bar Customer's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless of whether City has actual or constructive notice or knowledge of said claim or alleged damages. Customer agrees that the requirements of this entire agreement are reasonable.

ATTEST:

CITY OF MIDLAND, TEXAS

\_\_\_\_\_  
Amy M. Turner, City Secretary

By \_\_\_\_\_  
Courtney Sharp, City Manager

APPROVED AS TO FORM:

CUSTOMER:  
PECOS GATHERING AND MARKETING,  
LLC

\_\_\_\_\_  
Keith Stretcher, City Attorney

By \_\_\_\_\_  
Christopher J. Jensen, Development Manager



**STATE OF TEXAS**

§  
§  
§

**COUNTY OF MIDLAND**

BEFORE ME, the undersigned authority, on this day personally appeared Christopher J. Jensen, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as his act and deed on behalf of Pecos Gathering and Marketing, LLC, for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2012.

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

EXHIBIT "A"

FIELD NOTE DESCRIPTION OF THE SURVEY OF A 4.00 ACRE TRACT OF LAND OUT OF TRACT 9, CITY VIEW ACRES, AN ADDITION TO THE CITY OF MIDLAND, AS PER PLAT OF RECORD IN VOLUME 71, PAGE 108, PLAT RECORDS, MIDLAND COUNTY, TEXAS, SAID 4.00 ACRE TRACT DESCRIBED MORE FULLY BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1/2" REINF BAR SET IN THE WEST RIGHT-OF-WAY LINE OF FAIRGROUNDS ROAD FOR THE NE CORNER OF THIS TRACT, SAME BEING THE NE CORNER OF SAID TRACT 9;

THENCE S.15°00'39"E. 266.62 FEET ALONG THE EAST LINE OF SAID TRACT 9 AND ALONG THE WEST RIGHT-OF-WAY LINE OF FAIRGROUNDS ROAD TO A 1/2" REINF BAR SET FOR THE SE CORNER OF THIS TRACT;

THENCE S.77°53'35"W. 242.03 FEET ALONG THE CENTERLINE OF A 50 FOOT ROADWAY RESERVATION TO A 1/2" REINF BAR SET FOR A CORNER OF THIS TRACT;

THENCE S.75°00'29"W. 436.85 FEET ALONG THE CENTERLINE OF SAID 50 FOOT ROADWAY RESERVATION TO A 1/2" REINF BAR SET FOR THE SW CORNER OF THIS TRACT;

THENCE N.14°59'31"W. 254.44 FEET TO A 1/2" REINF BAR SET FOR THE NW CORNER OF THIS TRACT IN THE NORTH LINE OF SAID TRACT 9;

THENCE N.75°00'29"E. 678.48 FEET ALONG THE NORTH LINE OF SAID TRACT 9 TO THE PLACE OF BEGINNING.

NOTE: THE SOUTH 25 FEET OF THIS TRACT IS RESERVED FOR ROADWAY PURPOSES.

\*\*\*Subject to Road Access and Maintenance Agreement to be filed of record\*\*\*

City of Midland  
P.O. Box 1152  
Midland, Texas 79702-1152  
Attn: Stuart Purvis, Director of Utilities

Re: Water & Sewer Service Agreement

Dear Mr. Purvis:

We are aware and understand that it is the City's policy to NOT provide water and sewer service outside of the City Limits, such as at our property location, but that each request for such service is considered on a case-by-case basis. We also understand that the referenced agreement must be approved by the City Council at a regular meeting and that by signing the agreement, we verify that we have no opposition to being annexed into the City at such time as the City wishes to do so. Please proceed with placement of the agreement on the next City Council meeting.

Very truly yours

  
Signature of Owner of Property

Pecos Gathering & Marketing, LLC  
formerly Big Star Crude, LLC  
Member

Address of site or legal description of property:

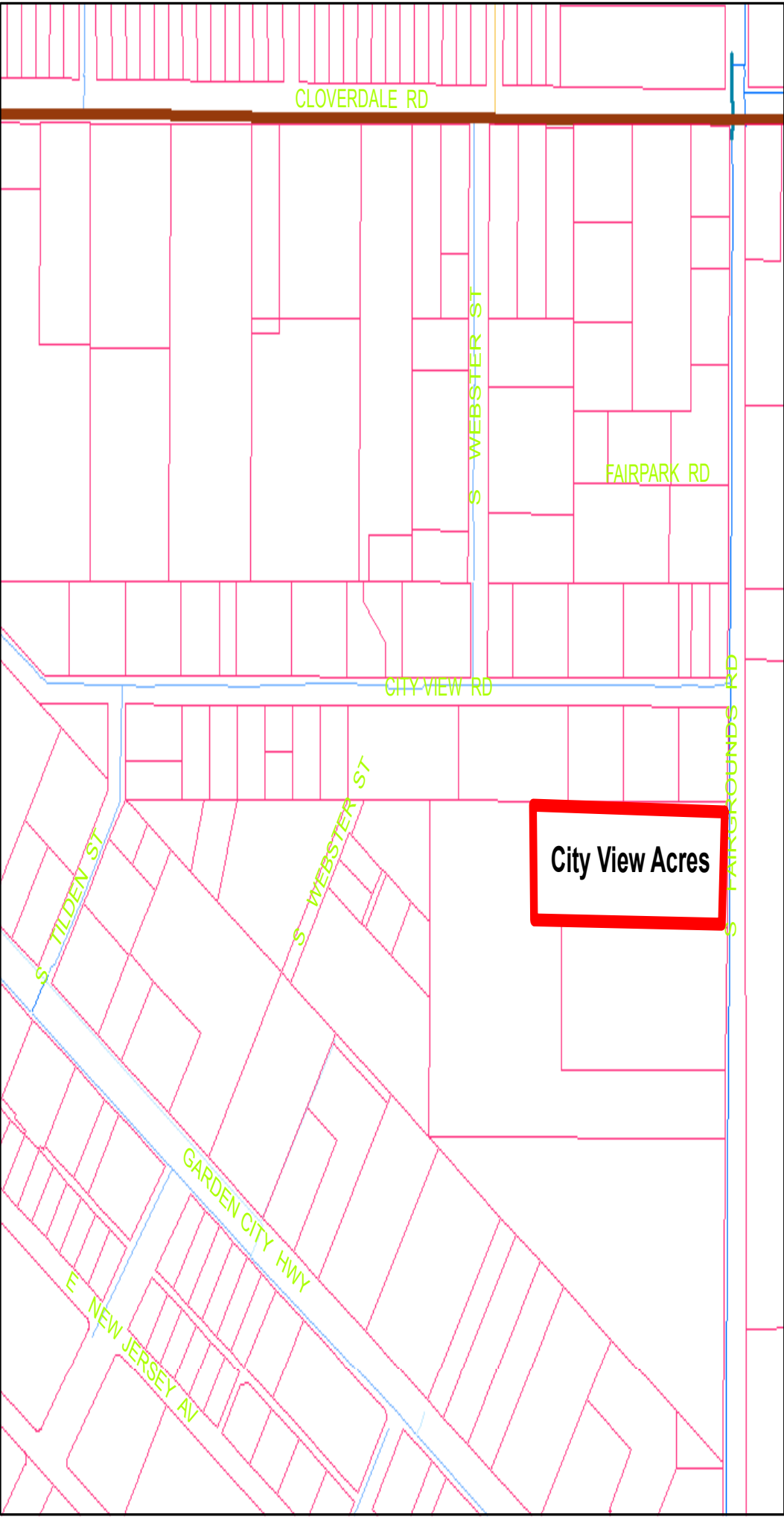
1310 South Fairgrounds Road  
Midland, Texas 79701  
Legal Attached

Contact information for land owner:

Pecos Gathering and Marketing LLC.  
Attn: Chris Jensen  
1001 Almont Pl.  
Midland, Tx. 79705

Commercial - 28,000 sq/ft.

Chris  
432-425-1773



# ENGINEERING DIVISION

City View Acres (Section 6)

Development Agreement  
&  
Temporary Water Service Tap





# City Council Agenda

Approved for Agenda:  
**CSharp**  
City Manager's Office

**MEETING DATE:** April 10, 2012

**TO:** CITY COUNCIL/CITY MANAGER

**FROM:** Price Robinson, Chief of Police

**SUBJECT:** Accept a grant award from the Southwest Border HIDTA

---

## **Purpose:**

Accept a FY2012 grant award in the amount of \$168,714 from the Southwest Border High Intensity Drug Trafficking Areas (HIDTA) Program and appropriate funds.

## **Recommended City Council Action**

☒ Approve      ☐ Deny      ☐ Direction/Informational

## **Fiscal Impact:**

No fiscal impact to the City of Midland

## **Discussion:**

The purpose of the High Intensity Drug Trafficking Area (HIDTA) program, as authorized by the Anti-Drug Act of 1988, is to enhance and coordinate drug control efforts among federal, state, and local law enforcement agencies. The program provides agencies with resources in the way of technology, equipment, and funding in order to better combat drug trafficking.

The Midland Police Department has been part of the West Texas Region of the Southwest Border HIDTA since August 2008. We were recently notified that funding in the amount of \$168,714 has been approved for our continued support of the West Texas HIDTA Permian Basin Task Force Initiative.

**RESOLUTION NO.**

**RESOLUTION ACCEPTING A GRANT FROM THE  
SOUTHWEST BORDER HIGH INTENSITY DRUG  
TRAFFICKING AREAS PROGRAM IN THE AMOUNT  
OF \$168,714.00; THIS GRANT WILL BE UTILIZED FOR  
THE PURPOSE OF ENHANCING AND COORDINATING  
DRUG CONTROL EFFORTS AMONG FEDERAL,  
STATE, AND LOCAL LAW ENFORCEMENT  
AGENCIES TO BETTER COMBAT DRUG  
TRAFFICKING; AND APPROPRIATING FUNDS**

**WHEREAS**, the City of Midland, Texas, has submitted a grant application to the Southwest Border High Intensity Drug Trafficking Areas (HIDTA) program to enhance and coordinate drug control efforts among federal, state, and local law enforcement agencies; and

**WHEREAS**, the Southwest Border HIDTA program provides agencies with resources in the way of technology, equipment, and funding in order to better combat drug trafficking; and

**WHEREAS**, the City of Midland, Texas, has been awarded \$168,714.00 from the Southwest Border HIDTA program to be used for the purpose of enhancing and coordinating drug control efforts among federal, state, and local law enforcement agencies to better combat drug trafficking; and

**WHEREAS**, the City Council finds it to be in the public interest to accept said grant award;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS:**

**SECTION ONE.** That the City of Midland, Texas, acting through its Mayor and City Council, hereby accepts the HIDTA grant of \$168,714.00 to be used for the purpose of enhancing and coordinating drug control efforts among federal, state, and local law enforcement agencies to better combat drug trafficking.

**SECTION TWO.** That the Mayor, Director of Finance and Chief of Police of the City of Midland, Texas, are hereby authorized and directed to evidence the City of Midland's acceptance by executing all necessary documents in order to accept said grant award.

**SECTION THREE.** That the Fiscal Year 2012 H.I.D.T.A. grant in the amount of \$168,714.00 is hereby accepted and directed to be deposited into the General Fund (001) of the City, and; that the sum of \$168,714.00 is hereby appropriated from the General Fund (001)Unappropriated Fund Balance (5650) to the FY'2012 H.I.D.T.A. Grant Project (7080).

On motion of Council member \_\_\_\_\_, seconded by Council member \_\_\_\_\_, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2012, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

\_\_\_\_\_  
W. Wesley Perry, Mayor

ATTEST:

\_\_\_\_\_  
Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

\_\_\_\_\_  
Courtney Sharp, City Manager

\_\_\_\_\_  
Robert McNaughton, Director of Finance

APPROVED AS TO CONTENT AND  
COMPLETENESS:

\_\_\_\_\_  
Price Robinson, Chief of Police

APPROVED AS TO FORM:

---

Keith Stretcher, City Attorney





# City Council Agenda

Approved for Agenda:  
**JNichols**  
City Manager's Office

**MEETING DATE:** April 10, 2012

**TO:** CITY COUNCIL/CITY MANAGER

**FROM:** Stuart T. Purvis, Director of Utilities

**SUBJECT:** Receive by Motion the Water Conservation Report as Developed by Freese and Nichols

---

## **Purpose:**

Receive by Motion the Water Conservation Report as Developed by Freese and Nichols

## **Recommended City Council Action**

☒ Approve      ☐ Deny      ☐ Direction/Informational

## **Fiscal Impact:**

No fiscal impact unless projects are adopted.

## **Discussion:**

The Council approved a contract with Freese and Nichols on November 8th to evaluate and recommend potential water use reduction programs. Freese and Nichols has completed this report and is delivering it to the City. This item is to accept the report as a whole and is not an acceptance or endorsement of any specific component of that report.



# City Council Agenda

Approved for Agenda:  
**JNichols**  
City Manager's Office

**MEETING DATE:** April 10, 2012

**TO:** CITY COUNCIL/CITY MANAGER

**FROM:** Cameron Walker, AICP

**SUBJECT:** Consider an ordinance on second reading annexing Tract 7, being 28.31-acres of land located at the northwest corner of Holiday Hill Road and Briarwood Avenue.

---

## **Purpose:**

To consider an ordinance on second reading annexing land by request from the property owner on the north side of Briarwood Avenue, west of Holiday Hill Road and adopting a service plan.

## **Recommended City Council Action**

☒ Approve

☐ Deny

☐ Direction/Informational

## **Fiscal Impact:**

There is no cost to the City to process the annexation of this property.

## **Discussion:**

First reading was held March 20<sup>th</sup>; it is now appropriate for the Council to consider an ordinance on second reading annexing this approximate 28 acre tract. This land is located at a significant intersection with high traffic volume and residential growth. The Bush Tennis Center is located to the west. Development is expected in the near future.

## **Attachments:**

Map  
Proposed Ordinance and Exhibit B: Service Plan



# City Council Agenda

Approved for Agenda:  
**JNichols**  
City Manager's Office

**MEETING DATE:** March 20, 2012

**TO:** CITY COUNCIL/CITY MANAGER

**FROM:** Cameron Walker, AICP

**SUBJECT:** Consider an ordinance annexing Tract 7, being 28.31-acres of land located at the northwest corner of Holiday Hill Road and Briarwood Avenue.

---

## **Purpose:**

To consider an ordinance annexing land by request from the property owner on the north side of Briarwood Avenue, west of Holiday Hill Road and adopting a service plan.

## **Recommended City Council Action**

☒ Approve

☐ Deny

☐ Direction/Informational

## **Fiscal Impact:**

There is no cost to the City to process the annexation of this property.

## **Discussion:**

Public hearings were held on February 28<sup>th</sup> and February 29<sup>th</sup>, 2012. It is now appropriate for the Council to consider an ordinance annexing this approximate 28 acre tract. This land is located at a significant intersection with high traffic volume and residential growth. The Bush Tennis Center is located to the west. Development is expected in the near future.

## **Attachments:**

Map  
Proposed Ordinance and Exhibit B: Service Plan

**ORDINANCE NO.**

**AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 28.31-ACRE TRACT OF LAND OUT OF SECTION 24, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF BRIARWOOD AVENUE AND HOLIDAY HILL ROAD); AND APPROVING A PUBLIC SERVICE PLAN**

**WHEREAS**, public hearings before the City Council of the City of Midland, Texas, a home rule municipal corporation, where all interested persons were provided an opportunity to be heard on the proposed annexation of the hereinafter described territory, were held in the City Council Chambers on February 28, 2012 and February 29, 2012; and

**WHEREAS**, notice of such public hearings was published in a newspaper having general circulation in the City of Midland, Texas, and in the below described territory, on February 16, 2012;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS:**

**SECTION ONE.** That the following described property adjoining the present boundary lines of the City of Midland, Texas, be and the same is hereby annexed to and incorporated within the boundary of the City of Midland, Texas:

Being a 28.31-acre tract of land out of Section 24, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas, and being more fully described by metes and bounds attached hereto as Exhibit "A" and incorporated herein by reference for all legal purposes.

**SECTION TWO.** That the service plan, attached hereto as Exhibit "B", which provides for the extension of municipal services into the area described above in Section One, is hereby approved.

**SECTION THREE.** That this ordinance be published in the official newspaper in the City of Midland, Texas, and the same shall not be effective until after the publication

thereof.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the       day of       , A.D., 2012; and passed to second reading on motion of Council member       , seconded by Council member       , by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member       , seconded by Council member       , on the       day of       , A.D., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS       day of       , A.D., 2012.

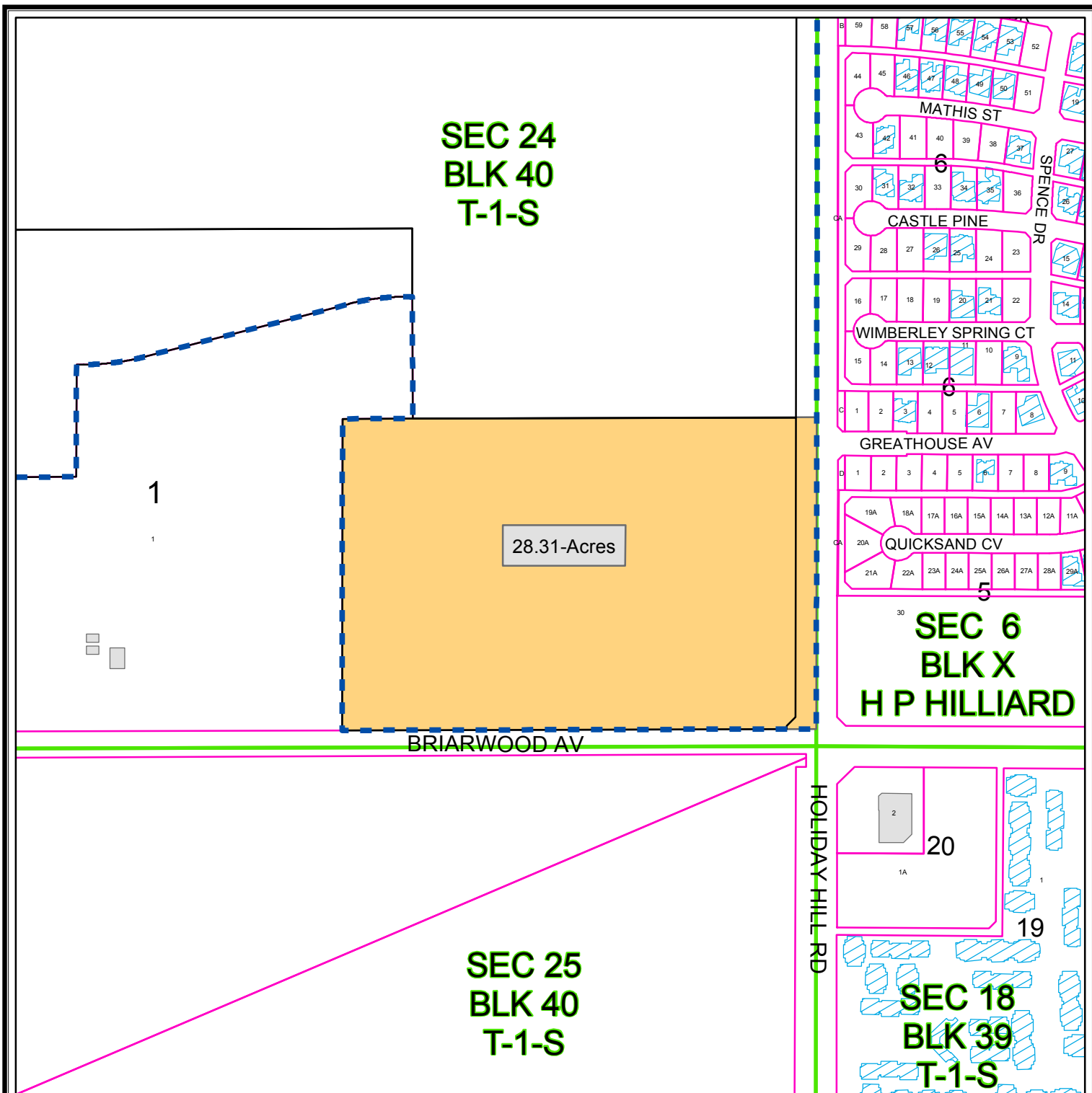
\_\_\_\_\_  
W. Wesley Perry, Mayor

ATTEST:

\_\_\_\_\_  
Amy M. Turner, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Keith Stretcher, City Attorney



## PROPOSED ANNEXATION MAP

**M - 11 - 024**

**Scale: 1" = 400'**

### TRACT 7

Consider a request for the annexation of a 28.31-acre tract of land out of Section 24, Block 40, T-1-S, T & P RR Co. Survey, Midland County, Texas.

#### LEGEND

- ANNEXATION BOUNDARY
- CITY LIMITS
- SURVEY SECTION
- CITY PARCEL
- COUNTY PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS



**© THE CITY OF MIDLAND - 2011**  
THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA. WHILE THIS DATA IS MADE AVAILABLE TO THE PUBLIC, IT WAS CREATED FOR INTERNAL USE BY THE CITY OF MIDLAND WHICH MAKES NO CLAIM AS TO ITS ACCURACY OR COMPLETENESS. THIS DATA IS NOT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING, EITING, OR OTHER DECISIONS. SOLELY ON THE INFORMATION CONTAINED HEREIN.

**LEGAL DESCRIPTION FOR A 28.31 ACRE TRACT LOCATED IN  
SECTION 24, BLOCK 40, T-1-S, T. & P. RR. CO. SURVEY,  
MIDLAND COUNTY, TEXAS**

Boundary being further described by metes and bounds as follows:

**BEGINNING** at (N= 10,705,365.56' E= 1,729,641.31') a point on the Southeast corner of this tract, from whence a 3/8" spike & 2" aluminum washer marked "PLS 1974" previously set on the Southeast corner of said Section 24, bears S14°25'28"E, a distance of 50.50 feet;

THENCE S75°19'48"W, at 85.00 pass 1/2" iron rod with plastic cap marked "PLS 1974" set, continuing with the North right-of-way line of County Road 60, a distance of 1370.13 feet to a 1/2" iron rod with plastic cap marked "PLS 1974" set at the most Southerly Southeast corner of Lot 1, Block 1, Bush Tennis Center as recorded in Cabinet "I", Page 91, Plat Records of Midland County, Texas and the Southwest corner this tract, from whence a 1/2" iron rod with plastic cap marked "LCA ODESSA" found bears S5°E, a distance of 0.21 feet, also from said Southwest corner of this tract a 1/2" iron rod found on the Southwest corner of a 173.44 Acre Tract as described in Volume 1523, Page 641, Official Records of Midland County, Texas bears S75°19'48"W, a distance of 72.69 feet;

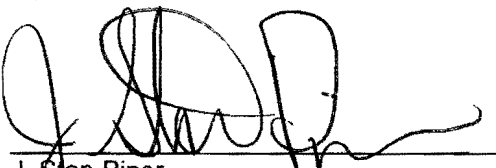
THENCE N14°25'12"W with an East line of said Lot 1, Block 1, Bush Tennis Center, a distance of 900.15 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA" found at an interior corner of said Lot 1, Block 1 and the Northwest corner of this tract;

THENCE N75°19'48"E with a South line of said Lot 1, Block 1, at 201.72 feet pass a 1/2" iron rod with plastic cap marked "LCA ODESSA" found at an exterior corner of said Lot 1, Block 1, at 1310.06 feet pass a 1/2" iron rod with plastic cap marked "PLS 1974" set at the West right-of-way line of Holiday Hill Road dedication recorded in Volume 2922, Page 243, Official Records of Midland County, Texas continuing for a total distance of 1370.06 feet to the Northeast corner of this tract;

THENCE S14°25'28"E with the East line of said Section 24 and the centerline of Holiday Hill Road, a distance of 900.15 feet to the **PLACE OF BEGINNING**. (Tract contains 1,233,286 square feet or 28.31 acres.)

Bearings, distances, and coordinates are relative to the Texas State Plane Coordinate System, NAD 1983/86, Central Zone, with a combine grid factor of 0.9998995, and a theta angle equal to - 0°54'48.39" at U.S.C. & G. station "MIDLAND" with published values of Y= 10,690,154.70 and X= 1,746,696.78 in U.S. Survey Feet.

I, J. Stan Piper, Registered Professional Land Surveyor, do hereby certify that this legal description is based on an actual survey made by me or under my supervision, and that the same is true and correct to the best of my knowledge and ability as surveyed on the ground on various dates to September 3, 2011.

  
J. Stan Piper  
Registered Professional Land Surveyor #1974  
Revised: November 8, 2011



Prepared for:  
Parkhill, Smith, and Cooper, Inc.  
1700 W. Wall Street, Suite 100  
Midland, TX 79701

**Exhibit "A"**

P.O. BOX 60432; MIDLAND, TX 79711; (432)550-7810

CASE NO. M-11-0 19.6

## **EXHIBIT B**

### **SERVICE PLAN FOR Tract 7**

*Being a 28.31 acre tract of land out of Sections 24,  
Block 40, T-1-S, T&P RR Co. Survey, Midland  
County, Texas.*

#### **DEVELOPMENT SERVICES**

*Existing Services: Public street access is available to Tract 7 since this property is adjacent to Holiday Hill Road and Briarwood Avenue.*

- A. Type of service to be provided upon annexation: Maintenance of streets and drainage facilities. Engineering services, traffic studies and controls will be provided as warranted. Review of submitted development and utility extension plans, right-of-ways, easements, floodplain information. Review of building permits, related inspection services and code enforcement. Review of zoning related issues and subdivision plats.
- B. Capital improvements to begin within 2 1/2 years: Water and sewer line extensions; street improvements; drainage improvements at the time of development and in accordance with the City of Midland's development policies. Timing of capital improvement development is at the discretion of the property owner(s).

#### **UTILITIES**

*Existing Services: Water and sewer services are available to Tract 7.*

- A. Development of this land will require the addition of water and sewer lines to accommodate the anticipated uses. The cost of installation will be borne by the developer with any City participation being regulated by the provisions in the City's subdivision regulations and in accordance with existing service capability.

#### **POLICE**

*Existing Services: None*

- A. Type of service to be provided upon annexation: emergency and routine call response, and traffic enforcement.
- B. Capital improvements to begin within 2 1/2 years: No improvements anticipated.



## **FIRE**

*Existing Services: Fire and emergency response provided through agreement with Midland County*

- A. Fire and EMS Service to be provided upon the effective date of annexation: All services are currently available and will continue following annexation.
- B. Capital improvements to begin within 2 1/2 years: None anticipated.

## **COMMUNITY SERVICES**

Existing Services: Health and Senior Services throughout Midland County including on site septic system permitting

- A. Type of service to be provided upon annexation: Parks Service, Health and Senior Services; Animal Control. services including pick up, impoundment, records maintenance, adoption and education will be immediately available.
- B. Capital improvements to begin within 2 1/2 years: None anticipated.



# City Council Agenda

Approved for Agenda:  
**JNichols**  
City Manager's Office

**MEETING DATE:** April 10, 2012

**TO:** CITY COUNCIL/CITY MANAGER

**FROM:** Cameron Walker, AICP

**SUBJECT:** Consider an ordinance on second reading establishing the initial zoning of annexed property (Tract 7A), being 20.21-acres of land located near the northwest corner of Briarwood Avenue and Holiday Hill Road.

---

## **Purpose:**

To consider an ordinance on second reading establishing the initial zoning of land immediately east of the Bush Tennis Center. First reading was held on March 20<sup>th</sup>.

## **Recommended City Council Action**

☒ Approve

☐ Deny

☐ Direction/Informational

## **Fiscal Impact:**

There is no cost to the City to process the initial zoning of this property.

## **Discussion:**

This land was recently annexed and zoned; it is now appropriate for the Council to consider an ordinance on second reading establishing the initial zoning of this approximate 20 acre tract. This land is located in a significant growth area where residential and retail growth is occurring. The Bush Tennis Center is located to the west. The property owner has requested that this land be zoned MF-1, Multiple Family Dwelling District in order to develop a site plan for future city approval of an apartment complex.

## **Attachments:**

Map  
Proposed Ordinance



# City Council Agenda

Approved for Agenda:  
**JNichols**  
City Manager's Office

**MEETING DATE:** March 20, 2012

**TO:** CITY COUNCIL/CITY MANAGER

**FROM:** Cameron Walker, AICP

**SUBJECT:** Consider an ordinance establishing the initial zoning of annexed property (Tract 7A), being 20.21-acres of land located near the northwest corner of Briarwood Avenue and Holiday Hill Road.

---

## **Purpose:**

To hold a public hearing at approximately 10:30 a.m. and consider an ordinance establishing the initial zoning of land immediately east of the Bush Tennis Center.

## **Recommended City Council Action**

☒ Approve

☐ Deny

☐ Direction/Informational

## **Fiscal Impact:**

There is no cost to the City to process the initial zoning of this property.

## **Discussion:**

This land was recently annexed and it is now appropriate for the Council to consider an ordinance establishing the initial zoning of this approximate 20 acre tract. This land is located in a significant growth area where residential and retail growth is occurring. The Bush Tennis Center is located to the west. The property owner has requested that this land be zoned MF-1, Multiple Family Dwelling District in order to develop a site plan for future city approval of an apartment complex.

## **Attachments:**

Map

Proposed Ordinance

**ORDINANCE NO.**

**AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 20.21-ACRE TRACT OF LAND OUT OF SECTION 24, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS AN MF-1, MULTIPLE-FAMILY DWELLING DISTRICT; SAID TRACT IS GENERALLY LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF BRIARWOOD AVENUE AND HOLIDAY HILL ROAD; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION**

**WHEREAS**, notice has been given to all parties in interest and citizens by publication in the official newspaper and otherwise, of a hearing to be held before the City Council on March 20, 2012, to consider amendments to the zoning regulations and map establishing the zoning classification of the property described in Section One hereof as an MF-1, Multiple-Family Dwelling District as set out in Section 11-1-6 of the City Code of Midland, Texas; and

**WHEREAS**, such a public hearing was held in the Council Chambers beginning at 10:30 a.m. on said March 20, 2012, as advertised; and

**WHEREAS**, after a full hearing, at which all parties in interest and citizens were given an opportunity to be heard; and after receiving and considering the recommendations of the Planning and Zoning Commission; and after considering among other things, the character of the property involved and the surrounding area and its peculiar suitability for particular uses; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such municipality, the Council finds it to be in the best interest of the health, safety, morals and general welfare of the City of Midland to amend the zoning regulations accordingly;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS:**

**SECTION ONE.** That the zoning classification of the area indicated as Tract 7A on Exhibit “A”, attached hereto and incorporated herein by reference, is hereby established as an MF-1, Multiple-Family Dwelling District.

**SECTION TWO.** The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

**SECTION THREE.** If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

**SECTION FOUR.** The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

**SECTION FIVE.** The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the       day of       , A.D., 2012; and passed to second reading on motion of Council member       , seconded by Council member       , by the following vote:

Council members voting “AYE”:

Council members voting “NAY”:

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member \_\_\_\_\_, seconded by Council member \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2012, at a regular meeting of the City Council:

Council members voting “AYE”:

Council members voting “NAY”:

PASSED AND APPROVED THIS \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2012.

\_\_\_\_\_  
W. Wesley Perry, Mayor

ATTEST:

\_\_\_\_\_  
Amy M. Turner, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Keith Stretcher, City Attorney

**CROSS POINTE ADDITION: MF ZONING**

**LEGAL DESCRIPTION FOR A 20.21 ACRE TRACT  
LOCATED IN SECTION 24, BLOCK 40, T-1-S,  
T. & P. RR. CO. SURVEY, MIDLAND COUNTY, TEXAS**

Boundary being further described by metes and bounds as follows:

**BEGINNING** at (N= 10,705,207.28' E= 1,729,036.68') a point on the North right-of-way line of County Road 60 and the most Southerly Southeast corner of this tract, from whence a 3/8" spike & 2" aluminum washer marked "PLS 1974" previously set on the Southeast corner of said Section 24, bears N75°19'48"E, a distance of 625.01 feet and S14°25'28"E, a distance of 50.50 feet;

THENCE S75°19'48"W with said right-of-way line of County Road 60, a distance of 745.12 feet to a 1/2" iron rod with plastic cap marked "PLS 1974" set at the most Southerly Southeast corner of Lot 1, Block 1, Bush Tennis Center as recorded in Cabinet "I", Page 91, Plat Records of Midland County, Texas and the Southwest corner of this tract;

THENCE N14°25'12"W with an East line of said Lot 1, Block 1, Bush Tennis Center, a distance of 900.15 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA" found at an interior corner of said Lot 1, Block 1 and the Northwest corner of this tract;

THENCE N75°19'48"E with a South line of said Lot 1, Block 1, at 201.72 feet pass a 1/2" iron rod with plastic cap marked "LCA ODESSA" found at an exterior corner of said Lot 1, Block 1, at 1310.06 feet pass a 1/2" iron rod with plastic cap marked "PLS 1974" set at the West right-of-way line of Holiday Hill Road dedication recorded in Volume 2922, Page 243, Official Records of Midland County, Texas continuing for a total distance of 1370.06 feet to the Northeast corner of this tract;

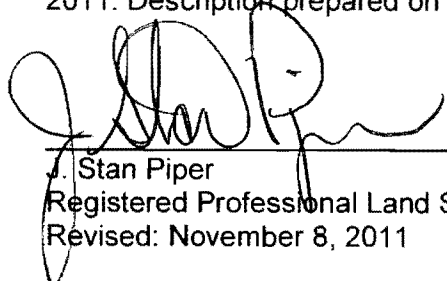
THENCE S14°25'28"E with the centerline of said Holiday Hill Road, a distance of 335.15 feet to the most Easterly Southeast corner of this tract;

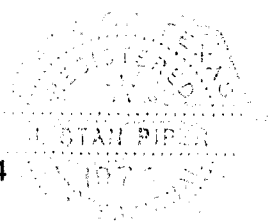
THENCE S75°19'48"W, a distance of 625.01 feet to an interior corner of this tract and the Northwest corner of a 8.11 Acre Tract surveyed this day;

THENCE S14°25'28"E, a distance of 565.01 feet to the **PLACE OF BEGINNING**. (Tract contains 880,158 square feet or 20.21 acres.)

Bearings, distances, and coordinates are relative to the Texas State Plane Coordinate System, NAD 1983/86, Central Zone, with a combine grid factor of 0.9998995, and a theta angle equal to - 0°54'48.39" at U.S.C. & G. station "MIDLAND" with published values of Y= 10,690,154.70 and X= 1,746,696.78 in U.S. Survey Feet.

I, J. Stan Piper, Registered Professional Land Surveyor, do hereby certify that this legal description is based on an actual survey made by me or under my supervision, and that the same is true and correct to the best of my knowledge and ability as surveyed on the ground on various dates to September 3, 2011. Description prepared on November 2, 2011.

  
J. Stan Piper  
Registered Professional Land Surveyor #1974  
Revised: November 8, 2011



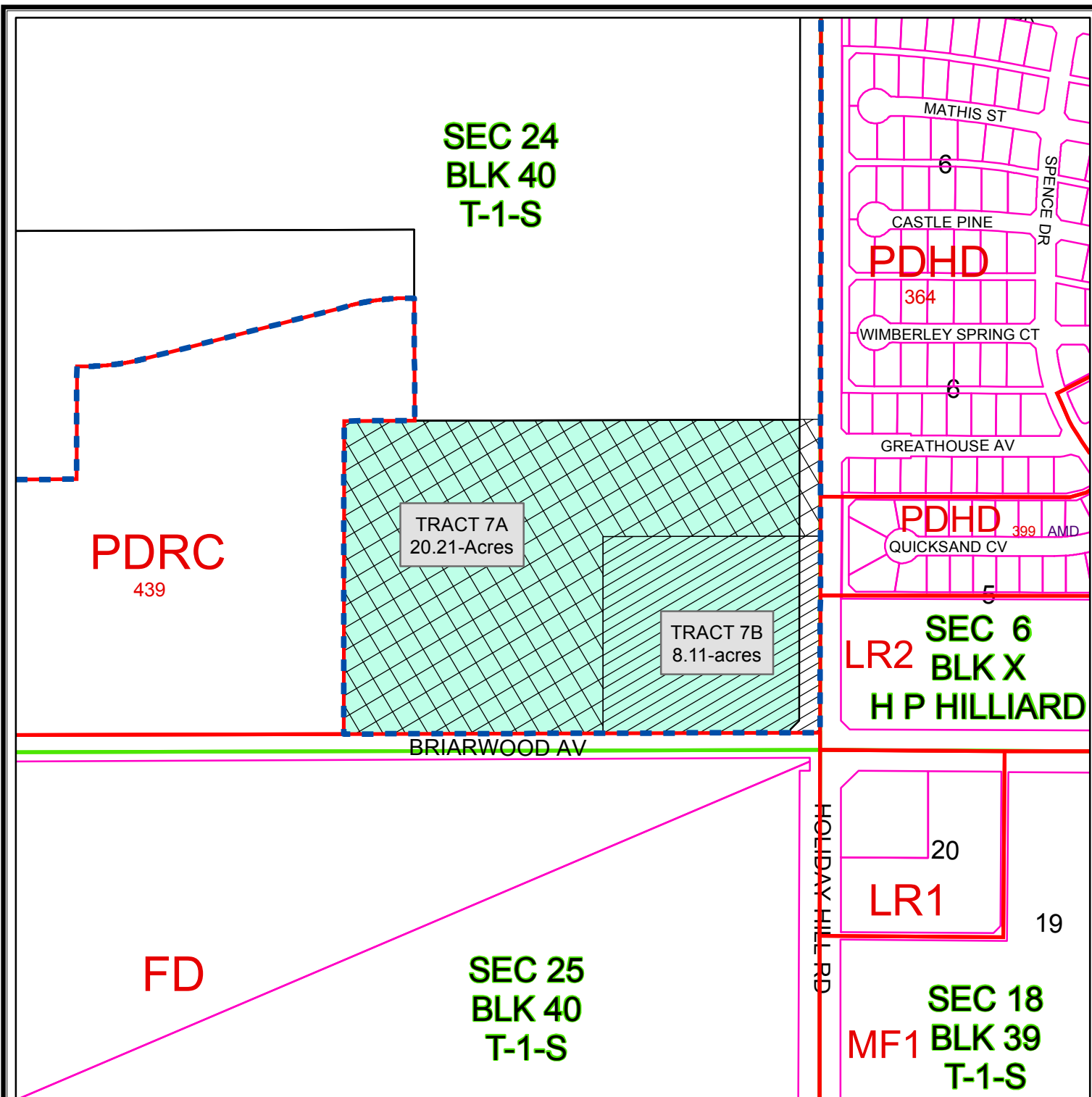
Prepared for:  
Parkhill, Smith, and Cooper, Inc.  
1700 W. Wall Street, Suite 100  
Midland, TX 79701

P.O. BOX 60432; MIDLAND, TX 79711; (432)550-7810

**Exhibit "A"**

**TRACT 7A**

CASE NO. Z-11-058  
20.6



## LOCATION & ZONING MAP

**Z - 11 - 058**

Scale: 1" = 400'

### TRACT 7

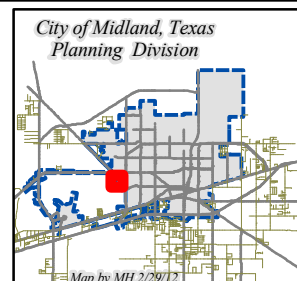
Consider the initial zoning of annexed land to MF-1, Multiple Family Dwelling District on a 20.21-acre tract of land (Tract 7A) and to LR-2, Local Retail District on a 8.11-acre tract of land (Tract 7B), all out of Section 24, Block 40, T-1-S, T & P RR Co. Survey, Midland County, Texas.

### LEGEND

- CITY LIMITS
- CITY PARCEL
- COUNTY PARCEL
- ZONING
- SURVEY SECTION

### ZONING DISTRICTS:

- LR - LOCAL RETAIL
- PD - PLANNED DISTRICT
- FD - FUTURE DEVELOPMENT
- MF1 - MULTIPLE FAMILY DWELLING



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THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA. WHILE THIS DATA IS MADE AVAILABLE TO THE PUBLIC, IT WAS CREATED FOR INTERNAL USE BY THE CITY OF MIDLAND WHICH MAKES NO CLAIM AS TO ITS ACCURACY OR COMPLETENESS. THIS DATA IS NOT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING, PLANNING, OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.





# City Council Agenda

Approved for Agenda:  
**JNichols**  
City Manager's Office

**MEETING DATE:** April 10, 2012

**TO:** CITY COUNCIL/CITY MANAGER

**FROM:** Cameron Walker, AICP

**SUBJECT:** Consider an ordinance on second reading establishing the initial zoning of annexed property (Tract 7B), being 8.11-acres of land located at the northwest corner of Briarwood Avenue and Holiday Hill Road.

---

## **Purpose:**

To consider an ordinance on second reading establishing the initial zoning of land immediately east of the Bush Tennis Center.

## **Recommended City Council Action**

☒ Approve

☐ Deny

☐ Direction/Informational

## **Fiscal Impact:**

There is no cost to the City to process the initial zoning of this property.

## **Discussion:**

This land was recently annexed and it is now appropriate for the Council to consider an ordinance establishing the initial zoning of this approximate 8 acre tract. This land is located at a significant arterial street intersection where traffic patterns and existing development suggests that retail development may be anticipated; accordingly, the property owner has requested that this land be zoned LR-2, Local Retail District.

## **Attachments:**

Map  
Proposed Ordinance



# City Council Agenda

Approved for Agenda:  
**JNichols**  
City Manager's Office

**MEETING DATE:** March 20, 2012

**TO:** CITY COUNCIL/CITY MANAGER

**FROM:** Cameron Walker, AICP

**SUBJECT:** Consider an ordinance establishing the initial zoning of annexed property (Tract 7B), being 8.11-acres of land located at the northwest corner of Briarwood Avenue and Holiday Hill Road.

---

## **Purpose:**

To hold a public hearing at approximately 10:33 a.m. and consider an ordinance establishing the initial zoning of land immediately east of the Bush Tennis Center.

## **Recommended City Council Action**

☒ Approve

☐ Deny

☐ Direction/Informational

## **Fiscal Impact:**

There is no cost to the City to process the initial zoning of this property.

## **Discussion:**

This land was recently annexed and it is now appropriate for the Council to consider an ordinance establishing the initial zoning of this approximate 8 acre tract. This land is located at a significant arterial street intersection where traffic patterns and existing development suggests that retail development may be anticipated; accordingly, the property owner has requested that this land be zoned LR-2, Local Retail District.

## **Attachments:**

Map

Proposed Ordinance

**ORDINANCE NO.**

**AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING AN 8.11-ACRE TRACT OF LAND OUT OF SECTION 24, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS AN LR-2, LOCAL RETAIL DISTRICT; SAID TRACT IS GENERALLY LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF BRIARWOOD AVENUE AND HOLIDAY HILL ROAD; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION**

**WHEREAS**, notice has been given to all parties in interest and citizens by publication in the official newspaper and otherwise, of a hearing to be held before the City Council on March 20, 2012, to consider amendments to the zoning regulations and map establishing the zoning classification of the property described in Section One hereof as an MF-1, Multiple-Family Dwelling District as set out in Section 11-1-6 of the City Code of Midland, Texas; and

**WHEREAS**, such a public hearing was held in the Council Chambers beginning at 10:33 a.m. on said March 20, 2012, as advertised; and

**WHEREAS**, after a full hearing, at which all parties in interest and citizens were given an opportunity to be heard; and after receiving and considering the recommendations of the Planning and Zoning Commission; and after considering among other things, the character of the property involved and the surrounding area and its peculiar suitability for particular uses; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such municipality, the Council finds it to be in the best interest of the health, safety, morals and general welfare of the City of Midland to amend the zoning regulations accordingly;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS:**

**SECTION ONE.** That the zoning classification of the area indicated as Tract 7B on Exhibit “A”, attached hereto and incorporated herein by reference, is hereby established as an LR-2, Local Retail District.

**SECTION TWO.** The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

**SECTION THREE.** If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

**SECTION FOUR.** The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

**SECTION FIVE.** The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the       day of       , A.D., 2012; and passed to second reading on motion of Council member       , seconded by Council member       , by the following vote:

Council members voting “AYE”:

Council members voting “NAY”:

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member \_\_\_\_\_, seconded by Council member \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2012, at a regular meeting of the City Council:

Council members voting “AYE”:

Council members voting “NAY”:

PASSED AND APPROVED THIS \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2012.

\_\_\_\_\_  
W. Wesley Perry, Mayor

ATTEST:

\_\_\_\_\_  
Amy M. Turner, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Keith Stretcher, City Attorney

**CROSS POINTE ADDITION: LR-2 ZONING**

**LEGAL DESCRIPTION FOR A 8.11 ACRE TRACT  
LOCATED IN SECTION 24, BLOCK 40,  
T-1-S, T. & P. RR. CO. SURVEY,  
MIDLAND COUNTY, TEXAS**

Boundary being further described by metes and bounds as follows:

**BEGINNING** at (N= 10,705,365.56' E= 1,729,641.31) a point on the centerline of Holiday Hill Road dedication recorded in Volume 2922, Page 243, Official Records of Midland County, Texas on the Southeast corner of this tract, from whence a 3/8" spike & 2" aluminum washer marked "PLS 1974" previously set on the Southeast corner of said Section 24, bears S14°25'28"E, a distance of 50.50 feet;

THENCE S75°19'48"W with the North right-of-way line of County Road 60, at 85.00 feet pass a 1/2" iron rod with plastic cap marked "PLS 1974" set continuing for a total distance of 625.01 feet to the Southwest corner of this tract, from whence a 1/2" iron rod with plastic cap marked "PLS 1974" set at the most Southerly Southeast corner of Lot 1, Block 1, Bush Tennis Center as recorded in Cabinet "I", Page 91, Plat Records of Midland County, Texas bears S75°19'48"W, a distance of 745.12 feet;

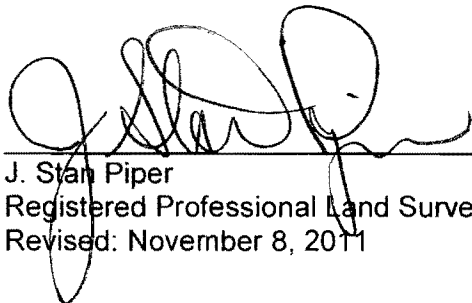
THENCE N14°25'28"W, a distance of 565.01 feet to the Northwest corner of this tract;

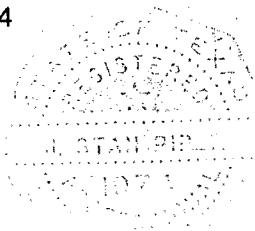
THENCE N75°19'48"E, at 565.01 feet pass a 1/2" iron rod with plastic cap marked "PLS 1974" set at the West right-of-way line of said Holiday Hill Road, continuing for a total distance of 625.01 feet to the Northeast corner of this tract;

THENCE S14°25'28"E with said centerline of Holiday Hill Road, a distance of 565.01 feet to the **PLACE OF BEGINNING**. (Tract contains 353,128 square feet or 8.11 acres.)

Bearings, distances, and coordinates are relative to the Texas State Plane Coordinate System, NAD 1983/86, Central Zone, with a combine grid factor of 0.9998995, and a theta angle equal to - 0°54'48.39" at U.S.C. & G. station "MIDLAND" with published values of Y= 10,690,154.70 and X= 1,746,696.78 in U.S. Survey Feet.

I, J. Stan Piper, Registered Professional Land Surveyor, do hereby certify that this legal description is based on an actual survey made by me or under my supervision, and that the same is true and correct to the best of my knowledge and ability as surveyed on the ground on various dates to September 3, 2011. Description prepared November 2, 2011.

  
J. Stan Piper  
Registered Professional Land Surveyor #1974  
Revised: November 8, 2011



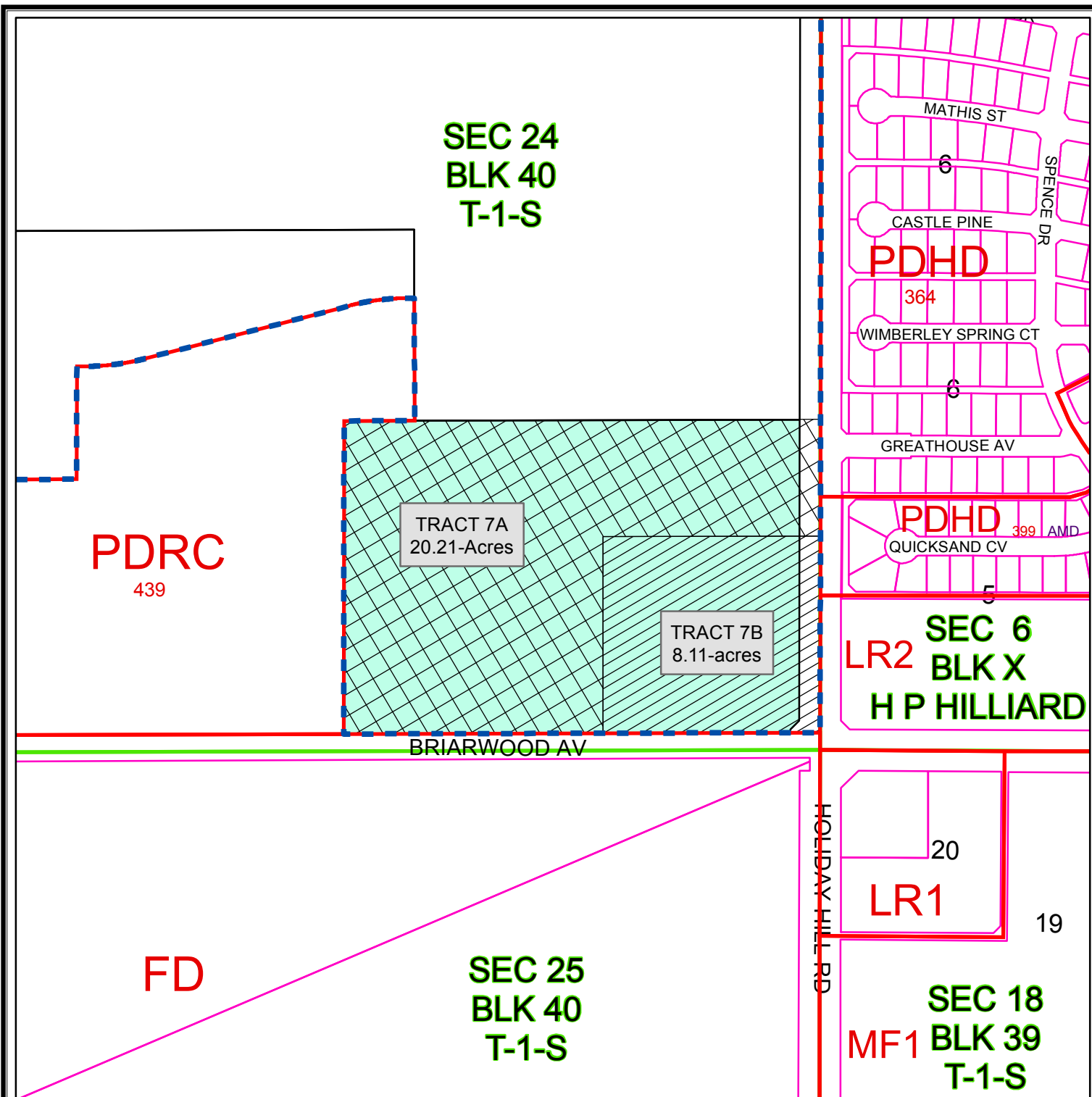
Prepared for:  
Parkhill, Smith, and Cooper, Inc.  
1700 W. Wall Street, Suite 100  
Midland, TX 79701

**Exhibit "A"**

P.O. BOX 60432; MIDLAND, TX 79711; (432)550-7810

**TRACT 7B**

CASE NO. Z-11-058  
21.6



## LOCATION & ZONING MAP

**Z - 11 - 058**

**Scale: 1" = 400'**

### TRACT 7

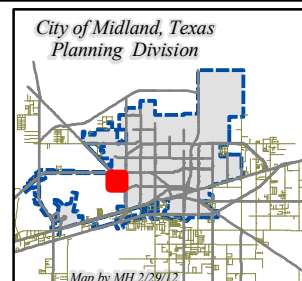
Consider the initial zoning of annexed land to MF-1, Multiple Family Dwelling District on a 20.21-acre tract of land (Tract 7A) and to LR-2, Local Retail District on a 8.11-acre tract of land (Tract 7B), all out of Section 24, Block 40, T-1-S, T & P RR Co. Survey, Midland County, Texas.

### LEGEND

- CITY LIMITS
- CITY PARCEL
- COUNTY PARCEL
- ZONING
- SURVEY SECTION

### ZONING DISTRICTS:

- LR - LOCAL RETAIL
- PD - PLANNED DISTRICT
- FD - FUTURE DEVELOPMENT
- MF1 - MULTIPLE FAMILY DWELLING



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# City Council Agenda

Approved for Agenda:  
**JNichols**  
City Manager's Office

**MEETING DATE:** April 10, 2012

**TO:** CITY COUNCIL/CITY MANAGER

**FROM:** Cameron Walker, AICP

**SUBJECT:** Consider an ordinance on second reading annexing Tract 8, being 108.453-acres of land located northwest of the intersection of Tradewinds Boulevard and Champions Drive.

---

## **Purpose:**

To consider an ordinance on second reading annexing land by request from the property owner for land located west of the Legends Park residential development and adopting a service plan.

## **Recommended City Council Action**

☒ Approve

☐ Deny

☐ Direction/Informational

## **Fiscal Impact:**

There is no cost to the City to process the annexation of this property.

## **Discussion:**

First reading was held on March 20<sup>th</sup>; it is now appropriate for the Council to consider an ordinance on second reading annexing this approximate 108 acre tract. This land is located west of the Bettenbough development which has experienced rapid residential growth. Continued residential development is expected in the near future.

## **Attachments:**

Map  
Proposed Ordinance and Exhibit B: Service Plan





# City Council Agenda

Approved for Agenda:  
**JNichols**  
City Manager's Office

**MEETING DATE:** March 20, 2012

**TO:** CITY COUNCIL/CITY MANAGER

**FROM:** Cameron Walker, AICP

**SUBJECT:** Consider an ordinance annexing Tract 8, being 108.453-acres of land located northwest of the intersection of Tradewinds Boulevard and Champions Drive.

---

## **Purpose:**

To consider an ordinance annexing land by request from the property owner for land located west of the Legends Park residential development and adopting a service plan.

## **Recommended City Council Action**

☒ Approve

☐ Deny

☐ Direction/Informational

## **Fiscal Impact:**

There is no cost to the City to process the annexation of this property.

## **Discussion:**

Public hearings were held on February 28<sup>th</sup> and February 29<sup>th</sup>, 2012. It is now appropriate for the Council to consider an ordinance annexing this approximate 108 acre tract. This land is located at west of the Bettenbough development which has experienced rapid residential growth. Continued residential development is expected in the near future.

## **Attachments:**

Map  
Proposed Ordinance and Exhibit B: Service Plan

**ORDINANCE NO.**

**AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 108.453-ACRE TRACT OF LAND OUT OF SECTION 37, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF TRADEWINDS BOULEVARD AND CHAMPIONS DRIVE); AND APPROVING A PUBLIC SERVICE PLAN**

**WHEREAS**, public hearings before the City Council of the City of Midland, Texas, a home rule municipal corporation, where all interested persons were provided an opportunity to be heard on the proposed annexation of the hereinafter described territory, were held in the City Council Chambers on February 28, 2012 and February 29, 2012; and

**WHEREAS**, notice of such public hearings was published in a newspaper having general circulation in the City of Midland, Texas, and in the below described territory, on February 16, 2012;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS:**

**SECTION ONE.** That the following described property adjoining the present boundary lines of the City of Midland, Texas, be and the same is hereby annexed to and incorporated within the boundary of the City of Midland, Texas:

Being a 108.453-acre tract of land out of Section 37, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas, and being more fully described by metes and bounds attached hereto as Exhibit "A" and incorporated herein by reference for all legal purposes.

**SECTION TWO.** That the service plan, attached hereto as Exhibit "B", which provides for the extension of municipal services into the area described above in Section One, is hereby approved.

**SECTION THREE.** That this ordinance be published in the official newspaper in the City of Midland, Texas, and the same shall not be effective until after the publication

thereof.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the       day of       , A.D., 2012; and passed to second reading on motion of Council member       , seconded by Council member       , by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member       , seconded by Council member       , on the       day of       , A.D., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS       day of       , A.D., 2012.

\_\_\_\_\_  
W. Wesley Perry, Mayor

ATTEST:

\_\_\_\_\_  
Amy M. Turner, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Keith Stretcher, City Attorney

METES AND BOUNDS DESCRIPTION of a 108.453 Acre Tract of Land located in Section 37, Block 40, T-1-S, T. & P. RR. Co. Survey, Midland County, Texas.

BEGINNING at (N= 10691755.68 & E= 1727695.25) a 1/2" iron rod & plastic cap marked "RPLS 4413" set in the west line of Section 37 and the east line of Section 38, Block 40, T-1-S, T. & P. RR. Co. Survey and for the northwest corner of this tract, from which the calculated northwest corner of said Section 37 and the calculated northeast corner of said Section 38 bears N 14°25'48" W a distance of 2028.30 feet and a 1/2" iron rod found for a point in a curve in the westerly ROW line of Deauville Boulevard as recorded in the Westridge Park Addition, Section 6, Cabinet F, Page 183, Plat Records of Midland County, Texas, bears N 14°25'48" W a distance of 1400.82 feet and S 24°30'54" E a distance of 0.44 feet;

THENCE N 76°13'03" E a distance of 1605.45 feet to a 1/2" iron rod & plastic cap marked "RPLS 4413" found for the northwest corner of a 71.085 acre tract of land recorded in Instrument No. 2010-13414, Official Records of Midland County, Texas, and for the northeast corner of this tract from which a City of Midland Control Point marked "191/158" bears N 50°40'28" W a distance of 2515.63 feet;

THENCE, along the west boundary line of the 71.085 acre tract of land, S 13°46'57" E a distance of 20.00 feet to a 1/2" iron rod & plastic cap marked "RPLS 4413" found for a corner of the 71.085 acre tract and a corner of this tract;

THENCE, along the west boundary line of the 71.085 acre tract of land, S 09°00'50" E a distance of 159.34 feet to a 1/2" iron rod & plastic cap marked "RPLS 4413" found for a corner of the 71.085 acre tract and a corner of this tract;

THENCE, along the west boundary line of the 71.085 acre tract of land, S 10°57'09" W a distance of 499.09 feet to a 1/2" iron rod & plastic cap marked "RPLS 4413" found for a corner of the 71.085 acre tract and a corner of this tract;

THENCE, along the west boundary line of the 71.085 acre tract of land, S 05°05'09" E a distance of 337.13 feet to a 1/2" iron rod & plastic cap marked "RPLS 4413" found for a corner of the 71.085 acre tract and a corner of this tract;

THENCE, along the west boundary line of the 71.085 acre tract of land, S 15°48'40" E a distance of 340.59 feet to a 1/2" iron rod & plastic cap marked "RPLS 4413" found for a corner of the 71.085 acre tract and a corner of this tract;

THENCE, along the west boundary line of the 71.085 acre tract of land, S 44°13'30" E a distance of 407.23 feet to a 1/2" iron rod & plastic cap marked "RPLS 4413" found for a corner of the 71.085 acre tract and a corner of this tract;

THENCE, along the west boundary line of the 71.085 acre tract of land, S 39°49'08" E a distance of 60.00 feet to a 1/2" iron rod & plastic cap marked "RPLS 4413" found for the most westerly southwest corner of the 71.085 acre tract and a corner of this tract;

THENCE, along the west boundary line of the 71.085 acre tract of land, N 50°10'52" E a distance of 206.71 feet to a 1/2" iron rod & plastic cap marked "RPLS 4413" found at a point of curve to the right for a corner of the 71.085 acre tract and a corner of this tract;

THENCE, along the west boundary line of the 71.085 acre tract of land, with a curve to the right having a radius of 240.00 feet, delta angle of 38°49'06" and an arc length of 162.60 feet (chord bearing N 69°35'25" E 159.51 feet), at a distance of 152.60 pass a 1/2" iron rod & plastic cap marked "RPLS 4413" found for a corner of the 71.085 acre tract, continuing along said curve for a total distance of 162.60 feet to a 1/2" iron rod & plastic cap marked "RPLS 4413" set for a corner of this tract;

THENCE S 07°24'15" E, at a distance of 10.00 feet pass a 1/2" iron rod & plastic cap marked "RPLS 4413" found for a corner of the 71.085 acre tract, continuing along the west boundary line of the 71.085 acre tract of land, a total distance of 451.18 feet to a 1/2" iron rod & plastic cap marked "RPLS 4413" found for a corner of the 71.085 acre tract and a corner of this tract;

THENCE, along the west boundary line of the 71.085 acre tract of land, S 43°25'06" E a distance of 537.30 feet to a 1/2" iron rod & plastic cap marked "RPLS 4413" found for a corner of the 71.085 acre tract and a corner of this tract;

THENCE, along the west boundary line of the 71.085 acre tract of land, S 62°06'40" E at a distance of 387.62 feet pass a 1/2" iron rod & plastic cap marked "RPLS 4413" found for a corner of the 71.085 acre tract, continuing for a total distance of 397.62 feet to a 1/2" iron rod & plastic cap marked "RPLS 4413" set for a corner of this tract;

THENCE S 14°22'07" W, at a distance of 10.00 feet pass a 1/2" iron rod & plastic cap marked "RPLS 4413" found for a corner of the 71.085 acre tract, continuing along the west boundary line of the 71.085 acre tract, at a distance of 182.32 feet pass a 1/2" iron rod & plastic cap marked "RPLS 4413" found for a corner of the 71.085 acre tract, continuing for a total distance of 351.24 feet to a 1/2" iron rod & plastic cap marked "RPLS 4413" set for a corner of this tract;

THENCE S 86°39'26" E, at a distance of 141.68 feet pass a 1/2" iron rod & plastic cap marked "RPLS 4413" found for a corner of the 71.085 acre tract, continuing along the west boundary line of the 71.085 acre tract a total distance of 165.64 feet to a 1/2" iron rod & plastic cap marked "RPLS 4413" found, in the north ROW line of a 40 foot wide pipeline easement as recorded in Volume 42, Page 289, Midland County Deed Records, for the southwest corner of the 71.085 acre tract and being the southeast corner of this tract from which a City of Midland Control Point marked "43/93" bears S 11°50'20" E a distance of 9516.36 feet;

THENCE, along the north line of said pipeline easement, S 59°17'41" W a distance of 190.00 feet to a 1/2" iron rod & plastic cap marked "RPLS 4413" set for the most southerly corner of this tract;

THENCE N 84°27'35" W a distance of 2349.72 feet to a 1/2" iron rod & plastic cap marked "RPLS 4413" set in the west line of said Section 37, the east line of said Section 38 and the east line of a 634.887 acre tract of land as recorded in Volume 3131, Page 210, Official Public Records, Midland County, Texas, for the southwest corner of this tract, from which a 1" black iron pipe found for the southwest corner of Section 37 the southeast corner of Section 38 and in the north line of Section 48, Block 40, T-1-S, T. & P. RR. Co. Survey, bears S 14°25'48" E a distance of 845.55 feet;

THENCE, along the west line of said Section 37, the east line of said Section 38, and the said 634.887 acre tract N 14°25'48" W a distance of 2417.76 feet to the POINT OF BEGINNING.

Bearings, Distances and Coordinates are based upon the Texas State Plane Coordinate System NAD 83 Central Zone and are relative to the City of Midland GPS Control Monuments as provided by the City of Midland. Acreages shown are surface values.



A handwritten signature in cursive script that reads "Michael L. Stanford".

**EXHIBIT B**  
**SERVICE PLAN FOR**  
**Tract 8**

*Being a 108.453 acre tract of land out of Sections  
37, Block 40, T-1-S, T&P RR Co. Survey, Midland  
County, Texas.*

**DEVELOPMENT SERVICES**

*Existing Services: This property is adjacent to the existing Legends Park  
neighborhood. Access is available from an adjacent alley;  
street access will be ensured once the property is platted.*

- A. Type of service to be provided upon annexation: Maintenance of streets and drainage facilities. Engineering services, traffic studies and controls will be provided as warranted. Review of submitted development and utility extension plans, right-of-ways, easements, floodplain information. Review of building permits, related inspection services and code enforcement. Review of zoning related issues and subdivision plats.
- B. Capital improvements to begin within 2 1/2 years: Water and sewer line extensions; street improvements; drainage improvements at the time of development and in accordance with the City of Midland's development policies. Timing of capital improvement development is at the discretion of the property owner(s).

**UTILITIES**

*Existing Services: Water and sewer services are available to Tract 8.*

- A. Development of this land will require the addition of water and sewer lines to accommodate the anticipated uses. The cost of installation will be borne by the developer with any City participation being regulated by the provisions in the City's subdivision regulations and in accordance with existing service capability.

**POLICE**

*Existing Services: None*

- A. Type of service to be provided upon annexation: emergency and routine call response, and traffic enforcement.
- B. Capital improvements to begin within 2 1/2 years: No improvements anticipated.

## **FIRE**

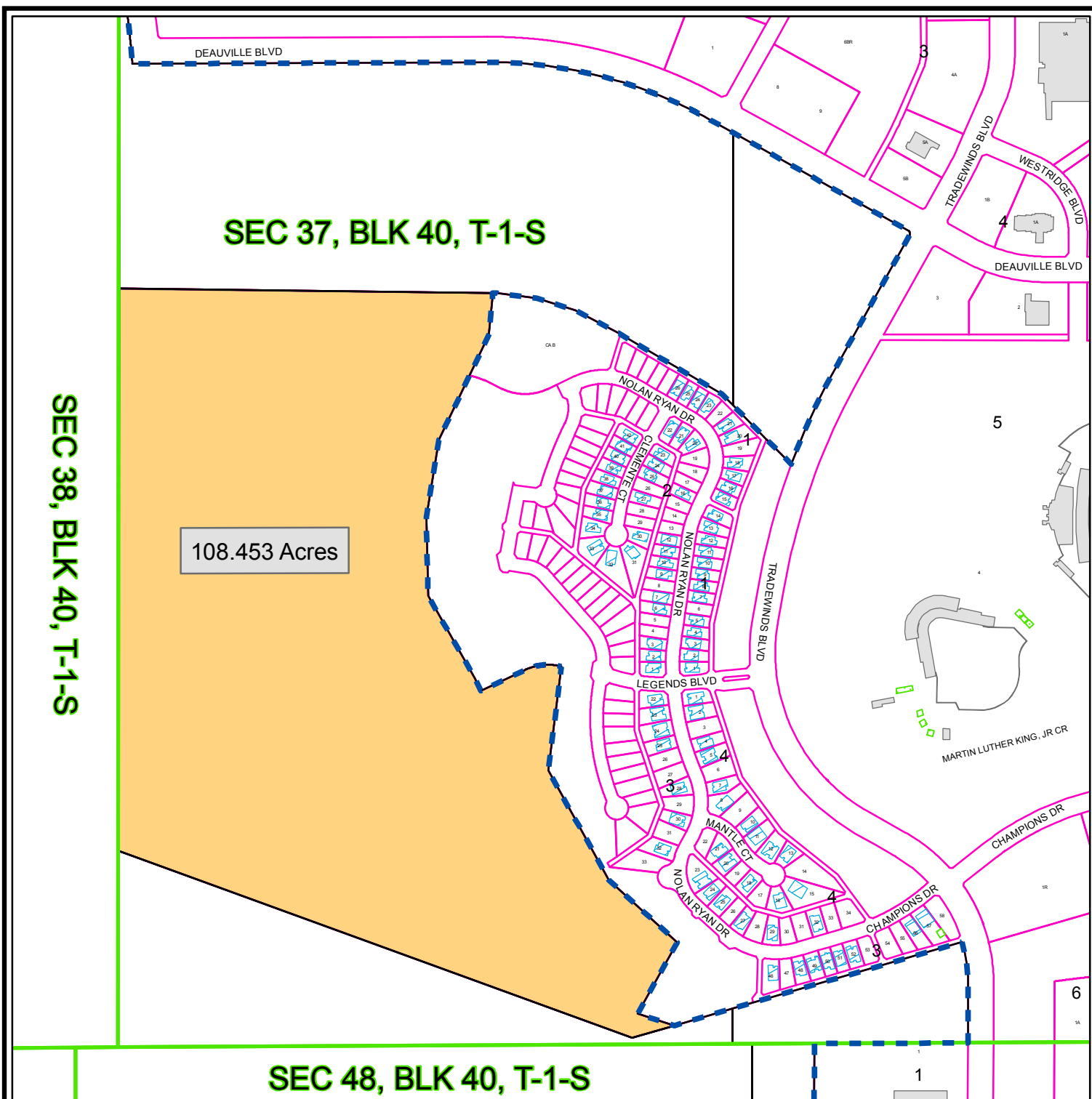
*Existing Services: Fire and emergency response provided through agreement with Midland County*

- A. Fire and EMS Service to be provided upon the effective date of annexation: All services are currently available and will continue following annexation.
- B. Capital improvements to begin within 2 1/2 years: None anticipated.

## **COMMUNITY SERVICES**

Existing Services: Health and Senior Services throughout Midland County including on site septic system permitting

- A. Type of service to be provided upon annexation: Parks Service, Health and Senior Services; Animal Control. services including pick up, impoundment, records maintenance, adoption and education will be immediately available.
- B. Capital improvements to begin within 2 1/2 years: None anticipated.



## PROPOSED ANNEXATION MAP

**M - 11 - 015**

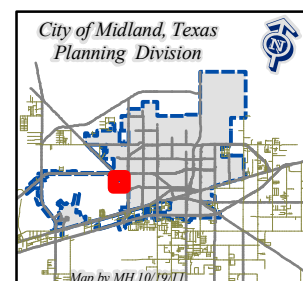
**Scale: 1" = 600'**

### TRACT 8

Consider a request for the annexation of a 108.453-acre tract of land out of Section 37, Block 40, T-1-S, T & P RR Co. Survey, Midland County, Texas.

### LEGEND

- ANNEXATION BOUNDARY
- CITY LIMITS
- SURVEY SECTION
- CITY PARCEL
- COUNTY PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS



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# City Council Agenda

Approved for Agenda:  
**JNichols**  
City Manager's Office

**MEETING DATE:** April 10, 2012

**TO:** CITY COUNCIL/CITY MANAGER

**FROM:** Cameron Walker, AICP

**SUBJECT:** Consider an ordinance on second reading establishing the initial zoning of annexed property (Tract 8), being 108.453-acres of land located near the northwest corner of Tradewinds Boulevard and Champions Drive.

---

## **Purpose:**

To consider an ordinance on second reading establishing the initial zoning of land west of the Bettenbough Homes neighborhood known as Legends Park.

## **Recommended City Council Action**

☒ Approve

☐ Deny

☐ Direction/Informational

## **Fiscal Impact:**

There is no cost to the City to process the initial zoning of this property.

## **Discussion:**

This land was recently annexed and zoned; it is now appropriate for the Council to consider an ordinance on second reading establishing the initial zoning of this approximate 108 acre tract. This land is located in a significant growth area where new hotels, offices and residences are being constructed; it is west of the Scharbauer Sports Complex as well. Staff is recommending that this land be zoned FD, Future Development District until such time as the developer can create a site plan for the proposed neighborhood, school site and common area(s).

## **Attachments:**

Map  
Proposed Ordinance



# City Council Agenda

Approved for Agenda:

City Manager's Office

**MEETING DATE:** March 20, 2012

**TO:** CITY COUNCIL/CITY MANAGER

**FROM:** Cameron Walker, AICP

**SUBJECT:** Consider an ordinance establishing the initial zoning of annexed property (Tract 8), being 108.453-acres of land located near the northwest corner of Tradewinds Boulevard and Champions Drive.

---

## Purpose:

To hold a public hearing at approximately 10:36 a.m. and consider an ordinance establishing the initial zoning of land west of the Betenbough Homes neighborhood known as Legends Park.

## Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

## Fiscal Impact:

There is no cost to the City to process the initial zoning of this property.

## Discussion:

This land was recently annexed and it is now appropriate for the Council to consider an ordinance establishing the initial zoning of this approximate 108 acre tract. This land is located in a significant growth area where new hotels, offices and residences are being constructed; it is west of the Scharbauer Sports Complex as well. Staff is recommending that this land be zoned FD, Future Development District until such time as the developer can create a site plan for the proposed neighborhood, school site and common area(s).

## Attachments:

Map  
Proposed Ordinance

**ORDINANCE NO.**

**AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING AN 108.453-ACRE TRACT OF LAND OUT OF SECTION 37, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS AN FD, FUTURE DEVELOPMENT DISTRICT; SAID TRACT IS GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF TRADEWINDS BOULEVARD AND CHAMPIONS DRIVE; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION**

**WHEREAS**, notice has been given to all parties in interest and citizens by publication in the official newspaper and otherwise, of a hearing to be held before the City Council on March 20, 2012, to consider amendments to the zoning regulations and map establishing the zoning classification of the property described in Section One hereof as an MF-1, Multiple-Family Dwelling District as set out in Section 11-1-6 of the City Code of Midland, Texas; and

**WHEREAS**, such a public hearing was held in the Council Chambers beginning at 10:36 a.m. on said March 20, 2012, as advertised; and

**WHEREAS**, after a full hearing, at which all parties in interest and citizens were given an opportunity to be heard; and after receiving and considering the recommendations of the Planning and Zoning Commission; and after considering among other things, the character of the property involved and the surrounding area and its peculiar suitability for particular uses; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such municipality, the Council finds it to be in the best interest of the health, safety, morals and general welfare of the City of Midland to amend the zoning regulations accordingly;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS:**

**SECTION ONE.** That the zoning classification of the area indicated as Tract 8 on Exhibit “A”, attached hereto and incorporated herein by reference, is hereby established as an FD, Future Development District.

**SECTION TWO.** The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

**SECTION THREE.** If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

**SECTION FOUR.** The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

**SECTION FIVE.** The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the       day of       , A.D., 2012; and passed to second reading on motion of Council member       , seconded by Council member       , by the following vote:

Council members voting “AYE”:

Council members voting “NAY”:

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member \_\_\_\_\_, seconded by Council member \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2012, at a regular meeting of the City Council:

Council members voting “AYE”:

Council members voting “NAY”:

PASSED AND APPROVED THIS \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2012.

\_\_\_\_\_  
W. Wesley Perry, Mayor

ATTEST:

\_\_\_\_\_  
Amy M. Turner, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Keith Stretcher, City Attorney

METES AND BOUNDS DESCRIPTION of a 108.453 Acre Tract of Land located in Section 37, Block 40, T-1-S, T. & P. RR. Co. Survey, Midland County, Texas.

BEGINNING at (N= 10691755.68 & E= 1727695.25) a 1/2" iron rod & plastic cap marked "RPLS 4413" set in the west line of Section 37 and the east line of Section 38, Block 40, T-1-S, T. & P. RR. Co. Survey and for the northwest corner of this tract, from which the calculated northwest corner of said Section 37 and the calculated northeast corner of said Section 38 bears N 14°25'48" W a distance of 2028.30 feet and a 1/2" iron rod found for a point in a curve in the westerly ROW line of Deauville Boulevard as recorded in the Westridge Park Addition, Section 6, Cabinet F, Page 183, Plat Records of Midland County, Texas, bears N 14°25'48" W a distance of 1400.82 feet and S 24°30'54" E a distance of 0.44 feet;

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THENCE, along the west boundary line of the 71.085 acre tract of land, S 13°46'57" E a distance of 20.00 feet to a 1/2" iron rod & plastic cap marked "RPLS 4413" found for a corner of the 71.085 acre tract and a corner of this tract;

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THENCE, along the west boundary line of the 71.085 acre tract of land, S 10°57'09" W a distance of 499.09 feet to a 1/2" iron rod & plastic cap marked "RPLS 4413" found for a corner of the 71.085 acre tract and a corner of this tract;

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THENCE, along the west boundary line of the 71.085 acre tract of land, S 15°48'40" E a distance of 340.59 feet to a 1/2" iron rod & plastic cap marked "RPLS 4413" found for a corner of the 71.085 acre tract and a corner of this tract;

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THENCE, along the west boundary line of the 71.085 acre tract of land, with a curve to the right having a radius of 240.00 feet, delta angle of 38°49'06" and an arc length of 162.60 feet (chord bearing N 69°35'25" E 159.51 feet), at a distance of 152.60 pass a 1/2" iron rod & plastic cap marked "RPLS 4413" found for a corner of the 71.085 acre tract, continuing along said curve for a total distance of 162.60 feet to a 1/2" iron rod & plastic cap marked "RPLS 4413" set for a corner of this tract;

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THENCE, along the west boundary line of the 71.085 acre tract of land, S 62°06'40" E at a distance of 387.62 feet pass a 1/2" iron rod & plastic cap marked "RPLS 4413" found for a corner of the 71.085 acre tract, continuing for a total distance of 397.62 feet to a 1/2" iron rod & plastic cap marked "RPLS 4413" set for a corner of this tract;

THENCE S 14°22'07" W, at a distance of 10.00 feet pass a 1/2" iron rod & plastic cap marked "RPLS 4413" found for a corner of the 71.085 acre tract, continuing along the west boundary line of the 71.085 acre tract, at a distance of 182.32 feet pass a 1/2" iron rod & plastic cap marked "RPLS 4413" found for a corner of the 71.085 acre tract, continuing for a total distance of 351.24 feet to a 1/2" iron rod & plastic cap marked "RPLS 4413" set for a corner of this tract;

THENCE S 86°39'26" E, at a distance of 141.68 feet pass a 1/2" iron rod & plastic cap marked "RPLS 4413" found for a corner of the 71.085 acre tract, continuing along the west boundary line of the 71.085 acre tract a total distance of 165.64 feet to a 1/2" iron rod & plastic cap marked "RPLS 4413" found, in the north ROW line of a 40 foot wide pipeline easement as recorded in Volume 42, Page 289, Midland County Deed Records, for the southwest corner of the 71.085 acre tract and being the southeast corner of this tract from which a City of Midland Control Point marked "43/93" bears S 11°50'20" E a distance of 9516.36 feet;

THENCE, along the north line of said pipeline easement, S 59°17'41" W a distance of 190.00 feet to a 1/2" iron rod & plastic cap marked "RPLS 4413" set for the most southerly corner of this tract;

THENCE N 84°27'35" W a distance of 2349.72 feet to a 1/2" iron rod & plastic cap marked "RPLS 4413" set in the west line of said Section 37, the east line of said Section 38 and the east line of a 634.887 acre tract of land as recorded in Volume 3131, Page 210, Official Public Records, Midland County, Texas, for the southwest corner of this tract, from which a 1" black iron pipe found for the southwest corner of Section 37 the southeast corner of Section 38 and in the north line of Section 48, Block 40, T-1-S, T. & P. RR. Co. Survey, bears S 14°25'48" E a distance of 845.55 feet;

THENCE, along the west line of said Section 37, the east line of said Section 38, and the said 634.887 acre tract N 14°25'48" W a distance of 2417.76 feet to the POINT OF BEGINNING.

Bearings, Distances and Coordinates are based upon the Texas State Plane Coordinate System NAD 83 Central Zone and are relative to the City of Midland GPS Control Monuments as provided by the City of Midland. Acreages shown are surface values.



A handwritten signature in cursive script that reads "Michael L. Stanford".



# City Council Agenda

Approved for Agenda:  
**JNichols**  
City Manager's Office

**MEETING DATE:** April 10, 2012

**TO:** CITY COUNCIL/CITY MANAGER

**FROM:** Cameron Walker, Planning Division Manager

**SUBJECT:** Z-11-060, Mike Gilbert

---

## Purpose:

Hold a public hearing at approximately 10:30 a.m. and consider an ordinance on a request by Mike Gilbert for a zone change from AE, Agriculture Estate District to C-3, Commercial District.

## Recommended City Council Action

☒ Approve      ☐ Deny      ☐ Direction/Informational

## Fiscal Impact:

There is no cost to the City to process this request.

## Discussion:

Mr. Gilbert owns Venture Mud, which provides mud products to drilling operators. He recently established his business on the northeast corner of Elkins Road and E. Business I-20. This property had previously been used for commercial uses; however, this land is zoned AE, Agriculture Estate District. He is requesting this zone change so that he may continue to operate his business at this location. This property abuts the eastern City limit line. There is an automobile wrecking yard east of his property (outside City limit). A tank farm is located to the south. To the west is a manufactured home park. The land to the north is zoned AE District, where approximately a dozen residences are located. At this time staff has received three opposition letters, who represent 29 percent of the land within 200 feet. Therefore, six affirmative Council votes are needed to approve this request. The Planning and Zoning Commission voted 4-3 to recommend approval. The staff concurs with this recommendation.

## Attachments:

March 5, 2012 P&Z Staff Report  
Proposed Ordinance



**ORDINANCE NO.**

**AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 10.00-ACRE TRACT OF LAND OUT OF THE NORTHWEST QUARTER OF SECTION 40, BLOCK 38, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, TO BE USED AS A C-3, COMMERCIAL DISTRICT (GENERALLY LOCATED ON THE NORTHEAST CORNER OF ELKINS ROAD AND EAST BUSINESS INTERSTATE 20); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION**

**WHEREAS**, the City Planning and Zoning Commission and the Governing Body of the City of Midland, in compliance with the City Charter and the State law with reference to the creation of Districts under the zoning ordinance regulations and zoning map, have given the requisite notices by United States mail, publication and otherwise; and after a full and fair hearing to all of the property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body finds that the public health, safety and general welfare will be best served by the creation of a C-3, Commercial District, as set out hereinafter;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS:**

**SECTION ONE.** That Chapter 1, Title XI, of the City Code of Midland, Texas, and the official zoning map of the City of Midland, Texas, are hereby amended insofar as the hereinafter described property is concerned, which is presently zoned AE, Agriculture Estate District, and it shall be used as a C-3, Commercial District, said property being described as follows:

A 10.00-acre tract of land out of the northwest quarter of Section 40, Block 38, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas, said tract being more specifically described by metes and bounds in Exhibit "A", which is attached hereto and incorporated herein. Said tract is shown on Exhibit "B", which is attached hereto and incorporated herein.

**SECTION TWO.** That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

**SECTION THREE.** The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

**SECTION FOUR.** If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

**SECTION FIVE.** The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

**SECTION SIX.** The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2012; and passed to second reading on motion of Council member \_\_\_\_\_, seconded by Council member \_\_\_\_\_, by the following vote:

Council members voting "AYE":

Council members voting “NAY”:

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member \_\_\_\_\_, seconded by Council member \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2012, at a regular meeting of the City Council:

Council members voting “AYE”:

Council members voting “NAY”:

PASSED AND APPROVED THIS \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2012.

\_\_\_\_\_  
W. Wesley Perry, Mayor

ATTEST:

\_\_\_\_\_  
Amy M. Turner, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Keith Stretcher, City Attorney

FIELD NOTE DESCRIPTION OF A 10.00 ACRE TRACT OF LAND OUT OF THE NW/4 OF SECTION 40, BLOCK 38, T-1-S, T&P RR CO SURVEY, MIDLAND COUNTY, TEXAS, SAID 10.00 ACRE TRACT DESCRIBED MORE FULLY BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A POINT IN THE CENTERLINE OF NORTH COUNTY ROAD 1150 AND IN THE WEST LINE OF SAID SECTION 40 FOR THE NW CORNER OF THIS TRACT, FROM WHICH THE NW CORNER OF SAID SECTION 40 BEARS N.15°05'44"W. 736.50 FEET;

THENCE N.74°32'06"E., AT 36.73 FEET PASS A 1/2" REINF BAR FOUND IN THE EAST RIGHT-OF-WAY LINE OF NORTH COUNTY ROAD 1150, IN ALL A TOTAL DISTANCE OF 606.62 FEET TO A 1/2" REINF BAR FOUND (N: 10705046.9114, E: 1774333.2786, LAT:N32°01'38.1059"; LONG:W102°01'06.2946") FOR THE NE CORNER OF THIS TRACT;

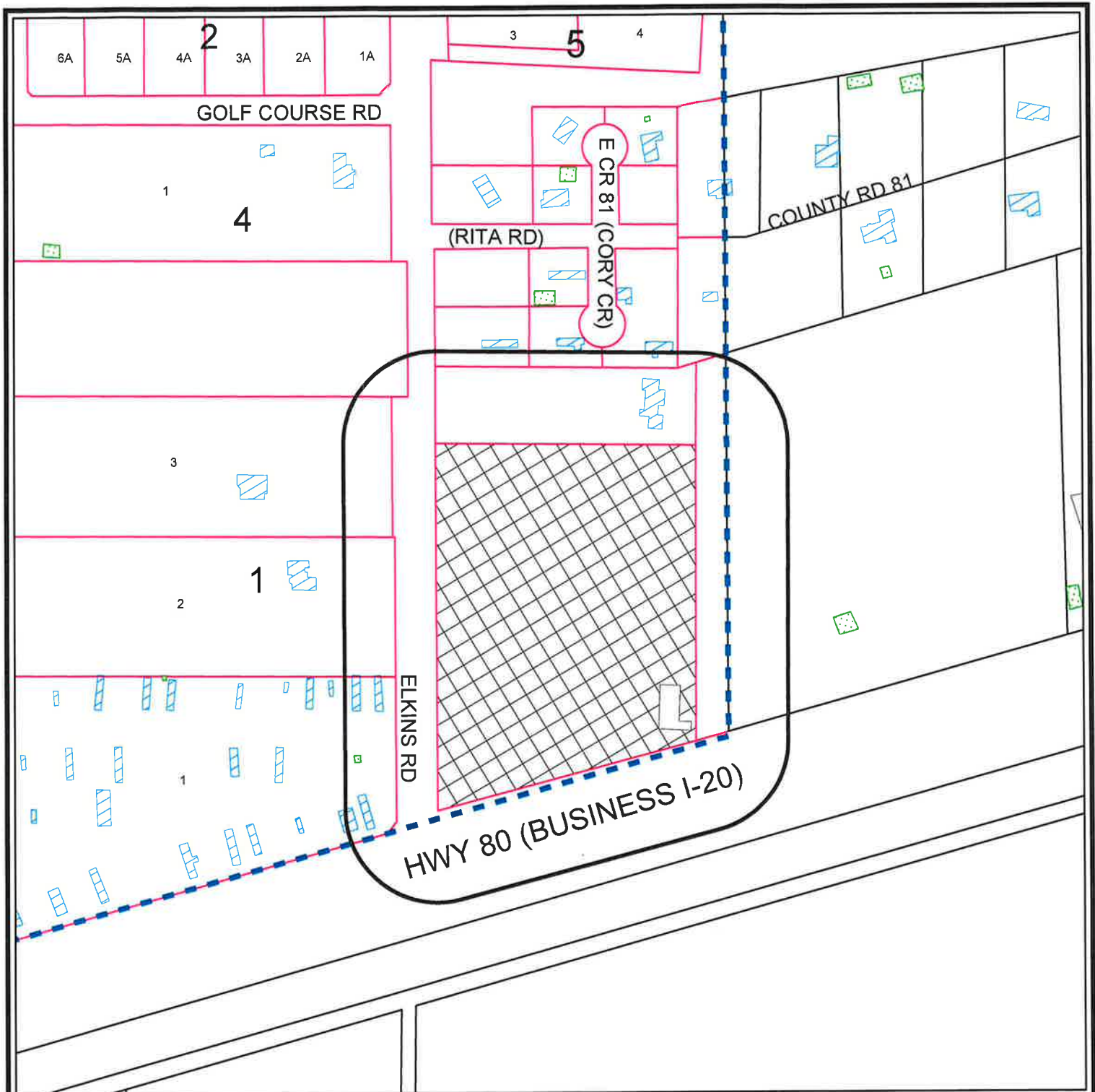
THENCE S.14°30'07"E. 637.11 FEET TO A 1/2" REINF BAR SET (N: 10704427.6799; E:1774483.1503; LAT:N32°01'32.0018"; LONG:W102°01'04.4451") IN THE NORTH RIGHT-OF-WAY LINE OF U. S. HIGHWAY 80;

THENCE S.58°40'00"W. ALONG THE NORTH RIGHT-OF-WAY LINE OF U. S. HIGHWAY 80, AT 592.84 FEET PASS A 1/2" REINF BAR SET IN THE EAST RIGHT-OF-WAY LINE OF NORTH COUNTY ROAD 1150, IN ALL A TOTAL DISTANCE OF 624.94 FEET TO A POINT IN THE CENTERLINE OF SAID NORTH COUNTY ROAD 1150 AND IN THE WEST LINE OF SAID SECTION 40 FOR THE SW CORNER OF THIS TRACT;

THENCE N.15°05'44"W. 807.91 FEET ALONG THE CENTERLINE OF NORTH COUNTY ROAD 1150 AND ALONG THE WEST LINE OF SAID SECTION 40 TO THE PLACE OF BEGINNING.

NOTE: THE WEST 30 FEET OF THIS TRACT IS IN NORTH COUNTY ROAD 1150 RIGHT-OF-WAY.

## **EXHIBIT "A"**



## PROPERTY OWNER NOTIFICATION MAP

**Z - 11 - 060**

**Scale: 1" = 300'**

Consider a request for a zone change from AE, Agriculture Estate District, to C-3, Commercial District on a 10.00-acre tract of land out of the NW/4 of Section 40, Block 38, T-1-S, T & P RR Co. Survey, and Midland County, Texas.

### LEGEND

- CITY LIMITS
- 200 FT. LEGAL NOTICE LIMIT
- CITY PARCEL
- COUNTY PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS



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# PLANNING AND ZONING COMMISSION

March 5, 2012

**CASE:** Z-11-060.

**REQUEST:** Continue the consideration of a request for a zone change from AE, Agriculture Estate District to C-3, Commercial District.

**APPLICANT/OWNER:** Mike Gilbert.

**LEGAL DESCRIPTION:** A 10.00-acre tract of land out of Section 40, Block 38, T-1-S, T&P RR Company Survey, Midland County, Texas.

**LOCATION:** Northeast corner of E. Hwy. 80 and Elkins Road.

**CURRENT ZONING:** AE, Agriculture Estate District.

**ASSOCIATED CASE:** P-12-006, Venture Addition.

## DETAILS OF REQUEST:

1. The Planning and Zoning Commission discussed this request on February 21, 2012. After conducting and closing the public hearing, the Commission voted to defer consideration until March 5<sup>th</sup> to allow the commissioners to inspect this property.

Mr. Gilbert purchased this 10-acre parcel of land and established a business which provides mud products for the oil and gas industry. However, this parcel is zoned for residential use. Mr. Gilbert has submitted this application to rezone this property to a C-3 District, a designation that the staff had indicated early in our conversations seemed reasonable.

## SURROUNDING ZONING AND LAND USE:

2. This tract is located adjacent to the far eastern boundary of the City limit. The area to the north is zoned AE District, and is developed with low-density residential uses. The tract to the immediate east is vacant, and the tract beyond that is developed with an auto wrecking yard. The area to the south, across Business I-20, is developed with a tank farm related to the oil business. The land to the west is developed with a mobile home park adjacent to Business I-20. A new residential subdivision was recently approved approximately 1,000 feet to the northwest.

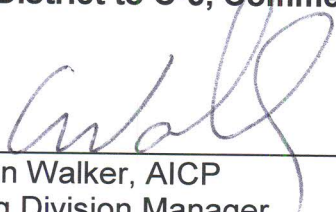


**ANALYSIS:**

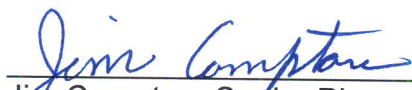
3. The Comprehensive Plan recognizes this area as being within an entry corridor to the City, and as such, recommends that efforts be made to enhance the appearance as one enters the City. However, in this instance, a wrecking yard is already in place to the east, just beyond the City limit. Additionally, to the south is a large tank farm used to store petroleum products. About one-quarter mile to the west an oil company has a yard that is consistent with C-3 District uses. The only area of potential impact is the residential area to the north. However, the Major Thoroughfare Plan calls for the extension of Golf Course Road between the residential areas and the subject property. Finally, the likelihood of someone constructing residences on two acre lots at this location seems remote. For these reasons, we believe that this request is reasonable.

**STAFF RECOMMENDATION:**

**We recommend approval of this request for a zone change from AE, Agriculture Estate District to C-3, Commercial District.**



Cameron Walker, AICP  
Planning Division Manager  
Department of Development Services



Jim Compton, Senior Planner  
Department of Development Services

**Attachments:**

Application  
Maps

Case Number: Z-11-060

**CITY OF MIDLAND**  
**Planning Division**

**APPLICATION TO CHANGE ZONING CLASSIFICATION**

MIKE GILBERT 432-557-8204 mgilbert@venturemud.com  
Applicant Name (Phone/e-mail)

6207 HOMESTEAD BLVD. MIDLAND, TX 79707  
Address Zip Code

MIKE GILBERT SAME  
Property Owner Name (Phone/e-mail)

SAME SAME  
Address Zip Code

Representative Name (Phone/e-mail)

Address Zip Code

Street address and Legal Description of property (complete Lot, Block, and Subdivision Name or if unplatted, attach a Metes and Bounds description with surveyor's seal). Each district must be described separately. 4009 E. HWY 80, NW 1/4 OF SECTION 40, BLOCK 38, T-1-S, T & P R.R. Co. Survey, Midland County

PRESENT ZONE: AE REQUESTED ZONE: C-3  
(List by tracts if more than one district is requested)

Reason for Zone Change Request: IN ORDER TO OPERATE AN OIL & GAS SERVICE COMPANY FROM THIS LOCATION

Present Use of Property: DAY TO DAY OPERATIONS OF VENTURE MUD, OIL TRANSPORTS AND VENTURE SERVICES.

Proposed Use of Property: SAME AS ABOVE

How will zone change affect the public health, safety and welfare? LITTLE TO NO AFFECT

Describe how conditions affecting the property have changed since present zoning designation: PROPERTY HAS BEEN FENCED, LIGHTED AND CALICHOED

Is a Specific Use Permit with Term for alcoholic beverages sales needed? Yes ☒ No



**APPLICATION FEES:**

- Single, standard zone change: **\$400**. Multiple, standard zone change: add **\$100** per additional district.
- Single PD, Planned District zone change: **\$550**. Multiple PD proposal: add **\$100** per district.
- If a Traffic Impact Analysis is required, a fee of up to \$500.00 will be assessed.

**SITE PLAN SUBMITTALS** (if applicable):

16 copies (FOLDED) of the PD site plan: \_\_\_\_\_

Site Plan in digital format .pdf and .jpg: \_\_\_\_\_

**SIGNATURE** (by property owner only - authorized agent must sign affidavit below)

Property Owner (signature): \_\_\_\_\_ Date: 11-28-11

**If an Agent is authorized by the property owner to file and execute the application on behalf of the property owner, the Agent must complete the affidavit below.**

STATE of TEXAS  
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared

\_\_\_\_\_ who, being by me duly sworn, upon oath says: That (s)he is authorized by \_\_\_\_\_, the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

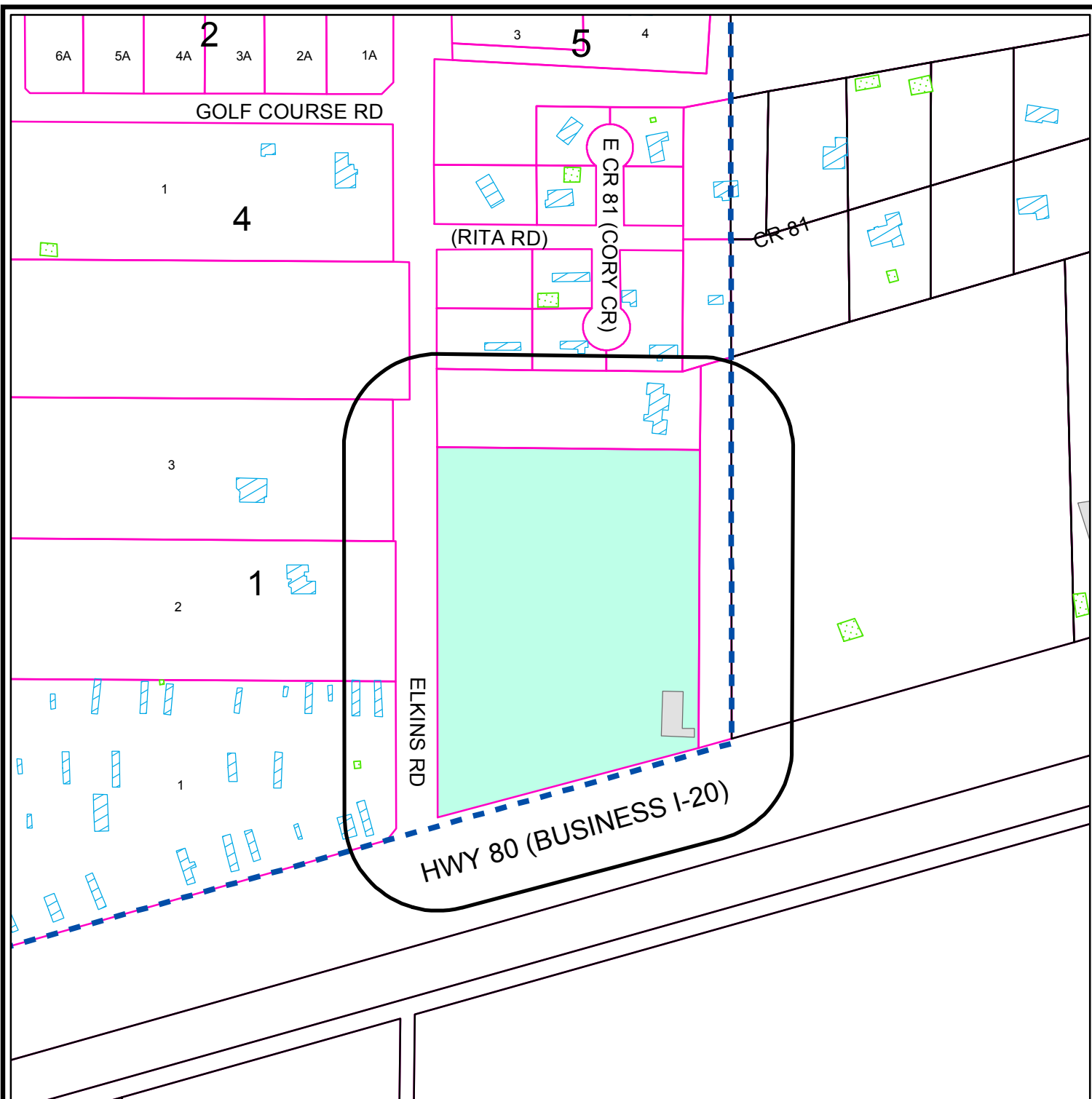
\_\_\_\_\_  
Authorized Agent (signature)

Subscribed and sworn to before me, this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, to certify which witness my hand and seal of office.

\_\_\_\_\_  
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

|                     |                      |
|---------------------|----------------------|
| FOR OFFICE USE ONLY |                      |
| Rec'd By: <u>Bm</u> | Date: <u>12/8/11</u> |
| Assigned: <u>SC</u> |                      |
| For: <u>PH</u>      | On: <u>11</u>        |

**\*\*Application will not be considered for scheduling until reviewed by a planner.\*\***



## PROPERTY OWNER NOTIFICATION MAP

**Z - 11 - 060**

**Scale: 1" = 300'**

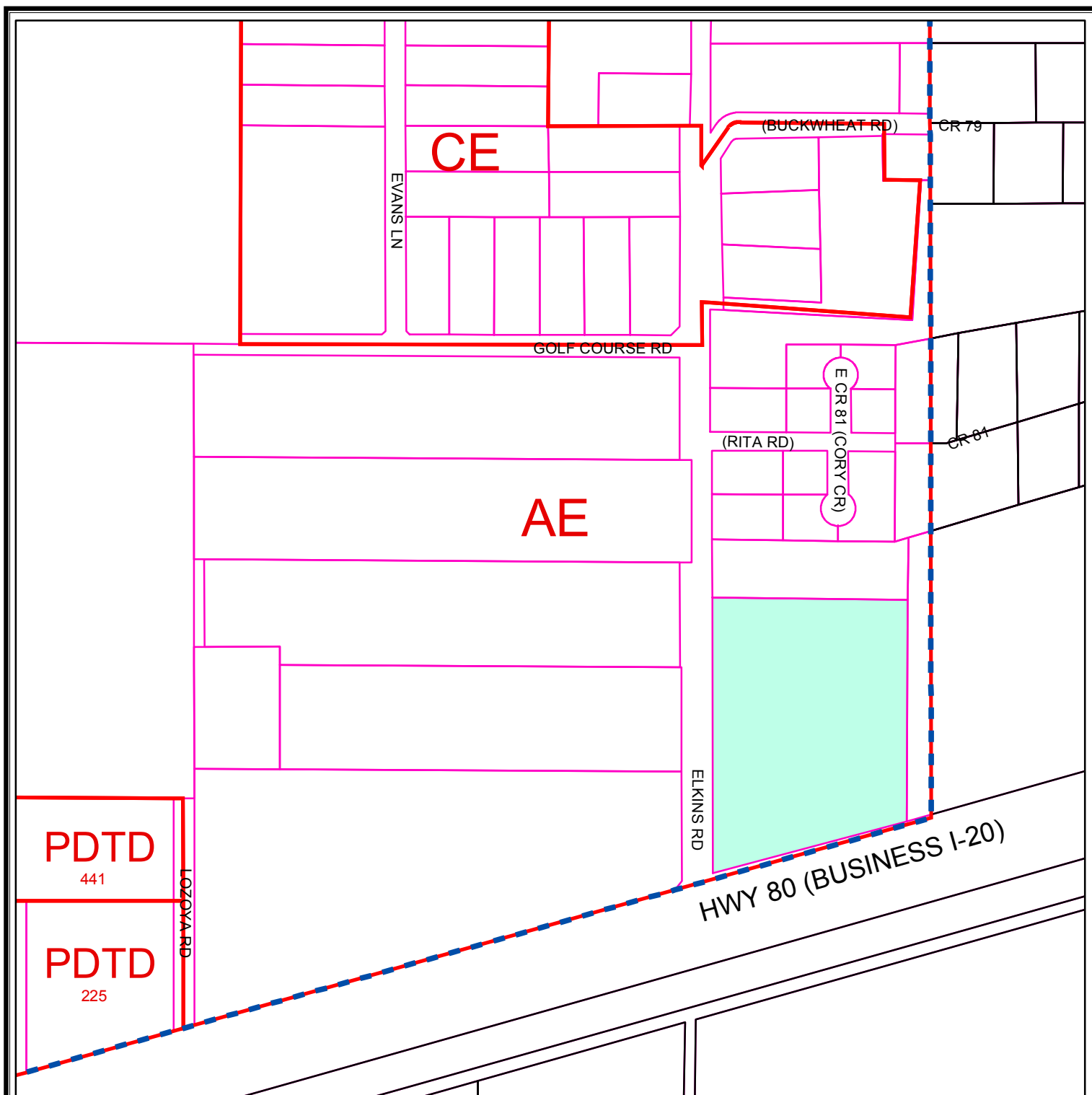
Consider a request for a zone change from AE, Agriculture Estate District, to C-3, Commercial District on a 10.00-acre tract of land out of the NW/4 of Section 40, Block 38, T-1-S, T & P RR Co. Survey, and Midland County, Texas.

### LEGEND

- CITY LIMITS
- 200 FT. LEGAL NOTICE LIMIT
- CITY PARCEL
- COUNTY PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS



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## ZONING MAP

Z - 11 - 060

Scale: 1" = 400'

Consider a request for a zone change from AE, Agriculture Estate District, to C-3, Commercial District on a 10.00-acre tract of land out of the NW/4 of Section 40, Block 38, T-1-S, T & P RR Co. Survey, and Midland County, Texas.

## LEGEND

ZONING

CITY LIMITS

CITY PARCELS

COUNTY PARCELS

### ZONING DISTRICTS:

|               |                          |                   |                      |
|---------------|--------------------------|-------------------|----------------------|
| FD            | FUTURE DEVELOPMENT       | BP                | BUSINESS PARK        |
| PD            | PLANNED DISTRICT         | P                 | PARKING              |
| AE            | AGRICULTURE ESTATE       | 01, 02            | OFFICE               |
| CE            | COUNTRY ESTATE           | NS                | NEIGHBORHOOD SERVICE |
| 1F1, 1F2, 1F3 | ONE-FAMILY DWELLING      | LR1, LR2, LR3     | LOCAL RETAIL         |
| MH            | MOBILE HOME DWELLING     | C1, C2, C3        | COMMERCIAL           |
| TH            | TOWNHOUSE DWELLING       | IP, IP1, IP2, IP3 | INDUSTRIAL PARK      |
| 2F            | TWO-FAMILY DWELLING      | LI                | LIGHT INDUSTRY       |
| MF1, MF2      | MULTIPLE FAMILY DWELLING | HI                | HEAVY INDUSTRY       |

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# City Council Agenda

Approved for Agenda:  
**JNichols**  
City Manager's Office

**MEETING DATE:** April 10, 2012

**TO:** CITY COUNCIL/CITY MANAGER

**FROM:** Cameron Walker, Planning Division Manager

**SUBJECT:** O-12-006; hold a public hearing regarding a proposed oil and gas well drilling permit (Vector Oil & Gas Barron # 1) on the east side of Holiday Hill Road, approximately ½ mile south of Mockingbird Lane.

---

## Purpose:

At approximately 10:33 a.m. hold a public hearing on a request from Vector Oil & Gas, LP to drill an oil and gas well on property located 1910.4' FNL and 820.8' FWL of the land described as Section 6, Block "X", H.P Hilliard Survey, City and County of Midland, Texas. This is an opportunity for the Council to receive public comment. Council may consider this permit following a 30-day public comment period and at a regularly scheduled meeting.

## Recommended City Council Action

☐ Approve

☐ Deny

☒ Direction/Informational

## Fiscal Impact:

N/A

## Discussion:

The Oil and Gas Advisory Committee has reviewed this well site in detail and recommends approval. No variances are requested. Fencing and landscaping will be installed to meet the style of the subdivision. A road repair agreement is anticipated.

Attachments: Application; Location map; Exhibits A, B and C.

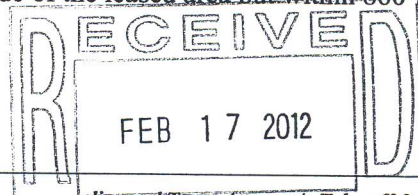


012-006

## APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

| I. General Information                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                 |                                                                        |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------|
| Date<br>9/26/11                                                                                                                                                                                                                                                                                                                                                               | Operator Name (must match W-1)<br>Vector Oil & Gas LP                                                           | Operator Address<br>3141 Hood Street; Suite 700<br>Dallas, Texas 75219 |
| Representative Name<br>Michael W. Wallace                                                                                                                                                                                                                                                                                                                                     | Representative Address (within Midland City Limits)<br>508 West Wall Street; Suite 1200<br>Midland, Texas 79701 | Rep. Tele. (432) 686-4327<br><br>Rep. Fax (432) 686-0302               |
| Fee: \$4,000.00 Rec'd Yes ___ No ___                                                                                                                                                                                                                                                                                                                                          | NOTE: All attachments need to bound and put in a binder before submitting.                                      | Pages 1-4                                                              |
| Permit Compliance Contact (Choose 1):<br>Option A:<br>24/7 Answering Services - No. 1 (Tele.): (432) 582-3190 No. 2 (Tele.):<br><br>Option B:<br>Company Compliance Representative (Name, Address, Local Telephone) (ATTACH STATEMENT AS EXHIBIT A):<br>Exhibit A Attached<br>Emergency Contact Representative (Name, Address, 24-Hour Tele. No.):                            |                                                                                                                 |                                                                        |
| Other Permitted Wells in City (ATTACH EXHIBIT B [see § J(26)]). See Exhibit B                                                                                                                                                                                                                                                                                                 |                                                                                                                 |                                                                        |
| II. Mineral Ownership                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                 |                                                                        |
| Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease):<br>1. Attached to Exhibit C<br>2.<br>3.                                                                                                                                                                                                                                                           |                                                                                                                 |                                                                        |
| ATTACHED AS EXHIBIT C is (a Title Opinion by _____, a licensed Texas Attorney/Title Commitment by Abstract Company/a Take-off from _____, a Certified Petroleum Landman/an opinion letter from James H. Chandler a licensed Texas Attorney) indicating that [Operator] has a legal right to develop the mineral estate that is the subject of this Application. [See § J(5)]. |                                                                                                                 |                                                                        |
| III. Surface Ownership & Use                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                 |                                                                        |
| General Description of Current Surface Use (within 860 feet of proposed surface location):<br>Vacant land with some single family dwellings and pens outside of the leased area but within 860 feet of the proposed location.                                                                                                                                                 |                                                                                                                 |                                                                        |
| ATTACHED AS EXHIBIT D is (a Title Opinion by _____, a licensed Texas Attorney/a Take-off from _____, a Certified Petroleum Landman/Current Tax Roll from Midland Central Appraisal District), which lists the name(s) and address(es) of all surface owners within 860 feet of the surface well location. [See § J(7)].                                                       |                                                                                                                 |                                                                        |





*ATTACHED AS EXHIBIT E* is a (map/p lat/satellite/aerial photo) depicting all Residences, commercial structures, public buildings, all publicly dedicated Streets and alleys, Rights of Way, and permanent accessory structures surrounding the proposed Drill Site. The (map/p lat/satellite/aerial photo) includes two circles, as required by the Ordinance—one depicting a 500 foot radius and one depicting an 860 foot radius from the proposed well's surface location. [See § J(10)].

*ATTACHED AS EXHIBIT F* is a copy of the notification letter(s) sent to 100 percent of the surface owners, Certified Mail, Return Receipt Requested. [See § J(36)].

#### IV. Well & Operations Information

Proposed Well Name: Barron #1

Proposed Hole Size, Casing Program and Cementing Program (attach Exhibit as Necessary)[See § J(11) and § L(4)]:

See attached Exhibit G

Legal Description of Proposed Well Site:

1910.4' FNL & 820.8' FWL of Section 6, Block X, H.P. Hilliard Survey, Midland County, Texas

*ATTACHED AS EXHIBIT G* is the Location Site Plan [See § J(9)].

*ATTACHED AS EXHIBIT H* is the Map with the proposed transportation route(s) and road(s) for equipment, chemicals, or refuse products used or produced in the proposed oil and gas operations. [See § J(12)].

*ATTACHED AS EXHIBIT I* is a copy of the approved Texas Railroad Commission permit to drill (Form W-1), together with all attachments (also file copy of W-1 with City Secretary before commencement of drilling operations). [See § J(16) and (20)].

*ATTACHED AS EXHIBIT J* is a copy of the required TCEQ report as to depth of usable quality ground water. [See § J(17)].

*ATTACHED AS EXHIBIT K* (if applicable) is the list of alternative locations developed in consultation with the Oil & Gas Advisory Committee. [See § J(27)].

*ATTACHED AS EXHIBIT L* is the Fencing and Irrigation Plan. [See § J(30)].

*ATTACHED AS EXHIBIT M* is the Road Repair Agreement and Letter of Credit/Certificate of Deposit/Surety Bond in the amount of at least \$25,000. Option (if applicable): Applicant would further state that no City-owned streets or alleys will be used by the Operator in connection with its oil and gas operations and as a result, requests a waiver from the Council of this requirement. Option B (if applicable): Because Applicant has three Road Repair Agreements in effect that have been approved by the Council, Applicant requests that the Council consolidate all agreements into one and is filing the necessary \$75,000 letter of credit/certificate of deposit/surety bond in conjunction with this request. [See § J(31)].

*ATTACHED AS EXHIBIT N* is the Concept Plan depicting the proposed Operations Site (which includes tanks, roads, power lines, and pipeline routes). [See § J(32)].

Description of Public Utilities required during (1) drilling and (2) operations:

(1) Drilling: None

(2) Operations: Sharyland Utilities L.P.

Description of water source to be used during Drilling:

Water to be trucked onto well site

Description of all electric lines to production facilities (reference exhibits as necessary) [See § L(10)]:

Exhibit N

Plan detailing construction, location, and closure of pits used for Drilling and Completion operations (attach exhibit if necessary) [See § J(35)]: Exhibit O

Trench and encapsulate per RRC Rule 27 (c) (10) (v)

#### V. Additional Required Exhibits

*ATTACHED AS EXHIBIT P* is the *Letter of Credit/Certificate of Deposit* in accordance with Subsection (K)(2). [See § J(18)].

*ATTACHED AS EXHIBIT Q* are Tax certificates from Midland Central Appraisal District to be submitted indicating that all taxes on personal and real property, including minerals, owned by Applicant are current. [See § J(29)].

*ATTACHED AS EXHIBIT R* is the required Insurance Certificate. [See § J(19) and § K(3)].

*ATTACHED AS EXHIBIT S (if applicable)* is the Drainage Plan approved by the City Engineer relating to Applicant's proposed operations. [See § J(21)].

*ATTACHED AS EXHIBIT T* is Applicant's Emergency Action Response Plan. [See § J(22)].

*ATTACHED AS EXHIBIT U* is Applicant's Hazardous Materials Management Plan, a copy of which has been submitted and is on file with the Midland Fire Department. [See § J(23)].

Vector Oil & Gas LP

[NAME OF COMPANY]

By Michael W Wallace  
Its Michael W. Wallace

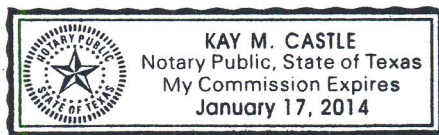
State of Texas

County of Midland

Michael W. Wallace, personally appeared before me, and being first duly sworn declared he/she signed the application in the capacity designated, if any, and further states that he/she has read the above application and attached exhibits and the statements therein are true and correct to the best of their knowledge.

Kay M Castle  
Notary Public, State of Texas

[S E A L]







Faskin Oil and  
Ranch. LTD  
FEE "AX" Lease  
1315  
O

HARD ROCK ENERGY INC.

BLOCK 40, T-1-S, T. & P. RR. CO.

GLO #135270

Baron Operating LLC  
Robbie Lease

2405  
O

N14°25'28"W 5280.52'

2640.26'

SOUTHWEST  
QUARTER

2665.09'

25

Position of 1" Iron  
Rod D.L. Jenkins

S75°46'57"W 5325.42'

GLO #46582

BLOCK 39, T-1-S, T. & P. RR. CO.

18

17

GLO #S-44363

N75°40'44"E 5322.28'

7

8

5

2661.13'

Found 3/8" Iron  
Pipe and Plastic  
Cap "PLS 1974"

2409

24

1108.7'  
FWBL

#3

2661.15'  
Frac Pit  
500.0'  
Radius

NORTHWEST  
QUARTER  
OF SECTION 6

GLO #S-44362

820.8'  
FWBL

#1

730.6'  
FSBL

2663.12'

#2

1258.4'

#4

2642.68'

2642.68'

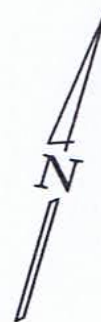
S14°28'01"E 5285.36'

EAST HALF OF  
SECTION 6

S14°27'30"E 5290.17'

GLO #S-4436

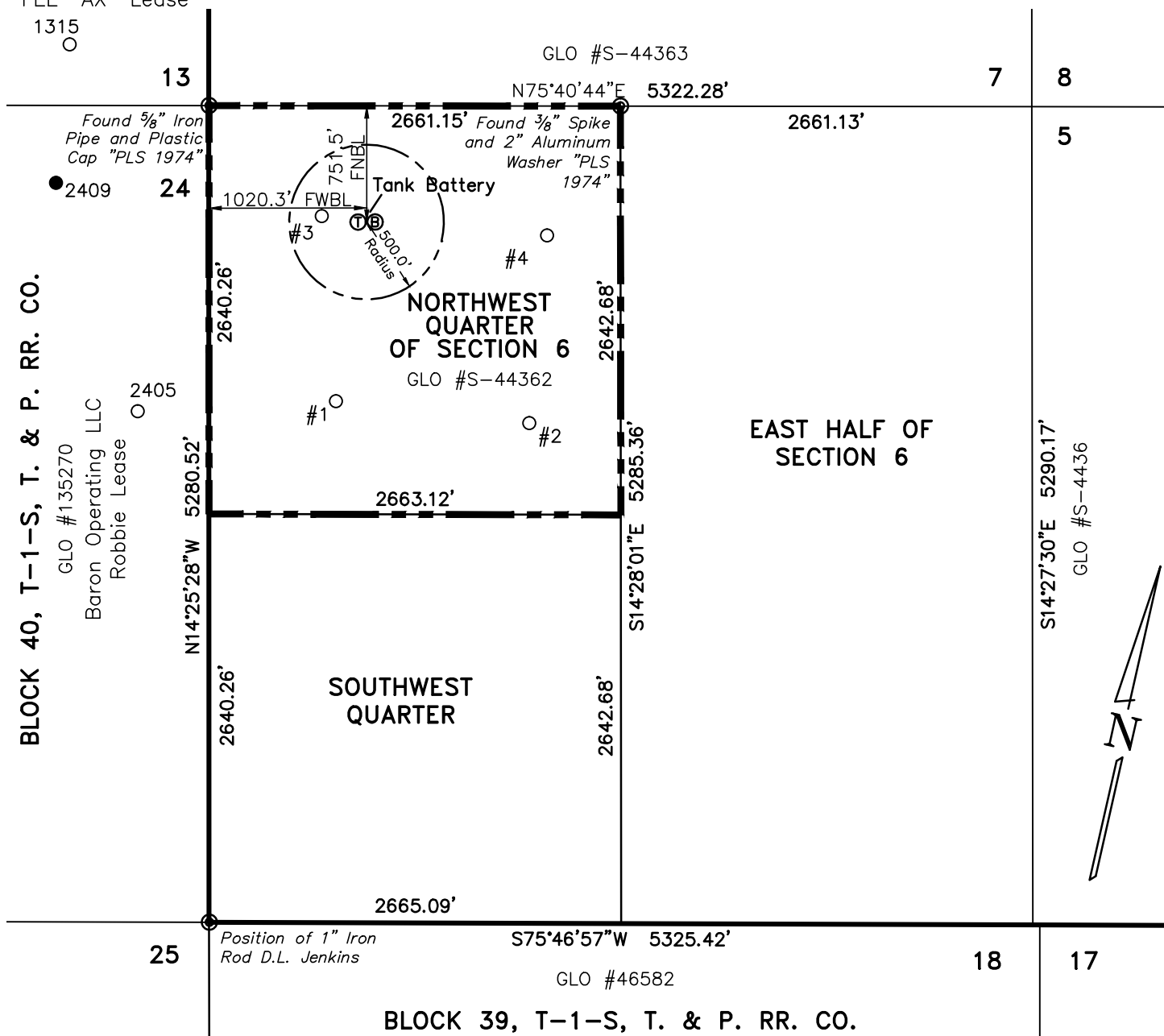
1927 NAD  
N/Y= 866207.66  
E/X= 1433143.03



Revised 2/17/12 by TC

|                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                 |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>OPERATOR:</p> <p>Vector Oil &amp; Gas L.P.<br/>3141 Hood St. Ste 350<br/>Dallas, Tx 75219</p>                                                                                                                                                                                              | <p>BARRON #1</p> <p>DESCRIPTION:</p> <p>Northwest Quarter of Section 6,<br/>Block X, H.P. Hilliard Survey,<br/>Midland County, Texas</p>                                                                                                                                                                                                        | <p>FIELD:</p> <p>ACREAGE:<br/>161.43 Acres in Lease</p> <p>ELEVATION: 2852'</p> <p>DATE: 7/21/11</p> <p>SCALE: 1"=1000'</p>                                                     |
| <p>The well location shown on this<br/>plat represents an actual survey<br/>made by me or under my<br/>supervision to the best of my<br/>knowledge and belief as surveyed<br/>on the ground.<br/>7/13/11</p> <p>J. STAN PIPER<br/>PROFESSIONAL LAND SURVEYOR<br/>REGISTERED SEAL NO. 1974</p> | <p>LOCATION IN SURVEY: 1910.4' FNL &amp; 820.8' FWL</p> <p>LOCATION IN LEASE: 730.6' FSBL &amp; 820.8' FWBL</p> <p>NEAREST POST OFFICE: 5.6 Miles Southeast to Midland, Texas</p> <p>GEODETIC POSITION:<br/>LATITUDE: 32°02'08.085" LONGITUDE: 102°09'46.414"</p> <p>STATE PLANE COORDINATES:<br/>NORTH (Y) 10708783.58 EAST (X) 1729609.67</p> | <p>DRAWN BY: Tina Chalambaga</p> <p>DWG FILE: HolidayHill5.Dwg</p> <p>FIELD BOOK:<br/>Midland #56, Pg. 12</p> <p>NORTH AMERICA DATUM OF 1925</p> <p>ZONE: Central STATE: TX</p> |

HARD ROCK ENERGY INC.



Drawing File: HolidayHill5.Dwg; Scale: 1"=1000' Drawn by: Tina Chalambag; Date: 7/21/11  
Revised 2/17/12 by TC; Revised 3/7/12 by TC

PLAT OF A TANK BATTERY LOCATED IN THE  
NORTHWEST QUARTER OF SECTION 6 BLOCK X,  
H.P. HILLIARD SURVEY, MIDLAND COUNTY, TEXAS

Bearings, distances, and coordinates are relative to the Texas State Plane Coordinate System, 1983/96CORS NAD, Central Zone.

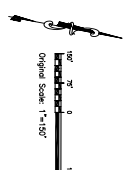
Prepared for:  
Vector Oil & Gas L.P.  
3141 Hood St. Ste 350  
Dallas, Tx 75219





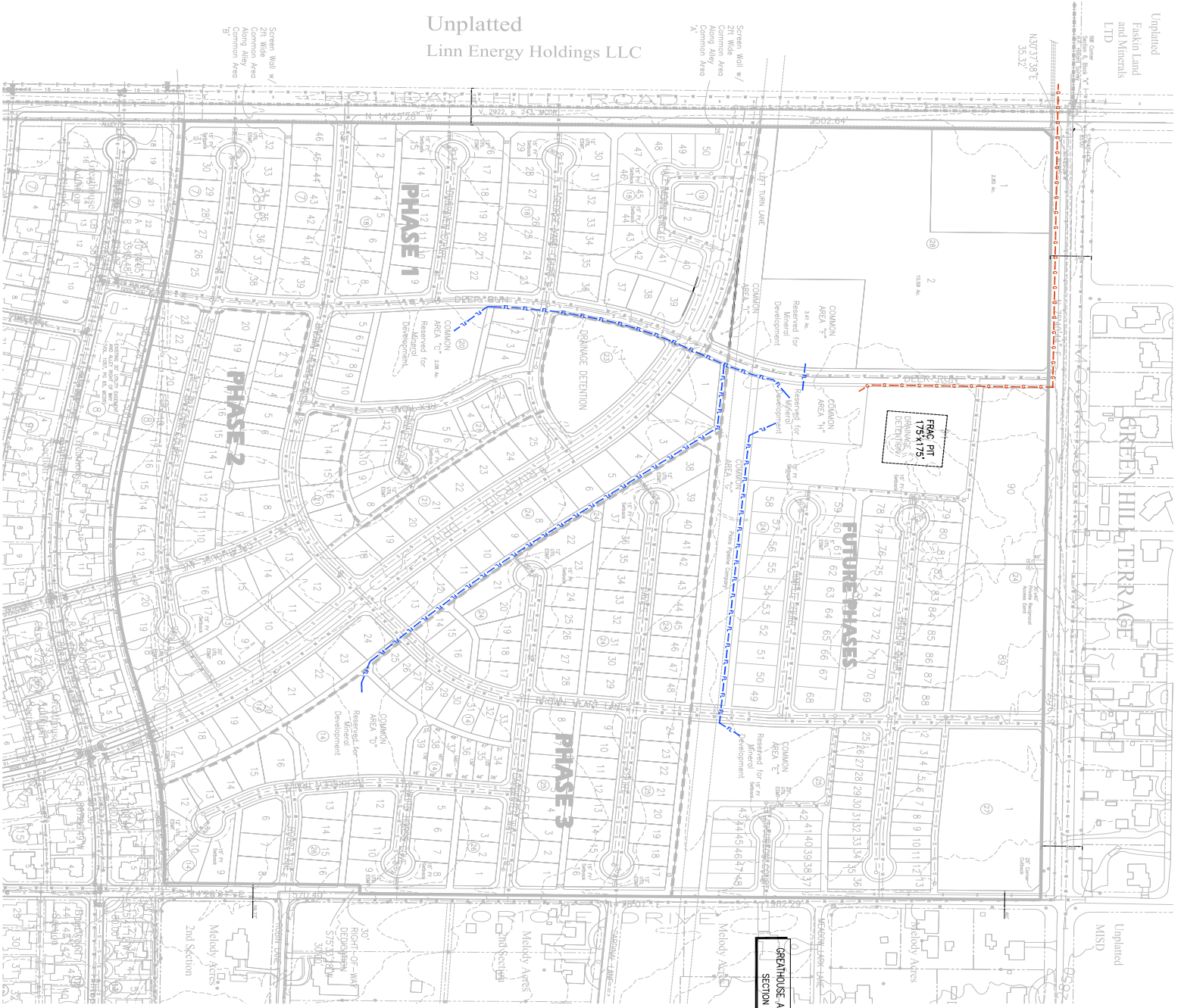
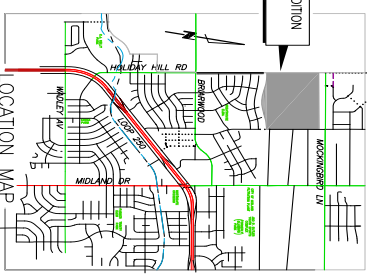
**FLOWLINE EXHIBIT**  
**GREATHOUSE ADDITION**  
**25.9**

Being 155.99 Ac.  
Located in  
Section 6, Block X,  
H.P. Hilliard Survey  
City of Midland, Midland County, Texas



**LEGEND**

- PROPOSED PLAT LIMITS
- PROPOSED STREET ROW
- PARKING BOUNDARY
- ZONING BOUNDARY
- CITY LIMITS
- EXISTING SECTION CORNER
- EXISTING PLATTED LOTS & STREET R/W
- EXISTING EASEMENTS
- EXISTING WATER LINE
- EXISTING SEWER LINE & MANHOLE
- EXISTING FENCE
- EXISTING ELEVATION CONTOURS  
(from COW GIS Survey)
- PROPOSED PLATTED LOTS & STREET R/W
- PROPOSED EASEMENTS
- PROPOSED WATER LINE
- PROPOSED SEWER LINE & MANHOLE
- BURIED FLOW LINE AND ELECTRIC LINES
- GAS LINE





# City Council Agenda

Approved for Agenda:  
**JNichols**  
City Manager's Office

**MEETING DATE:** April 10, 2012

**TO:** CITY COUNCIL/CITY MANAGER

**FROM:** Cameron Walker, Planning Division Manager

**SUBJECT:** O-12-007; hold a public hearing regarding a proposed oil and gas well drilling permit (Vector Oil & Gas Barron # 3) on the east side of Holiday Hill Road, approximately 720' south of Mockingbird Lane.

---

## **Purpose:**

At approximately 10:36 a.m. hold a public hearing on a request from Vector Oil & Gas, LP to drill an oil and gas well on property located 714' FNL and 730.4' FWL of the land described as Section 6, Block "X", H.P Hilliard Survey, City and County of Midland, Texas. This is an opportunity for the Council to receive public comment. Council may consider this permit following a 30-day public comment period and at a regularly scheduled meeting.

## **Recommended City Council Action**

☐ Approve

☐ Deny

☒ Direction/Informational

## **Fiscal Impact:**

N/A

## **Discussion:**

The Oil and Gas Advisory Committee has reviewed this well site in detail and recommends approval. No variances are requested. Fencing and landscaping will be installed to meet the style of the subdivision. A road repair agreement is anticipated.

Attachments: Application; Location map; Exhibits A, B and C.

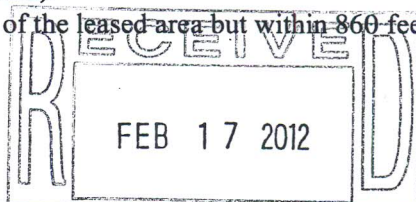


012-007

## APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

|                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                 |                                                                        |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------|
| <b>I. General Information</b>                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                 |                                                                        |
| Date<br>9/26/11                                                                                                                                                                                                                                                                                                                                                                                                                                 | Operator Name (must match W-1)<br>Vector Oil & Gas LP                                                           | Operator Address<br>3141 Hood Street; Suite 700<br>Dallas, Texas 75219 |
| Representative Name<br>Michael W. Wallace                                                                                                                                                                                                                                                                                                                                                                                                       | Representative Address (within Midland City Limits)<br>508 West Wall Street; Suite 1200<br>Midland, Texas 79701 | Rep. Tele. (432) 686-4327<br><br>Rep. Fax (432) 686-0302               |
| Fee: \$4,000.00 Rec'd Yes ___ No ___                                                                                                                                                                                                                                                                                                                                                                                                            | NOTE: All attachments need to bound and put in a binder before submitting.                                      | Pages 1-4                                                              |
| Permit Compliance Contact (Choose 1):<br>Option A:<br>24/7 Answering Services - No. 1 (Tele.): (432) 582-3190 No. 2 (Tele.):<br><br>Option B:<br>Company Compliance Representative (Name, Address, Local Telephone) (ATTACH STATEMENT AS EXHIBIT A):<br>Exhibit A Attached<br><br>Emergency Contact Representative (Name, Address, 24-Hour Tele. No.):<br><br><br>Other Permitted Wells in City (ATTACH EXHIBIT B [see § J(26)]). See Exhibit B |                                                                                                                 |                                                                        |
| <b>II. Mineral Ownership</b>                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                 |                                                                        |
| Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease):<br>1. Attached to Exhibit C<br>2.<br>3.                                                                                                                                                                                                                                                                                                                             |                                                                                                                 |                                                                        |
| ATTACHED AS EXHIBIT C is (a Title Opinion by _____, a licensed Texas Attorney/Title Commitment by Abstract Company/a Take-off from _____, a Certified Petroleum Landman/an opinion letter from James H. Chandler a licensed Texas Attorney) indicating that [Operator] has a legal right to develop the mineral estate that is the subject of this Application. [See § J(5)].                                                                   |                                                                                                                 |                                                                        |
| <b>III. Surface Ownership &amp; Use</b>                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                 |                                                                        |
| General Description of Current Surface Use (within 860 feet of proposed surface location):<br>Vacant land with some single family dwellings and pens outside of the leased area but within 860 feet of the proposed location.                                                                                                                                                                                                                   |                                                                                                                 |                                                                        |
| ATTACHED AS EXHIBIT D is (a Title Opinion by _____, a licensed Texas Attorney/a Take-off from _____, a Certified Petroleum Landman/Current Tax Roll from Midland Central Appraisal District), which lists the name(s) and address(es) of all surface owners within 860 feet of the surface well location. [See § J(7)].                                                                                                                         |                                                                                                                 |                                                                        |





*ATTACHED AS EXHIBIT E* is a (map/p lat/satellite/aerial photo) depicting all Residences, commercial structures, public buildings, all publicly dedicated Streets and alleys, Rights of Way, and permanent accessory structures surrounding the proposed Drill Site. The (map/p lat/satellite/aerial photo) includes two circles, as required by the Ordinance—one depicting a 500 foot radius and one depicting an 860 foot radius from the proposed well's surface location. [See § J(10)].

*ATTACHED AS EXHIBIT F* is a copy of the notification letter(s) sent to 100 percent of the surface owners, Certified Mail, Return Receipt Requested. [See § J(36)].

#### IV. Well & Operations Information

Proposed Well Name: Barron #3

Proposed Hole Size, Casing Program and Cementing Program (attach Exhibit as Necessary)[See § J(11) and § L(4)]:

See attached Exhibit G

Legal Description of Proposed Well Site:

714' FNL & 730.4' FWL of Section 6, Block X, H.P. Hilliard Survey, Midland County, Texas

*ATTACHED AS EXHIBIT G* is the Location Site Plan [See § J(9)].

*ATTACHED AS EXHIBIT H* is the Map with the proposed transportation route(s) and road(s) for equipment, chemicals, or refuse products used or produced in the proposed oil and gas operations. [See § J(12)].

*ATTACHED AS EXHIBIT I* is a copy of the approved Texas Railroad Commission permit to drill (Form W-1), together with all attachments (also file copy of W-1 with City Secretary before commencement of drilling operations). [See § J(16) and (20)].

*ATTACHED AS EXHIBIT J* is a copy of the required TCEQ report as to depth of usable quality ground water. [See § J(17)].

*ATTACHED AS EXHIBIT K* (if applicable) is the list of alternative locations developed in consultation with the Oil & Gas Advisory Committee. [See § J(27)].

*ATTACHED AS EXHIBIT L* is the Fencing and Irrigation Plan. [See § J(30)].

*ATTACHED AS EXHIBIT M* is the Road Repair Agreement and Letter of Credit/Certificate of Deposit/Surety Bond in the amount of at least \$25,000. Option (if applicable): Applicant would further state that no City-owned streets or alleys will be used by the Operator in connection with its oil and gas operations and as a result, requests a waiver from the Council of this requirement. Option B (if applicable): Because Applicant has three Road Repair Agreements in effect that have been approved by the Council, Applicant requests that the Council consolidate all agreements into one and is filing the necessary \$75,000 letter of credit/certificate of deposit/surety bond in conjunction with this request. [See § J(31)].

*ATTACHED AS EXHIBIT N* is the Concept Plan depicting the proposed Operations Site (which includes tanks, roads, power lines, and pipeline routes). [See § J(32)].

Description of Public Utilities required during (1) drilling and (2) operations:

- (1) Drilling: None
- (2) Operations: Sharyland Utilities L.P.

Description of water source to be used during Drilling:

Water to be trucked onto well site

Description of all electric lines to production facilities (reference exhibits as necessary) [See § L(10)]:

Exhibit N

Plan detailing construction, location, and closure of pits used for Drilling and Completion operations (attach exhibit if necessary) [See § J(35)]: Exhibit O

Trench and encapsulate per RRC Rule 27 (c) (10) (v)

#### V. Additional Required Exhibits

*ATTACHED AS EXHIBIT P* is the *Letter of Credit/Certificate of Deposit* in accordance with Subsection (K)(2). [See § J(18)].

*ATTACHED AS EXHIBIT Q* are Tax certificates from Midland Central Appraisal District to be submitted indicating that all taxes on personal and real property, including minerals, owned by Applicant are current. [See § J(29)].

*ATTACHED AS EXHIBIT R* is the required Insurance Certificate. [See § J(19) and § K(3)].

*ATTACHED AS EXHIBIT S (if applicable)* is the Drainage Plan approved by the City Engineer relating to Applicant's proposed operations. [See § J(21)].

*ATTACHED AS EXHIBIT T* is Applicant's Emergency Action Response Plan. [See § J(22)].

*ATTACHED AS EXHIBIT U* is Applicant's Hazardous Materials Management Plan, a copy of which has been submitted and is on file with the Midland Fire Department. [See § J(23)].



By Michael W. Wallace  
Its Michael W. Wallace

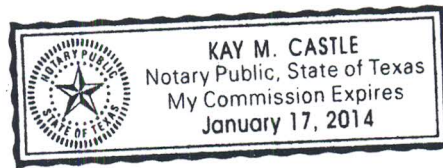
State of Texas )

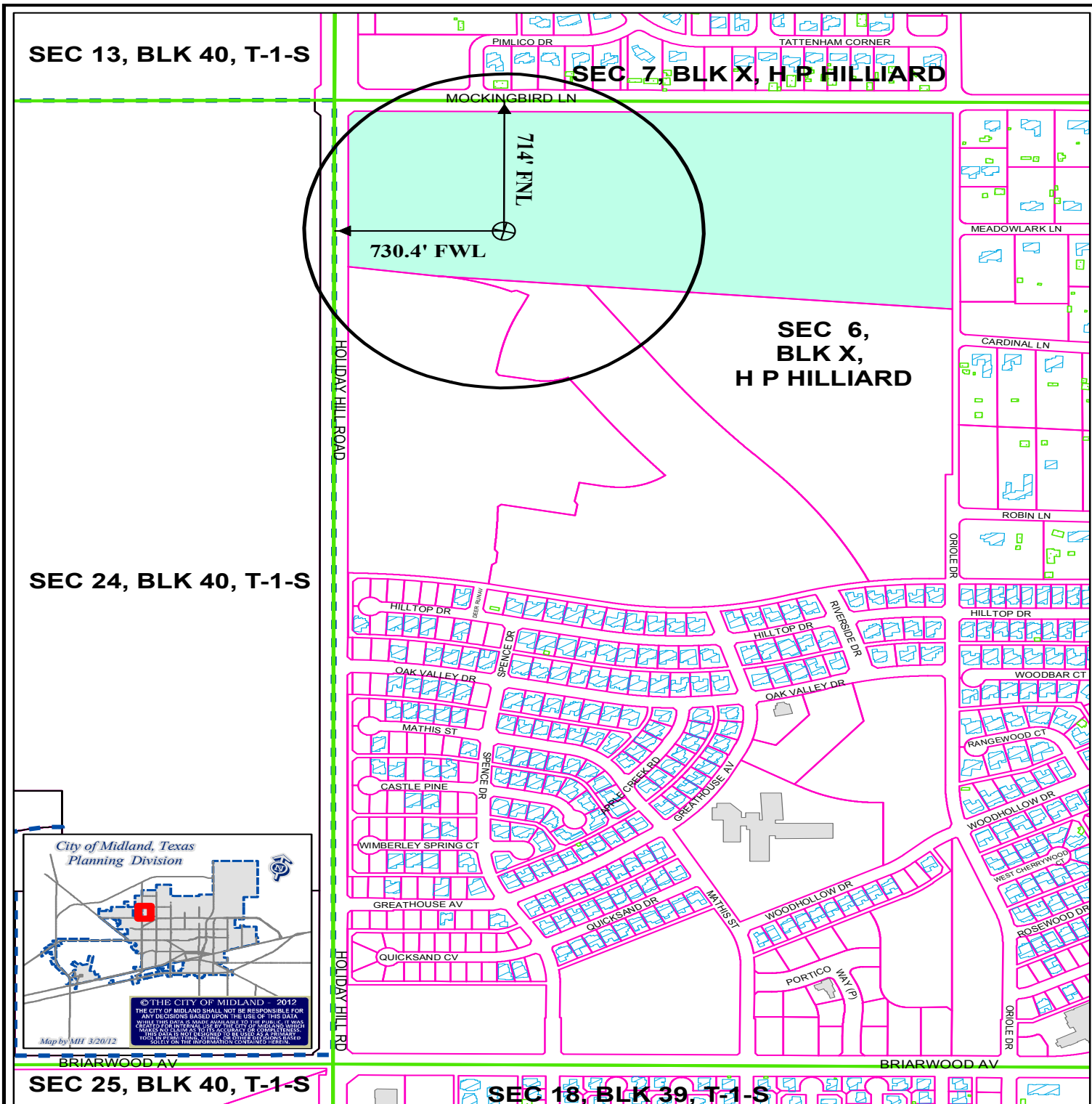
County of Midland )

Michael W. Wallace, personally appeared before me, and being first duly sworn declared he/she signed the application in the capacity designated, if any, and further states that he/she has read the above application and attached exhibits and the statements therein are true and correct to the best of their knowledge.

Kay M. Castle  
Notary Public, State of Texas

[SEAL]





## LOCATION AND ZONING MAP

**O - 12 - 007**

**Scale: 1" = 600'**

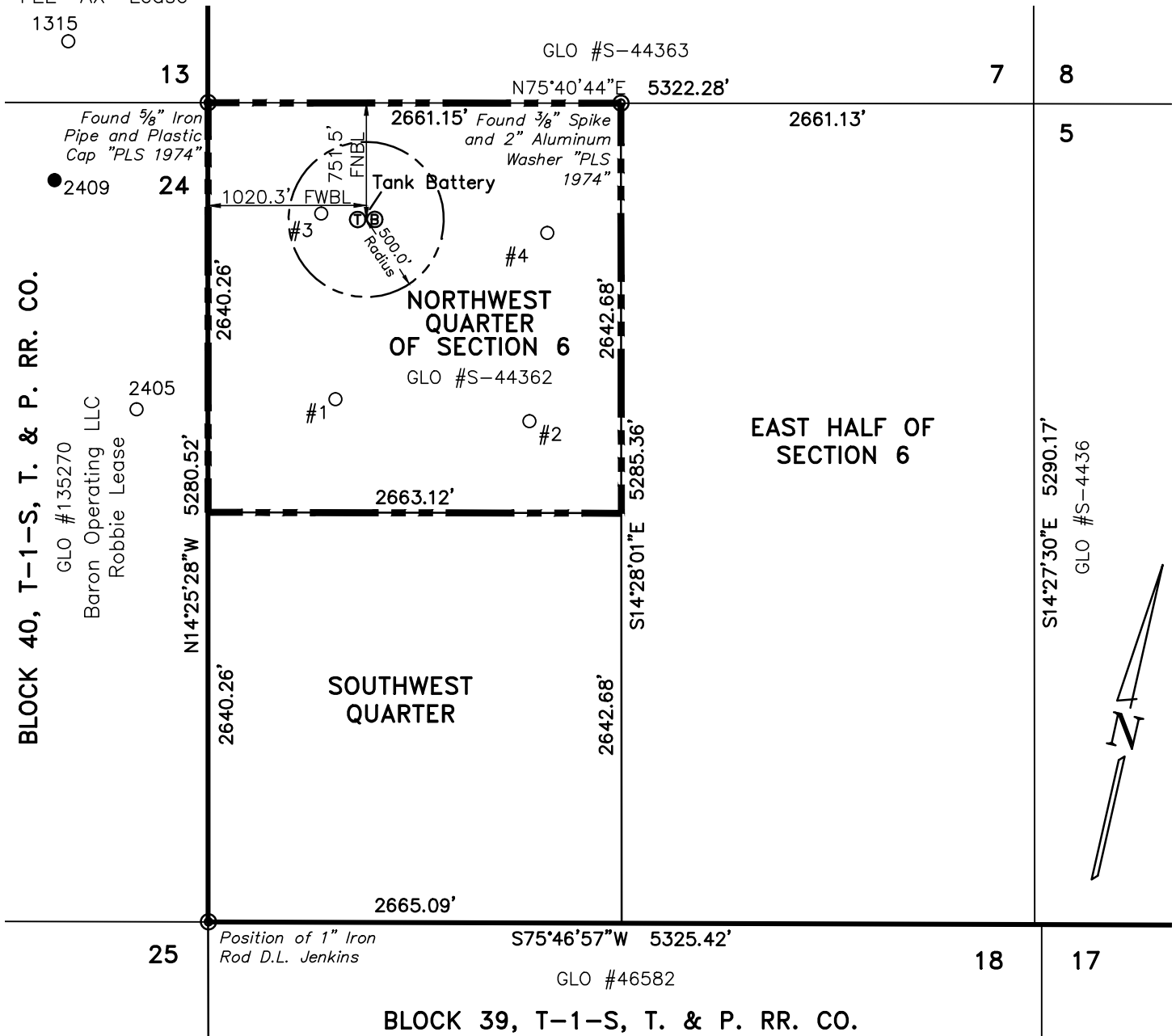
Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 714' FNL and 730.4' FWL, Section 6, Block "X", H. P. Hilliard Survey, Midland County, Texas.

**Barron # 3**



Faskin Oil and  
Ranch, LTD  
FEE "AX" Lease  
1315  
O

HARD ROCK ENERGY INC.



Drawing File: HolidayHill5.Dwg; Scale: 1"=1000' Drawn by: Tina Chalambaga; Date: 7/21/11  
Revised 2/17/12 by TC; Revised 3/7/12 by TC

**PLAT OF A TANK BATTERY LOCATED IN THE  
NORTHWEST QUARTER OF SECTION 6 BLOCK X,  
H.P. HILLIARD SURVEY, MIDLAND COUNTY, TEXAS**

Bearings, distances, and coordinates are relative to the Texas State Plane Coordinate System,  
1983/96CORS NAD, Central Zone.

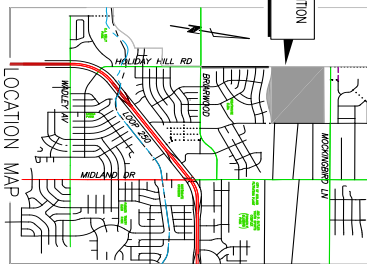
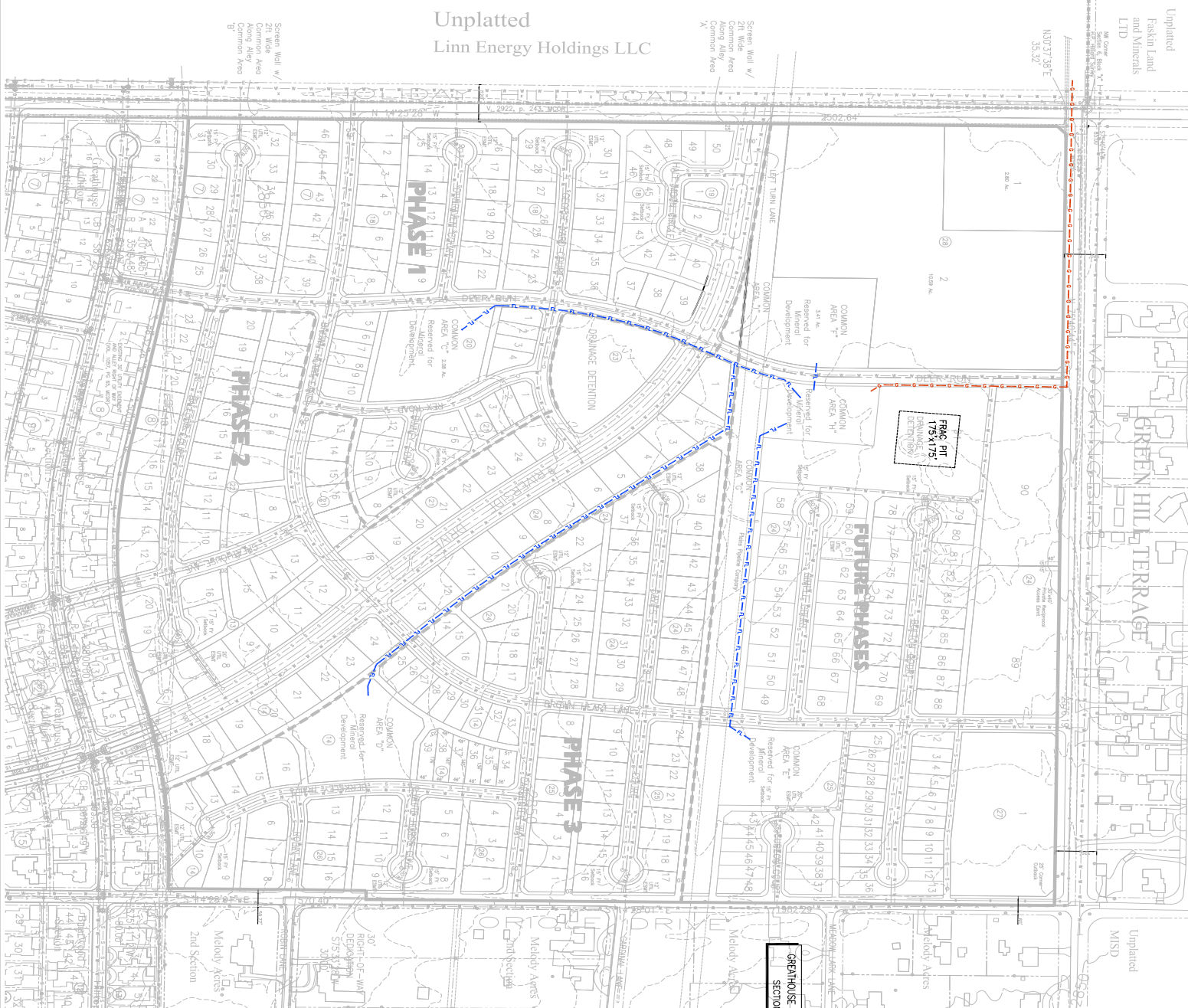
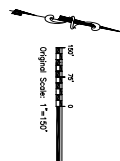
Prepared for:  
Vector Oil & Gas L.P.  
3141 Hood St. Ste 350  
Dallas, Tx 75219



**PIPER SURVEYING** P.O. BOX 60432; MIDLAND, TEXAS 79711; 432.550.781(26.8)



City of Midland, Midland County, Texas



- |  |                                                      |
|--|------------------------------------------------------|
|  | PROPOSED PLAT LIMITS                                 |
|  | PROPOSED STREET ROW                                  |
|  | PHASING BOUNDARY                                     |
|  | ZONING BOUNDARY                                      |
|  | CITY LIMITS                                          |
|  | EXISTING SECTION CORNER                              |
|  | EXISTING PLATTED LOTS & STREET R/W                   |
|  | EXISTING EASEMENTS                                   |
|  | EXISTING WATER LINE                                  |
|  | EXISTING SEWER LINE & MANHOLE                        |
|  | EXISTING FENCE                                       |
|  | EXISTING ELEVATION CONTOURS<br>(from CDM GIS Survey) |
|  | PROPOSED PLATTED LOTS & STREET R/W                   |
|  | PROPOSED EASEMENTS                                   |
|  | PROPOSED WATER LINE                                  |
|  | PROPOSED SEWER LINE & MANHOLE                        |
|  | BURIED FLOW LINE AND ELECTRIC LINES                  |
|  | GAS LINE                                             |



# City Council Agenda

Approved for Agenda:  
**JNichols**  
City Manager's Office

**MEETING DATE:** April 10, 2012

**TO:** CITY COUNCIL/CITY MANAGER

**FROM:** Cameron Walker, Planning Division Manager

**SUBJECT:** O-12-005; hold a public hearing regarding a proposed oil and gas well drilling permit (Bluestem Energy Holdings Evans N 1) on the west side of N. Midkiff Road, approximately 625' north of Mockingbird Lane.

---

## **Purpose:**

At approximately 10:39 a.m. hold a public hearing on a request from Bluestem Energy Holdings to drill an oil and gas well on property located 623' FSL and 2035' FEL of the land described as Section 8, Block "X", H.P Hilliard Survey, City and County of Midland, Texas. This is an opportunity for the Council to receive public comment. Council may consider this permit following a 30-day public comment period and at a regularly scheduled meeting.

## **Recommended City Council Action**

☐ Approve

☐ Deny

☒ Direction/Informational

## **Fiscal Impact:**

N/A

## **Discussion:**

The Oil and Gas Advisory Committee has reviewed this well site in detail and recommends approval subject to the following: intermediate well casing shall include additional cementing and landscaping shall be installed within two years of well completion. A road repair agreement is anticipated.

Attachments: Application; Location map and Exhibit A.



# APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

|                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                               |                                                                                 |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------|
| <b>I. General Information</b>                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                               |                                                                                 |
| <b>Date</b><br>02/15/2012                                                                                                                                                                                                                                                                                                                                                                                | <b>Operator Name (must match W-1)</b><br>Bluestem Energy Holdings, LLC                                        | <b>Operator Address</b><br>421 W. 3rd Street, Suite 700<br>Fort Worth, TX 76102 |
| <b>Representative Name</b><br>Wendell Brown                                                                                                                                                                                                                                                                                                                                                              | <b>Representative Address (within Midland City Limits)</b><br>400 W. Illinois, Ste. 1630<br>Midland, TX 79701 | <b>Rep. Tele.</b> (432) 687-4414<br><br><b>Rep. Fax</b> (432) 682-4497          |
| <b>Fee: \$4,000.00</b> Rec'd Yes ___ No ___                                                                                                                                                                                                                                                                                                                                                              | <b>NOTE: All attachments need to bound and put in a binder before submitting.</b>                             | <b>Pages 1-4</b>                                                                |
| <b>Permit Compliance Contact (Choose 1):</b><br><b>Option A:</b> Wendell Brown, No. 1 (432) 687-4414, No. 2 (432) 889-5080                                                                                                                                                                                                                                                                               |                                                                                                               |                                                                                 |
| <b>24/7 Answering Services - No. 1 (Tele.):</b> _____ <b>No. 2 (Tele.):</b> _____                                                                                                                                                                                                                                                                                                                        |                                                                                                               |                                                                                 |
| <b>Option B:</b> Wendell Brown, No. 1 (432) 687-4414, No. 2 (432) 889-5080                                                                                                                                                                                                                                                                                                                               |                                                                                                               |                                                                                 |
| <b>Company Compliance Representative (Name, Address, Local Telephone) (ATTACH STATEMENT AS EXHIBIT A):</b>                                                                                                                                                                                                                                                                                               |                                                                                                               |                                                                                 |
| <b>Emergency Contact Representative (Name, Address, 24-Hour Tele. No.):</b><br>Same as above                                                                                                                                                                                                                                                                                                             |                                                                                                               |                                                                                 |
| <b>Other Permitted Wells in City (ATTACH EXHIBIT B [see § J(26)]):</b>                                                                                                                                                                                                                                                                                                                                   |                                                                                                               |                                                                                 |
| <b>II. Mineral Ownership</b>                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                               |                                                                                 |
| <b>Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease):</b>                                                                                                                                                                                                                                                                                                                       |                                                                                                               |                                                                                 |
| 1. Evans Resources, LP, P.O. Box 7962, Midland, TX 79708                                                                                                                                                                                                                                                                                                                                                 |                                                                                                               |                                                                                 |
| 2. Joy D. Anguish Trust and David D. Anguish, P.O. Box 2749, Longview, TX 75606                                                                                                                                                                                                                                                                                                                          |                                                                                                               |                                                                                 |
| 3. Anguish Partnership, P.O. Box 63, Midland, TX 79702                                                                                                                                                                                                                                                                                                                                                   |                                                                                                               |                                                                                 |
| <b>ATTACHED AS EXHIBIT C is (a Title Opinion by Robert Rendall, a licensed Texas Attorney/Title Commitment by Abstract Company/a Take-off from _____, a Certified Petroleum Landman/an opinion letter from _____, a licensed Texas Attorney) indicating that [Operator] has a legal right to develop the mineral estate that is the subject of this Application. [See § J(5)].</b>                       |                                                                                                               |                                                                                 |
| <b>III. Surface Ownership &amp; Use</b>                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                               |                                                                                 |
| <b>General Description of Current Surface Use (within 860 feet of proposed surface location):</b><br><br>Farming                                                                                                                                                                                                                                                                                         |                                                                                                               |                                                                                 |
| <b>ATTACHED AS EXHIBIT D is <del>a Title Opinion by Robert Rendall, a licensed Texas Attorney/a Take-off from _____, a Certified Petroleum Landman/an opinion letter from _____, a licensed Texas Attorney</del> Current Tax Roll from Midland Central Appraisal District, which lists the name(s) and address(es) of all surface owners within 860 feet of the surface well location. [See § J(7)].</b> |                                                                                                               |                                                                                 |



*ATTACHED AS EXHIBIT E* is a (map/p lat/satellite/aerial photo) depicting all Residences, commercial structures, public buildings, all publicly dedicated Streets and alleys, Rights of Way, and permanent accessory structures surrounding the proposed Drill Site. The (map/p lat/satellite/aerial photo) includes two circles, as required by the Ordinance—one depicting a 500 foot radius and one depicting an 860 foot radius from the proposed well's surface location. [See § J(10)].

*ATTACHED AS EXHIBIT F* is a copy of the notification letter(s) sent to 100 percent of the surface owners, Certified Mail, Return Receipt Requested. [See § J(36)].

#### IV. Well & Operations Information

**Proposed Well Name:** Evans N 1

**Proposed Hole Size, Casing Program and Cementing Program (attach Exhibit as Necessary)[See § J(11) and § L(4)]:**

See attached Exhibit V

**Legal Description of Proposed Well Site:**

623' FSL and 2035' FEL, Sec. 8, Blk. X, H.P. Hilliard Survey

*ATTACHED AS EXHIBIT G* is the Location Site Plan [See § J(9)].

*ATTACHED AS EXHIBIT H* is the Map with the proposed transportation route(s) and road(s) for equipment, chemicals, or refuse products used or produced in the proposed oil and gas operations. [See § J(12)].

*ATTACHED AS EXHIBIT I* is a copy of the approved Texas Railroad Commission permit to drill (Form W-1), together with all attachments (also file copy of W-1 with City Secretary before commencement of drilling operations). [See § J(16) and (20)].

*ATTACHED AS EXHIBIT J* is a copy of the required TCEQ report as to depth of usable quality ground water. [See § J(17)].

*ATTACHED AS EXHIBIT K (if applicable)* is the list of alternative locations developed in consultation with the Oil & Gas Advisory Committee. [See § J(27)].

*ATTACHED AS EXHIBIT L* is the Fencing and Irrigation Plan. [See § J(30)].

*ATTACHED AS EXHIBIT M* is the Road Repair Agreement and Letter of Credit/Certificate of Deposit/Surety Bond in the amount of at least \$25,000. *Option (if applicable): Applicant would further state that no City-owned streets or alleys will be used by the Operator in connection with its oil and gas operations and as a result, requests a waiver from the Council of this requirement. Option B (if applicable):* Because Applicant has three Road Repair Agreements in effect that have been approved by the Council, Applicant requests that the Council consolidate all agreements into one and is filing the necessary \$75,000 letter of credit/certificate of deposit/surety bond in conjunction with this request. [See § J(31)].

*ATTACHED AS EXHIBIT N* is the Concept Plan depicting the proposed Operations Site (which includes tanks, roads, power lines, and pipeline routes). [See § J(32)].

**Description of Public Utilities required during (1) drilling and (2) operations:**

(1) **Drilling:** None

(2) **Operations:** Sun Electric

**Description of water source to be used during Drilling:** Evans water wells located in N/2 of Sec. 8, Blk. X, H.P. Hilliard Survey

**Description of all electric lines to production facilities (reference exhibits as necessary) [See § L(10)]:**

All electric lines will be overhead for the immediate future. Ultimately, electrical lines will be buried in the proposed corridors as shown on Exhibit N, in accordance with the Surface Agreement dated November 3, 2010 between Operator and the Surface Owner.

**Plan detailing construction, location, and closure of pits used for Drilling and Completion operations (attach exhibit if necessary) [See § J(35)]:**

See Exhibit O

#### V. Additional Required Exhibits



*ATTACHED AS EXHIBIT P* is the *Letter of Credit/Certificate of Deposit* in accordance with Subsection (K)(2). [See § J(18)].

*ATTACHED AS EXHIBIT Q* are Tax certificates from Midland Central Appraisal District to be submitted indicating that all taxes on personal and real property, including minerals, owned by Applicant are current. [See § J(29)].

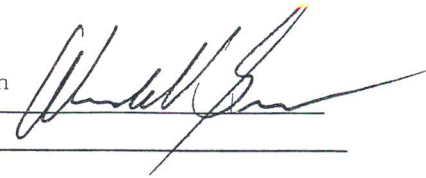
*ATTACHED AS EXHIBIT R* is the required Insurance Certificate. [See § J(19) and § K(3)].

*ATTACHED AS EXHIBIT S (if applicable)* is the Drainage Plan approved by the City Engineer relating to Applicant's proposed operations. [See § J(21)].

*ATTACHED AS EXHIBIT T* is Applicant's Emergency Action Response Plan. [See § J(22)].

*ATTACHED AS EXHIBIT U* is Applicant's Hazardous Materials Management Plan, a copy of which has been submitted and is on file with the Midland Fire Department. [See § J(23)].

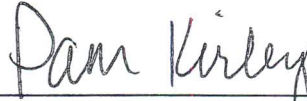
By Wendell Brown  
Its Consultant



State of Texas )

County of Midland )

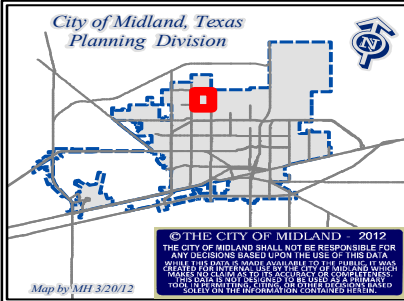
**Wendell Brown**, personally appeared before me, and being first duly sworn declared he/she signed the application in the capacity designated, if any, and further states that he/she has read the above application and attached exhibits and the statements therein are true and correct to the best of their knowledge.



Notary Public, State of Texas

[SEAL]





AE

SEC 8, BLK X, H P HILLIARD

PDHD  
53

TIMBERGLEN CR  
PDHD 395

2035' FEL

623' FSL

PDSC  
267

MOCKINGBIRD LN

SEC 5, BLK X, H P HILLIARD

## LOCATION AND ZONING MAP

O - 12 - 005

Scale: 1" = 600'

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 623' FSL and 2035' FEL, Section 8, Block "X", H. P. Hilliard Survey, Midland County, Texas.

Evans "N" #1

### LEGEND

|              |                 |                |
|--------------|-----------------|----------------|
| CITY PARCELS | PUBLIC BLDGS    | CITY LIMITS    |
| SURVEY SEC.  | PRIVATE BLDGS   | 860 FT. BUFFER |
| ZONING       | ACCESSORY BLDGS |                |

### ZONING DISTRICTS:

|               |                          |                   |                      |
|---------------|--------------------------|-------------------|----------------------|
| FD            | FUTURE DEVELOPMENT       | BP                | BUSINESS PARK        |
| PD            | PLANNED DISTRICT         | P                 | PARKING              |
| AE            | AGRICULTURE ESTATE       | 01, O2            | OFFICE               |
| 1F1, 1F2, 1F3 | ONE-FAMILY DWELLING      | NS                | NEIGHBORHOOD SERVICE |
| MH            | MOBILE HOME DWELLING     | LR1, LR2, LR3     | LOCAL RETAIL         |
| TH            | TOWNHOUSE DWELLING       | C1, C2, C3        | COMMERCIAL           |
| 2F            | TWO-FAMILY DWELLING      | IP, JP1, IP2, IP3 | INDUSTRIAL PARK      |
| MF1, MF2      | MULTIPLE FAMILY DWELLING | LI                | LIGHT INDUSTRY       |
|               |                          | HI                | HEAVY INDUSTRY       |



RECEIVED

N75° 35' 12.22"E

SCALE: 1" = 600'



PROJECT: 727470JD  
JOB NO: 72,747-F

BLUESTEM ENERGY HOLDINGS, LLC  
WELL NO. EVANS N 1  
EVANS LEASE  
623 FEET FROM THE SOUTH AND  
2035 FEET FROM THE EAST LINE  
SECTION 8, ABSTRACT 17, BLOCK X,  
H.P. HILLIARD SURVEY, MIDLAND  
COUNTY, TEXAS

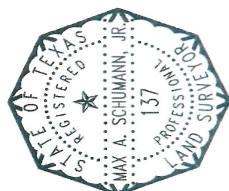
RING CO., INC.  
 REGISTERED PROFESSIONAL CIVIL ENGINEERS  
 TEXAS and NEW MEXICO  
 Land Surveying  
 Office (432) 684-5548  
 Fax (432) 684-6973

408 N. PECOS STREET - P. O. BOX 504  
MIDLAND, TEXAS 79702-0504

Civil Engineering ~ Land Surveying

REGISTERED PROFESSIONAL LAND SURVEYORS  
LICENSED STATE LAND SURVEYORS

SCHUMANN ENG



THE UNDERSIGNED DOES HEREBY CERTIFY THAT THIS LOCATION WAS THIS DAY MADE BY ME OR UNDER MY SUPERVISION AND THAT THIS PLAT IS A CORRECT REPRESENTATION THEREOF.

  
MAX A. SCHUMACHER, JR.  
PAGES 137

DATED THIS 10TH DAY OF FEBRUARY, 2012

OVERHEAD ELECTRIC \_\_\_\_\_ 100  
3" FLOW LINES \_\_\_\_\_ 5  
EDGE OF CALICHE ROAD \_\_\_\_\_ 0

COURSES, DISTANCES AND COORDINATES SHOWN HEREON ARE  
LAMBERT GRID AND CONFORM TO THE "TEXAS COORDINATE  
SYSTEM", TEXAS CENTRAL ZONE, NORTH AMERICAN DATUM OF 1983.  
ALL DISTANCES AND COORDINATES ARE SHOWN IN GRID FEET.

MAX A. SCHUMANN, JR.  
RP/LS 137

## 27.7



# City Council Agenda

Approved for Agenda:  
**JNichols**  
City Manager's Office

**MEETING DATE:** April 10, 2012

**TO:** CITY COUNCIL/CITY MANAGER

**FROM:** Cameron Walker, Planning Division Manager

**SUBJECT:** O-12-004; hold a public hearing regarding a proposed oil and gas well drilling permit (Bluestem Energy Holdings Evans M 1) on the east side of N. Midland Drive, approximately 1/3 mile north of Mockingbird Lane.

---

## **Purpose:**

At approximately 10:42 a.m. hold a public hearing on a request from Bluestem Energy Holdings to drill an oil and gas well on property located 1,949' FSL and 1,927' FWL of the land described as Section 8, Block "X", H.P Hilliard Survey, City and County of Midland, Texas. This is an opportunity for the Council to receive public comment. Council may consider this permit following a 30-day public comment period and at a regularly scheduled meeting.

## **Recommended City Council Action**

☐ Approve

☐ Deny

☒ Direction/Informational

## **Fiscal Impact:**

N/A

## **Discussion:**

The Oil and Gas Advisory Committee has reviewed this well site in detail and recommends approval subject to the following: intermediate well casing shall include additional cementing and landscaping shall be installed within two years of well completion. A road repair agreement is anticipated.

Attachments: Application; Location map and Exhibit A.



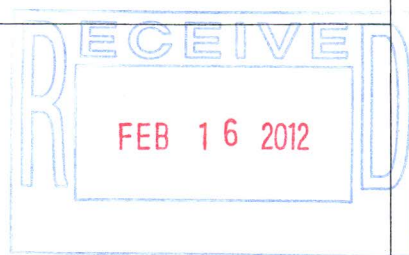


0-12-004

## APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

| I. General Information                                                                                                                                                                                                                                                                                                                                          |                                                                                                        |                                                                          |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------|
| Date<br>02/15/2012                                                                                                                                                                                                                                                                                                                                              | Operator Name (must match W-1)<br>Bluestem Energy Holdings, LLC                                        | Operator Address<br>421 W. 3rd Street, Suite 700<br>Fort Worth, TX 76102 |
| Representative Name<br>Wendell Brown                                                                                                                                                                                                                                                                                                                            | Representative Address (within Midland City Limits)<br>400 W. Illinois, Ste. 1630<br>Midland, TX 79701 | Rep. Tele. (432) 687-4414<br>Rep. Fax (432) 682-4497                     |
| Fee: \$4,000.00 Rec'd Yes ___ No ___                                                                                                                                                                                                                                                                                                                            | NOTE: All attachments need to bound and put in a binder before submitting.                             | Pages 1-4                                                                |
| Permit Compliance Contact (Choose 1):<br>Option A: Wendell Brown, No. 1 (432) 687-4414, No. 2 (432) 889-5080                                                                                                                                                                                                                                                    |                                                                                                        |                                                                          |
| 24/7 Answering Services - No. 1 (Tele.): No. 2 (Tele.):<br>Option B: Wendell Brown, No. 1 (432) 687-4414, No. 2 (432) 889-5080                                                                                                                                                                                                                                  |                                                                                                        |                                                                          |
| Company Compliance Representative (Name, Address, Local Telephone) (ATTACH STATEMENT AS EXHIBIT A):                                                                                                                                                                                                                                                             |                                                                                                        |                                                                          |
| Emergency Contact Representative (Name, Address, 24-Hour Tele. No.):<br>Same as above                                                                                                                                                                                                                                                                           |                                                                                                        |                                                                          |
| Other Permitted Wells in City (ATTACH EXHIBIT B [see § J(26)]).                                                                                                                                                                                                                                                                                                 |                                                                                                        |                                                                          |
| II. Mineral Ownership                                                                                                                                                                                                                                                                                                                                           |                                                                                                        |                                                                          |
| Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease):                                                                                                                                                                                                                                                                                     |                                                                                                        |                                                                          |
| 1. Evans Resources, LP, P.O. Box 7962, Midland, TX 79708                                                                                                                                                                                                                                                                                                        |                                                                                                        |                                                                          |
| 2. Joy D. Anguish Trust and David D. Anguish, P.O. Box 2749, Longview, TX 75606                                                                                                                                                                                                                                                                                 |                                                                                                        |                                                                          |
| 3. Anguish Partnership, P.O. Box 63, Midland, TX 79702                                                                                                                                                                                                                                                                                                          |                                                                                                        |                                                                          |
| ATTACHED AS EXHIBIT C is (a Title Opinion by Robert Rendall, a licensed Texas Attorney/Title Commitment by Abstract Company/a Take-off from, a Certified Petroleum Landman/an opinion letter from, a licensed Texas Attorney) indicating that [Operator] has a legal right to develop the mineral estate that is the subject of this Application. [See § J(5)]. |                                                                                                        |                                                                          |
| III. Surface Ownership & Use                                                                                                                                                                                                                                                                                                                                    |                                                                                                        |                                                                          |
| General Description of Current Surface Use (within 860 feet of proposed surface location):<br>Farming                                                                                                                                                                                                                                                           |                                                                                                        |                                                                          |
| ATTACHED AS EXHIBIT D is (a Title Opinion by Robert Rendall, a licensed Texas Attorney/a Take-off from, a Certified Petroleum Landman/Current Tax Roll from Midland Central Appraisal District), which lists the name(s) and address(es) of all surface owners within 860 feet of the surface well location. [See § J(7)].                                      |                                                                                                        |                                                                          |



*ATTACHED AS EXHIBIT E* is a (map/p lat/satellite/aerial photo) depicting all Residences, commercial structures, public buildings, all publicly dedicated Streets and alleys, Rights of Way, and permanent accessory structures surrounding the proposed Drill Site. The (map/p lat/satellite/aerial photo) includes two circles, as required by the Ordinance—one depicting a 500 foot radius and one depicting an 860 foot radius from the proposed well's surface location. [See § J(10)].

*ATTACHED AS EXHIBIT F* is a copy of the notification letter(s) sent to 100 percent of the surface owners, Certified Mail, Return Receipt Requested. [See § J(36)].

#### IV. Well & Operations Information

**Proposed Well Name:** Evans M 1

**Proposed Hole Size, Casing Program and Cementing Program (attach Exhibit as Necessary)[See § J(11) and § L(4)]:**

See attached Exhibit V

**Legal Description of Proposed Well Site:**

1949' FSL and 1927' FWL, Sec. 8, Blk. X, H.P. Hilliard Survey

*ATTACHED AS EXHIBIT G* is the Location Site Plan [See § J(9)].

*ATTACHED AS EXHIBIT H* is the Map with the proposed transportation route(s) and road(s) for equipment, chemicals, or refuse products used or produced in the proposed oil and gas operations. [See § J(12)].

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*ATTACHED AS EXHIBIT J* is a copy of the required TCEQ report as to depth of usable quality ground water. [See § J(17)].

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*ATTACHED AS EXHIBIT M* is the Road Repair Agreement and Letter of Credit/Certificate of Deposit/Surety Bond in the amount of at least \$25,000. Option (if applicable): Applicant would further state that no City-owned streets or alleys will be used by the Operator in connection with its oil and gas operations and as a result, requests a waiver from the Council of this requirement. Option B (if applicable): Because Applicant has three Road Repair Agreements in effect that have been approved by the Council, Applicant requests that the Council consolidate all agreements into one and is filing the necessary \$75,000 letter of credit/certificate of deposit/surety bond in conjunction with this request. [See § J(31)].

*ATTACHED AS EXHIBIT N* is the Concept Plan depicting the proposed Operations Site (which includes tanks, roads, power lines, and pipeline routes). [See § J(32)].

**Description of Public Utilities required during (1) drilling and (2) operations:**

(1) **Drilling:** None

(2) **Operations:** Sun Electric

**Description of water source to be used during Drilling:**

Evans water wells located in N/2 of Sec. 8, Blk. X,  
H.P. Hilliard Survey

**Description of all electric lines to production facilities (reference exhibits as necessary) [See § L(10)]:**

All electric lines will be overhead for the immediate future. Ultimately, electrical lines will be buried in the proposed corridors as shown on Exhibit N, in accordance with the Surface Agreement dated November 3, 2010 between Operator and the Surface Owner.

**Plan detailing construction, location, and closure of pits used for Drilling and Completion operations (attach exhibit if necessary) [See § J(35)]:**

See Exhibit O

#### V. Additional Required Exhibits

*ATTACHED AS EXHIBIT P* is the *Letter of Credit/Certificate of Deposit* in accordance with Subsection (K)(2). [See § J(18)].

*ATTACHED AS EXHIBIT Q* are Tax certificates from Midland Central Appraisal District to be submitted indicating that all taxes on personal and real property, including minerals, owned by Applicant are current. [See § J(29)].

*ATTACHED AS EXHIBIT R* is the required Insurance Certificate. [See § J(19) and § K(3)].

*ATTACHED AS EXHIBIT S (if applicable)* is the Drainage Plan approved by the City Engineer relating to Applicant's proposed operations. [See § J(21)].

*ATTACHED AS EXHIBIT T* is Applicant's Emergency Action Response Plan. [See § J(22)].

*ATTACHED AS EXHIBIT U* is Applicant's Hazardous Materials Management Plan, a copy of which has been submitted and is on file with the Midland Fire Department. [See § J(23)].

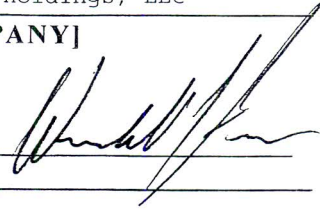


Bluestem Energy Holdings, LLC

[NAME OF COMPANY]

By Wendell Brown

Its Consultant



State of Texas

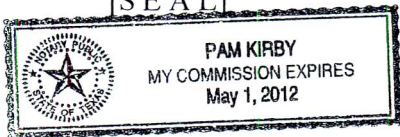
County of Midland

Wendell Brown, personally appeared before me, and being first duly sworn declared he/she signed the application in the capacity designated, if any, and further states that he/she has read the above application and attached exhibits and the statements therein are true and correct to the best of their knowledge.



Notary Public, State of Texas

[SEAL]



1F1

SEC 8, BLK 39, T-1-S

PDHD

204

AE

SEC 8, BLK X, H P HILLIARD

PDHD

53

1927' FWL

1949' FSL

SEC 5, BLK X, H P HILLIARD

## LOCATION AND ZONING MAP

O - 12 - 004

Scale: 1" = 600'

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 1949' FSL and 1927' FWL, Section 8, Block "X", H. P. Hilliard Survey, Midland County, Texas.

Evans "M" #1

## LEGEND

|                                                                                     |              |                                                                                       |                 |                                                                                       |                |
|-------------------------------------------------------------------------------------|--------------|---------------------------------------------------------------------------------------|-----------------|---------------------------------------------------------------------------------------|----------------|
|  | CITY PARCELS |  | PUBLIC BLDGS    |  | CITY LIMITS    |
|  | SURVEY SEC.  |  | PRIVATE BLDGS   |  | 860 FT. BUFFER |
|  | ZONING       |  | ACCESSORY BLDGS |                                                                                       |                |

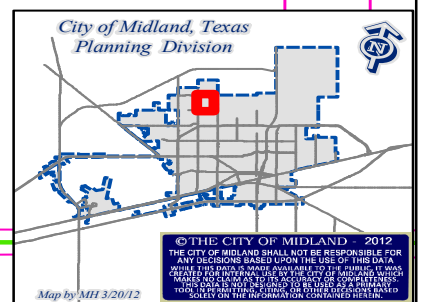
## ZONING DISTRICTS:

FD  
PD  
AE  
1F1, 1F2, 1F3  
MH  
TH  
2F  
MF1, MF2

FUTURE DEVELOPMENT  
PLANNED DISTRICT  
AGRICULTURE ESTATE  
ONE-FAMILY DWELLING  
MOBILE HOME DWELLING  
TOWNHOUSE DWELLING  
TWO-FAMILY DWELLING  
MULTIPLE FAMILY DWELLING

BP  
P  
01, 02  
NS  
LR1, LR2, LR3  
C1, C2, C3  
IP, JP1, IP2, IP3  
LI  
HI

BUSINESS PARK  
PARKING  
OFFICE  
NEIGHBORHOOD SERVICE  
LOCAL RETAIL  
COMMERCIAL  
INDUSTRIAL PARK  
LIGHT INDUSTRY  
HEAVY INDUSTRY





RECEIVED

MAR 16 2012

CITY OF MIDLAND  
PLANNING DIVISION OFFICE

EXHIBIT "A"

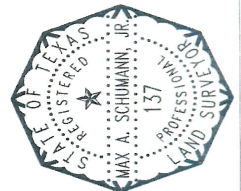
CASE NO. 0-12-004

SITE PLAN

PROJECT: 72747-00D  
JOB NO: 72747-F

BLUESTEM ENERGY HOLDINGS, LLC  
WELL NO. EVANS M 1  
EVANS LEASE  
1949 FEET FROM THE SOUTH AND  
SECTION 8, ABSTRACT 17, BLOCK X,  
H.P. HILLIARD SURVEY, MIDLAND  
COUNTY, TEXAS

SCHUMANN ENGINEERING CO., INC.  
REGISTERED PROFESSIONAL CIVIL ENGINEERS  
TEXAS and NEW MEXICO  
LICENSED STATE LAND SURVEYORS  
Civil Engineering ~ Land Surveying  
Office (432) 684-5548  
Fax (432) 684-6973  
408 N. PECOS STREET - P. O. BOX 504  
MIDLAND, TEXAS 79702-0504



THE UNDERSIGNED DOES HEREBY CERTIFY  
THAT HIS LOCATION WAS MADE  
ON THE GROUND BY ME OR UNDER MY  
SUPERVISION AND THAT THIS PLAT IS A  
CORRECT REPRESENTATION THEREOF.

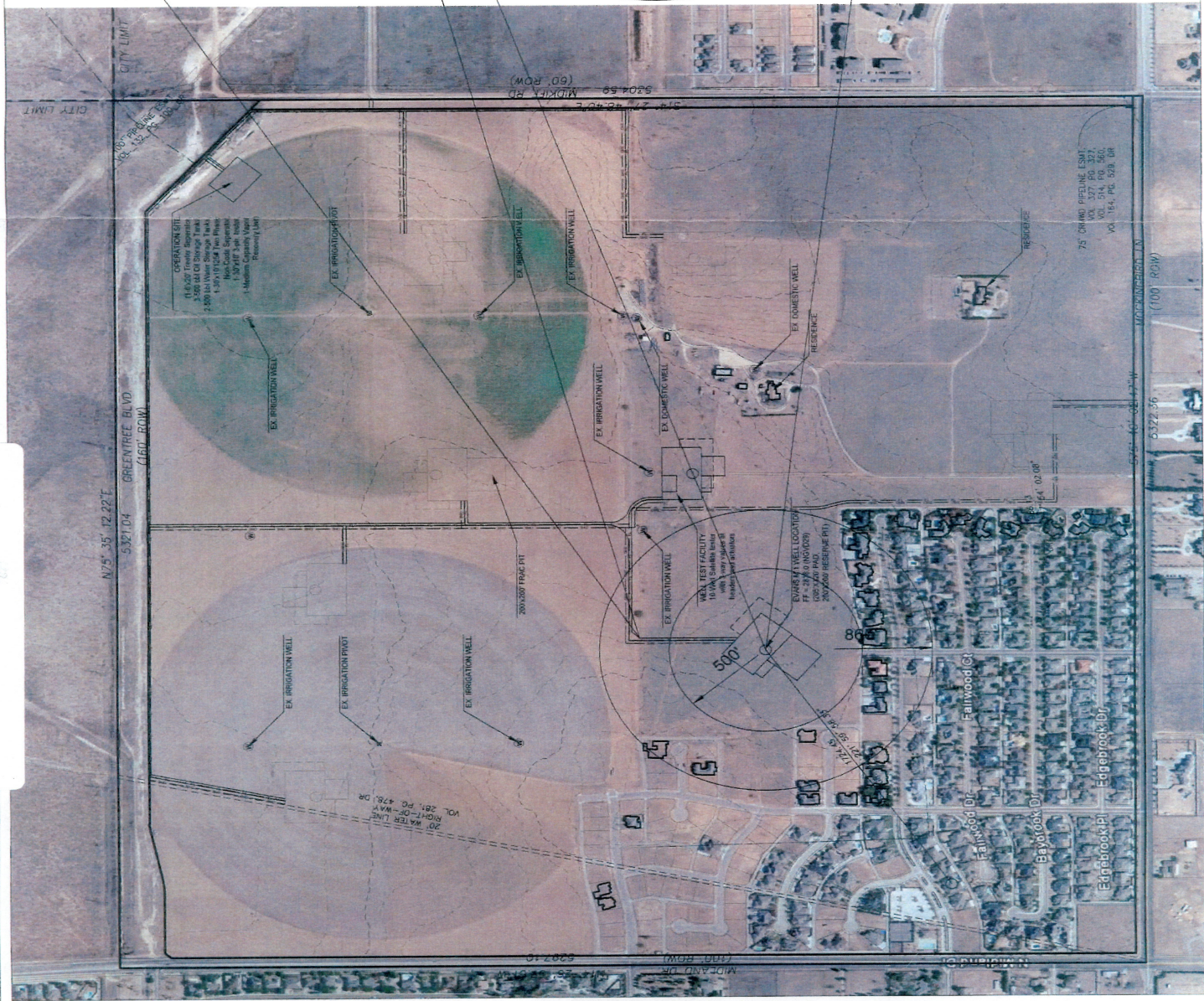
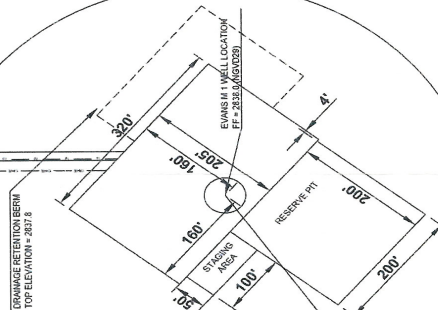
DATED THIS 10TH DAY OF FEBRUARY, 2012

*Max A. Schumann, Jr.*  
MAX A. SCHUMANN, JR.  
RPLS 137

NOTE:  
OVERHEAD ELECTRIC  
POLE AND WIRE  
EDGE OF GRADE ROAD  
COURSES, DISTANCES AND COORDINATES SHOWN HEREON ARE  
LAMBERT GRID AND CONFORM TO THE "TEXAS COORDINATE  
SYSTEM", TEXAS CENTRAL ZONE, NORTH AMERICAN DATUM OF 1983.  
ALL DISTANCES AND COORDINATES ARE SHOWN IN GRID FEET.

SCALE: 1" = 600'

15' CALICHE ROAD (TYP.)







# City Council Agenda

Approved for Agenda:  
**JNichols**  
City Manager's Office

**MEETING DATE:** April 10, 2012

**TO:** CITY COUNCIL/CITY MANAGER

**FROM:** Cameron Walker, Planning Division Manager

**SUBJECT:** O-12-001; Consider a resolution approving an oil and gas well drilling permit located on the west side of Golden Gate Drive, approximately  $\frac{3}{4}$  mile north of Briarwood Avenue.

---

**Purpose:**

To consider a resolution on a request from Callon Petroleum Operating Company (Pecan Acres 23 # 3) for a *Permit to Drill an Oil and Gas Well within the City Limits* located 704' FNL and 2,007' FWL of the land described as Section 23, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. Council held a public hearing on February 28, 2012. The required 30-day period for public comment has passed and the Council may consider this request.

**Recommended City Council Action**

X Approve          Deny          Direction/Informational

**Fiscal Impact:**

There is no cost to the City to process this application.

**Discussion:**

The Oil and Gas Advisory Committee has reviewed this well site in detail and recommends approval with the following stipulations: that steel coated tanks be allowed for water containment, that a Vapor Recovery Unit is installed with effective noise reduction, that landscaping should not be postponed for longer than two years, and that multiple wells on each pad site should be considered. A 250' by 250' fresh water pit is also proposed during drilling operations. The fresh water pit and tank battery will be located to the west on property owned by Callon.

Attachments: Application; Location map; Exhibit A - Drill site map, Exhibit B - tank battery map.



**RESOLUTION NO.**

**RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO CALLON PETROLEUM OPERATING COMPANY ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 704 FEET FROM THE NORTH LINE AND 2,007 FEET FROM THE WEST LINE, SECTION 23, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF GOLDEN GATE DRIVE, APPROXIMATELY 3/4 OF A MILE NORTH OF BRIARWOOD AVENUE); AND PROVIDING THAT SAID PERMIT DOES NOT REQUIRE A NEW ROAD REPAIR AGREEMENT BUT SHALL BE CONSOLIDATED UNDER AN EXISTING ROAD REPAIR AGREEMENT**

**WHEREAS**, on December 8, 2009, the City Council of the City of Midland duly approved Ordinance No. 8769 which amended Title VI, "Police Regulations," Chapter 1, "General Offenses," of the City Code of Midland, Texas, so as to establish Section 23, "Oil and Gas Well Permits issued on or after January 1, 2010," which governs the granting or rejecting of Oil and Gas Well Permits; and

**WHEREAS**, the purpose of said section is to establish reasonable and uniform limitations, safeguards, and regulations for present and future operations related to the exploring, drilling, developing, producing, transporting and storing of oil or gas or other substances produced in association with oil and gas within the City of Midland to protect the health, safety, and general welfare of the public and the orderly development of the City of Midland; abate or prevent potential public nuisances; minimize the potential adverse impact to surface and mineral owners, protect the quality of the environment and encourage the orderly production of available mineral resources; and

**WHEREAS**, Section 6-1-23(C) of the City Code of Midland, Texas, makes it an offense to knowingly drill or participate in the drilling of any well or to re-enter any well within the corporate limits of the City of Midland without a permit having first been issued by the authority of the City Council; and

**WHEREAS**, Operator has submitted an application to the City of Midland to drill an

oil and gas well on the property described in Section Two hereof; and

**WHEREAS**, notice of the public hearing on this matter was provided in accordance with Section 6-1-23(H)(1) and a public hearing was held on February 28, 2012; and

**WHEREAS**, subsequent to said public hearing, and in accordance with Section 6-1-23(H)(1), the City Council allowed the public and Operator thirty (30) days to submit written input to the City Manager regarding Operator's application to drill an oil and gas well on the property described in Section Two hereof; and

**WHEREAS**, the City Council has considered those issues set forth in Section 6-1-23(I) in determining whether to grant or deny a permit to Operator to drill an oil and gas well on the property described in Section Two hereof; and

**WHEREAS**, the City Council finds it to be in the public interest to approve the issuance of a permit to Operator to drill an oil and gas well on the property described in Section Two hereof;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS:**

**SECTION ONE.** That the above recitals are hereby adopted and approved by the City Council of the City of Midland.

**SECTION TWO.** That the Mayor is hereby authorized and directed to execute a permit, on behalf of the City of Midland, that will allow Operator to drill an oil and gas well within the City limits located 704 feet from the north line and 2,007 feet from the west line, Section 23, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. Said permit is attached hereto as Exhibit "A" and incorporated herein for all legal purposes.

**SECTION THREE.** That said permit does not require a new road repair agreement but shall be consolidated under the existing road repair agreement between Operator and the City of Midland for Operator's wells located on the property described in Section Two hereof.

On motion of Council member \_\_\_\_\_, seconded by Council member

\_\_\_\_\_, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2012, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

\_\_\_\_\_  
W. Wesley Perry, Mayor

ATTEST:

\_\_\_\_\_  
Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

\_\_\_\_\_  
Courtney Sharp, City Manager

APPROVED AS TO CONTENT  
AND COMPLETENESS:

\_\_\_\_\_  
Rick Crownover, Director of Development  
Services

APPROVED AS TO FORM:

\_\_\_\_\_  
Keith Stretcher, City Attorney



## **OIL AND GAS WELL PERMIT**

The City Council of the City of Midland, Texas, at its regular meeting on April 10, 2012, considered the application of Callon Petroleum Operating Company, dated January 17, 2012, to drill an oil and gas well inside the territorial limits of the City of Midland, Texas. The City Council of the City of Midland, Texas, by appropriate action approved the application and authorized the issuance of this permit.

This documentation hereby constitutes a permit, issued in accordance with the Midland City Code, Ordinance 8769, to drill an oil and gas well, in the application of Callon Petroleum Operating Company, dated January 17, 2012, and filed with the Oil & Gas Compliance Officer and incorporated herein for all legal purposes.

The location of Callon Petroleum Operating Company, Pecan Acres 23 #3 oil and gas well shall be 704 feet from the north line and 2007 feet from the west line, Section 23, Blk 40, T-1-S, T&P Survey, Midland County, Texas. The hole size, casing program, cement program and total depth of that well shall be in strict compliance with the proposed hole size, casing program, cementing program and proposed total depth found in that application of Callon Petroleum Operating Company, which is incorporated herein. Further, all operations done under this permit shall be done and accomplished in strict accordance with the Midland City Code, Ordinance 8769, which is hereby incorporated into this permit by reference and made applicable hereto with the same force and effect as if the same were copied fully in this permit. Also, all operations done under this permit shall be done and accomplished in strict accordance and compliance with the General Conditions, which are attached hereto marked as Exhibit "A" and incorporated into and made a part of this permit for all purposes. All operations done and required under this permit shall be done and accomplished in strict accordance and compliance with the Specific Conditions which are attached hereto, marked as Exhibit "B", and incorporated into and made a part of this permit for all purposes.

This permit shall be effective from April 10, 2012, through April 10, 2013, and so long thereafter as oil or gas is produced or until such time as the permittee has permanently abandoned the operations of the well or facility for which this permit is issued.

The issuance of this permit by the City of Midland does not in any way alter or modify the rights as between the surface estate owner(s) and mineral estate owner(s) if there exists a severance of the surface estate and mineral estate. This permit in no way exempts the permittee from its responsibilities or obligations as to third parties. The issuance of this permit only means that the permittee has, at this time, complied with Ordinance No. 8769 and that the Midland City Council, as a regulatory body, will allow the permittee to proceed under the conditions of this permit. The issuance of this permit is intended to be only a negative pronouncement that grants no affirmative rights to the permittee to occupy the property. It is expressly provided that this permit does not authorize a trespass by the permittee as to any third party. This permit does not in any way restrict the use of the surface estate. Securing a permit does not authorize the recipient to act with impunity as to third parties, nor does it insulate the permittee from the consequences of its actions with regard to those third parties. The receipt of a permit does not undertake to adjudicate property rights.

This permit granted by the City of Midland does not act to immunize the permit holder from civil tort liability from private parties for actions arising out of the use of the permit. This is because the permit is a "negative pronouncement" that grants no affirmative rights to the permittee. The issuance of this permit does not authorize any injury to persons or property or an invasion of other property rights, or any infringement of State or local law or regulations. The permittee has obtained a permit from the City of Midland but the consequences of acting under the permit have not been immunized. The fact that the City of Midland has issued a permit to drill an oil and gas well does not shield the permittee from third party tort liability stemming from the consequences of the permitted activity.

A right-of-way license agreement approved by a resolution of the Midland City Council is required for any oil and/or gas flowline or pipeline or any other device associated with a proposed well site that extends into, on, above, in, under, across or through any City rights-of-way, including but not limited to streets, alleys, utility and drainage rights-of-way.

Landscaping is not required at this time but will be required within two years from April 10, 2012. Operator shall notify the City Manager within 180 days (October 11, 2013) in writing if the landscaping is not to be completed prior to expiration of the two year period. If landscaping is not completed prior to the two year period this permit shall automatically terminate without any action of the City Council required.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS \_\_\_\_\_ day of April, 2012.

CITY OF MIDLAND, TEXAS

BY: \_\_\_\_\_

W. Wesley Perry, Mayor

UNDERSTOOD AND AGREE THIS \_\_\_\_\_ day of April, 2012.

Callon Petroleum Operating Company

By: \_\_\_\_\_

Jimmy Baggett- Operations Manager

**OIL AND GAS PERMIT: ORDINANCE 8769 GENERAL CONDITIONS- EXHIBIT "A"**

**(K)**

**General Conditions of all Oil and Gas Well Permits.**

**1.**

**General Obligations of Operator.**

The Operator shall be required to:

**a.**

Comply with the terms and conditions of this Section, the Midland City Code, the rules and regulations of the Railroad Commission, and any other state or federal agency that enforces land use, mineral use, or environmental protection regulations.

**b.**

Promptly clear Drill and Operation sites of litter, trash, refuse and other substances used, allowed, or occurring in the operations, and after abandonment or completion, grade, level, and restore such property to the same surface conditions as nearly as practicable as existed before operations.

**c.**

Indemnify and hold harmless the City of Midland, the City's officers, agents and employees, from any and all claims, losses, damages, causes of action, suits, and liability of any kind, including all expenses of litigation, court costs, and attorney's fees, for injury to or death of any Person, or for damage to any property arising out of or in connection with the work done by Operator under an Oil and Gas well permit: where such injuries, death or damages are caused by Operator's sole negligence or the joint negligence of the Operator and any other Person or entity.

**d.**

Promptly pay all fines, penalties and other assessments imposed due to breach of any of the conditions herein. If the Operator does not agree that a breach has occurred, the Operator may file a written objection with the City Manager within ten (10) days of being notified of the alleged breach. The City Manager shall review the objections and give the Operator the opportunity to be heard and present facts that the Operator deems relevant.

**e.**

Promptly restore to its former condition any public property damaged by the oil and gas operation.

f.

Except as permitted by Subsection U, hereof, Operator shall not, either directly or indirectly, assign all or any part of an Oil and Gas Well Permit.

g.

If required by the Permit, Operator shall execute a "Road Repair Agreement" between itself and the City of Midland and submit all necessary information and insurance and guarantees to the City prior to the issuance of any Oil and Gas Well Permit under this Section.

**2.**

**Irrevocable Letter of Credit, Certificate of Deposit, or Surety Bond.**

Prior to the issuance of an Oil and Gas well permit, the Operator shall provide the City Attorney with a guarantee in the form of an irrevocable letter of credit, certificate of deposit, or surety bond in the name of the City. The Applicant shall be entitled to receive the interest earned if the certificate of deposit reaches maturity. The letter of credit, certificate of deposit, or surety bond must satisfy the following:

a.

The letter of credit, certificate of deposit or surety bond shall be issued by a reliable bank or insurance carrier authorized to do business in the State of Texas;

b.

The letter of credit, certificate of deposit or surety bond shall be effective starting on or before the effective date of the Oil and Gas Well Permit;

c.

The letter of credit, certificate of deposit or surety bond shall be in the amount of twenty-five thousand dollars (\$25,000.00);

d.

The letter of credit, certificate of deposit or surety bond shall remain in full force and effect for a period of three years; and

e.

The letter of credit, certificate of deposit or surety bond shall authorize the City of Midland to draw upon such credit in the event the City Manager, or his designee, determines said credit is needed to remedy any violation of this Section.

If the well is still producing or if the well has not been abandoned or plugged, the Operator must renew the letter of credit, certificate of deposit or surety bond on or before one hundred twenty (120) days prior to the expiration of the letter of credit, certificate of deposit or surety bond.

The City of Midland may draw upon the letter of credit, certificate of deposit or surety bond to recover costs of repairs, modifications, or construction to remedy any violations by the Operator under this Section. The City may make partial or full draws of the letter of credit, certificate of deposit or surety bond. The City may draw upon the letter of credit, certificate of deposit or surety bond in the event the City has not received a new letter of credit, certificate of deposit or surety bond within the one hundred twenty (120) day renewal time period required above.

The Operator shall maintain the principal amount of \$25,000.00 in the form of a letter of credit, certificate of deposit or surety bond at all times throughout the term of the permit. In the event such letter of credit, certificate of deposit or surety bond is not restored to \$25,000.00 within ten (10) days after the date of the reduction of the letter of credit, certificate of deposit or surety bond, the City may draw and receive the remaining balance of the letter of credit, certificate of deposit or surety bond, and the Oil and Gas Well Permit shall be suspended on such date and the Operator's right to operate under Oil and Gas Well Permit shall immediately cease until the Operator files the required letter of credit, or certificate of deposit or surety bond.

If an operator has three (3) or more Oil and Gas Well Permits in effect which have been approved by the City Council, the Operator may petition the Council to consolidate the letter of credits, certificate of deposits or surety bonds into one letter of credit, certificate of deposit or surety bond that would cover all Oil and Gas Wells in the City limits. The consolidated letter of credit, certificate of deposit or surety bond shall be in an amount determined by the City Council as sufficient to cover the costs of repairs, modifications, construction or to remedy violations by the Operator but in no event shall the amount be less than \$75,000.00.

### **3.**

#### **Insurance.**

In addition to the letter of credit, certificate of deposit or surety bond required above, the Operator shall carry a policy or policies of insurance issued by an admitted insurer or eligible surplus lines insurer authorized to do business in the State of Texas. In the event such insurance policy or policies are cancelled, any Oil and Gas Well Permit issued under this Section shall be suspended on such date of cancellation and the Operator's right to operate under such Oil and Gas Well Permit shall immediately cease until the Operator files additional insurance as required herein.

**a. General requirements applicable to all policies.**

**i.**

The City, the City's officials, employees, agents and officers shall be endorsed as an "Additional Insured" on all policies, except under Operator's Workers Compensation Policy.

**ii.**

All policies shall be written on an occurrence basis, except for Environmental Pollution Liability (Seepage and Pollution coverage) and Excess and Umbrella Liability, which may be on a claims-made basis.

**iii.**

All policies shall be written by an admitted insurer or eligible surplus lines insurer authorized to do business in the State of Texas.

**iv.**

Deductibles shall be listed on the Certificate of Insurance and shall be on a "per occurrence" basis unless otherwise stipulated herein.

**v.**

Certificates of Insurance shall be delivered to the City of Midland, P.O. Box 1152, Midland, Texas 79702, Attn: City Attorney's Office, evidencing all the required coverages, including endorsements, prior to the issuance of an Oil and Gas Well Permit under this Section.

**vi.**

All policies shall be endorsed with a waiver of subrogation providing rights of recovery in favor of the City.

**vii.**

Any failure on the part of the City to request required insurance documentation shall not constitute a waiver of the insurance requirements specified herein.

**viii.**

Each policy shall be endorsed to provide the City a minimum thirty (30) day notice of cancellation, non-renewal, and/or material change in policy terms or coverage. A ten (10) day notice shall be acceptable in the event of non-payment of premium.

**ix.**

During the term of any Oil and Gas Well Permit issued hereunder, the Operator shall report, in writing, within thirty (30) days of the occurrence, to the City Manager, any known

loss occurrence which could give rise to a liability claim or lawsuit or which could result in a property loss.

x.

Upon request, certified copies of all insurance policies shall be furnished to the City.

xi.

Operator shall have the right to maintain a qualified, self-insurance plan and/or maintain prudent levels of self-insured retentions for insurance coverage required in this section; however, Operator shall remain financially obligated for all self-insured retention amounts and deductibles. To the extent of the liabilities assumed by the Operator, Operator's insurance shall be primary coverage as to any liabilities of the City.

b.

Standard Commercial General Liability Policy.

This coverage must include premises, operations, blowout or explosion, products, completed operations, sudden and accidental pollution, blanket contractual liability, underground resources damage, broad form property damage, independent contractors protective liability, accidental death and personal injury. This coverage shall be a minimum Combined Single Limit of \$1,000,000.00 per occurrence for Bodily Injury, Accidental Death, and Property Injury.

c.

Excess or Umbrella Liability.

|             |                                                                                           |
|-------------|-------------------------------------------------------------------------------------------|
| \$1,000,000 | Excess, if the Operator has a stand-alone Environmental Pollution Liability (EPL) policy. |
|-------------|-------------------------------------------------------------------------------------------|

|              |                                                                                                                                                                                                                                                                                                                      |
|--------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| \$10,000,000 | Excess, if the Operator does not have a stand-alone EPL policy. Coverage must include an endorsement for sudden or accidental pollution. If Seepage and Pollution coverage is written on a "claims made" basis, the Operator must maintain continuous coverage and purchase Extended Coverage Period when necessary. |
|--------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

d.

Environmental Pollution Liability Coverage.

Operator shall purchase and maintain in force for the duration of any Oil and Gas Well Permit issued hereunder, insurance for environmental pollution liability applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed; cleanup costs; and defense, including costs and expenses incurred in the investigation, defense or settlement of claims; all in connection with any loss arising from the insured site.



Coverage shall be maintained in an amount of at least \$1,000,000 per loss, with an annual aggregate of at least \$10,000,000.

Coverage shall apply to sudden and accidental pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids or gases, refuse material or other irritants, contaminants or pollutants.

e.

Workers Compensation and Employers Liability Insurance.

i.

Workers Compensation benefits shall be Texas Statutory Limits.

ii.

Employers Liability shall be a minimum of \$1,000,000.00 per accident.

iii.

Such coverage shall include a waiver of subrogation in favor of the City of Midland and provide coverage in accordance with applicable State and Federal laws.

f.

Automobile Liability Insurance.

i.

Combined single limit of \$1,000,000.00 per occurrence for bodily injury and property damage.

ii.

Coverage must include all owned, hired and not-owned automobiles.

g.

Certificates of Insurance.

i.

The company must be licensed or authorized to do business in the State of Texas.

ii.

The insurance set forth by the insurance company must be underwritten on forms that have been approved by the Texas State Board of Insurance or ISO or an equivalent policy form acceptable to the City, with the exception of environmental pollution liability and control of well coverage.

- iii. Set forth all endorsements and insurance coverage according to requirements and instructions contained herein.
- iv. Shall specifically set forth the notice of cancellation, termination, or change in coverage provisions to the City. All policies shall be endorsed to read "THIS POLICY WILL NOT BE CANCELLED OR NON-RENEWED WITHOUT THIRTY (30) DAYS ADVANCE WRITTEN NOTICE TO THE OWNER AND THE CITY, EXCEPT WHEN THIS POLICY IS BEING CANCELLED FOR NONPAYMENT OF PREMIUM, IN WHICH CASE, TEN (10) DAYS ADVANCE WRITTEN NOTICE IS REQUIRED".
- v. Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.
- vi. At the request of an Operator, the Council may grant a variance to insurance requirements if the Council determines that the insurance procured by the Operator is sufficient to protect the City. A variance of this type may be required because of a change in underwriting policies of admitted insurance carriers.

#### **Indemnification.**

**OPERATOR AGREES TO INDEMNIFY AND HOLD HARMLESS AND DEFEND THE CITY OF MIDLAND, THE CITY'S OFFICERS, AGENTS, AND EMPLOYEES FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS, AND LIABILITY OF ANY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES, FOR INJURY TO OR DEATH OF ANY PERSON, OR FOR DAMAGE TO ANY PROPERTY ARISING OUT OF OR IN CONNECTION WITH THE WORK DONE BY OPERATOR UNDER AN OIL AND GAS WELL PERMIT WHERE SUCH INJURIES, DEATH, OR DAMAGES ARE CAUSED BY OPERATOR'S SOLE NEGLIGENCE OR THE JOINT NEGLIGENCE OF THE OPERATOR AND ANY OTHER PERSON OR ENTITY.**

Notice.

The notices provided in this permit may be served in person or by registered or certified mail. Operator shall within ten (10) days notify the City Manager in writing of any change in such agent or mailing address unless operations in the City are discontinued and abandonment is complete.

Notice addresses are as follows:

City of Midland  
Attn: Office of the City Manager  
P. O. Box 1152  
Midland, Texas 79702

OPERATOR: \_\_\_\_\_  
Jimmy Baggett-Operations Manager

**Callon Petroleum Operating Company**  
4305 N. Garfield, Ste. 235  
Midland, Texas 79705  
(432)686-1828

## OIL AND GAS WELL PERMIT: ORDINANCE 8769 SPECIFIC CONDITIONS-EXHIBIT "B"

(L)

### Specific conditions of all Oil and Gas Well Permits; On-Site Requirements.

1.

**Abandoned wells.** All wells shall be abandoned in accordance with the rules of the Railroad Commission and pursuant to Subsection (O) of this Section.

2.

**Automated audible alarm system.** After completion, the appropriate system for flowing gas and/or flowing oil wells must be maintained to provide warnings for a substantial drop in pressure, or the release of any oil or gas, or a fire. Said audible alarm system must be approved by the Fire Marshal prior to installation of production equipment at the flowing gas and/or flowing oil well site.

3.

**Blowout prevention.** In all cases, ram-type and annular Blowout Preventers shall be used on all wells being drilled. In cases where Re-working is being performed on a Well, ram-type or annular Blowout Preventers shall be used. Protection shall be provided to prevent blowout during Drilling operations as required by and in conformance with the requirements of the Railroad Commission and the recommendations of the American Petroleum Institute. In addition to the Blowout Preventers stated above, all drilling must be equipped with flow lines and valves commensurate with the working pressures involved as required by the Railroad Commission each Blowout Preventer shall be a double-ram design with blinds and pipe. After surface casing has been set and cemented to surface, each Blowout Preventer shall be tested and witnessed by Operator's personnel and the results of such test shall be documented in the Operator's well file. Testing expenses shall be the responsibility of the Operator. The Operator shall provide a complete report of the well blowout prevention test to the City Manager within fifteen (15) days of the test.

4.

**Casing.** The surface portions of the Well shall be cased with cement circulated to the surface. All surface and intermediate casing must comply with all applicable rules of the Railroad Commission and the Texas Commission on Environmental Quality.

5.

**Compliance.** Operator shall comply at all times with all applicable federal, state and City requirements.

6.

**Discharge.** No person shall place, deposit, discharge, or cause or permit to be placed, deposited or discharged, any oil, naphtha, petroleum, asphalt, tar, hydrocarbon substances or any refuse including water or brine from any oil and gas operation or the contents of any container used in connection with any oil and gas operation in, into, or upon any Right-of-way, alleys, streets, lots, storm

drain, ditch or sewer, sanitary drain without permits from the appropriate City departments, or any body of water or onto any private property in the City.

7.

**Drilling notice.** The operator shall provide at least a forty eight (48)-hour notice to the City Manager prior to mobilizing the Drilling Equipment. In addition to notification to the City Manager, the operator shall provide a notice to the owners of at least forty eight (48) hours or more prior to mobilizing the drilling equipment through a publication in the Midland Reporter Telegram and a posting in the City Secretary's Office.

8.

**Drill stem testing.** No drill stem testing shall be allowed.

9.

**Dust, vibration, odors.** All drilling and production operations shall be conducted in such a manner as to minimize, so far as practicable, dust, vibration, or noxious odors, and shall be in accordance with the best accepted practices incident to drilling for the production of oil, gas and other hydrocarbon substances in urban areas. All equipment used shall be so constructed and operated so that, vibrations, dust, odor or other harmful or annoying substances or effect will be minimized by the operations carried on at any Drill Site or Operation Site or from anything incident thereto, to the injury or annoyance of persons living in the vicinity; nor shall the site or structures thereon be permitted to become dilapidated, unsightly or unsafe. Proven technological improvements in industry standards of drilling and production in this area shall be adopted as they become available if capable of reducing factors of dust, vibration and odor.

10.

**Electric lines.** All electric lines going under City roadways must be bored and encased pursuant to city standards. All electric lines to production facilities may be overhead service unless the surrounding neighborhood is developed with underground electric service. If the surrounding neighborhood is developed with underground electric service, then all electric lines to production facilities shall be buried underground.

11.

**Electric motors.** Only electric prime movers or motors shall be permitted for the purpose of pumping wells. No electric power shall be generated on location. All electrical installations and equipment shall conform to the City ordinances and the appropriate national codes.

12.

**Emergency response plan.** Prior to the commencement of any oil or gas production activities, Operator shall submit to the City Manager an emergency response plan establishing written procedures to minimize any hazard resulting from drilling, completion or producing of oil and gas wells. Said plan shall use existing guidelines established by the Railroad Commission, Texas Commission on Environmental Quality, Department of Transportation and/or the Environmental Protection Agency and City Fire Code. A copy of the Emergency Response Plan shall be kept at the Operator's office.

13.

**Equipment painted.** All production equipment on the site shall be painted beige and maintained at all times, including pumping units, tanks, buildings and structures. The City shall regularly inspect all painted structures and inform Operator when repainting is necessary. Operator shall repaint within sixty (60) days written notice from City. When requiring re-painting of such facilities, the City Manager shall consider the deterioration of the quality of the material of which such facility or structure is constructed, the degree of rust, and its appearance. Upon request of the Operator, a color other than beige may be approved by the City Council.

14.

**Explosives.** Use of an explosive perforating gun during completion operations and during plugging operations and down-hole operations that require such explosives shall be allowed.

15.

**Fire notice.** In the event of a fire or discovery of a fire, smoke, or unauthorized release of flammable or hazardous materials on any property, the Operator shall immediately report such condition to the Fire Department in accordance with the City of Midland Fire Code. The reporting limits for hazardous materials release shall conform to the requirements of the Railroad Commission and not exceed any state or federal permitting limit.

16.

**Fire prevention; sources of ignition.** Firefighting apparatus and supplies as approved by the Fire Marshal and required by any applicable federal, state, or local law shall be provided by the Operator, at the Operator's cost, and shall be maintained on the drilling site at all times during drilling and/or reworking operations. The Operator shall be responsible for the maintenance and upkeep of such equipment.

17.

**Fracing operations.** No fracing or formation fracture stimulation operations may take place before 7:00 a.m. or after 7:00 p.m.

18.

**Fresh water wells.** The measurements required by this Subsection shall be in a direct line from the closest Oil and Gas well to the fresh water well.

a.

Upon request of an owner of a fresh water well within 860 feet of an Oil and Gas well, who has been duly notified, Operator shall provide the City Manager with a "pre-drilling" and "post-drilling" water analysis from any such existing fresh water well(s).

b.

Operator shall conduct and fund annual testing for water wells that have been tested pursuant to Subsection (L)18.a. above. This testing program shall continue for the production life of The Well plus three years for a producing well, or for a period of one (1) year for a dry hole.

**19. Per RRC State Wide Rule 32- tank batteries must include vapor recovery system.**

**Compressors.** No onsite compressor used to "lift gas" shall be used. No compressor of any type shall be used. In the event Operator determines the use of such compressor is necessary, a detailed plan shall be submitted by Operator to the City Council for consideration. An on-site compressor plan shall include the following information:

- a. The physical size of the compressor;
- b. The power source of the compressor;
- c. The horsepower of the compressor;
- d. The noise of the compressor; and
- e. The manufacturer of the compressor.

No compressor of any type shall be used unless a plan is approved by the City Council.

**20.**

**Gas emission or burning restricted.** Operator shall not allow, cause or permit gases to be vented into the atmosphere or to be burned by open flame except as provided by law or as permitted by the Railroad Commission. If the venting of gases into the atmosphere or the burning of gases by open flame is authorized as provided by law or as permitted by the Railroad Commission, then such vent or open flame shall not be located closer than three hundred thirty (330) feet from any building not used in operations on the drilling site and such vent or open flame shall be screened in an effort to minimize detrimental effects to adjacent owners. Operator shall provide notice to the Fire Marshall prior to any open flaring of gas. Gas may not be flared unless for a limited time when completing, or recompleting a well, and only if flaring will not constitute a fire hazard to other owners. If flaring gas, it shall not be burned at a rate greater than 3,000 mcf/d. No gas may be flared between the hours of 7:00 p.m. and 7:00 a.m., except in an emergency.

**21.**

**Gas processing onsite.** Except for a conventional gas separator or line heater, no refinery, processing, treating, dehydrating or absorption plant of any kind shall be constructed, established or maintained on the premises without prior written consent of the City Manager.

**22.**

**Grass, weeds, trash.** All Drill sites and Operation sites shall be kept clear of high grass, weeds, and combustible trash within a radius of one hundred (100) feet around any Tanks, production facilities, or producing wells.

23.

**Hazardous plan.** Hazardous Materials Management Plan (HMMP) and all Material Safety Data Sheets (MSDS) for all hazardous materials that will be located, or stored, on the Operations Site shall be submitted to the City Manager.

24.

**Lights.** Except under emergency circumstances, operator shall not Operate any lights located at the Drill Site. To the extent practicable, and taking into account safety considerations, emergency site lighting shall be directed downward and internally so as to avoid glare on public roads and adjacent dwellings and buildings within three hundred (300) feet. This paragraph does not apply during initial Drilling Operations.

25.

**Monitoring for H<sub>2</sub>S gas.** If required by the Railroad Commission, equipment for the monitoring of H<sub>2</sub>S gas shall be used during Drilling. The Operator will comply with all requirements found in Statewide Rule 36 of the Railroad Commission, as amended. Within sixty (60) days after completion, and annually thereafter, Operator shall submit to the City Manager results of testing to determine the concentration of H<sub>2</sub>S produced from the Well. If the results of the H<sub>2</sub>S testing proves to be one hundred (100) PPM H<sub>2</sub>S or greater, the Operator is responsible for determining the one hundred (100) PPM H<sub>2</sub>S radius of exposure for each Well and production facility. Wells and facilities where the concentration of H<sub>2</sub>S is equal to or greater than one hundred (100) PPM will be considered "Sour." Safety systems described herein must be approved by the Fire Marshall.

a.

The following safety alarms and equipment are required at the well site of all wells that are capable of producing at a sustained rate of at least one hundred twenty-five (125) barrels of oil per day and/or three hundred (300) MCF of gas per day and for "sour" wells whose one hundred (100) PPM H<sub>2</sub>S radius of exposure is greater than fifteen (15) feet:

i.

H<sub>2</sub>S monitors located along the fencing, as set forth in Subsection M (for "sour" wells only).

ii.

Automated audible alarms to provide warnings for a substantial drop in pressure or for the presence of H<sub>2</sub>S in concentrations greater than one hundred (100) PPM.

iii.

Automated valve to shut-in production from the well if a substantial drop in pressure or if the presence of H<sub>2</sub>S in



concentrations greater than one hundred (100) PPM is detected.

b.

The following safety alarms and equipment are required at "Sour" Tank battery facilities:

i.

H<sub>2</sub>S monitors located along the fencing, as set forth in Subsection M.

ii.

Automated audible alarm to provide warnings for the presence of H<sub>2</sub>S in concentrations greater one hundred (100) PPM.

iii.

An electrical device capable of shutting down power to all "Sour" wells producing into the battery in the event H<sub>2</sub>S in concentrations great than 100 PPM is detected.

26.

**Muffling exhaust.** Exhaust from any internal combustion engine or compressor, stationary or mounted on wheels, used in connection with the Drilling of any well or for use on any production equipment shall not be discharged into the open air unless it is equipped with an exhaust muffler, or mufflers or an exhaust muffler box constructed of noncombustible materials sufficient to suppress noise and disruptive vibrations and prevent the escape of obnoxious gases, fumes or ignited carbon or soot.

27.

**Pits.** The following applies for pits used for Drilling and completion operations:

a.

No pit shall be placed in a floodplain without obtaining a floodplain development permit from the City Department of Development Services.

b.

No fresh water pit may be placed in any City recognized drainage way, FEMA floodplain or floodway. Construction of the fresh water pit must comply with all City, state and federal regulations.

c.

The use of earthen pits shall be allowed so long as the construction, use, dewatering and closure of such pits meets or exceeds the requirements of the applicable Railroad Commission rules and Texas Commission on Environmental Quality rules. In addition to compliance with applicable Railroad Commission rules, and Texas Commission on Environmental Quality rules, such earthen reserve pits shall also meet the following requirements;

(i)

the maximum size of a reserve pit shall be no greater than two hundred (200) feet by two hundred (200) feet;

(ii)

The pits shall be lined with a plastic liner having a minimum thickness of eight (8) mil reinforced polyethylene;

(iii)

Reserve pits used in Drilling operations shall be fenced on all open sides during such operations and shall be enclosed on all sides once Drilling operations have ceased;

(iv)

Reserve pits shall be closed within one hundred (180) days of the cessation of drilling operations;

(v)

Drill cuttings may be disposed of on the Drill Site using a deep burial method provided that the burial pit containing the cuttings is located entirely within one hundred thirty five (135) feet of the surface location of the Well, provided that all free water has been removed prior to burying the cuttings, and an impermeable liner is placed above the cuttings prior to covering the cuttings and liner with top soil, and provided that the burial pit is constructed in such a manner that the cuttings will be covered with a minimum of thirty six (36) inches of clean, compactable soil. A survey and description of the location of any closed pit used in connection with the Drill Site shall be recorded in the property records of the county in which the real property is located.

28.

**Salt water wells.** No commercial salt-water disposal wells that receive water by truck shall be located within the City of Midland. In the event the operator determines that the use of a non-commercial salt-water well is necessary, a detailed plan shall be submitted by the operator to the City Council for consideration. No salt water disposal well of any type shall be used unless a plan is approved by the City Council.

29.

**Signs.**

a.

A sign shall be immediately and prominently displayed at the gate on the temporary and permanent site fencing erected pursuant to Subsection (M) of this Section. Such sign shall be durable material, maintained in good condition and, unless otherwise required by the Railroad Commission, shall have a surface area of not less than two square feet not more than four square feet and shall be lettered with the following:

i.

- Well name and number;
  - ii. Name of operator;
  - iii. The emergency 911 number; and
  - iv. A 24-hour phone number that will provide an emergency phone number of Operator's Representatives as stated in Subsection F.
- b. Permanent weatherproof signs reading "DANGER NO SMOKING OR OPEN FLAME ALLOWED IN THIS AREA" shall be posted immediately upon completion of the well site fencing at the entrance of the well site and tank battery or in any other location approved or designated by the Fire Chief of the City. Sign lettering for this sign shall be two (2) inches or greater in height and shall be red on a white background or white on a red background. Each sign shall include the emergency notification numbers of the Fire Department and the Operator, well and lease designations required by the Texas Railroad Commission.
- c. Provide a National Fire Prevention Association (NFPA) 704 diamond hazard identification signs are required at the entrance to the Operation Site adjacent to the Operator's sign if chemicals are present. A label must be located on each chemical Tank indicating exact chemicals that may be contained in such Tank. Text shall be minimum two inches or greater in height, contrasting with the background color.

30.

**Storage of equipment.** Storage of equipment and materials shall be minimized and limited to the immediate operational needs of the well. Lumber, pipes, empty drums, trucks, trailers, automobiles, junk tubing, casing and rods shall not be left on the operation site except when drilling or reworking operations are being conducted on the site.

No vehicle or item of machinery shall be parked or stored on any Street, Right-of-Way or in any driveway, alley or upon any Operation Site which constitutes a fire hazard or an obstruction to or interference with fighting or controlling fires except that equipment which is necessary for Drilling or production operations on the site. The Fire Department shall be the entity that determines whether any equipment on the site shall constitute a fire hazard.

31.

**Tank Battery Facilities.** At the tank battery for either oil and/or gas Wells a sensor for fire detection should be appropriately placed near heater treaters, separators, and oil storage tanks that would allow an automated valve placed at the header to be closed in the event of a detected fire. All storage tanks shall be equipped with a secondary containment system. The secondary containment system shall be a minimum of three (3) feet in height and one and

one-half (1½) times the contents of the total tank volume. Drip pots shall be provided at the pump out connection to contain the liquids from the storage tanks. No storage tank shall be over sixteen 16 feet in height. All storage tanks shall be built on an adequate foundation with a twelve 12-mil liner being placed beneath each tank, extending a minimum of three (3) feet beyond the edge of each tank.

Operator must use portable steel storage tanks or fiberglass tanks for storing all fluids from the well. Tanks must meet the American Petroleum Institute standards. All tanks must have a vent line, lightning arrester and pressure relief valve. All tanks must be enclosed by a fence as required by Section (M) herein. No tank shall exceed sixteen (16) feet in height. No tank battery shall be constructed within five hundred (500) feet of any Occupied Residence, Occupied Commercial Structure or Occupied Public Building, unless a variance is granted by the City Council.

Drilling mud, cuttings, liquid hydrocarbons and all other field refuse derived or resulting from or connected with the drilling, re-working or deepening of any well shall be discharged into a steel pit or an approved earthen pit. All disposals must be in accordance with the rules of the Railroad Commission and with a plan submitted to and approved by the City Manager. Water stored in on-site tanks shall be removed as necessary.

All refuse shall be disposed of in such a manner as to comply with the applicable air and water pollution control regulations of the state, the conditions of this permit, and any applicable ordinance of the City.

Temporary flowback tanks shall be removed within ninety (90) days after completion date of the well at the pad site unless permission is obtained from the City Manager to extend the time period for no more than thirty (30) days. Completion date is that date which is stated as the "completion or recompletion date" shown on the Form W-2 or G-I filed with the Railroad Commission.

All tanks shall be set back pursuant to the standards of the Railroad Commission and the National Fire Protection Association, but in all cases, shall be at one hundred (135) feet from any street or alley right-of-way, three hundred thirty (330) feet from any public athletic field, and five hundred (500) feet from an Occupied Residence, Occupied Commercial Structure or Occupied Public Building, church, public or private school, hospital, nursing home, college or university or daycare center unless a variance is granted by the Midland City Council. Operator shall institute operational practices involving the daily monitoring of tank integrity and fluid levels within each tank. The use of a remote monitoring system is acceptable.

No meters, storage tanks, separation facilities, or other aboveground facilities, other than the well head and flow lines, shall be placed in a floodway identified by FEMA on the most current FIRM or the 100-year floodplain without a floodplain development permit obtained from the Department of Development services.

All fluids and tank bottoms will be disposed of in accordance with Railroad Commission regulations.

32.

**Valves.** Each flowing high volume well must have an automated shut-off valve to shut-in the well's production at the Operation Site for either a fire or abnormal change in pressure. The fire department shall have access to the Operation Site and the shut-off valve in an emergency.

33.

**Work hours for site development.** No construction activities involving the excavation of, demolition of, alteration to, or repair work on any access road or pad site shall occur before 7:00 a.m. or after 7:00 p.m.

34.

**Wellhead status after fracing.** The wellhead between the time of Drilling/completion and tank battery construction, shall be:

a.

Surrounded with a six (6) foot tall temporary chain link fence having a gate and lock until permanent fencing is installed;

b.

The gate shall be locked at all times, except when the Operator is involved in active operations;

c.

The cellar shall be filled or closed; and

d.

The Bradenhead shall be piped to the surface and open to the atmosphere or have an observable and adequate pressure gauge with operable test valve.

35.

**Inspections.** In accordance within applicable law, the City Manager, or his designee, at his sole cost, risk and expense shall have a right of entry to the Drill Site/Operation Site and may, at his discretion, visit the Drill Site/Operation Site to make sure operator is in compliance with the requirements of this Section.

36.

**Violation.** In the event a violation of this ordinance is determined by the City's official (or officials), the City may act in any or all of the following ways:

a.

The City, through its designated official (or officials), may issue a notice of violation to the Operator, its agent, agents, employees or independent contractors (whether on site or not), or to any Person participating in the Drilling of the Well. Such notice may include a citation to appear before the Midland Municipal Court.

b.

If the City Manager, or his designee, finds the Operator to be in violation of any requirement of the applicable Oil and Gas well permit, then the City reserves the right after giving ten (10) business days written notice to the Operator regarding such violation, to draw upon the letter of credit, certificate of deposit or surety bond as outlined in

Subsection (K) of this Section, in order to remedy such violation. In the event that a violation is not capable of being remedied within such ten (10) business day period, then Operator must have commenced efforts to remedy such violation within said ten (10) business day period and thereafter continue with such efforts to remedy said violation with due diligence until completed, and as long as the Operator continues with efforts to remedy a violation with due diligence, the City shall not draw against the letter of credit, certificate of deposit or surety bond. In the event the City makes a claim on the letter of credit, certificate of deposit or surety bond pursuant to the terms hereof, reinstatement of the full amount of the letter of credit, certificate of deposit or surety bond shall be a condition to the cure of the violation leading to such claim. Alternatively, if the City Manager finds the Operator to be in violation of any requirement of the applicable Oil and Gas Well Permit, the City Manager shall give written notice to the Operator that unless all violations are corrected within ten (10) business days of the Operator's receipt of notice of the violation, the City Manager shall recommend to the City Council that the Oil and Gas Well Permit be cancelled by the City Council. In the event that a violation is not capable of being remedied within such ten (10) business-day period, then Operator must have commenced efforts to remedy said violation within said ten (10) business-day period and thereafter continue with such efforts to remedy said violation with due diligence until completed, and as long as the Operator continues with efforts to remedy a violation with due diligence, as determined by the City, the City shall not draw against the letter of credit, certificate of deposit or surety bond. If the City Council determines to consider the cancelling of the permit, it shall give the Operator written notice of the date and time of the hearing and shall give the Operator the opportunity to be heard and present facts the Operator deems relevant. The cancelling of a permit requires the majority vote of the City Council.

c.

Prosecution of violations of this Section shall be given priority and expedited upon the Municipal Court docket. Provided, however, that this subsection does not grant or guarantee Persons cited a right to expedited consideration of their citation before the Midland Municipal Court.

d.

In the event that there exists an imminent threat to public health and safety, a certified peace officer, in conjunction with the Railroad Commission, may order the temporary cessation of operations. An Operator may appeal the order to an appropriate Court in Midland County, Texas and request an expedited hearing. With respect to the contestation of an order issued pursuant to this subsection, an Operator retains all of its legal remedies.

**M.**

**Fencing and landscaping.**

**1.**

**Fences.**

A fencing plan shall be submitted, said plan containing a description of the building materials, dimensions, and locations of the proposed fence/walls and gates. The plan shall take into consideration the surrounding area and neighborhood.

At a minimum, tank battery facilities, wellheads and any production equipment associated with Oil and Gas wells shall be enclosed by a chain link fence at least seven (7) feet in height with beige-colored slats woven through the chain link, topped with three (3) strands of barbed wire angled outward or concertina wire, and shall be equipped with a locking gate. Gates shall be provided with a combination catch and locking attachment for a padlock, and shall be kept locked except when being used for access to the operation site. Operator must provide the City Fire Chief with a "Knox Padlock" or "Knox Box with a key" to access the Operation Site to be used only in case of an emergency.

The City Council may require additional or a different type of fencing to the extent necessary to conform with architectural standards and building materials existing on lots and/or lands immediately adjacent to the well and within five (500) feet of the Well at the time the Oil and Gas Well Permit is issued.

Additionally, if at any time within twenty-four (24) months following the issuance of an Oil and Gas Well Permit, a structure intended for permanent occupancy is constructed within five hundred (500) feet of the Well, the City Council may require the operator to undertake a one-time revision of the fencing plan to account for architectural standards and building materials associated with such structure to the extent that the revised fencing plan is consistent with, but not better than, the architectural standards and building materials associated with such structure.

Fences shall not be required on drill sites during drilling, completion or re-working operations as long as 24-hour on-site supervision is provided.

**2.**

**Landscaping.**

Landscaping is not required at this time but will be required within two years from April 10, 2012. Operator shall notify the City Manager within 180 days (October 11, 2013) in writing if the landscaping is not to be completed prior to expiration of the two year period. If landscaping is not completed prior to the two year period this permit shall automatically terminate without any action of the City Council required.

N.

**Cleanup and Maintenance.**

1.

**Cleanup after well servicing.** After the well has been completed or plugged and abandoned, the Operator shall clean the drill site or operation site, complete restoration activities and repair all damage to public property caused by such operations within one hundred eighty (180) days.

2.

**Clean-up after spills, leaks and malfunctions.** After any Railroad Commission reportable spill, leak or malfunction, the Operator shall remove or cause to be removed to the satisfaction of the City Fire Chief and the City Manager all refuse materials from any public or private property affected by such spill, leak or malfunction. Clean-up operations must begin immediately. The Operator shall comply with all requirements found in Statewide Rule 91 of the Railroad Commission, as amended. If Statewide Rule 91 requires reporting of the spill, the operator shall comply with the notification and reporting requirements found in Statewide Rule 20 of the Railroad Commission, as amended. Upon request the Operator shall furnish the City Manager with all information filed with the Railroad Commission. If the Operator fails to begin site clean-up immediately the City Manager may then employ any cleanup expert or experts or other contractors or suppliers of special services, or may incur any other expenses for labor and material which the City Manager deems necessary to clean-up such spill, leak or malfunction. The City shall then be able to collect from operator the costs involved in the site clean-up. The City may collect from the posted letter of credit, certificate of deposit or surety bond or any other legal means.

3.

**Free from debris.** The public street entrance and property on which a well site is located shall at all times be kept free of mud, debris, pools of water or other liquids, contaminated soil, weeds, brush, trash or other refuse material within a radius of one hundred (100) feet around any production facilities, tanks and producing wells.

4.

**Painting.** All production equipment shall be painted beige and maintained at all times, including pumping units, tanks, secondary containment and buildings or structures. When requiring painting of such facilities, the City Manager shall consider the deterioration of the quality of the material of which such facility or structure is constructed, the degree of rust, and its appearance.

5.

**Blowouts.** In the event of the loss of control of any well, Operator shall immediately take all reasonable steps to regain control regardless of any other provision of this permit and shall provide the City Manager with the same



information as required to be filed with the Railroad Commission under Statewide Rule 20 as soon as practicable.

6.

**Cleanup after Drilling/Completion.** After the well has been drilled and completed, the Operator shall clean the Drill site, complete restoration activities and repair all damage to public property caused by such operations within ninety (90) days as specified previously in Subsection (L)27.

O.

**Drilled and Abandoned Wells.**

1.

**Surface Requirements for Plugged and Abandoned Well.** Whenever abandonment occurs pursuant to the requirements of the Railroad Commission, the Operator so abandoning shall be responsible for the restoration of the Operation site to its original condition as nearly as practicable, in conformity with the requirements of this permit underground pipelines associated with operations shall be purged of all fluids and may be abandoned in place.

2.

**Surface Requirements for Drilled and Abandoned Well.** Abandonment shall be approved by the City Manager after restoration of the Drill Site has been accomplished in conformity with the following requirements at the discretion of the City Manager:

a.

The Derrick and all appurtenant equipment thereto shall be removed from Drill site;

b.

All tanks, towers, and other surface installations shall be removed from the Drill site;

c.

All concrete foundations, above ground piping, wood, guy anchors and other foreign materials regardless of depth, except surface casing, shall be removed from the site, unless otherwise directed by the Railroad Commission;

d.

All holes and depressions shall be filled with clean, compactable soil;

e.

All, refuse and trash shall be removed from the Drill Site; and

f.

During abandonment, Operator shall comply with all applicable subsections in this section; and

g.

The drill site shall be restored, as close as practicable, to its original condition.

h.

Unless modified by the approved plan, deep burying of pits within the drill site perimeter is permitted. A survey and description of the location of any closed pit used in connection with the drill site shall be recorded in the property records of the county in which the real property is located. In any event the Operator shall comply with Subsection (L), Paragraph 27.

3.

**Abandoned well requirement.** The Operator shall furnish the following to the City Manager:

a.

A copy of the W-3A "Notice of Intention to Plug & Abandon" and W-3 "Plugging Record" forms on the same date these forms are submitted to the Railroad Commission.

b.

Prior 48-hour notice of intention to abandon under the provisions of this section and stating the date such work will be commenced. Abandonment may then be commenced on or subsequent to the date so stated.

c.

All wells shall be abandoned in accordance with the rules of the Railroad Commission; however, all well casings and cellars shall be cut and removed to a depth of at least three feet below the surface. A permanent abandonment marker, with the well identity and location permanently inscribed, shall be welded to the casing.

4.

**Abandonment requirements prior to new construction.** All abandoned or deserted wells or drill sites shall meet the most current abandonment requirements of the Railroad Commission prior to the issuance of any building permit for development of the property. No structure shall be built over an abandoned well.

P.

**Certificate of Request for Inspection and Extension of Permit.**

On or before ninety (90) days prior to each annual anniversary date of Operator's Oil and Gas Well Permit, Operator shall submit to the City Manager a Certificate of Request for Inspection of Permit. The Certificate of Request for Inspection of Permit must state the location and name of the well and the date the permit was granted by the City Council. The Certificate of Request for Inspection of Permit must be signed by the Operator before a notary public stating that the well is in compliance with the permit and all applicable Ordinances. The Certificate of Request for Inspection of Permit must

be accompanied by an application and inspection fee of \$300.00. The City Manager shall grant a one-year inspection approval on the oil/gas drilling permit if the Operator is in compliance with the permit and all applicable ordinances as they apply to the inspected well. Prior to authorizing the inspection approval, the City Manager, or his designee, shall inspect the oil and gas well site that is subject to the oil/gas drilling permit. The City Manager shall issue his decision in writing, within thirty (30) days of receiving the Certificate for Request for Inspection of Permit, either granting or denying the inspection of the oil/gas drilling permit.

The Operator may appeal the City Manager's denial of an oil/gas drilling permit inspection by submitting, in writing, an appeal to the City Council within thirty (30) days of the City Manager's written denial of the oil and gas well permit inspection. If an appeal is received by the City Council, a hearing shall be set before a meeting of the City Council to consider the denial of the oil/gas drilling permit inspection. The City Council shall hear and consider the recommendation of the City Manager, or his designee, before deciding whether or not to uphold the City Manager's decision. The Operator shall be allowed to speak and present any relevant evidence for consideration by the City Council prior to a vote of the council. A majority vote of the City Council shall be required to uphold the denial of the Oil and Gas Well Permit inspection by the City Manager. An inspection that is approved shall be valid for one (1) year from the inspection date.

(Q)

**Measurement.**

The measurement of all distances set forth herein shall be calculated from the proposed surface location of the well and tank batteries in a straight line, without regard to intervening structures or objects, to the closest exterior point of the object.

(R)

**Effect of denial of oil and gas well permit.**

If an application for an Oil and Gas Well Permit is denied by the City Council, nothing herein contained shall prevent a new permit application from being submitted to the City Council for the same proposed Oil and Gas Well or a different location for a well. A new application may also be filed on any of the mineral estate owned or leased by the applicant. Once all of the Operator's administrative and legislative remedies have been exhausted herein, the Operator may appeal or challenge the denial of an application in an appropriate Court in Midland County Texas under applicable state or federal law.

(S)

**Amendment to Oil and Gas Well Permit.**

**1.**

Amendment required. Within one hundred eighty (180) days after an Operator has been granted an Oil and Gas Well Permit, an Operator may submit an application to the City to amend an existing Oil and Gas Well Permit to commence Drilling from a new Drill site that is not shown on (or incorporated by reference as part of) the existing Oil and Gas Well Permit.

2.

Application Requirement for Amendment to Permit. An application for an amended Oil and Gas Well Permit shall meet all the requirements of this Section, shall be in writing, shall be on forms provided by the City, shall be signed by the Operator, and shall include the following:

a.

An amendment fee of \$1,000.00.

b.

A description of the proposed amendments.

c.

Any changes to the information previously submitted with the application for the existing oil/gas drilling permit (if such information has not previously been provided to the City).

d.

Such additional information as is reasonably required by the City to demonstrate compliance with the original oil/gas drilling permit.

e.

Such additional information as is reasonably required by the City to prevent imminent destruction of property or injury to persons.

3.

Review of Application for Amendment to Permit. All applications for an amended oil/gas drilling permit shall be considered in accordance with the factors listed in Subsection (I) herein. The City Council may elect to consider the application for an amended oil/gas drilling permit without the requirement of a public hearing.

4.

**Standard of review.**

a.

**No Material Change from Existing Permit.** If the activities proposed by the amendment are not materially different from the activities covered by the existing Oil and Gas Well Permit, and are otherwise in conformance with the requirements of this section, other applicable City Ordinances, the Oil/Gas Drilling Permit then the City Council shall approve the Amended Application.

b.

**Material Change from Existing Permit.** If the activities proposed by the amendment are materially different from the activities covered by the existing Oil/Gas Well Permit, are not in conformance with the requirements of this Section, other applicable City Ordinances, the Oil/Gas Well Permit, or if, in the judgment of the City Council, the activities proposed by the amendment might create a risk of imminent destruction of property or injury to persons or property or that were not otherwise taken into consideration by the existing Oil/Gas Well

Permit, the City Council may require the amendment to be processed as a new Oil and Gas Well Permit Application.

**T.**

**Independent Contractor.** Operator understands and agrees that Operator, its employees, servants, agents, and representatives, shall at no time represent themselves to be employees, servants, agents, and/or representatives of the City. The City shall not have any control over the means or methods by which Operator shall perform its obligations hereunder. Operator shall furnish all equipment and materials necessary to perform hereunder and shall at all times be acting as an independent contractor. No action by either party should be construed to create a partnership, joint venture, or other dual enterprise between the parties.

**U.**

**Assignability; Transfer Permit.**

**1.**

The Operator shall not, either directly or indirectly, assign, sell, or transfer any part of the Oil and Gas Well Permit, or any interest, right, duty, obligation or privilege under the permit, except in accordance with this Subsection.

**2.**

An Oil and Gas Well Permit may be transferred upon written request by the Operator with the consent of the City Council:

**a.**

If the transferee agrees in writing to be bound by the terms and conditions of the current Oil and Gas Well Permit and road repair agreement;

**b.**

If all information previously provided to the City as part of the current Oil and Gas Well Permit is updated to reflect any changes; and

**c.**

If the transferee provides the insurance and security required by this section.

**3.**

In determining whether to approve the transfer permit, the City Council may consider the financial standing of the transferee and its record of compliance with respect to existing permits. Should the transfer permit be denied, the transferee may file an application for a new Oil and Gas Well Permit.

**4.**

The insurance and security provided by the transferor shall be released if the transfer permit is approved; provided, however, that the transfer shall not relieve the transferor from any liability to the City arising out of any activities conducted prior to the transfer, except to the extent that the transferee expressly agrees in writing to assume such liabilities as part of the transfer.

**5.**

Applications for the transfer of Oil and Gas Well Permits shall be filed with the City's planning department. A non-refundable administration fee shall be charged for each application in the amount of five hundred (\$500.00).

V.

**Time Limit Requirements.** The failure of the City Council to review and approve an Oil and Gas Well Permit within a specified time limit shall not cause the application for the Oil and Gas Well Permit to be deemed approved. If the City Council denies a request for a permit, the applicant may file a request with the City Council to re-consider the application. The applicant may present any new evidence to the council and may present any extenuating circumstances or other matters deemed relevant by the applicant. The decision of the City Council regarding the issuance of a permit is not final until the request for re-consideration is voted upon by the City Council.

W.

**Indemnification.** The oil and gas well permit may contain the following language:

OPERATOR AGREES TO INDEMNIFY AND HOLD HARMLESS AND DEFEND THE CITY OF MIDLAND, THE CITY'S OFFICERS, AGENTS, AND EMPLOYEES FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS, AND LIABILITY OF ANY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES, FOR INJURY TO OR DEATH OF ANY PERSON, OR FOR DAMAGE TO ANY PROPERTY ARISING OUT OF OR IN CONNECTION WITH THE WORK DONE BY OPERATOR UNDER AN OIL AND GAS WELL PERMIT WHERE SUCH INJURIES, DEATH, OR DAMAGES ARE CAUSED BY OPERATOR'S SOLE NEGLIGENCE OR THE JOINT NEGLIGENCE OF THE OPERATOR AND ANY OTHER PERSON OR ENTITY.

X.

**Incident Reports or Written Complaints.** The Operator shall provide a copy of any "incident reports" or written complaints submitted to the Railroad Commission or any other state or federal agency within thirty (30) days after Operator has notice of the existence of such reports or complaints.

Y.

**Expiration of permit.** Drilling must commence on the Well covered by the Oil and Gas Well permit twelve (12) months of approval by the City Council, after which the Oil and Gas Well Permit shall automatically expire if no drilling has commenced. A permit extension for a maximum time period of six (6) months may be granted by the City Manager without reapplication after the City Manager receives a written request from the Operator.

Z.

**Takings determination.**

1.

Any aggrieved applicant that believes that an action taken pursuant to this Section by the City Council or any officer or employee of the City constitutes a taking under the Texas or United States Constitution or under other state law, may file an application with the City Council requesting a takings determination.

2.

The applicant seeking a takings determination from the Council shall file its appeal with the office of the City Secretary. The City Secretary shall then forward the appeal to the City Council for consideration. An appeal fee in the amount of two hundred fifty (\$250.00) dollars shall accompany each filing.

3.

The appeal shall state the reasons that the applicant believes would support a finding that the City's actions constitute a taking under the Texas or United States Constitution or pursuant to other State law and shall include evidence substantiating the purported diminution in value of the applicant's real property.

4.

If the Council finds by a majority vote in favor of the applicant it may: (1) grant the relief requested, or (2) direct the City Manager to rescind action taken by City Staff that formed the basis of the takings determination appeal. If the Council denies the appeal, or after a favorable determination the City Council fails to take action as specified above, the applicant may appeal the decision or inaction of the City Council to the county or district court of the county in which the affected real property is located within thirty (30) days of the date that the Council issues its final decision or in the event the Council does not act on the application, then the operator may appeal to the county or district court after the expiration of one hundred twenty (120) days from the date the application is heard by the City Council.

Notice addresses are as follows:

City of Midland  
Attn: Office of the City Manager  
P. O. Box 1152  
Midland, Texas 79702

OPERATOR: \_\_\_\_\_  
Jimmy Baggett-Operations Manager

**Callon Petroleum Operating Company**  
4305 N. Garfield, Ste. 235  
Midland, Texas 79705  
(432) 686-1828



## APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

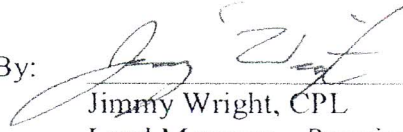
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|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|
| <b>I. General Information</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                 |                                                             |
| Date<br><b>1/17/2012</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Operator Name (must match W-1)<br><b>Callon Petroleum Operating Company</b>                                     | Operator Address<br><b>P.O. Box 1287, Natchez, Ms 39121</b> |
| Representative Name<br><b>Jimmy Baggett</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Representative Address (within Midland<br>(City Limits) <b>4305 N. Garfield, Ste. 235<br/>Midland, TX 79710</b> | Rep. Tele. <b>(432) 686-1828</b>                            |
| Fee: \$4,000.00 Rec'd Yes ___ No ___                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                 | Rep. Fax <b>(432) 686-2764</b>                              |
| Permit Compliance Contact (Choose 1):<br>Option A:<br>24/7 Answering Services - No. 1 (tele): _____ No. 2 (Tele.) _____<br>Option B: <b>Jimmy Baggett 4305 N. Garfield, Ste. 235, Midland, TX 79710</b><br>Company Compliance Representative (Name, Address, Local Telephone) (ATTACH STATEMENT AS EXHIBIT A):                                                                                                                                                                                                        |                                                                                                                 |                                                             |
| Emergency Contact Representative (Name, Address, 24-Hour Tele. No.):<br><br><b>Vince Borrello (432) 553-9522 4305 N. Garfield, Ste. 235, Midland TX, 79170</b>                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                 |                                                             |
| Other Permitted Wells in City (ATTACH EXHIBIT B [see § J(26)]). <b>Annie #3, #8, Pecan Acres 23A #1, #2, #3</b>                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                 |                                                             |
| <b>II. Mineral Ownership</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                 |                                                             |
| Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease): <b>SEE ATTACHMENT 1</b>                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                 |                                                             |
| 1. _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                 |                                                             |
| 2. _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                 |                                                             |
| 3. _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                 |                                                             |
| ATTACHED AS EXHIBIT C is (a Title Opinion by ---- <b>Mike Canon</b> . A licensed Texas Attorney/Title Commitment by Abstract<br>Company/a Take-off from _____ , a Certified Petroleum Landman/an opinion letter from<br>, a licensed Texas Attorney) indicating that  Operator  has a legal right to develop the mineral estate that is the subject of<br>this Application. [See § J(5)]. <b>ATTACHED</b>                                                                                                             |                                                                                                                 |                                                             |
| <b>III. Surface Ownership &amp; Use</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                 |                                                             |
| General Description of Current Surface Use (within 860 feet of proposed surface location):                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                 |                                                             |
| <b>UNDEVELOPED RESIDENTIAL</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                 |                                                             |
| ATTACHED AS EXHIBIT D is (a Title Opinion by _____ . A licensed Texas Attorney/a Take-off from<br>_____ , a Certified Petroleum Landman/Current Tax Roll from Midland Central Appraisal District), which lists<br>the name(s) and address(es) of all surface owners within 860 feet of the surface well location. [See § J(7)]. <b>ATTACHED</b>                                                                                                                                                                       |                                                                                                                 |                                                             |
| ATTACHED AS EXHIBIT E is a (map/p lat/satellite/aerial photo) depicting all Residences, commercial structures, public buildings,<br>all publicly dedicated Streets and alleys, Rights of Way, and permanent accessory structures surrounding the proposed Drill Site.<br>The (map/p lat/satellite/aerial photo) includes two circles, as required by the Ordinance - on depicting a 500 foot radius and one<br>depicting an 860 foot radius from the proposed well's surface location. [See § J(10)]. <b>ATTACHED</b> |                                                                                                                 |                                                             |
| ATTACHED AS EXHIBIT F is a copy of the notification letter(s) sent to 100 percent of the surface owners, Certified Mail, Return<br>Receipt Requested. [See § J(36)]. <b>ATTACHED</b>                                                                                                                                                                                                                                                                                                                                  |                                                                                                                 |                                                             |



|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>IV. Well &amp; Operations Information</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Proposed Well Name: <b>PECAN ACRES 23 #3</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Proposed Hole Size, Casing Program and Cementing Program (attach Exhibit as Necessary) [See § J(11) and § L(4)]:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Legal Description of Proposed Well Site: <b>704' FNL, 2007' FWL of Section 23 , Block 40, T &amp; P RR Co.<br/>Survey, Midland County, Texas</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <p>ATTACHED AS EXHIBIT G is the Location Site Plan [See § J(9)]. <b>ATTACHED</b></p> <p>ATTACHED AS EXHIBIT H is the Map with the proposed transportation route(s) and road(s) for equipment, chemicals, or refuse products used or produced in the proposed oil and gas operations. [See § J(12)]. <b>ATTACHED</b></p> <p>ATTACHED AS EXHIBIT I is a copy of the approved Texas Railroad Commission permit to drill (Form W-1), together with all attachments (also file copy of W-1 with City Secretary before commencement of drilling operations) . [See § J(16) and (20)].</p> <p>ATTACHED AS EXHIBIT J is a copy of the required TCEQ report as to depth of usable quality ground water. [See § J(17)]. <b>ATTACHED</b></p> <p>ATTACHED AS EXHIBIT K (if applicable) is the list of alternative locations developed in consultation with the Oil &amp; Gas Advisory Committee. [See § J(27)].</p> <p>ATTACHED AS EXHIBIT L is the Fencing and Irrigation Plan. [See § J(30)]. <b>ATTACHED VARIANCE REQUEST</b></p> <p>ATTACHED AS EXHIBIT M is the Road Repair Agreement and Letter of Credit/Certificate of Deposit/Surety Bond in the amount of at least \$25,000. Option (if applicable): Applicant would further state that no City-owned streets or alleys will be used by the Operator in connection with its oil and gas operations and as a result, requests a waiver from the Council of this requirement. Option B (if applicable): Beause Applicant has three Road Repair Agreements in effect that have been approved by the Council, Applicant requests that the Council consolidate all agreements into one and is filing the necessary \$75,000 letter of credit/certificate of deposit/surety bond in conjuncton with this request. [See § J(31)].</p> <p>ATTACHED AS EXHIBIT N is the Concept Plan depicting the proposed Operations Site (which includes tanks, roads, power lines, and pipeline routes). [See § J(32)].</p> |
| <p>Description of Public Utilities required during (1) drilling and (2) operations:</p> <p>(1) Drilling: <b>No public utilities will be needed during drilling operations.</b></p> <p>(2) Operations: <b>See Exhibit N and N-3</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <p>Deescription of water source to be used during Drilling:</p> <p><b>Water will be pulled from water wells existing on the property and hauled if necessary.</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <p>Description of all electric lines to production facilities (reference exhibits as necessary) [See § L(10)]:</p> <p><b>See Exhibits G &amp; N attached</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <p>Plan detailing construction, location, and closure of pits used for Drilling and Completion operations (attach exhibit if necessary) [See § J(35)]:</p> <p><b>See Exhibit O - Pits will be deep Buried in accordance to City of Midland requirements.</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>V. Additional Required Exhibits</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <p>ATTACHED AS EXHIBIT P is the Letter of Credit/Certificate of Deposit in accordance with Subsection (K)(2). [See § J(18)]. <b>ATTACHED</b></p> <p>ATTACHED AS EXHIBIT Q are Tax certificates from Midland Central Appraisal District to be submitted indicating that all taxes on personal and real property, including minerals, owned by Applicant are current. [See § J(29)]. <b>ATTACHED</b></p> <p>ATTACHED AS EXHIBIT R is the required Insurance Certificate. [See § J(19) and § K(3)]. <b>ATTACHED</b></p> <p>ATTACHED AS EXHIBIT S (if applicable) is the Drainage Plan approved by the City Engineer relating to Applicant's proposed operations. [See § J(21)]. <b>ATTACHED</b></p> <p>ATTACHED AS EXHIBIT T is Applicant's Emergency Action Response Plan. [See § J(22)]. <b>See Exhibit T &amp; Attachment T-1</b></p> <p>ATTACHED AS EXHIBIT U is Applicant's Hazardous Materials Management Plan, a copy of which has been submitted and is on file with the Midland Fire Department. [See § J(23)]. <b>ATTACHED</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

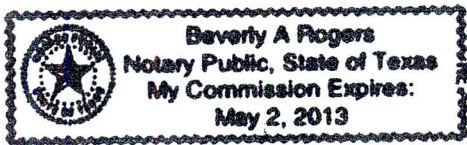
**Callon Petroleum Operating Company**

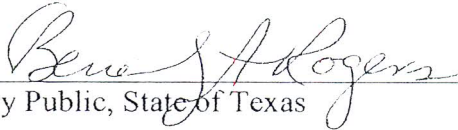
By:

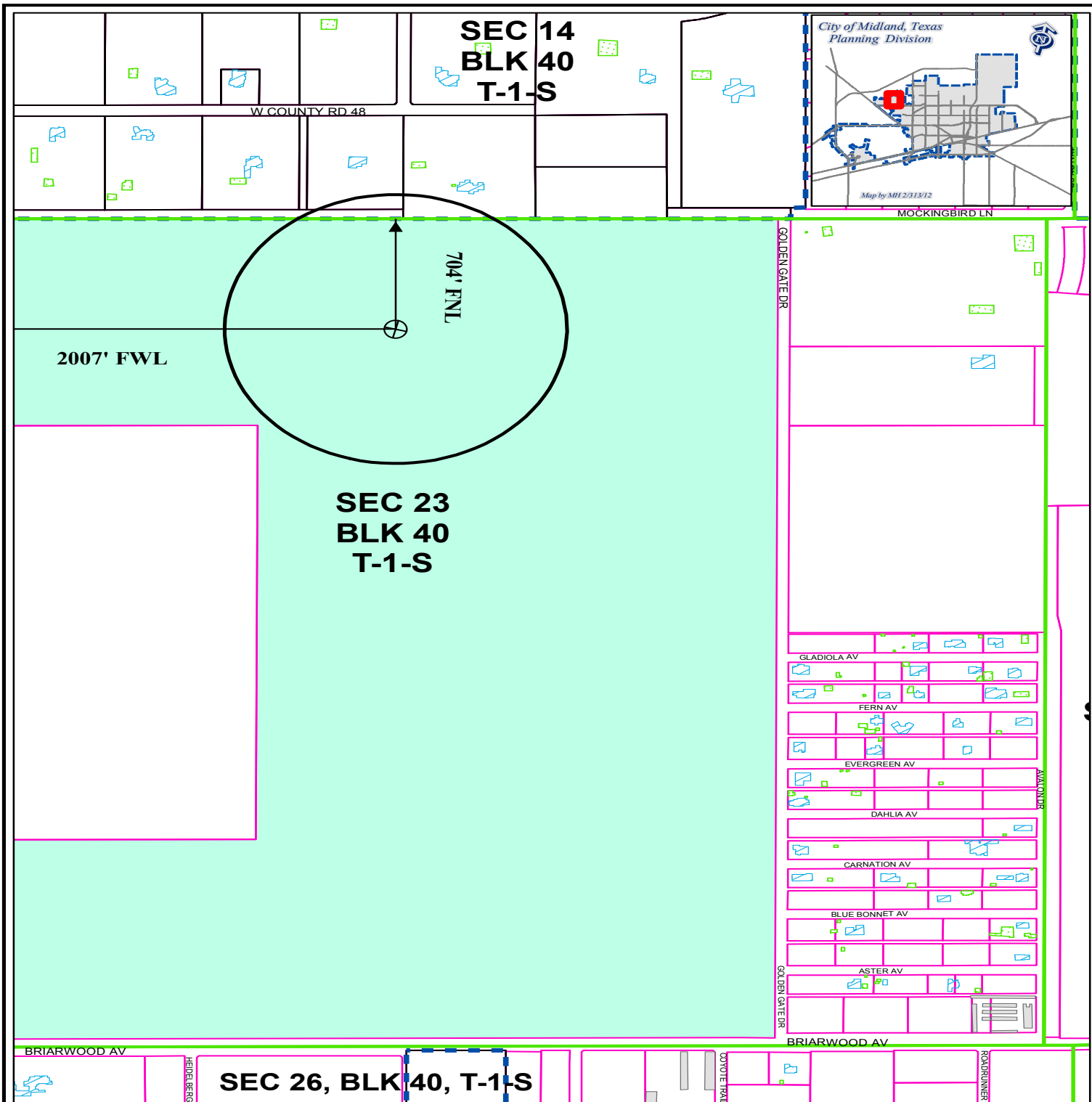
  
Jimmy Wright, CPL  
Land Manager – Permian Basin

STATE OF TEXAS       §  
                                  §  
COUNTY OF MIDLAND   §

This instrument was acknowledged before me on the 24 day of January, 2012 by Jimmy Wright, Land Manager – Permian Basin of Callon Petroleum Operating Company, who personally appeared before me and states that he has read the above application and attached exhibits and the statements therein are true and correct to the best of his knowledge.



  
Notary Public, State of Texas



## LOCATION AND ZONING MAP

**O - 12 - 001**

**Scale: 1" = 700'**

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 704' FNL and 2007' FWL, Section 23, Block 40, T-1-S, T & P RR Co. Survey, Midland County, Texas.

**Pecan Acres 23 #3**

© THE CITY OF MIDLAND 2012. THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA. WHILE THIS DATA IS MADE AVAILABLE TO THE PUBLIC, IT WAS CREATED FOR INTERNAL USE BY THE CITY OF MIDLAND WHICH MAKES NO CLAIM AS TO ITS ACCURACY OR COMPLETENESS. THIS DATA IS NOT PRESENTED TO BE USED AS A PRIMARY TOOL IN PERMITTING, CITING, OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.

### LEGEND

|  |                |  |                 |  |                |
|--|----------------|--|-----------------|--|----------------|
|  | CITY PARCELS   |  | PUBLIC BLDGS    |  | CITY LIMITS    |
|  | COUNTY PARCELS |  | PRIVATE BLDGS   |  | 860 FT. BUFFER |
|  | ZONING         |  | ACCESSORY BLDGS |  | SURVEY SEC.    |

#### ZONING DISTRICTS:

FD  
PD  
AE  
1F1, 1F2, 1F3  
MH  
TH  
2F  
MF1, MF2

FUTURE DEVELOPMENT  
PLANNED DISTRICT  
AGRICULTURE ESTATE  
ONE-FAMILY DWELLING  
MOBILE HOME DWELLING  
TOWNHOUSE DWELLING  
TWO-FAMILY DWELLING  
MULTIPLE FAMILY DWELLING

BP  
P  
01, 02  
NS  
LR1, LR2, LR3  
C1, C2, C3  
IP, JP1, IP2, IP3  
LI  
HI

BUSINESS PARK  
PARKING  
OFFICE  
NEIGHBORHOOD SERVICE  
LOCAL RETAIL  
COMMERCIAL  
INDUSTRIAL PARK  
LIGHT INDUSTRY  
HEAVY INDUSTRY

**29.40**



GENERAL NOTES:  
2700' FLOWLINE  
5128' OF ACCESS ROAD  
5433' OF ELECTRIC

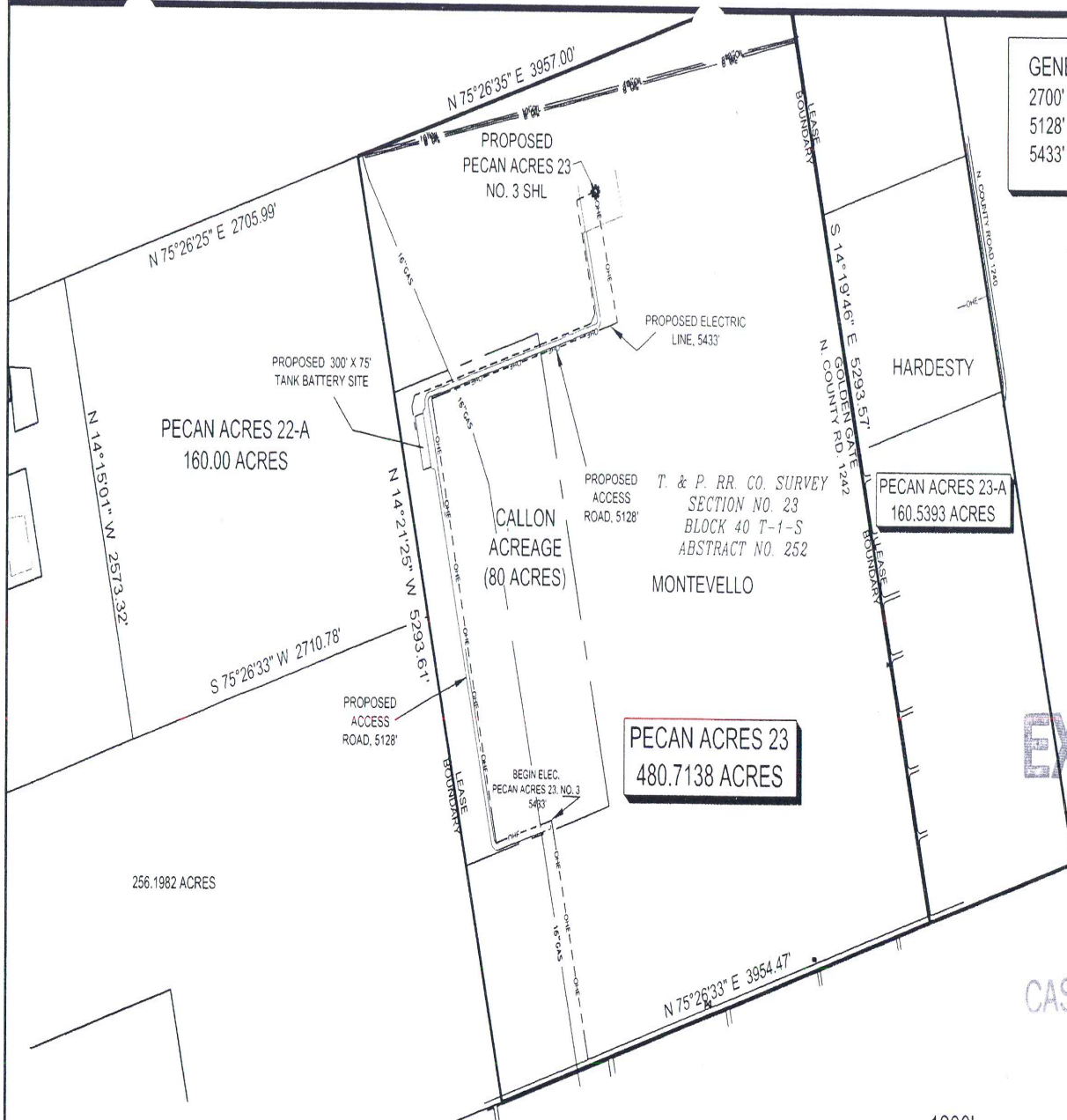


EXHIBIT A

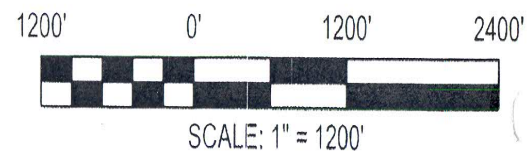
CASE NO. 0-12-001

# LEGEND

- OHE— = PROPOSED ADDITIONAL OVERHEAD ELECTRIC LINES
- ..... = PROPOSED FLOWLINES
- = PROPOSED ADDITIONAL ACCESS ROADS
- = PROPOSED WELL LOCATION

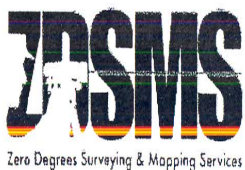
I HEREBY STATE THAT THIS PLAT SHOWS THE PROPOSED LOCATIONS AS SHOWN.

*James Curtis Yarger*  
JAMES CURTIS YARGER  
REGISTERED PROFESSIONAL LAND SURVEYOR  
STATE OF TEXAS #5854



| 3    | 1-20-12  | CY  | REVISE ACCESS & ELECTRIC LINEAR FOOTAGE | CY  |
|------|----------|-----|-----------------------------------------|-----|
| 2    | 12-05-11 | RG  | EDIT ACCESS & ELECTRIC LINEAR FOOTAGE   | CY  |
| 1    | 11-30-11 | GG  | EDIT EXISTING PIPELINE TEXT             | CY  |
| REV. | DATE     | BY: | DESCRIPTION                             | CHK |

PROJECT NO. 1109036



403 West Loop 820, Suite 160  
Fort Worth, Texas 76108  
(817) 367-6900 ~ Fax (817) 367-1973

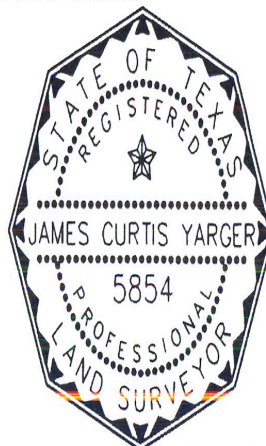
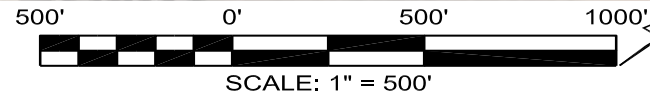


EXHIBIT SHOWING  
PROPOSED  
**PECAN ACRES 23 NO. 3**  
PROPOSED FLOWLINE, ACCESS ROAD AND  
ELECTRIC LINE LOCATIONS  
CITY OF MIDLAND, MIDLAND COUNTY, TEXAS

|                 |                |                                      |       |
|-----------------|----------------|--------------------------------------|-------|
| DRAWN BY: RSG   | DATE: 11-29-11 | DWG. NO.                             | REV.  |
| CHECKED BY: CY  | DATE: 11-29-11 | 1109036 PECAN ACRES 23 NO. 3 EXHIBIT | 3     |
| SCALE: 1"=1200' | APP.:          | PAG-                                 | 29.41 |



## NOTES:

1.) BEARINGS & COORDINATES SHOWN HEREON ARE REFERENCED TO THE TEXAS STATE PLANE COORDINATE SYSTEM, NAD 83 DATUM (TEXAS CENTRAL ZONE 4203) DERIVED FROM GPS OBSERVATIONS AND ARE BASED ON NGS MONUMENT MDD A (GRID COORDINATES X=1750074.49, Y=10709180.31)

2.) LATITUDE & LONGITUDE ARE NAD 83 & 27 GEOGRAPHIC.

3.) THIS IS A PROPOSED WELL PLAT AND DOES NOT REPRESENT A TRUE BOUNDARY SURVEY. THIS SURVEY IS BASED ON OWNERSHIP AND EASEMENT INFORMATION PROVIDED BY CALLON PETROLEUM OPERATING COMPANY. SURVEYOR DID NOT ABSTRACT SUBJECT TRACT AND THERE MAY BE EASEMENTS OR OTHER ENCUMBRANCES THAT AFFECT THE SUBJECT TRACT THAT ARE NOT SHOWN HEREON.

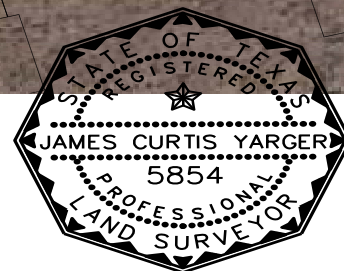
| REV.                | DATE    | BY: | DESCRIPTION                | CHK |
|---------------------|---------|-----|----------------------------|-----|
| 1                   | 2-29-12 | CY  | CHANGE FRAC WATER PIT NAME | CY  |
| PROJECT NO. 1109036 |         |     |                            |     |



403 West Loop 820, Suite 160  
Fort Worth, Texas 76108  
(817) 367-6900 ~ Fax (817) 367-1973

I HEREBY STATE THAT THIS PLAT SHOWS  
THE PROPOSED LOCATIONS ABSTAKED  
ON THE GROUND.

*James Curtis Yarger*  
JAMES CURTIS YARGER  
REGISTERED PROFESSIONAL LAND SURVEYOR  
STATE OF TEXAS #5854



Callon Petroleum Operating Company

**PECAN ACRES 23 TANK BATTERY  
AND FRAC WATER PIT  
(FRESH WATER)  
PROPOSED RESIDENCE STRUCTURE TIES PLAT**

SITUATED IN THE  
T. & P. RR. CO. SURVEY  
SECTION NO. 23, BLOCK 40, ABSTRACT NO. 252  
MIDLAND COUNTY, TEXAS  
BEING THE WEST 1/2 AND THE WEST 1/2 OF THE EAST 1/2 OF  
T. & P. RR. CO. SURVEY  
SECTION NO. 23, BLOCK 40, ABSTRACT NO. 252  
CALLED 482.72 ACRES IN DOCUMENT NO. 2009-24676  
DEED RECORDS, MIDLAND COUNTY, TEXAS

|                |                |                                                       |      |
|----------------|----------------|-------------------------------------------------------|------|
| DRAWN BY: GG   | DATE: 02-29-12 | DWG. NO.                                              | REV. |
| CHECKED BY: CY | DATE: 02-29-12 | 1109036 PECAN ACRES 23 FRAC AND<br>BATTERY STRUCTURES | 1    |
| SCALE: 1"=500' | APP.:          | PAGE 1 OF 1                                           |      |





# City Council Agenda

Approved for Agenda:  
**JNichols**  
City Manager's Office

**MEETING DATE:** April 10, 2012

**TO:** CITY COUNCIL/CITY MANAGER

**FROM:** Cameron Walker, Planning Division Manager

**SUBJECT:** O-12-002; consider a resolution approving an oil and gas well drilling permit located on the west side of Golden Gate Drive, approximately 650' north of Briarwood Avenue.

---

**Purpose:**

To consider a resolution on a request from Callon Petroleum Operating Company (Pecan Acres 23 # 6) for a *Permit to Drill an Oil and Gas Well within the City Limits* located 651' FSL and 2,040' FWL of the land described as Section 23, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. Council held a public hearing on February 28, 2012. The required 30-day period for public comment has passed and the Council may consider this request.

**Recommended City Council Action**

X Approve          Deny          Direction/Informational

**Fiscal Impact:**

There is no cost to the City to process this application.

**Discussion:**

The Oil and Gas Advisory Committee has reviewed this well site in detail and recommends approval with the following stipulations: that steel coated tanks be allowed for water containment, that a Vapor Recovery Unit is installed with effective noise reduction, that landscaping should not be postponed for longer than two years, and that multiple wells on each pad site should be considered. A 250' by 250' fresh water pit is also proposed during drilling operations. The fresh water pit and tank battery will be located to the west on property owned by Callon.

Attachments: Application; Location map; Exhibit A - Drill site map, Exhibit B - tank battery map.

**RESOLUTION NO.**

**RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO CALLON PETROLEUM OPERATING COMPANY ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 651 FEET FROM THE SOUTH LINE AND 2,040 FEET FROM THE WEST LINE, SECTION 23, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF GOLDEN GATE DRIVE, APPROXIMATELY 650 FEET NORTH OF BRIARWOOD AVENUE); AND PROVIDING THAT SAID PERMIT DOES NOT REQUIRE A NEW ROAD REPAIR AGREEMENT BUT SHALL BE CONSOLIDATED UNDER AN EXISTING ROAD REPAIR AGREEMENT**

**WHEREAS**, on December 8, 2009, the City Council of the City of Midland duly approved Ordinance No. 8769 which amended Title VI, "Police Regulations," Chapter 1, "General Offenses," of the City Code of Midland, Texas, so as to establish Section 23, "Oil and Gas Well Permits issued on or after January 1, 2010," which governs the granting or rejecting of Oil and Gas Well Permits; and

**WHEREAS**, the purpose of said section is to establish reasonable and uniform limitations, safeguards, and regulations for present and future operations related to the exploring, drilling, developing, producing, transporting and storing of oil or gas or other substances produced in association with oil and gas within the City of Midland to protect the health, safety, and general welfare of the public and the orderly development of the City of Midland; abate or prevent potential public nuisances; minimize the potential adverse impact to surface and mineral owners, protect the quality of the environment and encourage the orderly production of available mineral resources; and

**WHEREAS**, Section 6-1-23(C) of the City Code of Midland, Texas, makes it an offense to knowingly drill or participate in the drilling of any well or to re-enter any well within the corporate limits of the City of Midland without a permit having first been issued by the authority of the City Council; and

**WHEREAS**, Operator has submitted an application to the City of Midland to drill an

oil and gas well on the property described in Section Two hereof; and

**WHEREAS**, notice of the public hearing on this matter was provided in accordance with Section 6-1-23(H)(1) and a public hearing was held on February 28, 2012; and

**WHEREAS**, subsequent to said public hearing, and in accordance with Section 6-1-23(H)(1), the City Council allowed the public and Operator thirty (30) days to submit written input to the City Manager regarding Operator's application to drill an oil and gas well on the property described in Section Two hereof; and

**WHEREAS**, the City Council has considered those issues set forth in Section 6-1-23(I) in determining whether to grant or deny a permit to Operator to drill an oil and gas well on the property described in Section Two hereof; and

**WHEREAS**, the City Council finds it to be in the public interest to approve the issuance of a permit to Operator to drill an oil and gas well on the property described in Section Two hereof;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS:**

**SECTION ONE.** That the above recitals are hereby adopted and approved by the City Council of the City of Midland.

**SECTION TWO.** That the Mayor is hereby authorized and directed to execute a permit, on behalf of the City of Midland, that will allow Operator to drill an oil and gas well within the City limits located 651 feet from the south line and 2,040 feet from the west line, Section 23, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. Said permit is attached hereto as Exhibit "A" and incorporated herein for all legal purposes.

**SECTION THREE.** That said permit does not require a new road repair agreement but shall be consolidated under the existing road repair agreement between Operator and the City of Midland for Operator's wells located on the property described in Section Two hereof.

On motion of Council member \_\_\_\_\_, seconded by Council member



\_\_\_\_\_, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2012, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

\_\_\_\_\_  
W. Wesley Perry, Mayor

ATTEST:

\_\_\_\_\_  
Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

\_\_\_\_\_  
Courtney Sharp, City Manager

APPROVED AS TO CONTENT  
AND COMPLETENESS:

\_\_\_\_\_  
Rick Crownover, Director of Development  
Services

APPROVED AS TO FORM:

\_\_\_\_\_  
Keith Stretcher, City Attorney

## **OIL AND GAS WELL PERMIT**

The City Council of the City of Midland, Texas, at its regular meeting on April 10, 2012, considered the application of Callon Petroleum Operating Company, dated January 17, 2012, to drill an oil and gas well inside the territorial limits of the City of Midland, Texas. The City Council of the City of Midland, Texas, by appropriate action approved the application and authorized the issuance of this permit.

This documentation hereby constitutes a permit, issued in accordance with the Midland City Code, Ordinance 8769, to drill an oil and gas well, in the application of Callon Petroleum Operating Company, dated January 17, 2012, and filed with the Oil & Gas Compliance Officer and incorporated herein for all legal purposes.

The location of Callon Petroleum Operating Company, Pecan Acres 23 #6 oil and gas well shall be 651 feet from the south line and 2040 feet from the west line, Section 23, Blk 40, T-1-S, T&P Survey, Midland County, Texas. The hole size, casing program, cement program and total depth of that well shall be in strict compliance with the proposed hole size, casing program, cementing program and proposed total depth found in that application of Callon Petroleum Operating Company, which is incorporated herein. Further, all operations done under this permit shall be done and accomplished in strict accordance with the Midland City Code, Ordinance 8769, which is hereby incorporated into this permit by reference and made applicable hereto with the same force and effect as if the same were copied fully in this permit. Also, all operations done under this permit shall be done and accomplished in strict accordance and compliance with the General Conditions, which are attached hereto marked as Exhibit "A" and incorporated into and made a part of this permit for all purposes. All operations done and required under this permit shall be done and accomplished in strict accordance and compliance with the Specific Conditions which are attached hereto, marked as Exhibit "B", and incorporated into and made a part of this permit for all purposes.

This permit shall be effective from April 10, 2012, through April 10, 2013, and so long thereafter as oil or gas is produced or until such time as the permittee has permanently abandoned the operations of the well or facility for which this permit is issued.

The issuance of this permit by the City of Midland does not in any way alter or modify the rights as between the surface estate owner(s) and mineral estate owner(s) if there exists a severance of the surface estate and mineral estate. This permit in no way exempts the permittee from its responsibilities or obligations as to third parties. The issuance of this permit only means that the permittee has, at this time, complied with Ordinance No. 8769 and that the Midland City Council, as a regulatory body, will allow the permittee to proceed under the conditions of this permit. The issuance of this permit is intended to be only a negative pronouncement that grants no affirmative rights to the permittee to occupy the property. It is expressly provided that this permit does not authorize a trespass by the permittee as to any third party. This permit does not in any way restrict the use of the surface estate. Securing a permit does not authorize the recipient to act with impunity as to third parties, nor does it insulate the permittee from the consequences of its actions with regard to those third parties. The receipt of a permit does not undertake to adjudicate property rights.

This permit granted by the City of Midland does not act to immunize the permit holder from civil tort liability from private parties for actions arising out of the use of the permit. This is because the permit is a “negative pronouncement” that grants no affirmative rights to the permittee. The issuance of this permit does not authorize any injury to persons or property or an invasion of other property rights, or any infringement of State or local law or regulations. The permittee has obtained a permit from the City of Midland but the consequences of acting under the permit have not been immunized. The fact that the City of Midland has issued a permit to drill an oil and gas well does not shield the permittee from third party tort liability stemming from the consequences of the permitted activity.

A right-of-way license agreement approved by a resolution of the Midland City Council is required for any oil and/or gas flowline or pipeline or any other device associated with a proposed well site that extends into, on, above, in, under, across or through any City rights-of-way, including but not limited to streets, alleys, utility and drainage rights-of-way.

Landscaping is not required at this time but will be required within two years from April 10, 2012. Operator shall notify the City Manager within 180 days (October 11, 2013) in writing if the landscaping is not to be completed prior to expiration of the two year period. If landscaping is not completed prior to the two year period this permit shall automatically terminate without any action of the City Council required.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS \_\_\_\_\_ day of April, 2012.

CITY OF MIDLAND, TEXAS

BY: \_\_\_\_\_

W. Wesley Perry, Mayor

UNDERSTOOD AND AGREE THIS \_\_\_\_\_ day of April, 2012.

Callon Petroleum Operating Company

By: \_\_\_\_\_

Jimmy Baggett- Operations Manager

## **OIL AND GAS PERMIT: ORDINANCE 8769 GENERAL CONDITIONS- EXHIBIT "A"**

**(K)**

### **General Conditions of all Oil and Gas Well Permits.**

**1.**

**General Obligations of Operator.**

The Operator shall be required to:

**a.**

Comply with the terms and conditions of this Section, the Midland City Code, the rules and regulations of the Railroad Commission, and any other state or federal agency that enforces land use, mineral use, or environmental protection regulations.

**b.**

Promptly clear Drill and Operation sites of litter, trash, refuse and other substances used, allowed, or occurring in the operations, and after abandonment or completion, grade, level, and restore such property to the same surface conditions as nearly as practicable as existed before operations.

**c.**

Indemnify and hold harmless the City of Midland, the City's officers, agents and employees, from any and all claims, losses, damages, causes of action, suits, and liability of any kind, including all expenses of litigation, court costs, and attorney's fees, for injury to or death of any Person, or for damage to any property arising out of or in connection with the work done by Operator under an Oil and Gas well permit: where such injuries, death or damages are caused by Operator's sole negligence or the joint negligence of the Operator and any other Person or entity.

**d.**

Promptly pay all fines, penalties and other assessments imposed due to breach of any of the conditions herein. If the Operator does not agree that a breach has occurred, the Operator may file a written objection with the City Manager within ten (10) days of being notified of the alleged breach. The City Manager shall review the objections and give the Operator the opportunity to be heard and present facts that the Operator deems relevant.

**e.**

Promptly restore to its former condition any public property damaged by the oil and gas operation.

f.

Except as permitted by Subsection U, hereof, Operator shall not, either directly or indirectly, assign all or any part of an Oil and Gas Well Permit.

g.

If required by the Permit, Operator shall execute a "Road Repair Agreement" between itself and the City of Midland and submit all necessary information and insurance and guarantees to the City prior to the issuance of any Oil and Gas Well Permit under this Section.

2.

Irrevocable Letter of Credit, Certificate of Deposit, or Surety Bond.

Prior to the issuance of an Oil and Gas well permit, the Operator shall provide the City Attorney with a guarantee in the form of an irrevocable letter of credit, certificate of deposit, or surety bond in the name of the City. The Applicant shall be entitled to receive the interest earned if the certificate of deposit reaches maturity. The letter of credit, certificate of deposit, or surety bond must satisfy the following:

a.

The letter of credit, certificate of deposit or surety bond shall be issued by a reliable bank or insurance carrier authorized to do business in the State of Texas;

b.

The letter of credit, certificate of deposit or surety bond shall be effective starting on or before the effective date of the Oil and Gas Well Permit;

c.

The letter of credit, certificate of deposit or surety bond shall be in the amount of twenty-five thousand dollars (\$25,000.00);

d.

The letter of credit, certificate of deposit or surety bond shall remain in full force and effect for a period of three years; and

e.

The letter of credit, certificate of deposit or surety bond shall authorize the City of Midland to draw upon such credit in the event the City Manager, or his designee, determines said credit is needed to remedy any violation of this Section.

If the well is still producing or if the well has not been abandoned or plugged, the Operator must renew the letter of credit, certificate of deposit or surety bond on or before one hundred twenty (120) days prior to the expiration of the letter of credit, certificate of deposit or surety bond.

The City of Midland may draw upon the letter of credit, certificate of deposit or surety bond to recover costs of repairs, modifications, or construction to remedy any violations by the Operator under this Section. The City may make partial or full draws of the letter of credit, certificate of deposit or surety bond. The City may draw upon the letter of credit, certificate of deposit or surety bond in the event the City has not received a new letter of credit, certificate of deposit or surety bond within the one hundred twenty (120) day renewal time period required above.

The Operator shall maintain the principal amount of \$25,000.00 in the form of a letter of credit, certificate of deposit or surety bond at all times throughout the term of the permit. In the event such letter of credit, certificate of deposit or surety bond is not restored to \$25,000.00 within ten (10) days after the date of the reduction of the letter of credit, certificate of deposit or surety bond, the City may draw and receive the remaining balance of the letter of credit, certificate of deposit or surety bond, and the Oil and Gas Well Permit shall be suspended on such date and the Operator's right to operate under Oil and Gas Well Permit shall immediately cease until the Operator files the required letter of credit, or certificate of deposit or surety bond.

If an operator has three (3) or more Oil and Gas Well Permits in effect which have been approved by the City Council, the Operator may petition the Council to consolidate the letter of credits, certificate of deposits or surety bonds into one letter of credit, certificate of deposit or surety bond that would cover all Oil and Gas Wells in the City limits. The consolidated letter of credit, certificate of deposit or surety bond shall be in an amount determined by the City Council as sufficient to cover the costs of repairs, modifications, construction or to remedy violations by the Operator but in no event shall the amount be less than \$75,000.00.

**3.**

**Insurance.**

In addition to the letter of credit, certificate of deposit or surety bond required above, the Operator shall carry a policy or policies of insurance issued by an admitted insurer or eligible surplus lines insurer authorized to do business in the State of Texas. In the event such insurance policy or policies are cancelled, any Oil and Gas Well Permit issued under this Section shall be suspended on such date of cancellation and the Operator's right to operate under such Oil and Gas Well Permit shall immediately cease until the Operator files additional insurance as required herein.

- a. General requirements applicable to all policies.
- i. The City, the City's officials, employees, agents and officers shall be endorsed as an "Additional Insured" on all policies, except under Operator's Workers Compensation Policy.
  - ii. All policies shall be written on an occurrence basis, except for Environmental Pollution Liability (Seepage and Pollution coverage) and Excess and Umbrella Liability, which may be on a claims-made basis.
  - iii. All policies shall be written by an admitted insurer or eligible surplus lines insurer authorized to do business in the State of Texas.
  - iv. Deductibles shall be listed on the Certificate of Insurance and shall be on a "per occurrence" basis unless otherwise stipulated herein.
  - v. Certificates of Insurance shall be delivered to the City of Midland, P.O. Box 1152, Midland, Texas 79702, Attn: City Attorney's Office, evidencing all the required coverages, including endorsements, prior to the issuance of an Oil and Gas Well Permit under this Section.
  - vi. All policies shall be endorsed with a waiver of subrogation providing rights of recovery in favor of the City.
  - vii. Any failure on the part of the City to request required insurance documentation shall not constitute a waiver of the insurance requirements specified herein.
  - viii. Each policy shall be endorsed to provide the City a minimum thirty (30) day notice of cancellation, non-renewal, and/or material change in policy terms or coverage. A ten (10) day notice shall be acceptable in the event of non-payment of premium.
  - ix. During the term of any Oil and Gas Well Permit issued hereunder, the Operator shall report, in writing, within thirty (30) days of the occurrence, to the City Manager, any known



loss occurrence which could give rise to a liability claim or lawsuit or which could result in a property loss.

x.

Upon request, certified copies of all insurance policies shall be furnished to the City.

xi.

Operator shall have the right to maintain a qualified, self-insurance plan and/or maintain prudent levels of self-insured retentions for insurance coverage required in this section; however, Operator shall remain financially obligated for all self-insured retention amounts and deductibles. To the extent of the liabilities assumed by the Operator, Operator's insurance shall be primary coverage as to any liabilities of the City.

b.

Standard Commercial General Liability Policy.

This coverage must include premises, operations, blowout or explosion, products, completed operations, sudden and accidental pollution, blanket contractual liability, underground resources damage, broad form property damage, independent contractors protective liability, accidental death and personal injury. This coverage shall be a minimum Combined Single Limit of \$1,000,000.00 per occurrence for Bodily Injury, Accidental Death, and Property Injury.

c.

Excess or Umbrella Liability.

\$1,000,000      Excess, if the Operator has a stand-alone Environmental Pollution Liability (EPL) policy.

\$10,000,000      Excess, if the Operator does not have a stand-alone EPL policy. Coverage must include an endorsement for sudden or accidental pollution. If Seepage and Pollution coverage is written on a "claims made" basis, the Operator must maintain continuous coverage and purchase Extended Coverage Period when necessary.

d.

Environmental Pollution Liability Coverage.

Operator shall purchase and maintain in force for the duration of any Oil and Gas Well Permit issued hereunder, insurance for environmental pollution liability applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed; cleanup costs; and defense, including costs and expenses incurred in the investigation, defense or settlement of claims; all in connection with any loss arising from the insured site.

Coverage shall be maintained in an amount of at least \$1,000,000 per loss, with an annual aggregate of at least \$10,000,000.

Coverage shall apply to sudden and accidental pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids or gases, refuse material or other irritants, contaminants or pollutants.

e.

Workers Compensation and Employers Liability Insurance.

i.

Workers Compensation benefits shall be Texas Statutory Limits.

ii.

Employers Liability shall be a minimum of \$1,000,000.00 per accident.

iii.

Such coverage shall include a waiver of subrogation in favor of the City of Midland and provide coverage in accordance with applicable State and Federal laws.

f.

Automobile Liability Insurance.

i.

Combined single limit of \$1,000,000.00 per occurrence for bodily injury and property damage.

ii.

Coverage must include all owned, hired and not-owned automobiles.

g.

Certificates of Insurance.

i.

The company must be licensed or authorized to do business in the State of Texas.

ii.

The insurance set forth by the insurance company must be underwritten on forms that have been approved by the Texas State Board of Insurance or ISO or an equivalent policy form acceptable to the City, with the exception of environmental pollution liability and control of well coverage.

iii.

Set forth all endorsements and insurance coverage according to requirements and instructions contained herein.

iv.

Shall specifically set forth the notice of cancellation, termination, or change in coverage provisions to the City. All policies shall be endorsed to read "THIS POLICY WILL NOT BE CANCELLED OR NON-RENEWED WITHOUT THIRTY (30) DAYS ADVANCE WRITTEN NOTICE TO THE OWNER AND THE CITY, EXCEPT WHEN THIS POLICY IS BEING CANCELLED FOR NONPAYMENT OF PREMIUM, IN WHICH CASE, TEN (10) DAYS ADVANCE WRITTEN NOTICE IS REQUIRED".

v.

Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

vi.

At the request of an Operator, the Council may grant a variance to insurance requirements if the Council determines that the insurance procured by the Operator is sufficient to protect the City. A variance of this type may be required because of a change in underwriting policies of admitted insurance carriers.

#### **Indemnification.**

**OPERATOR AGREES TO INDEMNIFY AND HOLD HARMLESS AND DEFEND THE CITY OF MIDLAND, THE CITY'S OFFICERS, AGENTS, AND EMPLOYEES FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS, AND LIABILITY OF ANY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES, FOR INJURY TO OR DEATH OF ANY PERSON, OR FOR DAMAGE TO ANY PROPERTY ARISING OUT OF OR IN CONNECTION WITH THE WORK DONE BY OPERATOR UNDER AN OIL AND GAS WELL PERMIT WHERE SUCH INJURIES, DEATH, OR DAMAGES ARE CAUSED BY OPERATOR'S SOLE NEGLIGENCE OR THE JOINT NEGLIGENCE OF THE OPERATOR AND ANY OTHER PERSON OR ENTITY.**

Notice.

The notices provided in this permit may be served in person or by registered or certified mail. Operator shall within ten (10) days notify the City Manager in writing of any change in such agent or mailing address unless operations in the City are discontinued and abandonment is complete.

Notice addresses are as follows:

City of Midland  
Attn: Office of the City Manager  
P. O. Box 1152  
Midland, Texas 79702

OPERATOR: \_\_\_\_\_  
Jimmy Baggett-Operations Manager

**Callon Petroleum Operating Company**  
4305 N. Garfield, Ste. 235  
Midland, Texas 79705  
(432)686-1828

## OIL AND GAS WELL PERMIT: ORDINANCE 8769 SPECIFIC CONDITIONS-EXHIBIT "B"

(L)

### Specific conditions of all Oil and Gas Well Permits; On-Site Requirements.

1.

**Abandoned wells.** All wells shall be abandoned in accordance with the rules of the Railroad Commission and pursuant to Subsection (O) of this Section.

2.

**Automated audible alarm system.** After completion, the appropriate system for flowing gas and/or flowing oil wells must be maintained to provide warnings for a substantial drop in pressure, or the release of any oil or gas, or a fire. Said audible alarm system must be approved by the Fire Marshal prior to installation of production equipment at the flowing gas and/or flowing oil well site.

3.

**Blowout prevention.** In all cases, ram-type and annular Blowout Preventers shall be used on all wells being drilled. In cases where Re-working is being performed on a Well, ram-type or annular Blowout Preventers shall be used. Protection shall be provided to prevent blowout during Drilling operations as required by and in conformance with the requirements of the Railroad Commission and the recommendations of the American Petroleum Institute. In addition to the Blowout Preventers stated above, all drilling must be equipped with flow lines and valves commensurate with the working pressures involved as required by the Railroad Commission each Blowout Preventer shall be a double-ram design with blinds and pipe. After surface casing has been set and cemented to surface, each Blowout Preventer shall be tested and witnessed by Operator's personnel and the results of such test shall be documented in the Operator's well file. Testing expenses shall be the responsibility of the Operator. The Operator shall provide a complete report of the well blowout prevention test to the City Manager within fifteen (15) days of the test.

4.

**Casing.** The surface portions of the Well shall be cased with cement circulated to the surface. All surface and intermediate casing must comply with all applicable rules of the Railroad Commission and the Texas Commission on Environmental Quality.

5.

**Compliance.** Operator shall comply at all times with all applicable federal, state and City requirements.

6.

**Discharge.** No person shall place, deposit, discharge, or cause or permit to be placed, deposited or discharged, any oil, naphtha, petroleum, asphalt, tar, hydrocarbon substances or any refuse including water or brine from any oil and gas operation or the contents of any container used in connection with any oil and gas operation in, into, or upon any Right-of-way, alleys, streets, lots, storm

drain, ditch or sewer, sanitary drain without permits from the appropriate City departments, or any body of water or onto any private property in the City.

7.

**Drilling notice.** The operator shall provide at least a forty eight (48)-hour notice to the City Manager prior to mobilizing the Drilling Equipment. In addition to notification to the City Manager, the operator shall provide a notice to the owners of at least forty eight (48) hours or more prior to mobilizing the drilling equipment through a publication in the Midland Reporter Telegram and a posting in the City Secretary's Office.

8.

**Drill stem testing.** No drill stem testing shall be allowed.

9.

**Dust, vibration, odors.** All drilling and production operations shall be conducted in such a manner as to minimize, so far as practicable, dust, vibration, or noxious odors, and shall be in accordance with the best accepted practices incident to drilling for the production of oil, gas and other hydrocarbon substances in urban areas. All equipment used shall be so constructed and operated so that, vibrations, dust, odor or other harmful or annoying substances or effect will be minimized by the operations carried on at any Drill Site or Operation Site or from anything incident thereto, to the injury or annoyance of persons living in the vicinity; nor shall the site or structures thereon be permitted to become dilapidated, unsightly or unsafe. Proven technological improvements in industry standards of drilling and production in this area shall be adopted as they become available if capable of reducing factors of dust, vibration and odor.

10.

**Electric lines.** All electric lines going under City roadways must be bored and encased pursuant to city standards. All electric lines to production facilities may be overhead service unless the surrounding neighborhood is developed with underground electric service. If the surrounding neighborhood is developed with underground electric service, then all electric lines to production facilities shall be buried underground.

11.

**Electric motors.** Only electric prime movers or motors shall be permitted for the purpose of pumping wells. No electric power shall be generated on location. All electrical installations and equipment shall conform to the City ordinances and the appropriate national codes.

12.

**Emergency response plan.** Prior to the commencement of any oil or gas production activities, Operator shall submit to the City Manager an emergency response plan establishing written procedures to minimize any hazard resulting from drilling, completion or producing of oil and gas wells. Said plan shall use existing guidelines established by the Railroad Commission, Texas Commission on Environmental Quality, Department of Transportation and/or the Environmental Protection Agency and City Fire Code. A copy of the Emergency Response Plan shall be kept at the Operator's office.

13.

**Equipment painted.** All production equipment on the site shall be painted beige and maintained at all times, including pumping units, tanks, buildings and structures. The City shall regularly inspect all painted structures and inform Operator when repainting is necessary. Operator shall repaint within sixty (60) days written notice from City. When requiring re-painting of such facilities, the City Manager shall consider the deterioration of the quality of the material of which such facility or structure is constructed, the degree of rust, and its appearance. Upon request of the Operator, a color other than beige may be approved by the City Council.

14.

**Explosives.** Use of an explosive perforating gun during completion operations and during plugging operations and down-hole operations that require such explosives shall be allowed.

15.

**Fire notice.** In the event of a fire or discovery of a fire, smoke, or unauthorized release of flammable or hazardous materials on any property, the Operator shall immediately report such condition to the Fire Department in accordance with the City of Midland Fire Code. The reporting limits for hazardous materials release shall conform to the requirements of the Railroad Commission and not exceed any state or federal permitting limit.

16.

**Fire prevention; sources of ignition.** Firefighting apparatus and supplies as approved by the Fire Marshal and required by any applicable federal, state, or local law shall be provided by the Operator, at the Operator's cost, and shall be maintained on the drilling site at all times during drilling and/or reworking operations. The Operator shall be responsible for the maintenance and upkeep of such equipment.

17.

**Fracing operations.** No fracing or formation fracture stimulation operations may take place before 7:00 a.m. or after 7:00 p.m.

18.

**Fresh water wells.** The measurements required by this Subsection shall be in a direct line from the closest Oil and Gas well to the fresh water well.

a.

Upon request of an owner of a fresh water well within 860 feet of an Oil and Gas well, who has been duly notified, Operator shall provide the City Manager with a "pre-drilling" and "post-drilling" water analysis from any such existing fresh water well(s).

b.

Operator shall conduct and fund annual testing for water wells that have been tested pursuant to Subsection (L)18.a. above. This testing program shall continue for the production life of The Well plus three years for a producing well, or for a period of one (1) year for a dry hole.

**19. Per RRC State Wide Rule 32- tank batteries must include vapor recovery system.**

**Compressors.** No onsite compressor used to "lift gas" shall be used. No compressor of any type shall be used. In the event Operator determines the use of such compressor is necessary, a detailed plan shall be submitted by Operator to the City Council for consideration. An on-site compressor plan shall include the following information:

- a. The physical size of the compressor;
- b. The power source of the compressor;
- c. The horsepower of the compressor;
- d. The noise of the compressor; and
- e. The manufacturer of the compressor.

No compressor of any type shall be used unless a plan is approved by the City Council.

**20.**

**Gas emission or burning restricted.** Operator shall not allow, cause or permit gases to be vented into the atmosphere or to be burned by open flame except as provided by law or as permitted by the Railroad Commission. If the venting of gases into the atmosphere or the burning of gases by open flame is authorized as provided by law or as permitted by the Railroad Commission, then such vent or open flame shall not be located closer than three hundred thirty (330) feet from any building not used in operations on the drilling site and such vent or open flame shall be screened in an effort to minimize detrimental effects to adjacent owners. Operator shall provide notice to the Fire Marshall prior to any open flaring of gas. Gas may not be flared unless for a limited time when completing, or recompleting a well, and only if flaring will not constitute a fire hazard to other owners. If flaring gas, it shall not be burned at a rate greater than 3,000 mcf/d. No gas may be flared between the hours of 7:00 p.m. and 7:00 a.m., except in an emergency.

**21.**

**Gas processing onsite.** Except for a conventional gas separator or line heater, no refinery, processing, treating, dehydrating or absorption plant of any kind shall be constructed, established or maintained on the premises without prior written consent of the City Manager.

**22.**

**Grass, weeds, trash.** All Drill sites and Operation sites shall be kept clear of high grass, weeds, and combustible trash within a radius of one hundred (100) feet around any Tanks, production facilities, or producing wells.



23.

**Hazardous plan.** Hazardous Materials Management Plan (HMMP) and all Material Safety Data Sheets (MSDS) for all hazardous materials that will be located, or stored, on the Operations Site shall be submitted to the City Manager.

24.

**Lights.** Except under emergency circumstances, operator shall not Operate any lights located at the Drill Site. To the extent practicable, and taking into account safety considerations, emergency site lighting shall be directed downward and internally so as to avoid glare on public roads and adjacent dwellings and buildings within three hundred (300) feet. This paragraph does not apply during initial Drilling Operations.

25.

**Monitoring for H<sub>2</sub>S gas.** If required by the Railroad Commission, equipment for the monitoring of H<sub>2</sub>S gas shall be used during Drilling. The Operator will comply with all requirements found in Statewide Rule 36 of the Railroad Commission, as amended. Within sixty (60) days after completion, and annually thereafter, Operator shall submit to the City Manager results of testing to determine the concentration of H<sub>2</sub>S produced from the Well. If the results of the H<sub>2</sub>S testing proves to be one hundred (100) PPM H<sub>2</sub>S or greater, the Operator is responsible for determining the one hundred (100) PPM H<sub>2</sub>S radius of exposure for each Well and production facility. Wells and facilities where the concentration of H<sub>2</sub>S is equal to or greater than one hundred (100) PPM will be considered "Sour." Safety systems described herein must be approved by the Fire Marshall.

a.

The following safety alarms and equipment are required at the well site of all wells that are capable of producing at a sustained rate of at least one hundred twenty-five (125) barrels of oil per day and/or three hundred (300) MCF of gas per day and for "sour" wells whose one hundred (100) PPM H<sub>2</sub>S radius of exposure is greater than fifteen (15) feet:

i.

H<sub>2</sub>S monitors located along the fencing, as set forth in Subsection M (for "sour" wells only).

ii.

Automated audible alarms to provide warnings for a substantial drop in pressure or for the presence of H<sub>2</sub>S in concentrations greater than one hundred (100) PPM.

iii.

Automated valve to shut-in production from the well if a substantial drop in pressure or if the presence of H<sub>2</sub>S in

concentrations greater than one hundred (100) PPM is detected.

b.

The following safety alarms and equipment are required at "Sour" Tank battery facilities:

i.

H<sub>2</sub>S monitors located along the fencing, as set forth in Subsection M.

ii.

Automated audible alarm to provide warnings for the presence of H<sub>2</sub>S in concentrations greater one hundred (100) PPM.

iii.

An electrical device capable of shutting down power to all "Sour" wells producing into the battery in the event H<sub>2</sub>S in concentrations great than 100 PPM is detected.

26.

**Muffling exhaust.** Exhaust from any internal combustion engine or compressor, stationary or mounted on wheels, used in connection with the Drilling of any well or for use on any production equipment shall not be discharged into the open air unless it is equipped with an exhaust muffler, or mufflers or an exhaust muffler box constructed of noncombustible materials sufficient to suppress noise and disruptive vibrations and prevent the escape of obnoxious gases, fumes or ignited carbon or soot.

27.

**Pits.** The following applies for pits used for Drilling and completion operations:

a.

No pit shall be placed in a floodplain without obtaining a floodplain development permit from the City Department of Development Services.

b.

No fresh water pit may be placed in any City recognized drainage way, FEMA floodplain or floodway. Construction of the fresh water pit must comply with all City, state and federal regulations.

c.

The use of earthen pits shall be allowed so long as the construction, use, dewatering and closure of such pits meets or exceeds the requirements of the applicable Railroad Commission rules and Texas Commission on Environmental Quality rules. In addition to compliance with applicable Railroad Commission rules, and Texas Commission on Environmental Quality rules, such earthen reserve pits shall also meet the following requirements;

(i)

the maximum size of a reserve pit shall be no greater than two hundred (200) feet by two hundred (200) feet;

(ii)

The pits shall be lined with a plastic liner having a minimum thickness of eight (8) mil reinforced polyethylene;

(iii)

Reserve pits used in Drilling operations shall be fenced on all open sides during such operations and shall be enclosed on all sides once Drilling operations have ceased;

(iv)

Reserve pits shall be closed within one hundred (180) days of the cessation of drilling operations;

(v)

Drill cuttings may be disposed of on the Drill Site using a deep burial method provided that the burial pit containing the cuttings is located entirely within one hundred thirty five (135) feet of the surface location of the Well, provided that all free water has been removed prior to burying the cuttings, and an impermeable liner is placed above the cuttings prior to covering the cuttings and liner with top soil, and provided that the burial pit is constructed in such a manner that the cuttings will be covered with a minimum of thirty six (36) inches of clean, compactable soil. A survey and description of the location of any closed pit used in connection with the Drill Site shall be recorded in the property records of the county in which the real property is located.

28.

**Salt water wells.** No commercial salt-water disposal wells that receive water by truck shall be located within the City of Midland. In the event the operator determines that the use of a non-commercial salt-water well is necessary, a detailed plan shall be submitted by the operator to the City Council for consideration. No salt water disposal well of any type shall be used unless a plan is approved by the City Council.

29.

**Signs.**

a.

A sign shall be immediately and prominently displayed at the gate on the temporary and permanent site fencing erected pursuant to Subsection (M) of this Section. Such sign shall be durable material, maintained in good condition and, unless otherwise required by the Railroad Commission, shall have a surface area of not less than two square feet not more than four square feet and shall be lettered with the following:

i.

Well name and number;

ii.

Name of operator;

iii.

The emergency 911 number; and

iv.

A 24-hour phone number that will provide an emergency phone number of Operator's Representatives as stated in Subsection F.

b.

Permanent weatherproof signs reading "DANGER NO SMOKING OR OPEN FLAME ALLOWED IN THIS AREA" shall be posted immediately upon completion of the well site fencing at the entrance of the well site and tank battery or in any other location approved or designated by the Fire Chief of the City. Sign lettering for this sign shall be two (2) inches or greater in height and shall be red on a white background or white on a red background. Each sign shall include the emergency notification numbers of the Fire Department and the Operator, well and lease designations required by the Texas Railroad Commission.

c.

Provide a National Fire Prevention Association (NFPA) 704 diamond hazard identification signs are required at the entrance to the Operation Site adjacent to the Operator's sign if chemicals are present. A label must be located on each chemical Tank indicating exact chemicals that may be contained in such Tank. Text shall be minimum two inches or greater in height, contrasting with the background color.

30.

**Storage of equipment.** Storage of equipment and materials shall be minimized and limited to the immediate operational needs of the well. Lumber, pipes, empty drums, trucks, trailers, automobiles, junk tubing, casing and rods shall not be left on the operation site except when drilling or reworking operations are being conducted on the site.

No vehicle or item of machinery shall be parked or stored on any Street, Right-of-Way or in any driveway, alley or upon any Operation Site which constitutes a fire hazard or an obstruction to or interference with fighting or controlling fires except that equipment which is necessary for Drilling or production operations on the site. The Fire Department shall be the entity that determines whether any equipment on the site shall constitute a fire hazard.

31.

**Tank Battery Facilities.** At the tank battery for either oil and/or gas Wells a sensor for fire detection should be appropriately placed near heater treaters, separators, and oil storage tanks that would allow an automated valve placed at the header to be closed in the event of a detected fire. All storage tanks shall be equipped with a secondary containment system. The secondary containment system shall be a minimum of three (3) feet in height and one and

one-half (1½) times the contents of the total tank volume. Drip pots shall be provided at the pump out connection to contain the liquids from the storage tanks. No storage tank shall be over sixteen 16 feet in height. All storage tanks shall be built on an adequate foundation with a twelve 12-mil liner being placed beneath each tank, extending a minimum of three (3) feet beyond the edge of each tank.

Operator must use portable steel storage tanks or fiberglass tanks for storing all fluids from the well. Tanks must meet the American Petroleum Institute standards. All tanks must have a vent line, lightning arrester and pressure relief valve. All tanks must be enclosed by a fence as required by Section (M) herein. No tank shall exceed sixteen (16) feet in height. No tank battery shall be constructed within five hundred (500) feet of any Occupied Residence, Occupied Commercial Structure or Occupied Public Building, unless a variance is granted by the City Council.

Drilling mud, cuttings, liquid hydrocarbons and all other field refuse derived or resulting from or connected with the drilling, re-working or deepening of any well shall be discharged into a steel pit or an approved earthen pit. All disposals must be in accordance with the rules of the Railroad Commission and with a plan submitted to and approved by the City Manager. Water stored in on-site tanks shall be removed as necessary.

All refuse shall be disposed of in such a manner as to comply with the applicable air and water pollution control regulations of the state, the conditions of this permit, and any applicable ordinance of the City.

Temporary flowback tanks shall be removed within ninety (90) days after completion date of the well at the pad site unless permission is obtained from the City Manager to extend the time period for no more than thirty (30) days. Completion date is that date which is stated as the "completion or recompletion date" shown on the Form W-2 or G-1 filed with the Railroad Commission.

All tanks shall be set back pursuant to the standards of the Railroad Commission and the National Fire Protection Association, but in all cases, shall be at one hundred (135) feet from any street or alley right-of-way, three hundred thirty (330) feet from any public athletic field, and five hundred (500) feet from an Occupied Residence, Occupied Commercial Structure or Occupied Public Building, church, public or private school, hospital, nursing home, college or university or daycare center unless a variance is granted by the Midland City Council. Operator shall institute operational practices involving the daily monitoring of tank integrity and fluid levels within each tank. The use of a remote monitoring system is acceptable.

No meters, storage tanks, separation facilities, or other aboveground facilities, other than the well head and flow lines, shall be placed in a floodway identified by FEMA on the most current FIRM or the 100-year floodplain without a floodplain development permit obtained from the Department of Development services.

All fluids and tank bottoms will be disposed of in accordance with Railroad Commission regulations.

32.

**Valves.** Each flowing high volume well must have an automated shut-off valve to shut-in the well's production at the Operation Site for either a fire or abnormal change in pressure. The fire department shall have access to the Operation Site and the shut-off valve in an emergency.

33.

**Work hours for site development.** No construction activities involving the excavation of, demolition of, alteration to, or repair work on any access road or pad site shall occur before 7:00 a.m. or after 7:00 p.m.

34.

**Wellhead status after fracing.** The wellhead between the time of Drilling/completion and tank battery construction, shall be:

a.

Surrounded with a six (6) foot tall temporary chain link fence having a gate and lock until permanent fencing is installed;

b.

The gate shall be locked at all times, except when the Operator is involved in active operations;

c.

The cellar shall be filled or closed; and

d.

The Bradenhead shall be piped to the surface and open to the atmosphere or have an observable and adequate pressure gauge with operable test valve.

35.

**Inspections.** In accordance within applicable law, the City Manager, or his designee, at his sole cost, risk and expense shall have a right of entry to the Drill Site/Operation Site and may, at his discretion, visit the Drill Site/Operation Site to make sure operator is in compliance with the requirements of this Section.

36.

**Violation.** In the event a violation of this ordinance is determined by the City's official (or officials), the City may act in any or all of the following ways:

a.

The City, through its designated official (or officials), may issue a notice of violation to the Operator, its agent, agents, employees or independent contractors (whether on site or not), or to any Person participating in the Drilling of the Well. Such notice may include a citation to appear before the Midland Municipal Court.

b.

If the City Manager, or his designee, finds the Operator to be in violation of any requirement of the applicable Oil and Gas well permit, then the City reserves the right after giving ten (10) business days written notice to the Operator regarding such violation, to draw upon the letter of credit, certificate of deposit or surety bond as outlined in

Subsection (K) of this Section, in order to remedy such violation. In the event that a violation is not capable of being remedied within such ten (10) business day period, then Operator must have commenced efforts to remedy such violation within said ten (10) business day period and thereafter continue with such efforts to remedy said violation with due diligence until completed, and as long as the Operator continues with efforts to remedy a violation with due diligence, the City shall not draw against the letter of credit, certificate of deposit or surety bond. In the event the City makes a claim on the letter of credit, certificate of deposit or surety bond pursuant to the terms hereof, reinstatement of the full amount of the letter of credit, certificate of deposit or surety bond shall be a condition to the cure of the violation leading to such claim. Alternatively, if the City Manager finds the Operator to be in violation of any requirement of the applicable Oil and Gas Well Permit, the City Manager shall give written notice to the Operator that unless all violations are corrected within ten (10) business days of the Operator's receipt of notice of the violation, the City Manager shall recommend to the City Council that the Oil and Gas Well Permit be cancelled by the City Council. In the event that a violation is not capable of being remedied within such ten(10)business-day period, then Operator must have commenced efforts to remedy said violation within said ten (10) business-day period and thereafter continue with such efforts to remedy said violation with due diligence until completed, and as long as the Operator continues with efforts to remedy a violation with due diligence, as determined by the City, the City shall not draw against the letter of credit, certificate of deposit or surety bond. If the City Council determines to consider the cancelling of the permit, it shall give the Operator written notice of the date and time of the hearing and shall give the Operator the opportunity to be heard and present facts the Operator deems relevant. The cancelling of a permit requires the majority vote of the City Council.

**c.**

Prosecution of violations of this Section shall be given priority and expedited upon the Municipal Court docket. Provided, however, that this subsection does not grant or guarantee Persons cited a right to expedited consideration of their citation before the Midland Municipal Court.

**d.**

In the event that there exists an imminent threat to public health and safety, a certified peace officer, in conjunction with the Railroad Commission, may order the temporary cessation of operations. An Operator may appeal the order to an appropriate Court in Midland County, Texas and request an expedited hearing. With respect to the contestation of an order issued pursuant to this subsection, an Operator retains all of its legal remedies.

**M.**

**Fencing and landscaping.**

**1.**

**Fences.**

A fencing plan shall be submitted, said plan containing a description of the building materials, dimensions, and locations of the proposed fence/walls and gates. The plan shall take into consideration the surrounding area and neighborhood.

At a minimum, tank battery facilities, wellheads and any production equipment associated with Oil and Gas wells shall be enclosed by a chain link fence at least seven (7) feet in height with beige-colored slats woven through the chain link, topped with three (3) strands of barbed wire angled outward or concertina wire, and shall be equipped with a locking gate. Gates shall be provided with a combination catch and locking attachment for a padlock, and shall be kept locked except when being used for access to the operation site. Operator must provide the City Fire Chief with a "Knox Padlock" or "Knox Box with a key" to access the Operation Site to be used only in case of an emergency.

The City Council may require additional or a different type of fencing to the extent necessary to conform with architectural standards and building materials existing on lots and/or lands immediately adjacent to the well and within five (500) feet of the Well at the time the Oil and Gas Well Permit is issued.

Additionally, if at any time within twenty-four (24) months following the issuance of an Oil and Gas Well Permit, a structure intended for permanent occupancy is constructed within five hundred (500) feet of the Well, the City Council may require the operator to undertake a one-time revision of the fencing plan to account for architectural standards and building materials associated with such structure to the extent that the revised fencing plan is consistent with, but not better than, the architectural standards and building materials associated with such structure.

Fences shall not be required on drill sites during drilling, completion or re-working operations as long as 24-hour on-site supervision is provided.

**2.**

**Landscaping.**

Landscaping is not required at this time but will be required within two years from April 10, 2012. Operator shall notify the City Manager within 180 days (October 11, 2013) in writing if the landscaping is not to be completed prior to expiration of the two year period. If landscaping is not completed prior to the two year period this permit shall automatically terminate without any action of the City Council required.



N.

**Cleanup and Maintenance.**

1.

**Cleanup after well servicing.** After the well has been completed or plugged and abandoned, the Operator shall clean the drill site or operation site, complete restoration activities and repair all damage to public property caused by such operations within one hundred eighty (180) days.

2.

**Clean-up after spills, leaks and malfunctions.** After any Railroad Commission reportable spill, leak or malfunction, the Operator shall remove or cause to be removed to the satisfaction of the City Fire Chief and the City Manager all refuse materials from any public or private property affected by such spill, leak or malfunction. Clean-up operations must begin immediately. The Operator shall comply with all requirements found in Statewide Rule 91 of the Railroad Commission, as amended. If Statewide Rule 91 requires reporting of the spill, the operator shall comply with the notification and reporting requirements found in Statewide Rule 20 of the Railroad Commission, as amended. Upon request the Operator shall furnish the City Manager with all information filed with the Railroad Commission. If the Operator fails to begin site clean-up immediately the City Manager may then employ any cleanup expert or experts or other contractors or suppliers of special services, or may incur any other expenses for labor and material which the City Manager deems necessary to clean-up such spill, leak or malfunction. The City shall then be able to collect from operator the costs involved in the site clean-up. The City may collect from the posted letter of credit, certificate of deposit or surety bond or any other legal means.

3.

**Free from debris.** The public street entrance and property on which a well site is located shall at all times be kept free of mud, debris, pools of water or other liquids, contaminated soil, weeds, brush, trash or other refuse material within a radius of one hundred (100) feet around any production facilities, tanks and producing wells.

4.

**Painting.** All production equipment shall be painted beige and maintained at all times, including pumping units, tanks, secondary containment and buildings or structures. When requiring painting of such facilities, the City Manager shall consider the deterioration of the quality of the material of which such facility or structure is constructed, the degree of rust, and its appearance.

5.

**Blowouts.** In the event of the loss of control of any well, Operator shall immediately take all reasonable steps to regain control regardless of any other provision of this permit and shall provide the City Manager with the same

information as required to be filed with the Railroad Commission under Statewide Rule 20 as soon as practicable.

6.

**Cleanup after Drilling/Completion.** After the well has been drilled and completed, the Operator shall clean the Drill site, complete restoration activities and repair all damage to public property caused by such operations within ninety (90) days as specified previously in Subsection (L)27.

O.

**Drilled and Abandoned Wells.**

1.

**Surface Requirements for Plugged and Abandoned Well.** Whenever abandonment occurs pursuant to the requirements of the Railroad Commission, the Operator so abandoning shall be responsible for the restoration of the Operation site to its original condition as nearly as practicable, in conformity with the requirements of this permit underground pipelines associated with operations shall be purged of all fluids and may be abandoned in place.

2.

**Surface Requirements for Drilled and Abandoned Well.** Abandonment shall be approved by the City Manager after restoration of the Drill Site has been accomplished in conformity with the following requirements at the discretion of the City Manager:

a.

The Derrick and all appurtenant equipment thereto shall be removed from Drill site;

b.

All tanks, towers, and other surface installations shall be removed from the Drill site;

c.

All concrete foundations, above ground piping, wood, guy anchors and other foreign materials regardless of depth, except surface casing, shall be removed from the site, unless otherwise directed by the Railroad Commission;

d.

All holes and depressions shall be filled with clean, compactable soil;

e.

All, refuse and trash shall be removed from the Drill Site; and

f.

During abandonment, Operator shall comply with all applicable subsections in this section; and

g.

The drill site shall be restored, as close as practicable, to its original condition.

h.

Unless modified by the approved plan, deep burying of pits within the drill site perimeter is permitted. A survey and description of the location of any closed pit used in connection with the drill site shall be recorded in the property records of the county in which the real property is located. In any event the Operator shall comply with Subsection (L), Paragraph 27.

3.

**Abandoned well requirement.** The Operator shall furnish the following to the City Manager:

a.

A copy of the W-3A "Notice of Intention to Plug & Abandon" and W-3 "Plugging Record" forms on the same date these forms are submitted to the Railroad Commission.

b.

Prior 48-hour notice of intention to abandon under the provisions of this section and stating the date such work will be commenced. Abandonment may then be commenced on or subsequent to the date so stated.

c.

All wells shall be abandoned in accordance with the rules of the Railroad Commission; however, all well casings and cellars shall be cut and removed to a depth of at least three feet below the surface. A permanent abandonment marker, with the well identity and location permanently inscribed, shall be welded to the casing.

4.

**Abandonment requirements prior to new construction.** All abandoned or deserted wells or drill sites shall meet the most current abandonment requirements of the Railroad Commission prior to the issuance of any building permit for development of the property. No structure shall be built over an abandoned well.

P.

#### **Certificate of Request for Inspection and Extension of Permit.**

On or before ninety (90) days prior to each annual anniversary date of Operator's Oil and Gas Well Permit, Operator shall submit to the City Manager a Certificate of Request for Inspection of Permit. The Certificate of Request for Inspection of Permit must state the location and name of the well and the date the permit was granted by the City Council. The Certificate of Request for Inspection of Permit must be signed by the Operator before a notary public stating that the well is in compliance with the permit and all applicable Ordinances. The Certificate of Request for Inspection of Permit must

be accompanied by an application and inspection fee of \$300.00. The City Manager shall grant a one-year inspection approval on the oil/gas drilling permit if the Operator is in compliance with the permit and all applicable ordinances as they apply to the inspected well. Prior to authorizing the inspection approval, the City Manager, or his designee, shall inspect the oil and gas well site that is subject to the oil/gas drilling permit. The City Manager shall issue his decision in writing, within thirty (30) days of receiving the Certificate for Request for Inspection of Permit, either granting or denying the inspection of the oil/gas drilling permit.

The Operator may appeal the City Manager's denial of an oil/gas drilling permit inspection by submitting, in writing, an appeal to the City Council within thirty (30) days of the City Manager's written denial of the oil and gas well permit inspection. If an appeal is received by the City Council, a hearing shall be set before a meeting of the City Council to consider the denial of the oil/gas drilling permit inspection. The City Council shall hear and consider the recommendation of the City Manager, or his designee, before deciding whether or not to uphold the City Manager's decision. The Operator shall be allowed to speak and present any relevant evidence for consideration by the City Council prior to a vote of the council. A majority vote of the City Council shall be required to uphold the denial of the Oil and Gas Well Permit inspection by the City Manager. An inspection that is approved shall be valid for one (1) year from the inspection date.

(Q)

**Measurement.**

The measurement of all distances set forth herein shall be calculated from the proposed surface location of the well and tank batteries in a straight line, without regard to intervening structures or objects, to the closest exterior point of the object.

(R)

**Effect of denial of oil and gas well permit.**

If an application for an Oil and Gas Well Permit is denied by the City Council, nothing herein contained shall prevent a new permit application from being submitted to the City Council for the same proposed Oil and Gas Well or a different location for a well. A new application may also be filed on any of the mineral estate owned or leased by the applicant. Once all of the Operator's administrative and legislative remedies have been exhausted herein, the Operator may appeal or challenge the denial of an application in an appropriate Court in Midland County Texas under applicable state or federal law.

(S)

**Amendment to Oil and Gas Well Permit.**

**1.**

Amendment required. Within one hundred eighty (180) days after an Operator has been granted an Oil and Gas Well Permit, an Operator may submit an application to the City to amend an existing Oil and Gas Well Permit to commence Drilling from a new Drill site that is not shown on (or incorporated by reference as part of) the existing Oil and Gas Well Permit.

2.

Application Requirement for Amendment to Permit. An application for an amended Oil and Gas Well Permit shall meet all the requirements of this Section, shall be in writing, shall be on forms provided by the City, shall be signed by the Operator, and shall include the following:

a.

An amendment fee of \$1,000.00.

b.

A description of the proposed amendments.

c.

Any changes to the information previously submitted with the application for the existing oil/gas drilling permit (if such information has not previously been provided to the City).

d.

Such additional information as is reasonably required by the City to demonstrate compliance with the original oil/gas drilling permit.

e.

Such additional information as is reasonably required by the City to prevent imminent destruction of property or injury to persons.

3.

Review of Application for Amendment to Permit. All applications for an amended oil/gas drilling permit shall be considered in accordance with the factors listed in Subsection (I) herein. The City Council may elect to consider the application for an amended oil/gas drilling permit without the requirement of a public hearing.

4.

**Standard of review.**

a.

**No Material Change from Existing Permit.** If the activities proposed by the amendment are not materially different from the activities covered by the existing Oil and Gas Well Permit, and are otherwise in conformance with the requirements of this section, other applicable City Ordinances, the Oil/Gas Drilling Permit then the City Council shall approve the Amended Application.

b.

**Material Change from Existing Permit.** If the activities proposed by the amendment are materially different from the activities covered by the existing Oil/Gas Well Permit, are not in conformance with the requirements of this Section, other applicable City Ordinances, the Oil/Gas Well Permit, or if, in the judgment of the City Council, the activities proposed by the amendment might create a risk of imminent destruction of property or injury to persons or property or that were not otherwise taken into consideration by the existing Oil/Gas Well

Permit, the City Council may require the amendment to be processed as a new Oil and Gas Well Permit Application.

**T.**

**Independent Contractor.** Operator understands and agrees that Operator, its employees, servants, agents, and representatives, shall at no time represent themselves to be employees, servants, agents, and/or representatives of the City. The City shall not have any control over the means or methods by which Operator shall perform its obligations hereunder. Operator shall furnish all equipment and materials necessary to perform hereunder and shall at all times be acting as an independent contractor. No action by either party should be construed to create a partnership, joint venture, or other dual enterprise between the parties.

**U.**

**Assignability; Transfer Permit.**

**1.**

The Operator shall not, either directly or indirectly, assign, sell, or transfer any part of the Oil and Gas Well Permit, or any interest, right, duty, obligation or privilege under the permit, except in accordance with this Subsection.

**2.**

An Oil and Gas Well Permit may be transferred upon written request by the Operator with the consent of the City Council:

**a.**

If the transferee agrees in writing to be bound by the terms and conditions of the current Oil and Gas Well Permit and road repair agreement;

**b.**

If all information previously provided to the City as part of the current Oil and Gas Well Permit is updated to reflect any changes; and

**c.**

If the transferee provides the insurance and security required by this section.

**3.**

In determining whether to approve the transfer permit, the City Council may consider the financial standing of the transferee and its record of compliance with respect to existing permits. Should the transfer permit be denied, the transferee may file an application for a new Oil and Gas Well Permit.

**4.**

The insurance and security provided by the transferor shall be released if the transfer permit is approved; provided, however, that the transfer shall not relieve the transferor from any liability to the City arising out of any activities conducted prior to the transfer, except to the extent that the transferee expressly agrees in writing to assume such liabilities as part of the transfer.

**5.**

Applications for the transfer of Oil and Gas Well Permits shall be filed with the City's planning department. A non-refundable administration fee shall be charged for each application in the amount of five hundred (\$500.00).

V.

**Time Limit Requirements.** The failure of the City Council to review and approve an Oil and Gas Well Permit within a specified time limit shall not cause the application for the Oil and Gas Well Permit to be deemed approved. If the City Council denies a request for a permit, the applicant may file a request with the City Council to re-consider the application. The applicant may present any new evidence to the council and may present any extenuating circumstances or other matters deemed relevant by the applicant. The decision of the City Council regarding the issuance of a permit is not final until the request for re-consideration is voted upon by the City Council.

W.

**Indemnification.** The oil and gas well permit may contain the following language:

OPERATOR AGREES TO INDEMNIFY AND HOLD HARMLESS AND DEFEND THE CITY OF MIDLAND, THE CITY'S OFFICERS, AGENTS, AND EMPLOYEES FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS, AND LIABILITY OF ANY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES, FOR INJURY TO OR DEATH OF ANY PERSON, OR FOR DAMAGE TO ANY PROPERTY ARISING OUT OF OR IN CONNECTION WITH THE WORK DONE BY OPERATOR UNDER AN OIL AND GAS WELL PERMIT WHERE SUCH INJURIES, DEATH, OR DAMAGES ARE CAUSED BY OPERATOR'S SOLE NEGLIGENCE OR THE JOINT NEGLIGENCE OF THE OPERATOR AND ANY OTHER PERSON OR ENTITY.

X.

**Incident Reports or Written Complaints.** The Operator shall provide a copy of any "incident reports" or written complaints submitted to the Railroad Commission or any other state or federal agency within thirty (30) days after Operator has notice of the existence of such reports or complaints.

Y.

**Expiration of permit.** Drilling must commence on the Well covered by the Oil and Gas Well permit twelve (12) months of approval by the City Council, after which the Oil and Gas Well Permit shall automatically expire if no drilling has commenced. A permit extension for a maximum time period of six (6) months may be granted by the City Manager without reapplication after the City Manager receives a written request from the Operator.

Z.

**Takings determination.**

1.

Any aggrieved applicant that believes that an action taken pursuant to this Section by the City Council or any officer or employee of the City constitutes a taking under the Texas or United States Constitution or under other state law, may file an application with the City Council requesting a takings determination.

2.

The applicant seeking a takings determination from the Council shall file its appeal with the office of the City Secretary. The City Secretary shall then forward the appeal to the City Council for consideration. An appeal fee in the amount of two hundred fifty (\$250.00) dollars shall accompany each filing.

3.

The appeal shall state the reasons that the applicant believes would support a finding that the City's actions constitute a taking under the Texas or United States Constitution or pursuant to other State law and shall include evidence substantiating the purported diminution in value of the applicant's real property.

4.

If the Council finds by a majority vote in favor of the applicant it may: (1) grant the relief requested, or (2) direct the City Manager to rescind action taken by City Staff that formed the basis of the takings determination appeal. If the Council denies the appeal, or after a favorable determination the City Council fails to take action as specified above, the applicant may appeal the decision or inaction of the City Council to the county or district court of the county in which the affected real property is located within thirty (30) days of the date that the Council issues its final decision or in the event the Council does not act on the application, then the operator may appeal to the county or district court after the expiration of one hundred twenty (120) days from the date the application is heard by the City Council.

Notice addresses are as follows:

City of Midland  
Attn: Office of the City Manager  
P. O. Box 1152  
Midland, Texas 79702

OPERATOR: \_\_\_\_\_  
Jimmy Baggett-Operations Manager

**Callon Petroleum Operating Company**  
4305 N. Garfield, Ste. 235  
Midland, Texas 79705  
(432) 686-1828





# APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

## I. General Information

|                                                                                                                                                                                                                                                                                                                      |                                                                                                                 |                                                             |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|
| Date<br><b>1/17/2012</b>                                                                                                                                                                                                                                                                                             | Operator Name (must match W-1)<br><b>Callon Petroleum Operating Company</b>                                     | Operator Address<br><b>P.O. Box 1287, Natchez, Ms 39121</b> |
| Representative Name<br><b>Jimmy Baggett</b>                                                                                                                                                                                                                                                                          | Representative Address (within Midland<br>(City Limits) <b>4305 N. Garfield, Ste. 235<br/>Midland, TX 79710</b> | Rep. Tele. <b>(432) 686-1828</b>                            |
| Fee: \$4,000.00 Rec'd Yes ___ No ___                                                                                                                                                                                                                                                                                 |                                                                                                                 | Rep. Fax <b>(432) 686-2764</b>                              |
| Permit Compliance Contact (Choose 1):<br>Option A:<br>24/7 Answering Services - No. 1 (tele): _____ No. 2 (Tele.) _____<br>Option B: <b>Jimmy Baggett 4305 N. Garfield, Ste. 235, Midland, TX 79710</b><br>Company Compliance Representative (Name, Address, Local Telephone) (ATTACH STATEMENT AS EXHIBIT A): _____ |                                                                                                                 |                                                             |
| Emergency Contact Representative (Name, Address, 24-Hour Tele. No.):<br><b>Vince Borrello (432) 553-9522 4305 N. Garfield, Ste. 235, Midland TX, 79170</b>                                                                                                                                                           |                                                                                                                 |                                                             |
| Other Permitted Wells in City (ATTACH EXHIBIT B [see § J(26)]). <b>Annie #3, #8, Pecan Acres 23A #1, #2, #3</b>                                                                                                                                                                                                      |                                                                                                                 |                                                             |

## II. Mineral Ownership

Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease): **SEE ATTACHMENT 1**

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ATTACHED AS EXHIBIT C is (a Title Opinion by ---- **Mike Canon** . A licensed Texas Attorney/Title Commitment by Abstract Company/a Take-off from \_\_\_\_\_ , a Certified Petroleum Landman/an opinion letter from \_\_\_\_\_ , a licensed Texas Attorney) indicating that |Operator| has a legal right to develop the mineral estate that is the subject of this Application. [See § J(5)]. **ATTACHED**

## III. Surface Ownership & Use

General Description of Current Surface Use (within 860 feet of proposed surface location):

**UNDEVELOPED RESIDENTIAL**

ATTACHED AS EXHIBIT D is (a Title Opinion by \_\_\_\_\_ . A licensed Texas Attorney/a Take-off from \_\_\_\_\_ , a Certified Petroleum Landman/Current Tax Roll from Midland Central Appraisal District), which lists the name(s) and address(es) of all surface owners within 860 feet of the surface well location. [See § J(7)]. **ATTACHED**

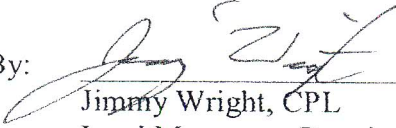
ATTACHED AS EXHIBIT E is a (map/p lat/satellite/aerial photo) depicting all Residences, commercial structures, public buildings, all publicly dedicated Streets and alleys, Rights of Way, and permanent accessory structures surrounding the proposed Drill Site. The (map/p lat/satellite/aerial photo) includes two circles, as required by the Ordinance - on depicting a 500 foot radius and one depicting an 860 foot radius from the proposed well's surface location. [See § J(10)]. **ATTACHED**

ATTACHED AS EXHIBIT F is a copy of the notification letter(s) sent to 100 percent of the surface owners, Certified Mail, Return Receipt Requested. [See § J(36)]. **ATTACHED**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>IV. Well &amp; Operations Information</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Proposed Well Name: <b>PECAN ACRES 23 #6</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Proposed Hole Size, Casing Program and Cementing Program (attach Exhibit as Necessary) [See § J(11) and § L(4)]:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Legal Description of Proposed Well Site: <b>651' FSL, 2040' FWL of Section 23, Block 40, T &amp; P RR Co.<br/>Survey, Midland County, Texas</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <p>ATTACHED AS EXHIBIT G is the Location Site Plan [See § J(9)]. <b>ATTACHED</b></p> <p>ATTACHED AS EXHIBIT H is the Map with the proposed transportation route(s) and road(s) for equipment, chemicals, or refuse products used or produced in the proposed oil and gas operations. [See § J(12)]. <b>ATTACHED</b></p> <p>ATTACHED AS EXHIBIT I is a copy of the approved Texas Railroad Commission permit to drill (Form W-1), together with all attachments (also file copy of W-1 with City Secretary before commencement of drilling operations). [See § J(16) and (20)].</p> <p>ATTACHED AS EXHIBIT J is a copy of the required TCEQ report as to depth of usable quality ground water. [See § J(17)]. <b>ATTACHED</b></p> <p>ATTACHED AS EXHIBIT K (if applicable) is the list of alternative locations developed in consultation with the Oil &amp; Gas Advisory Committee. [See § J(27)].</p> <p>ATTACHED AS EXHIBIT L is the Fencing and Irrigation Plan. [See § J(30)]. <b>ATTACHED VARIANCE REQUEST</b></p> <p>ATTACHED AS EXHIBIT M is the Road Repair Agreement and Letter of Credit/Certificate of Deposit/Surety Bond in the amount of at least \$25,000. Option (if applicable): Applicant would further state that no City-owned streets or alleys will be used by the Operator in connection with its oil and gas operations and as a result, requests a waiver from the Council of this requirement. Option B (if applicable): Because Applicant has three Road Repair Agreements in effect that have been approved by the Council, Applicant requests that the Council consolidate all agreements into one and is filing the necessary \$75,000 letter of credit/certificate of deposit/surety bond in conjunction with this request. [See § J(31)].</p> <p>ATTACHED AS EXHIBIT N is the Concept Plan depicting the proposed Operations Site (which includes tanks, roads, power lines, and pipeline routes). [See § J(32)].</p> |
| Description of Public Utilities required during (1) drilling and (2) operations:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <p>(1) Drilling: <b>No public utilities will be needed during drilling operations.</b></p> <p>(2) Operations: <b>See Exhibit N and N-3</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Description of water source to be used during Drilling:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>Water will be pulled from water wells existing on the property and hauled if necessary.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Description of all electric lines to production facilities (reference exhibits as necessary) [See § L(10)]:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>See Exhibits G &amp; N attached</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Plan detailing construction, location, and closure of pits used for Drilling and Completion operations (attach exhibit if necessary) [See § J(35)]:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>See Exhibit O - Pits will be deep Buried in accordance to City of Midland requirements.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>V. Additional Required Exhibits</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <p>ATTACHED AS EXHIBIT P is the Letter of Credit/Certificate of Deposit in accordance with Subsection (K)(2). [See § J(18)]. <b>ATTACHED</b></p> <p>ATTACHED AS EXHIBIT Q are Tax certificates from Midland Central Appraisal District to be submitted indicating that all taxes on personal and real property, including minerals, owned by Applicant are current. [See § J(29)]. <b>ATTACHED</b></p> <p>ATTACHED AS EXHIBIT R is the required Insurance Certificate. [See § J(19) and § K(3)]. <b>ATTACHED</b></p> <p>ATTACHED AS EXHIBIT S (if applicable) is the Drainage Plan approved by the City Engineer relating to Applicant's proposed operations. [See § J(21)]. <b>ATTACHED</b></p> <p>ATTACHED AS EXHIBIT T is Applicant's Emergency Action Response Plan. [See § J(22)]. <b>See Exhibit T &amp; Attachment T-1</b></p> <p>ATTACHED AS EXHIBIT U is Applicant's Hazardous Materials Management Plan, a copy of which has been submitted and is on file with the Midland Fire Department. [See § J(23)]. <b>ATTACHED</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

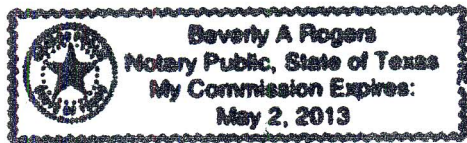


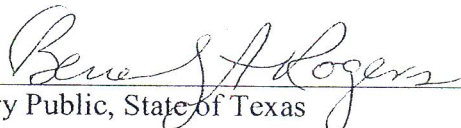
**Callon Petroleum Operating Company**

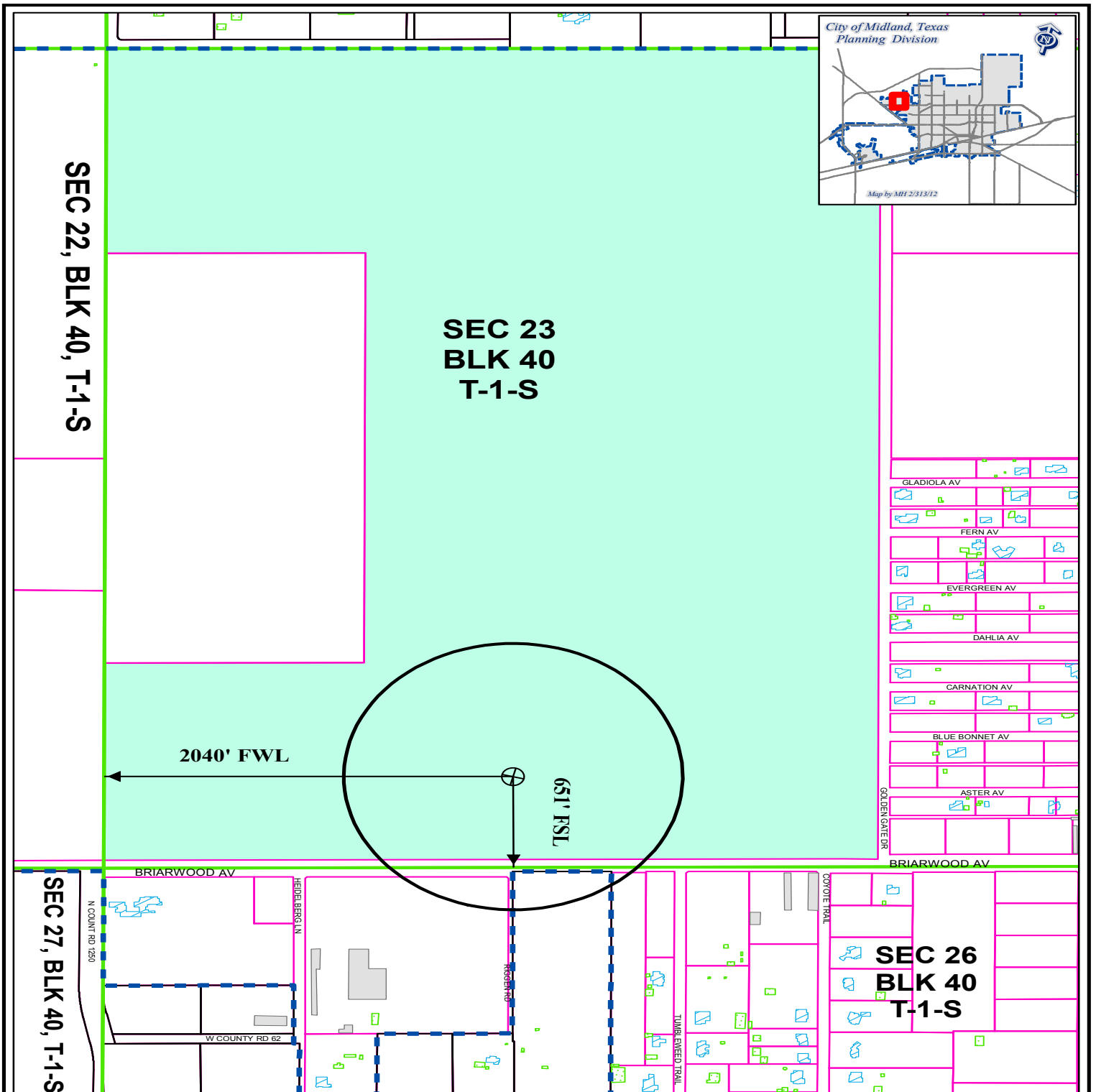
By:   
Jimmy Wright, CPL  
Land Manager – Permian Basin

STATE OF TEXAS       §  
                                  §  
COUNTY OF MIDLAND   §

This instrument was acknowledged before me on the 24 day of January, 2012 by Jimmy Wright, Land Manager – Permian Basin of Callon Petroleum Operating Company, who personally appeared before me and states that he has read the above application and attached exhibits and the statements therein are true and correct to the best of his knowledge.



  
Notary Public, State of Texas



## LOCATION AND ZONING MAP

O - 12 - 002

Scale: 1" = 700'

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 651' FSL and 2040' FWL, Section 23, Block 40, T-1-S, T & P RR Co. Survey, Midland County, Texas.

**Pecan Acres 23 #6**

© THE CITY OF MIDLAND 2012. THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA. WHILE THIS DATA IS MADE AVAILABLE TO THE PUBLIC, IT WAS CREATED FOR INTERNAL USE BY THE CITY OF MIDLAND WHICH MAKES NO CLAIM AS TO ITS ACCURACY OR COMPLETENESS. THIS DATA IS NOT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING, CITING, OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.

### LEGEND

|  |                |  |                 |  |                |
|--|----------------|--|-----------------|--|----------------|
|  | CITY PARCELS   |  | PUBLIC BLDGS    |  | CITY LIMITS    |
|  | COUNTY PARCELS |  | PRIVATE BLDGS   |  | 860 FT. BUFFER |
|  | ZONING         |  | ACCESSORY BLDGS |  | SURVEY SEC.    |

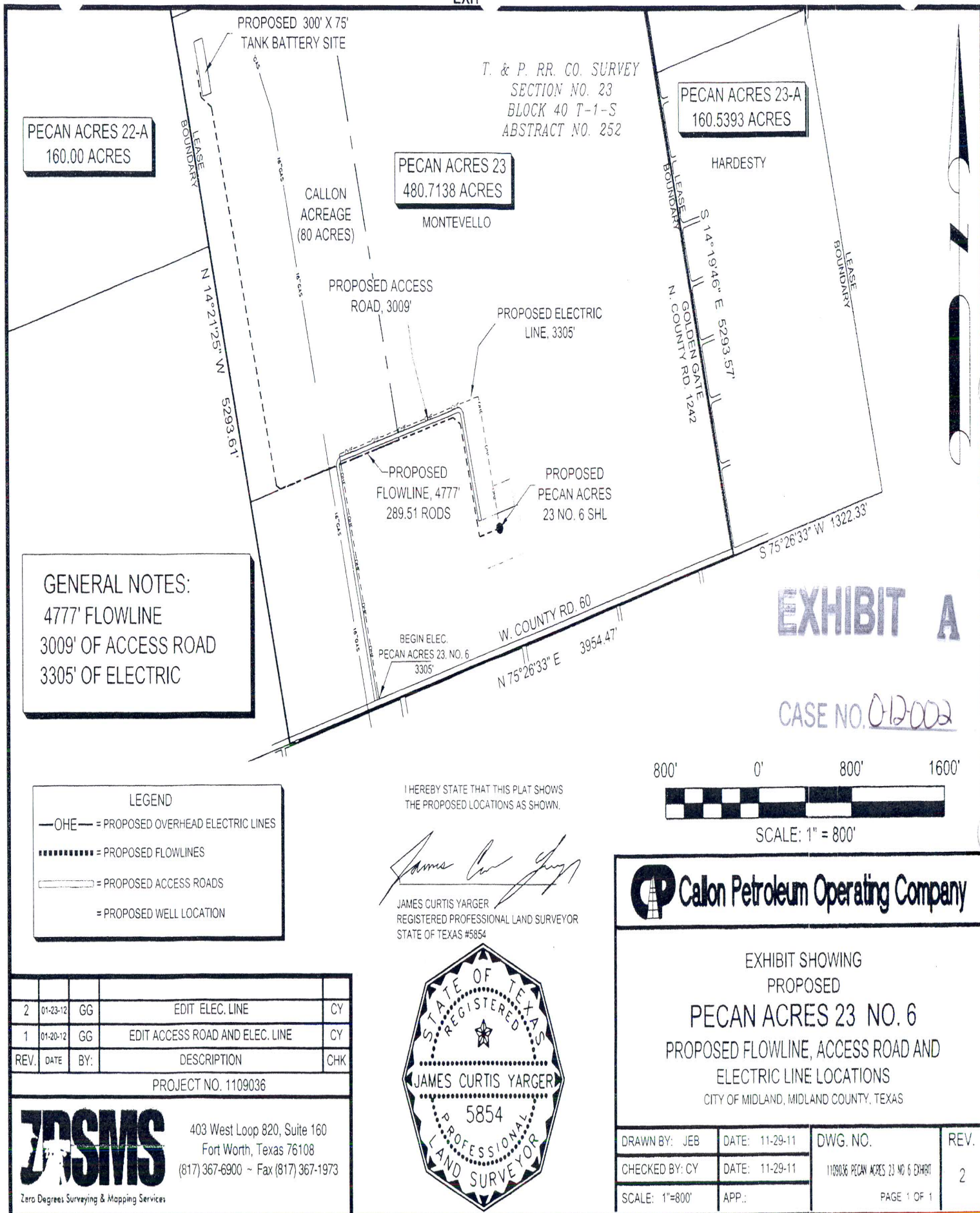
### ZONING DISTRICTS:

FD  
PD  
AE  
1F1, 1F2, 1F3  
MH  
TH  
2F  
MF1, MF2

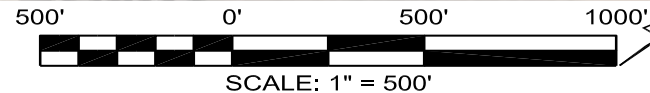
FUTURE DEVELOPMENT  
PLANNED DISTRICT  
AGRICULTURE ESTATE  
ONE-FAMILY DWELLING  
MOBILE HOME DWELLING  
TOWNHOUSE DWELLING  
TWO-FAMILY DWELLING  
MULTIPLE FAMILY DWELLING

BP  
P  
01, 02  
NS  
LR1, LR2, LR3  
C1, C2, C3  
IP, JP1, IP2, IP3  
LI  
HI

BUSINESS PARK  
PARKING  
OFFICE  
NEIGHBORHOOD SERVICE  
LOCAL RETAIL  
COMMERCIAL  
INDUSTRIAL PARK  
LIGHT INDUSTRY  
HEAVY INDUSTRY







## NOTES:

1.) BEARINGS & COORDINATES SHOWN HEREON ARE REFERENCED TO THE TEXAS STATE PLANE COORDINATE SYSTEM, NAD 83 DATUM (TEXAS CENTRAL ZONE 4203) DERIVED FROM GPS OBSERVATIONS AND ARE BASED ON NGS MONUMENT MDD A (GRID COORDINATES X=1750074.49, Y=10709180.31)

2.) LATITUDE & LONGITUDE ARE NAD 83 & 27 GEOGRAPHIC.

3.) THIS IS A PROPOSED WELL PLAT AND DOES NOT REPRESENT A TRUE BOUNDARY SURVEY. THIS SURVEY IS BASED ON OWNERSHIP AND EASEMENT INFORMATION PROVIDED BY CALLON PETROLEUM OPERATING COMPANY. SURVEYOR DID NOT ABSTRACT SUBJECT TRACT AND THERE MAY BE EASEMENTS OR OTHER ENCUMBRANCES THAT AFFECT THE SUBJECT TRACT THAT ARE NOT SHOWN HEREON.

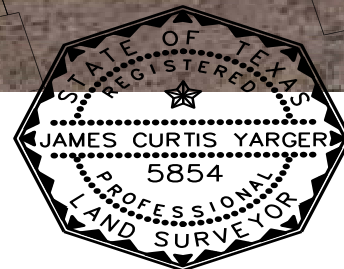
| REV.                | DATE    | BY: | DESCRIPTION                | CHK |
|---------------------|---------|-----|----------------------------|-----|
| 1                   | 2-29-12 | CY  | CHANGE FRAC WATER PIT NAME | CY  |
| PROJECT NO. 1109036 |         |     |                            |     |



403 West Loop 820, Suite 160  
Fort Worth, Texas 76108  
(817) 367-6900 ~ Fax (817) 367-1973

I HEREBY STATE THAT THIS PLAT SHOWS  
THE PROPOSED LOCATIONS ABSTAKED  
ON THE GROUND.

*James Curtis Yarger*  
JAMES CURTIS YARGER  
REGISTERED PROFESSIONAL LAND SURVEYOR  
STATE OF TEXAS #5854



Callon Petroleum Operating Company

**PECAN ACRES 23 TANK BATTERY  
AND FRAC WATER PIT  
(FRESH WATER)  
PROPOSED RESIDENCE STRUCTURE TIES PLAT**

SITUATED IN THE  
T. & P. RR. CO. SURVEY  
SECTION NO. 23, BLOCK 40, ABSTRACT NO. 252  
MIDLAND COUNTY, TEXAS  
BEING THE WEST 1/2 AND THE WEST 1/2 OF THE EAST 1/2 OF  
T. & P. RR. CO. SURVEY  
SECTION NO. 23, BLOCK 40, ABSTRACT NO. 252  
CALLED 482.72 ACRES IN DOCUMENT NO. 2009-24676  
DEED RECORDS, MIDLAND COUNTY, TEXAS

DRAWN BY: GG DATE: 02-29-12  
CHECKED BY: CY DATE: 02-29-12  
SCALE: 1"=500' APP.:

DWG. NO.  
1109036 PECAN ACRES 23 FRAC AND  
BATTERY STRUCTURES  
PAGE 1 OF 1

REV.  
1



# City Council Agenda

Approved for Agenda:  
**JNichols**  
City Manager's Office

**MEETING DATE:** April 10, 2012

**TO:** CITY COUNCIL/CITY MANAGER

**FROM:** Cameron Walker, Planning Division Manager

**SUBJECT:** O-12-003; consider a resolution approving an oil and gas well drilling permit located on the west side of Golden Gate Drive, approximately ½ mile north of Briarwood Avenue.

---

**Purpose:**

To consider a resolution on a request from Callon Petroleum Operating Company (Pecan Acres 23 # 12) for a *Permit to Drill an Oil and Gas Well within the City Limits* located 1911' FEL and 2,009' FNL of the land described as Section 23, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. Council held a public hearing on February 28, 2012. The required 30-day period for public comment has passed and the Council may consider this request.

**Recommended City Council Action**

X Approve          Deny          Direction/Informational

**Fiscal Impact:**

There is no cost to the City to process this application.

**Discussion:**

The Oil and Gas Advisory Committee has reviewed this well site in detail and recommends approval with the following stipulations: that steel coated tanks be allowed for water containment, that a Vapor Recovery Unit is installed with effective noise reduction, that landscaping should not be postponed for longer than two years, and that multiple wells on each pad site should be considered. A 250' by 250' fresh water pit is also proposed during drilling operations. The fresh water pit and tank battery will be located to the west on property owned by Callon.

Attachments: Application; Location map; Exhibit A - Drill site map, Exhibit B - Tank battery map.

**RESOLUTION NO.**

**RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO CALLON PETROLEUM OPERATING COMPANY ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 1,911 FEET FROM THE EAST LINE AND 2,009 FEET FROM THE NORTH LINE, SECTION 23, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF GOLDEN GATE DRIVE, APPROXIMATELY ½ MILE NORTH OF BRIARWOOD AVENUE); AND PROVIDING THAT SAID PERMIT DOES NOT REQUIRE A NEW ROAD REPAIR AGREEMENT BUT SHALL BE CONSOLIDATED UNDER AN EXISTING ROAD REPAIR AGREEMENT**

**WHEREAS**, on December 8, 2009, the City Council of the City of Midland duly approved Ordinance No. 8769 which amended Title VI, "Police Regulations," Chapter 1, "General Offenses," of the City Code of Midland, Texas, so as to establish Section 23, "Oil and Gas Well Permits issued on or after January 1, 2010," which governs the granting or rejecting of Oil and Gas Well Permits; and

**WHEREAS**, the purpose of said section is to establish reasonable and uniform limitations, safeguards, and regulations for present and future operations related to the exploring, drilling, developing, producing, transporting and storing of oil or gas or other substances produced in association with oil and gas within the City of Midland to protect the health, safety, and general welfare of the public and the orderly development of the City of Midland; abate or prevent potential public nuisances; minimize the potential adverse impact to surface and mineral owners, protect the quality of the environment and encourage the orderly production of available mineral resources; and

**WHEREAS**, Section 6-1-23(C) of the City Code of Midland, Texas, makes it an offense to knowingly drill or participate in the drilling of any well or to re-enter any well within the corporate limits of the City of Midland without a permit having first been issued by the authority of the City Council; and

**WHEREAS**, Operator has submitted an application to the City of Midland to drill an



oil and gas well on the property described in Section Two hereof; and

**WHEREAS**, notice of the public hearing on this matter was provided in accordance with Section 6-1-23(H)(1) and a public hearing was held on February 28, 2012; and

**WHEREAS**, subsequent to said public hearing, and in accordance with Section 6-1-23(H)(1), the City Council allowed the public and Operator thirty (30) days to submit written input to the City Manager regarding Operator's application to drill an oil and gas well on the property described in Section Two hereof; and

**WHEREAS**, the City Council has considered those issues set forth in Section 6-1-23(I) in determining whether to grant or deny a permit to Operator to drill an oil and gas well on the property described in Section Two hereof; and

**WHEREAS**, the City Council finds it to be in the public interest to approve the issuance of a permit to Operator to drill an oil and gas well on the property described in Section Two hereof;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS:**

**SECTION ONE.** That the above recitals are hereby adopted and approved by the City Council of the City of Midland.

**SECTION TWO.** That the Mayor is hereby authorized and directed to execute a permit, on behalf of the City of Midland, that will allow Operator to drill an oil and gas well within the City limits located 1,911 feet from the east line and 2,009 feet from the north line, Section 23, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. Said permit is attached hereto as Exhibit "A" and incorporated herein for all legal purposes.

**SECTION THREE.** That said permit does not require a new road repair agreement but shall be consolidated under the existing road repair agreement between Operator and the City of Midland for Operator's wells located on the property described in Section Two hereof.

On motion of Council member \_\_\_\_\_, seconded by Council member

\_\_\_\_\_, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2012, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

\_\_\_\_\_  
W. Wesley Perry, Mayor

ATTEST:

\_\_\_\_\_  
Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

\_\_\_\_\_  
Courtney Sharp, City Manager

APPROVED AS TO CONTENT  
AND COMPLETENESS:

\_\_\_\_\_  
Rick Crownover, Director of Development  
Services

APPROVED AS TO FORM:

\_\_\_\_\_  
Keith Stretcher, City Attorney

## **OIL AND GAS WELL PERMIT**

The City Council of the City of Midland, Texas, at its regular meeting on April 10, 2012, considered the application of Callon Petroleum Operating Company, dated January 17, 2012, to drill an oil and gas well inside the territorial limits of the City of Midland, Texas. The City Council of the City of Midland, Texas, by appropriate action approved the application and authorized the issuance of this permit.

This documentation hereby constitutes a permit, issued in accordance with the Midland City Code, Ordinance 8769, to drill an oil and gas well, in the application of Callon Petroleum Operating Company, dated January 17, 2012, and filed with the Oil & Gas Compliance Officer and incorporated herein for all legal purposes.

The location of Callon Petroleum Operating Company, Pecan Acres 23 #12 oil and gas well shall be 1911 feet from the east line and 2009 feet from the north line, Section 23, Blk 40, T-1-S, T&P Survey, Midland County, Texas. The hole size, casing program, cement program and total depth of that well shall be in strict compliance with the proposed hole size, casing program, cementing program and proposed total depth found in that application of Callon Petroleum Operating Company, which is incorporated herein. Further, all operations done under this permit shall be done and accomplished in strict accordance with the Midland City Code, Ordinance 8769, which is hereby incorporated into this permit by reference and made applicable hereto with the same force and effect as if the same were copied fully in this permit. Also, all operations done under this permit shall be done and accomplished in strict accordance and compliance with the General Conditions, which are attached hereto marked as Exhibit "A" and incorporated into and made a part of this permit for all purposes. All operations done and required under this permit shall be done and accomplished in strict accordance and compliance with the Specific Conditions which are attached hereto, marked as Exhibit "B", and incorporated into and made a part of this permit for all purposes.

This permit shall be effective from April 10, 2012, through April 10, 2013, and so long thereafter as oil or gas is produced or until such time as the permittee has permanently abandoned the operations of the well or facility for which this permit is issued.

The issuance of this permit by the City of Midland does not in any way alter or modify the rights as between the surface estate owner(s) and mineral estate owner(s) if there exists a severance of the surface estate and mineral estate. This permit in no way exempts the permittee from its responsibilities or obligations as to third parties. The issuance of this permit only means that the permittee has, at this time, complied with Ordinance No. 8769 and that the Midland City Council, as a regulatory body, will allow the permittee to proceed under the conditions of this permit. The issuance of this permit is intended to be only a negative pronouncement that grants no affirmative rights to the permittee to occupy the property. It is expressly provided that this permit does not authorize a trespass by the permittee as to any third party. This permit does not in any way restrict the use of the surface estate. Securing a permit does not authorize the recipient to act with impunity as to third parties, nor does it insulate the permittee from the consequences of its actions with regard to those third parties. The receipt of a permit does not undertake to adjudicate property rights.

This permit granted by the City of Midland does not act to immunize the permit holder from civil tort liability from private parties for actions arising out of the use of the permit. This is because the permit is a “negative pronouncement” that grants no affirmative rights to the permittee. The issuance of this permit does not authorize any injury to persons or property or an invasion of other property rights, or any infringement of State or local law or regulations. The permittee has obtained a permit from the City of Midland but the consequences of acting under the permit have not been immunized. The fact that the City of Midland has issued a permit to drill an oil and gas well does not shield the permittee from third party tort liability stemming from the consequences of the permitted activity.

A right-of-way license agreement approved by a resolution of the Midland City Council is required for any oil and/or gas flowline or pipeline or any other device associated with a proposed well site that extends into, on, above, in, under, across or through any City rights-of-way, including but not limited to streets, alleys, utility and drainage rights-of-way.

Landscaping is not required at this time but will be required within two years from April 10, 2012. Operator shall notify the City Manager within 180 days (October 11, 2013) in writing if the landscaping is not to be completed prior to expiration of the two year period. If landscaping is not completed prior to the two year period this permit shall automatically terminate without any action of the City Council required.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS \_\_\_\_\_ day of April, 2012.

CITY OF MIDLAND, TEXAS

BY: \_\_\_\_\_

W. Wesley Perry, Mayor

UNDERSTOOD AND AGREE THIS \_\_\_\_\_ day of April, 2012.

Callon Petroleum Operating Company

By: \_\_\_\_\_

Jimmy Baggett- Operations Manager

## **OIL AND GAS PERMIT: ORDINANCE 8769 GENERAL CONDITIONS- EXHIBIT "A"**

**(K)**

### **General Conditions of all Oil and Gas Well Permits.**

#### **1.**

##### **General Obligations of Operator.**

The Operator shall be required to:

##### **a.**

Comply with the terms and conditions of this Section, the Midland City Code, the rules and regulations of the Railroad Commission, and any other state or federal agency that enforces land use, mineral use, or environmental protection regulations.

##### **b.**

Promptly clear Drill and Operation sites of litter, trash, refuse and other substances used, allowed, or occurring in the operations, and after abandonment or completion, grade, level, and restore such property to the same surface conditions as nearly as practicable as existed before operations.

##### **c.**

Indemnify and hold harmless the City of Midland, the City's officers, agents and employees, from any and all claims, losses, damages, causes of action, suits, and liability of any kind, including all expenses of litigation, court costs, and attorney's fees, for injury to or death of any Person, or for damage to any property arising out of or in connection with the work done by Operator under an Oil and Gas well permit: where such injuries, death or damages are caused by Operator's sole negligence or the joint negligence of the Operator and any other Person or entity.

##### **d.**

Promptly pay all fines, penalties and other assessments imposed due to breach of any of the conditions herein. If the Operator does not agree that a breach has occurred, the Operator may file a written objection with the City Manager within ten (10) days of being notified of the alleged breach. The City Manager shall review the objections and give the Operator the opportunity to be heard and present facts that the Operator deems relevant.

##### **e.**

Promptly restore to its former condition any public property damaged by the oil and gas operation.

f.

Except as permitted by Subsection U, hereof, Operator shall not, either directly or indirectly, assign all or any part of an Oil and Gas Well Permit.

g.

If required by the Permit, Operator shall execute a "Road Repair Agreement" between itself and the City of Midland and submit all necessary information and insurance and guarantees to the City prior to the issuance of any Oil and Gas Well Permit under this Section.

2.

Irrevocable Letter of Credit, Certificate of Deposit, or Surety Bond.

Prior to the issuance of an Oil and Gas well permit, the Operator shall provide the City Attorney with a guarantee in the form of an irrevocable letter of credit, certificate of deposit, or surety bond in the name of the City. The Applicant shall be entitled to receive the interest earned if the certificate of deposit reaches maturity. The letter of credit, certificate of deposit, or surety bond must satisfy the following:

a.

The letter of credit, certificate of deposit or surety bond shall be issued by a reliable bank or insurance carrier authorized to do business in the State of Texas;

b.

The letter of credit, certificate of deposit or surety bond shall be effective starting on or before the effective date of the Oil and Gas Well Permit;

c.

The letter of credit, certificate of deposit or surety bond shall be in the amount of twenty-five thousand dollars (\$25,000.00);

d.

The letter of credit, certificate of deposit or surety bond shall remain in full force and effect for a period of three years; and

e.

The letter of credit, certificate of deposit or surety bond shall authorize the City of Midland to draw upon such credit in the event the City Manager, or his designee, determines said credit is needed to remedy any violation of this Section.

If the well is still producing or if the well has not been abandoned or plugged, the Operator must renew the letter of credit, certificate of deposit or surety bond on or before one hundred twenty (120) days prior to the expiration of the letter of credit, certificate of deposit or surety bond.

The City of Midland may draw upon the letter of credit, certificate of deposit or surety bond to recover costs of repairs, modifications, or construction to remedy any violations by the Operator under this Section. The City may make partial or full draws of the letter of credit, certificate of deposit or surety bond. The City may draw upon the letter of credit, certificate of deposit or surety bond in the event the City has not received a new letter of credit, certificate of deposit or surety bond within the one hundred twenty (120) day renewal time period required above.

The Operator shall maintain the principal amount of \$25,000.00 in the form of a letter of credit, certificate of deposit or surety bond at all times throughout the term of the permit. In the event such letter of credit, certificate of deposit or surety bond is not restored to \$25,000.00 within ten (10) days after the date of the reduction of the letter of credit, certificate of deposit or surety bond, the City may draw and receive the remaining balance of the letter of credit, certificate of deposit or surety bond, and the Oil and Gas Well Permit shall be suspended on such date and the Operator's right to operate under Oil and Gas Well Permit shall immediately cease until the Operator files the required letter of credit, or certificate of deposit or surety bond.

If an operator has three (3) or more Oil and Gas Well Permits in effect which have been approved by the City Council, the Operator may petition the Council to consolidate the letter of credits, certificate of deposits or surety bonds into one letter of credit, certificate of deposit or surety bond that would cover all Oil and Gas Wells in the City limits. The consolidated letter of credit, certificate of deposit or surety bond shall be in an amount determined by the City Council as sufficient to cover the costs of repairs, modifications, construction or to remedy violations by the Operator but in no event shall the amount be less than \$75,000.00.

**3.**

**Insurance.**

In addition to the letter of credit, certificate of deposit or surety bond required above, the Operator shall carry a policy or policies of insurance issued by an admitted insurer or eligible surplus lines insurer authorized to do business in the State of Texas. In the event such insurance policy or policies are cancelled, any Oil and Gas Well Permit issued under this Section shall be suspended on such date of cancellation and the Operator's right to operate under such Oil and Gas Well Permit shall immediately cease until the Operator files additional insurance as required herein.



- a. General requirements applicable to all policies.
- i. The City, the City's officials, employees, agents and officers shall be endorsed as an "Additional Insured" on all policies, except under Operator's Workers Compensation Policy.
  - ii. All policies shall be written on an occurrence basis, except for Environmental Pollution Liability (Seepage and Pollution coverage) and Excess and Umbrella Liability, which may be on a claims-made basis.
  - iii. All policies shall be written by an admitted insurer or eligible surplus lines insurer authorized to do business in the State of Texas.
  - iv. Deductibles shall be listed on the Certificate of Insurance and shall be on a "per occurrence" basis unless otherwise stipulated herein.
  - v. Certificates of Insurance shall be delivered to the City of Midland, P.O. Box 1152, Midland, Texas 79702, Attn: City Attorney's Office, evidencing all the required coverages, including endorsements, prior to the issuance of an Oil and Gas Well Permit under this Section.
  - vi. All policies shall be endorsed with a waiver of subrogation providing rights of recovery in favor of the City.
  - vii. Any failure on the part of the City to request required insurance documentation shall not constitute a waiver of the insurance requirements specified herein.
  - viii. Each policy shall be endorsed to provide the City a minimum thirty (30) day notice of cancellation, non-renewal, and/or material change in policy terms or coverage. A ten (10) day notice shall be acceptable in the event of non-payment of premium.
  - ix. During the term of any Oil and Gas Well Permit issued hereunder, the Operator shall report, in writing, within thirty (30) days of the occurrence, to the City Manager, any known

loss occurrence which could give rise to a liability claim or lawsuit or which could result in a property loss.

x.

Upon request, certified copies of all insurance policies shall be furnished to the City.

xi.

Operator shall have the right to maintain a qualified, self-insurance plan and/or maintain prudent levels of self-insured retentions for insurance coverage required in this section; however, Operator shall remain financially obligated for all self-insured retention amounts and deductibles. To the extent of the liabilities assumed by the Operator, Operator's insurance shall be primary coverage as to any liabilities of the City.

b.

Standard Commercial General Liability Policy.

This coverage must include premises, operations, blowout or explosion, products, completed operations, sudden and accidental pollution, blanket contractual liability, underground resources damage, broad form property damage, independent contractors protective liability, accidental death and personal injury. This coverage shall be a minimum Combined Single Limit of \$1,000,000.00 per occurrence for Bodily Injury, Accidental Death, and Property Injury.

c.

Excess or Umbrella Liability.

\$1,000,000      Excess, if the Operator has a stand-alone Environmental Pollution Liability (EPL) policy.

\$10,000,000      Excess, if the Operator does not have a stand-alone EPL policy. Coverage must include an endorsement for sudden or accidental pollution. If Seepage and Pollution coverage is written on a "claims made" basis, the Operator must maintain continuous coverage and purchase Extended Coverage Period when necessary.

d.

Environmental Pollution Liability Coverage.

Operator shall purchase and maintain in force for the duration of any Oil and Gas Well Permit issued hereunder, insurance for environmental pollution liability applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed; cleanup costs; and defense, including costs and expenses incurred in the investigation, defense or settlement of claims; all in connection with any loss arising from the insured site.

Coverage shall be maintained in an amount of at least \$1,000,000 per loss, with an annual aggregate of at least \$10,000,000.

Coverage shall apply to sudden and accidental pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids or gases, refuse material or other irritants, contaminants or pollutants.

e.

Workers Compensation and Employers Liability Insurance.

i.

Workers Compensation benefits shall be Texas Statutory Limits.

ii.

Employers Liability shall be a minimum of \$1,000,000.00 per accident.

iii.

Such coverage shall include a waiver of subrogation in favor of the City of Midland and provide coverage in accordance with applicable State and Federal laws.

f.

Automobile Liability Insurance.

i.

Combined single limit of \$1,000,000.00 per occurrence for bodily injury and property damage.

ii.

Coverage must include all owned, hired and not-owned automobiles.

g.

Certificates of Insurance.

i.

The company must be licensed or authorized to do business in the State of Texas.

ii.

The insurance set forth by the insurance company must be underwritten on forms that have been approved by the Texas State Board of Insurance or ISO or an equivalent policy form acceptable to the City, with the exception of environmental pollution liability and control of well coverage.

iii.

Set forth all endorsements and insurance coverage according to requirements and instructions contained herein.

iv.

Shall specifically set forth the notice of cancellation, termination, or change in coverage provisions to the City. All policies shall be endorsed to read "THIS POLICY WILL NOT BE CANCELLED OR NON-RENEWED WITHOUT THIRTY (30) DAYS ADVANCE WRITTEN NOTICE TO THE OWNER AND THE CITY, EXCEPT WHEN THIS POLICY IS BEING CANCELLED FOR NONPAYMENT OF PREMIUM, IN WHICH CASE, TEN (10) DAYS ADVANCE WRITTEN NOTICE IS REQUIRED".

v.

Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

vi.

At the request of an Operator, the Council may grant a variance to insurance requirements if the Council determines that the insurance procured by the Operator is sufficient to protect the City. A variance of this type may be required because of a change in underwriting policies of admitted insurance carriers.

#### **Indemnification.**

**OPERATOR AGREES TO INDEMNIFY AND HOLD HARMLESS AND DEFEND THE CITY OF MIDLAND, THE CITY'S OFFICERS, AGENTS, AND EMPLOYEES FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS, AND LIABILITY OF ANY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES, FOR INJURY TO OR DEATH OF ANY PERSON, OR FOR DAMAGE TO ANY PROPERTY ARISING OUT OF OR IN CONNECTION WITH THE WORK DONE BY OPERATOR UNDER AN OIL AND GAS WELL PERMIT WHERE SUCH INJURIES, DEATH, OR DAMAGES ARE CAUSED BY OPERATOR'S SOLE NEGLIGENCE OR THE JOINT NEGLIGENCE OF THE OPERATOR AND ANY OTHER PERSON OR ENTITY.**

Notice.

The notices provided in this permit may be served in person or by registered or certified mail. Operator shall within ten (10) days notify the City Manager in writing of any change in such agent or mailing address unless operations in the City are discontinued and abandonment is complete.

Notice addresses are as follows:

City of Midland  
Attn: Office of the City Manager  
P. O. Box 1152  
Midland, Texas 79702

OPERATOR: \_\_\_\_\_  
Jimmy Baggett-Operations Manager

**Callon Petroleum Operating Company**  
4305 N. Garfield, Ste. 235  
Midland, Texas 79705  
(432)686-1828

## OIL AND GAS WELL PERMIT: ORDINANCE 8769 SPECIFIC CONDITIONS-EXHIBIT "B"

(L)

### Specific conditions of all Oil and Gas Well Permits; On-Site Requirements.

1.

**Abandoned wells.** All wells shall be abandoned in accordance with the rules of the Railroad Commission and pursuant to Subsection (O) of this Section.

2.

**Automated audible alarm system.** After completion, the appropriate system for flowing gas and/or flowing oil wells must be maintained to provide warnings for a substantial drop in pressure, or the release of any oil or gas, or a fire. Said audible alarm system must be approved by the Fire Marshal prior to installation of production equipment at the flowing gas and/or flowing oil well site.

3.

**Blowout prevention.** In all cases, ram-type and annular Blowout Preventers shall be used on all wells being drilled. In cases where Re-working is being performed on a Well, ram-type or annular Blowout Preventers shall be used. Protection shall be provided to prevent blowout during Drilling operations as required by and in conformance with the requirements of the Railroad Commission and the recommendations of the American Petroleum Institute. In addition to the Blowout Preventers stated above, all drilling must be equipped with flow lines and valves commensurate with the working pressures involved as required by the Railroad Commission each Blowout Preventer shall be a double-ram design with blinds and pipe. After surface casing has been set and cemented to surface, each Blowout Preventer shall be tested and witnessed by Operator's personnel and the results of such test shall be documented in the Operator's well file. Testing expenses shall be the responsibility of the Operator. The Operator shall provide a complete report of the well blowout prevention test to the City Manager within fifteen (15) days of the test.

4.

**Casing.** The surface portions of the Well shall be cased with cement circulated to the surface. All surface and intermediate casing must comply with all applicable rules of the Railroad Commission and the Texas Commission on Environmental Quality.

5.

**Compliance.** Operator shall comply at all times with all applicable federal, state and City requirements.

6.

**Discharge.** No person shall place, deposit, discharge, or cause or permit to be placed, deposited or discharged, any oil, naphtha, petroleum, asphalt, tar, hydrocarbon substances or any refuse including water or brine from any oil and gas operation or the contents of any container used in connection with any oil and gas operation in, into, or upon any Right-of-way, alleys, streets, lots, storm

drain, ditch or sewer, sanitary drain without permits from the appropriate City departments, or any body of water or onto any private property in the City.

7.

**Drilling notice.** The operator shall provide at least a forty eight (48)-hour notice to the City Manager prior to mobilizing the Drilling Equipment. In addition to notification to the City Manager, the operator shall provide a notice to the owners of at least forty eight (48) hours or more prior to mobilizing the drilling equipment through a publication in the Midland Reporter Telegram and a posting in the City Secretary's Office.

8.

**Drill stem testing.** No drill stem testing shall be allowed.

9.

**Dust, vibration, odors.** All drilling and production operations shall be conducted in such a manner as to minimize, so far as practicable, dust, vibration, or noxious odors, and shall be in accordance with the best accepted practices incident to drilling for the production of oil, gas and other hydrocarbon substances in urban areas. All equipment used shall be so constructed and operated so that, vibrations, dust, odor or other harmful or annoying substances or effect will be minimized by the operations carried on at any Drill Site or Operation Site or from anything incident thereto, to the injury or annoyance of persons living in the vicinity; nor shall the site or structures thereon be permitted to become dilapidated, unsightly or unsafe. Proven technological improvements in industry standards of drilling and production in this area shall be adopted as they become available if capable of reducing factors of dust, vibration and odor.

10.

**Electric lines.** All electric lines going under City roadways must be bored and encased pursuant to city standards. All electric lines to production facilities may be overhead service unless the surrounding neighborhood is developed with underground electric service. If the surrounding neighborhood is developed with underground electric service, then all electric lines to production facilities shall be buried underground.

11.

**Electric motors.** Only electric prime movers or motors shall be permitted for the purpose of pumping wells. No electric power shall be generated on location. All electrical installations and equipment shall conform to the City ordinances and the appropriate national codes.

12.

**Emergency response plan.** Prior to the commencement of any oil or gas production activities, Operator shall submit to the City Manager an emergency response plan establishing written procedures to minimize any hazard resulting from drilling, completion or producing of oil and gas wells. Said plan shall use existing guidelines established by the Railroad Commission, Texas Commission on Environmental Quality, Department of Transportation and/or the Environmental Protection Agency and City Fire Code. A copy of the Emergency Response Plan shall be kept at the Operator's office.

13.

**Equipment painted.** All production equipment on the site shall be painted beige and maintained at all times, including pumping units, tanks, buildings and structures. The City shall regularly inspect all painted structures and inform Operator when repainting is necessary. Operator shall repaint within sixty (60) days written notice from City. When requiring re-painting of such facilities, the City Manager shall consider the deterioration of the quality of the material of which such facility or structure is constructed, the degree of rust, and its appearance. Upon request of the Operator, a color other than beige may be approved by the City Council.

14.

**Explosives.** Use of an explosive perforating gun during completion operations and during plugging operations and down-hole operations that require such explosives shall be allowed.

15.

**Fire notice.** In the event of a fire or discovery of a fire, smoke, or unauthorized release of flammable or hazardous materials on any property, the Operator shall immediately report such condition to the Fire Department in accordance with the City of Midland Fire Code. The reporting limits for hazardous materials release shall conform to the requirements of the Railroad Commission and not exceed any state or federal permitting limit.

16.

**Fire prevention; sources of ignition.** Firefighting apparatus and supplies as approved by the Fire Marshal and required by any applicable federal, state, or local law shall be provided by the Operator, at the Operator's cost, and shall be maintained on the drilling site at all times during drilling and/or reworking operations. The Operator shall be responsible for the maintenance and upkeep of such equipment.

17.

**Fracing operations.** No fracing or formation fracture stimulation operations may take place before 7:00 a.m. or after 7:00 p.m.

18.

**Fresh water wells.** The measurements required by this Subsection shall be in a direct line from the closest Oil and Gas well to the fresh water well.

a.

Upon request of an owner of a fresh water well within 860 feet of an Oil and Gas well, who has been duly notified, Operator shall provide the City Manager with a "pre-drilling" and "post-drilling" water analysis from any such existing fresh water well(s).

b.

Operator shall conduct and fund annual testing for water wells that have been tested pursuant to Subsection (L)18.a. above. This testing program shall continue for the production life of The Well plus three years for a producing well, or for a period of one (1) year for a dry hole.



**19. Per RRC State Wide Rule 32- tank batteries must include vapor recovery system.**

**Compressors.** No onsite compressor used to "lift gas" shall be used. No compressor of any type shall be used. In the event Operator determines the use of such compressor is necessary, a detailed plan shall be submitted by Operator to the City Council for consideration. An on-site compressor plan shall include the following information:

- a. The physical size of the compressor;
- b. The power source of the compressor;
- c. The horsepower of the compressor;
- d. The noise of the compressor; and
- e. The manufacturer of the compressor.

No compressor of any type shall be used unless a plan is approved by the City Council.

**20.**

**Gas emission or burning restricted.** Operator shall not allow, cause or permit gases to be vented into the atmosphere or to be burned by open flame except as provided by law or as permitted by the Railroad Commission. If the venting of gases into the atmosphere or the burning of gases by open flame is authorized as provided by law or as permitted by the Railroad Commission, then such vent or open flame shall not be located closer than three hundred thirty (330) feet from any building not used in operations on the drilling site and such vent or open flame shall be screened in an effort to minimize detrimental effects to adjacent owners. Operator shall provide notice to the Fire Marshall prior to any open flaring of gas. Gas may not be flared unless for a limited time when completing, or recompleting a well, and only if flaring will not constitute a fire hazard to other owners. If flaring gas, it shall not be burned at a rate greater than 3,000 mcf/d. No gas may be flared between the hours of 7:00 p.m. and 7:00 a.m., except in an emergency.

**21.**

**Gas processing onsite.** Except for a conventional gas separator or line heater, no refinery, processing, treating, dehydrating or absorption plant of any kind shall be constructed, established or maintained on the premises without prior written consent of the City Manager.

**22.**

**Grass, weeds, trash.** All Drill sites and Operation sites shall be kept clear of high grass, weeds, and combustible trash within a radius of one hundred (100) feet around any Tanks, production facilities, or producing wells.

23.

**Hazardous plan.** Hazardous Materials Management Plan (HMMP) and all Material Safety Data Sheets (MSDS) for all hazardous materials that will be located, or stored, on the Operations Site shall be submitted to the City Manager.

24.

**Lights.** Except under emergency circumstances, operator shall not Operate any lights located at the Drill Site. To the extent practicable, and taking into account safety considerations, emergency site lighting shall be directed downward and internally so as to avoid glare on public roads and adjacent dwellings and buildings within three hundred (300) feet. This paragraph does not apply during initial Drilling Operations.

25.

**Monitoring for H<sub>2</sub>S gas.** If required by the Railroad Commission, equipment for the monitoring of H<sub>2</sub>S gas shall be used during Drilling. The Operator will comply with all requirements found in Statewide Rule 36 of the Railroad Commission, as amended. Within sixty (60) days after completion, and annually thereafter, Operator shall submit to the City Manager results of testing to determine the concentration of H<sub>2</sub>S produced from the Well. If the results of the H<sub>2</sub>S testing proves to be one hundred (100) PPM H<sub>2</sub>S or greater, the Operator is responsible for determining the one hundred (100) PPM H<sub>2</sub>S radius of exposure for each Well and production facility. Wells and facilities where the concentration of H<sub>2</sub>S is equal to or greater than one hundred (100) PPM will be considered "Sour." Safety systems described herein must be approved by the Fire Marshall.

a.

The following safety alarms and equipment are required at the well site of all wells that are capable of producing at a sustained rate of at least one hundred twenty-five (125) barrels of oil per day and/or three hundred (300) MCF of gas per day and for "sour" wells whose one hundred (100) PPM H<sub>2</sub>S radius of exposure is greater than fifteen (15) feet:

i.

H<sub>2</sub>S monitors located along the fencing, as set forth in Subsection M (for "sour" wells only).

ii.

Automated audible alarms to provide warnings for a substantial drop in pressure or for the presence of H<sub>2</sub>S in concentrations greater than one hundred (100) PPM.

iii.

Automated valve to shut-in production from the well if a substantial drop in pressure or if the presence of H<sub>2</sub>S in

concentrations greater than one hundred (100) PPM is detected.

b.

The following safety alarms and equipment are required at "Sour" Tank battery facilities:

i.

H<sub>2</sub>S monitors located along the fencing, as set forth in Subsection M.

ii.

Automated audible alarm to provide warnings for the presence of H<sub>2</sub>S in concentrations greater one hundred (100) PPM.

iii.

An electrical device capable of shutting down power to all "Sour" wells producing into the battery in the event H<sub>2</sub>S in concentrations great than 100 PPM is detected.

26.

**Muffling exhaust.** Exhaust from any internal combustion engine or compressor, stationary or mounted on wheels, used in connection with the Drilling of any well or for use on any production equipment shall not be discharged into the open air unless it is equipped with an exhaust muffler, or mufflers or an exhaust muffler box constructed of noncombustible materials sufficient to suppress noise and disruptive vibrations and prevent the escape of obnoxious gases, fumes or ignited carbon or soot.

27.

**Pits.** The following applies for pits used for Drilling and completion operations:

a.

No pit shall be placed in a floodplain without obtaining a floodplain development permit from the City Department of Development Services.

b.

No fresh water pit may be placed in any City recognized drainage way, FEMA floodplain or floodway. Construction of the fresh water pit must comply with all City, state and federal regulations.

c.

The use of earthen pits shall be allowed so long as the construction, use, dewatering and closure of such pits meets or exceeds the requirements of the applicable Railroad Commission rules and Texas Commission on Environmental Quality rules. In addition to compliance with applicable Railroad Commission rules, and Texas Commission on Environmental Quality rules, such earthen reserve pits shall also meet the following requirements;

(i)

the maximum size of a reserve pit shall be no greater than two hundred (200) feet by two hundred (200) feet;

(ii)

The pits shall be lined with a plastic liner having a minimum thickness of eight (8) mil reinforced polyethylene;

(iii)

Reserve pits used in Drilling operations shall be fenced on all open sides during such operations and shall be enclosed on all sides once Drilling operations have ceased;

(iv)

Reserve pits shall be closed within one hundred (180) days of the cessation of drilling operations;

(v)

Drill cuttings may be disposed of on the Drill Site using a deep burial method provided that the burial pit containing the cuttings is located entirely within one hundred thirty five (135) feet of the surface location of the Well, provided that all free water has been removed prior to burying the cuttings, and an impermeable liner is placed above the cuttings prior to covering the cuttings and liner with top soil, and provided that the burial pit is constructed in such a manner that the cuttings will be covered with a minimum of thirty six (36) inches of clean, compactable soil. A survey and description of the location of any closed pit used in connection with the Drill Site shall be recorded in the property records of the county in which the real property is located.

28.

**Salt water wells.** No commercial salt-water disposal wells that receive water by truck shall be located within the City of Midland. In the event the operator determines that the use of a non-commercial salt-water well is necessary, a detailed plan shall be submitted by the operator to the City Council for consideration. No salt water disposal well of any type shall be used unless a plan is approved by the City Council.

29.

**Signs.**

a.

A sign shall be immediately and prominently displayed at the gate on the temporary and permanent site fencing erected pursuant to Subsection (M) of this Section. Such sign shall be durable material, maintained in good condition and, unless otherwise required by the Railroad Commission, shall have a surface area of not less than two square feet not more than four square feet and shall be lettered with the following:

i.

Well name and number;

ii.

Name of operator;

iii.

The emergency 911 number; and

iv.

A 24-hour phone number that will provide an emergency phone number of Operator's Representatives as stated in Subsection F.

b.

Permanent weatherproof signs reading "DANGER NO SMOKING OR OPEN FLAME ALLOWED IN THIS AREA" shall be posted immediately upon completion of the well site fencing at the entrance of the well site and tank battery or in any other location approved or designated by the Fire Chief of the City. Sign lettering for this sign shall be two (2) inches or greater in height and shall be red on a white background or white on a red background. Each sign shall include the emergency notification numbers of the Fire Department and the Operator, well and lease designations required by the Texas Railroad Commission.

c.

Provide a National Fire Prevention Association (NFPA) 704 diamond hazard identification signs are required at the entrance to the Operation Site adjacent to the Operator's sign if chemicals are present. A label must be located on each chemical Tank indicating exact chemicals that may be contained in such Tank. Text shall be minimum two inches or greater in height, contrasting with the background color.

30.

**Storage of equipment.** Storage of equipment and materials shall be minimized and limited to the immediate operational needs of the well. Lumber, pipes, empty drums, trucks, trailers, automobiles, junk tubing, casing and rods shall not be left on the operation site except when drilling or reworking operations are being conducted on the site.

No vehicle or item of machinery shall be parked or stored on any Street, Right-of-Way or in any driveway, alley or upon any Operation Site which constitutes a fire hazard or an obstruction to or interference with fighting or controlling fires except that equipment which is necessary for Drilling or production operations on the site. The Fire Department shall be the entity that determines whether any equipment on the site shall constitute a fire hazard.

31.

**Tank Battery Facilities.** At the tank battery for either oil and/or gas Wells a sensor for fire detection should be appropriately placed near heater treaters, separators, and oil storage tanks that would allow an automated valve placed at the header to be closed in the event of a detected fire. All storage tanks shall be equipped with a secondary containment system. The secondary containment system shall be a minimum of three (3) feet in height and one and

one-half (1½) times the contents of the total tank volume. Drip pots shall be provided at the pump out connection to contain the liquids from the storage tanks. No storage tank shall be over sixteen 16 feet in height. All storage tanks shall be built on an adequate foundation with a twelve 12-mil liner being placed beneath each tank, extending a minimum of three (3) feet beyond the edge of each tank.

Operator must use portable steel storage tanks or fiberglass tanks for storing all fluids from the well. Tanks must meet the American Petroleum Institute standards. All tanks must have a vent line, lightning arrester and pressure relief valve. All tanks must be enclosed by a fence as required by Section (M) herein. No tank shall exceed sixteen (16) feet in height. No tank battery shall be constructed within five hundred (500) feet of any Occupied Residence, Occupied Commercial Structure or Occupied Public Building, unless a variance is granted by the City Council.

Drilling mud, cuttings, liquid hydrocarbons and all other field refuse derived or resulting from or connected with the drilling, re-working or deepening of any well shall be discharged into a steel pit or an approved earthen pit. All disposals must be in accordance with the rules of the Railroad Commission and with a plan submitted to and approved by the City Manager. Water stored in on-site tanks shall be removed as necessary.

All refuse shall be disposed of in such a manner as to comply with the applicable air and water pollution control regulations of the state, the conditions of this permit, and any applicable ordinance of the City.

Temporary flowback tanks shall be removed within ninety (90) days after completion date of the well at the pad site unless permission is obtained from the City Manager to extend the time period for no more than thirty (30) days. Completion date is that date which is stated as the "completion or recompletion date" shown on the Form W-2 or G-I filed with the Railroad Commission.

All tanks shall be set back pursuant to the standards of the Railroad Commission and the National Fire Protection Association, but in all cases, shall be at one hundred (135) feet from any street or alley right-of-way, three hundred thirty (330) feet from any public athletic field, and five hundred (500) feet from an Occupied Residence, Occupied Commercial Structure or Occupied Public Building, church, public or private school, hospital, nursing home, college or university or daycare center unless a variance is granted by the Midland City Council. Operator shall institute operational practices involving the daily monitoring of tank integrity and fluid levels within each tank. The use of a remote monitoring system is acceptable.

No meters, storage tanks, separation facilities, or other aboveground facilities, other than the well head and flow lines, shall be placed in a floodway identified by FEMA on the most current FIRM or the 100-year floodplain without a floodplain development permit obtained from the Department of Development services.

All fluids and tank bottoms will be disposed of in accordance with Railroad Commission regulations.

32.

**Valves.** Each flowing high volume well must have an automated shut-off valve to shut-in the well's production at the Operation Site for either a fire or abnormal change in pressure. The fire department shall have access to the Operation Site and the shut-off valve in an emergency.

33.

**Work hours for site development.** No construction activities involving the excavation of, demolition of, alteration to, or repair work on any access road or pad site shall occur before 7:00 a.m. or after 7:00 p.m.

34.

**Wellhead status after fracing.** The wellhead between the time of Drilling/completion and tank battery construction, shall be:

a.

Surrounded with a six (6) foot tall temporary chain link fence having a gate and lock until permanent fencing is installed;

b.

The gate shall be locked at all times, except when the Operator is involved in active operations;

c.

The cellar shall be filled or closed; and

d.

The Bradenhead shall be piped to the surface and open to the atmosphere or have an observable and adequate pressure gauge with operable test valve.

35.

**Inspections.** In accordance within applicable law, the City Manager, or his designee, at his sole cost, risk and expense shall have a right of entry to the Drill Site/Operation Site and may, at his discretion, visit the Drill Site/Operation Site to make sure operator is in compliance with the requirements of this Section.

36.

**Violation.** In the event a violation of this ordinance is determined by the City's official (or officials), the City may act in any or all of the following ways:

a.

The City, through its designated official (or officials), may issue a notice of violation to the Operator, its agent, agents, employees or independent contractors (whether on site or not), or to any Person participating in the Drilling of the Well. Such notice may include a citation to appear before the Midland Municipal Court.

b.

If the City Manager, or his designee, finds the Operator to be in violation of any requirement of the applicable Oil and Gas well permit, then the City reserves the right after giving ten (10) business days written notice to the Operator regarding such violation, to draw upon the letter of credit, certificate of deposit or surety bond as outlined in

Subsection (K) of this Section, in order to remedy such violation. In the event that a violation is not capable of being remedied within such ten (10) business day period, then Operator must have commenced efforts to remedy such violation within said ten (10) business day period and thereafter continue with such efforts to remedy said violation with due diligence until completed, and as long as the Operator continues with efforts to remedy a violation with due diligence, the City shall not draw against the letter of credit, certificate of deposit or surety bond. In the event the City makes a claim on the letter of credit, certificate of deposit or surety bond pursuant to the terms hereof, reinstatement of the full amount of the letter of credit, certificate of deposit or surety bond shall be a condition to the cure of the violation leading to such claim. Alternatively, if the City Manager finds the Operator to be in violation of any requirement of the applicable Oil and Gas Well Permit, the City Manager shall give written notice to the Operator that unless all violations are corrected within ten (10) business days of the Operator's receipt of notice of the violation, the City Manager shall recommend to the City Council that the Oil and Gas Well Permit be cancelled by the City Council. In the event that a violation is not capable of being remedied within such ten(10)business-day period, then Operator must have commenced efforts to remedy said violation within said ten (10) business-day period and thereafter continue with such efforts to remedy said violation with due diligence until completed, and as long as the Operator continues with efforts to remedy a violation with due diligence, as determined by the City, the City shall not draw against the letter of credit, certificate of deposit or surety bond. If the City Council determines to consider the cancelling of the permit, it shall give the Operator written notice of the date and time of the hearing and shall give the Operator the opportunity to be heard and present facts the Operator deems relevant. The cancelling of a permit requires the majority vote of the City Council.

c.

Prosecution of violations of this Section shall be given priority and expedited upon the Municipal Court docket. Provided, however, that this subsection does not grant or guarantee Persons cited a right to expedited consideration of their citation before the Midland Municipal Court.

d.

In the event that there exists an imminent threat to public health and safety, a certified peace officer, in conjunction with the Railroad Commission, may order the temporary cessation of operations. An Operator may appeal the order to an appropriate Court in Midland County, Texas and request an expedited hearing. With respect to the contestation of an order issued pursuant to this subsection, an Operator retains all of its legal remedies.



**M.**

**Fencing and landscaping.**

**1.**

**Fences.**

A fencing plan shall be submitted, said plan containing a description of the building materials, dimensions, and locations of the proposed fence/walls and gates. The plan shall take into consideration the surrounding area and neighborhood.

At a minimum, tank battery facilities, wellheads and any production equipment associated with Oil and Gas wells shall be enclosed by a chain link fence at least seven (7) feet in height with beige-colored slats woven through the chain link, topped with three (3) strands of barbed wire angled outward or concertina wire, and shall be equipped with a locking gate. Gates shall be provided with a combination catch and locking attachment for a padlock, and shall be kept locked except when being used for access to the operation site. Operator must provide the City Fire Chief with a "Knox Padlock" or "Knox Box with a key" to access the Operation Site to be used only in case of an emergency.

The City Council may require additional or a different type of fencing to the extent necessary to conform with architectural standards and building materials existing on lots and/or lands immediately adjacent to the well and within five (500) feet of the Well at the time the Oil and Gas Well Permit is issued.

Additionally, if at any time within twenty-four (24) months following the issuance of an Oil and Gas Well Permit, a structure intended for permanent occupancy is constructed within five hundred (500) feet of the Well, the City Council may require the operator to undertake a one-time revision of the fencing plan to account for architectural standards and building materials associated with such structure to the extent that the revised fencing plan is consistent with, but not better than, the architectural standards and building materials associated with such structure.

Fences shall not be required on drill sites during drilling, completion or re-working operations as long as 24-hour on-site supervision is provided.

**2.**

**Landscaping.**

Landscaping is not required at this time but will be required within two years from April 10, 2012. Operator shall notify the City Manager within 180 days (October 11, 2013) in writing if the landscaping is not to be completed prior to expiration of the two year period. If landscaping is not completed prior to the two year period this permit shall automatically terminate without any action of the City Council required.

**N.**

**Cleanup and Maintenance.**

**1.**

**Cleanup after well servicing.** After the well has been completed or plugged and abandoned, the Operator shall clean the drill site or operation site, complete restoration activities and repair all damage to public property caused by such operations within one hundred eighty (180) days.

**2.**

**Clean-up after spills, leaks and malfunctions.** After any Railroad Commission reportable spill, leak or malfunction, the Operator shall remove or cause to be removed to the satisfaction of the City Fire Chief and the City Manager all refuse materials from any public or private property affected by such spill, leak or malfunction. Clean-up operations must begin immediately. The Operator shall comply with all requirements found in Statewide Rule 91 of the Railroad Commission, as amended. If Statewide Rule 91 requires reporting of the spill, the operator shall comply with the notification and reporting requirements found in Statewide Rule 20 of the Railroad Commission, as amended. Upon request the Operator shall furnish the City Manager with all information filed with the Railroad Commission. If the Operator fails to begin site clean-up immediately the City Manager may then employ any cleanup expert or experts or other contractors or suppliers of special services, or may incur any other expenses for labor and material which the City Manager deems necessary to clean-up such spill, leak or malfunction. The City shall then be able to collect from operator the costs involved in the site clean-up. The City may collect from the posted letter of credit, certificate of deposit or surety bond or any other legal means.

**3.**

**Free from debris.** The public street entrance and property on which a well site is located shall at all times be kept free of mud, debris, pools of water or other liquids, contaminated soil, weeds, brush, trash or other refuse material within a radius of one hundred (100) feet around any production facilities, tanks and producing wells.

**4.**

**Painting.** All production equipment shall be painted beige and maintained at all times, including pumping units, tanks, secondary containment and buildings or structures. When requiring painting of such facilities, the City Manager shall consider the deterioration of the quality of the material of which such facility or structure is constructed, the degree of rust, and its appearance.

**5.**

**Blowouts.** In the event of the loss of control of any well, Operator shall immediately take all reasonable steps to regain control regardless of any other provision of this permit and shall provide the City Manager with the same

information as required to be filed with the Railroad Commission under Statewide Rule 20 as soon as practicable.

6.

**Cleanup after Drilling/Completion.** After the well has been drilled and completed, the Operator shall clean the Drill site, complete restoration activities and repair all damage to public property caused by such operations within ninety (90) days as specified previously in Subsection (L)27.

O.

**Drilled and Abandoned Wells.**

1.

**Surface Requirements for Plugged and Abandoned Well.** Whenever abandonment occurs pursuant to the requirements of the Railroad Commission, the Operator so abandoning shall be responsible for the restoration of the Operation site to its original condition as nearly as practicable, in conformity with the requirements of this permit underground pipelines associated with operations shall be purged of all fluids and may be abandoned in place.

2.

**Surface Requirements for Drilled and Abandoned Well.** Abandonment shall be approved by the City Manager after restoration of the Drill Site has been accomplished in conformity with the following requirements at the discretion of the City Manager:

a.

The Derrick and all appurtenant equipment thereto shall be removed from Drill site;

b.

All tanks, towers, and other surface installations shall be removed from the Drill site;

c.

All concrete foundations, above ground piping, wood, guy anchors and other foreign materials regardless of depth, except surface casing, shall be removed from the site, unless otherwise directed by the Railroad Commission;

d.

All holes and depressions shall be filled with clean, compactable soil;

e.

All, refuse and trash shall be removed from the Drill Site; and

f.

During abandonment, Operator shall comply with all applicable subsections in this section; and

g.

The drill site shall be restored, as close as practicable, to its original condition.

h.

Unless modified by the approved plan, deep burying of pits within the drill site perimeter is permitted. A survey and description of the location of any closed pit used in connection with the drill site shall be recorded in the property records of the county in which the real property is located. In any event the Operator shall comply with Subsection (L), Paragraph 27.

3.

**Abandoned well requirement.** The Operator shall furnish the following to the City Manager:

a.

A copy of the W-3A "Notice of Intention to Plug & Abandon" and W-3 "Plugging Record" forms on the same date these forms are submitted to the Railroad Commission.

b.

Prior 48-hour notice of intention to abandon under the provisions of this section and stating the date such work will be commenced. Abandonment may then be commenced on or subsequent to the date so stated.

c.

All wells shall be abandoned in accordance with the rules of the Railroad Commission; however, all well casings and cellars shall be cut and removed to a depth of at least three feet below the surface. A permanent abandonment marker, with the well identity and location permanently inscribed, shall be welded to the casing.

4.

**Abandonment requirements prior to new construction.** All abandoned or deserted wells or drill sites shall meet the most current abandonment requirements of the Railroad Commission prior to the issuance of any building permit for development of the property. No structure shall be built over an abandoned well.

P.

**Certificate of Request for Inspection and Extension of Permit.**

On or before ninety (90) days prior to each annual anniversary date of Operator's Oil and Gas Well Permit, Operator shall submit to the City Manager a Certificate of Request for Inspection of Permit. The Certificate of Request for Inspection of Permit must state the location and name of the well and the date the permit was granted by the City Council. The Certificate of Request for Inspection of Permit must be signed by the Operator before a notary public stating that the well is in compliance with the permit and all applicable Ordinances. The Certificate of Request for Inspection of Permit must

be accompanied by an application and inspection fee of \$300.00. The City Manager shall grant a one-year inspection approval on the oil/gas drilling permit if the Operator is in compliance with the permit and all applicable ordinances as they apply to the inspected well. Prior to authorizing the inspection approval, the City Manager, or his designee, shall inspect the oil and gas well site that is subject to the oil/gas drilling permit. The City Manager shall issue his decision in writing, within thirty (30) days of receiving the Certificate for Request for Inspection of Permit, either granting or denying the inspection of the oil/gas drilling permit.

The Operator may appeal the City Manager's denial of an oil/gas drilling permit inspection by submitting, in writing, an appeal to the City Council within thirty (30) days of the City Manager's written denial of the oil and gas well permit inspection. If an appeal is received by the City Council, a hearing shall be set before a meeting of the City Council to consider the denial of the oil/gas drilling permit inspection. The City Council shall hear and consider the recommendation of the City Manager, or his designee, before deciding whether or not to uphold the City Manager's decision. The Operator shall be allowed to speak and present any relevant evidence for consideration by the City Council prior to a vote of the council. A majority vote of the City Council shall be required to uphold the denial of the Oil and Gas Well Permit inspection by the City Manager. An inspection that is approved shall be valid for one (1) year from the inspection date.

(Q)

**Measurement.**

The measurement of all distances set forth herein shall be calculated from the proposed surface location of the well and tank batteries in a straight line, without regard to intervening structures or objects, to the closest exterior point of the object.

(R)

**Effect of denial of oil and gas well permit.**

If an application for an Oil and Gas Well Permit is denied by the City Council, nothing herein contained shall prevent a new permit application from being submitted to the City Council for the same proposed Oil and Gas Well or a different location for a well. A new application may also be filed on any of the mineral estate owned or leased by the applicant. Once all of the Operator's administrative and legislative remedies have been exhausted herein, the Operator may appeal or challenge the denial of an application in an appropriate Court in Midland County Texas under applicable state or federal law.

(S)

**Amendment to Oil and Gas Well Permit.**

**1.**

Amendment required. Within one hundred eighty (180) days after an Operator has been granted an Oil and Gas Well Permit, an Operator may submit an application to the City to amend an existing Oil and Gas Well Permit to commence Drilling from a new Drill site that is not shown on (or incorporated by reference as part of) the existing Oil and Gas Well Permit.

2.

Application Requirement for Amendment to Permit. An application for an amended Oil and Gas Well Permit shall meet all the requirements of this Section, shall be in writing, shall be on forms provided by the City, shall be signed by the Operator, and shall include the following:

a.

An amendment fee of \$1,000.00.

b.

A description of the proposed amendments.

c.

Any changes to the information previously submitted with the application for the existing oil/gas drilling permit (if such information has not previously been provided to the City).

d.

Such additional information as is reasonably required by the City to demonstrate compliance with the original oil/gas drilling permit.

e.

Such additional information as is reasonably required by the City to prevent imminent destruction of property or injury to persons.

3.

Review of Application for Amendment to Permit. All applications for an amended oil/gas drilling permit shall be considered in accordance with the factors listed in Subsection (l) herein. The City Council may elect to consider the application for an amended oil/gas drilling permit without the requirement of a public hearing.

4.

**Standard of review.**

a.

**No Material Change from Existing Permit.** If the activities proposed by the amendment are not materially different from the activities covered by the existing Oil and Gas Well Permit, and are otherwise in conformance with the requirements of this section, other applicable City Ordinances, the Oil/Gas Drilling Permit then the City Council shall approve the Amended Application.

b.

**Material Change from Existing Permit.** If the activities proposed by the amendment are materially different from the activities covered by the existing Oil/Gas Well Permit, are not in conformance with the requirements of this Section, other applicable City Ordinances, the Oil/Gas Well Permit, or if, in the judgment of the City Council, the activities proposed by the amendment might create a risk of imminent destruction of property or injury to persons or property or that were not otherwise taken into consideration by the existing Oil/Gas Well

Permit, the City Council may require the amendment to be processed as a new Oil and Gas Well Permit Application.

**T.**

**Independent Contractor.** Operator understands and agrees that Operator, its employees, servants, agents, and representatives, shall at no time represent themselves to be employees, servants, agents, and/or representatives of the City. The City shall not have any control over the means or methods by which Operator shall perform its obligations hereunder. Operator shall furnish all equipment and materials necessary to perform hereunder and shall at all times be acting as an independent contractor. No action by either party should be construed to create a partnership, joint venture, or other dual enterprise between the parties.

**U.**

**Assignability; Transfer Permit.**

**1.**

The Operator shall not, either directly or indirectly, assign, sell, or transfer any part of the Oil and Gas Well Permit, or any interest, right, duty, obligation or privilege under the permit, except in accordance with this Subsection.

**2.**

An Oil and Gas Well Permit may be transferred upon written request by the Operator with the consent of the City Council:

**a.**

If the transferee agrees in writing to be bound by the terms and conditions of the current Oil and Gas Well Permit and road repair agreement;

**b.**

If all information previously provided to the City as part of the current Oil and Gas Well Permit is updated to reflect any changes; and

**c.**

If the transferee provides the insurance and security required by this section.

**3.**

In determining whether to approve the transfer permit, the City Council may consider the financial standing of the transferee and its record of compliance with respect to existing permits. Should the transfer permit be denied, the transferee may file an application for a new Oil and Gas Well Permit.

**4.**

The insurance and security provided by the transferor shall be released if the transfer permit is approved; provided, however, that the transfer shall not relieve the transferor from any liability to the City arising out of any activities conducted prior to the transfer, except to the extent that the transferee expressly agrees in writing to assume such liabilities as part of the transfer.

**5.**

Applications for the transfer of Oil and Gas Well Permits shall be filed with the City's planning department. A non-refundable administration fee shall be charged for each application in the amount of five hundred (\$500.00).

V.

**Time Limit Requirements.** The failure of the City Council to review and approve an Oil and Gas Well Permit within a specified time limit shall not cause the application for the Oil and Gas Well Permit to be deemed approved. If the City Council denies a request for a permit, the applicant may file a request with the City Council to re-consider the application. The applicant may present any new evidence to the council and may present any extenuating circumstances or other matters deemed relevant by the applicant. The decision of the City Council regarding the issuance of a permit is not final until the request for re-consideration is voted upon by the City Council.

W.

**Indemnification.** The oil and gas well permit may contain the following language:

OPERATOR AGREES TO INDEMNIFY AND HOLD HARMLESS AND DEFEND THE CITY OF MIDLAND, THE CITY'S OFFICERS, AGENTS, AND EMPLOYEES FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS, AND LIABILITY OF ANY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES, FOR INJURY TO OR DEATH OF ANY PERSON, OR FOR DAMAGE TO ANY PROPERTY ARISING OUT OF OR IN CONNECTION WITH THE WORK DONE BY OPERATOR UNDER AN OIL AND GAS WELL PERMIT WHERE SUCH INJURIES, DEATH, OR DAMAGES ARE CAUSED BY OPERATOR'S SOLE NEGLIGENCE OR THE JOINT NEGLIGENCE OF THE OPERATOR AND ANY OTHER PERSON OR ENTITY.

X.

**Incident Reports or Written Complaints.** The Operator shall provide a copy of any "incident reports" or written complaints submitted to the Railroad Commission or any other state or federal agency within thirty (30) days after Operator has notice of the existence of such reports or complaints.

Y.

**Expiration of permit.** Drilling must commence on the Well covered by the Oil and Gas Well permit twelve (12) months of approval by the City Council, after which the Oil and Gas Well Permit shall automatically expire if no drilling has commenced. A permit extension for a maximum time period of six (6) months may be granted by the City Manager without reapplication after the City Manager receives a written request from the Operator.

Z.

**Takings determination.**

1.

Any aggrieved applicant that believes that an action taken pursuant to this Section by the City Council or any officer or employee of the City constitutes a taking under the Texas or United States Constitution or under other state law, may file an application with the City Council requesting a takings determination.



2.

The applicant seeking a takings determination from the Council shall file its appeal with the office of the City Secretary. The City Secretary shall then forward the appeal to the City Council for consideration. An appeal fee in the amount of two hundred fifty (\$250.00) dollars shall accompany each filing.

3.

The appeal shall state the reasons that the applicant believes would support a finding that the City's actions constitute a taking under the Texas or United States Constitution or pursuant to other State law and shall include evidence substantiating the purported diminution in value of the applicant's real property.

4.

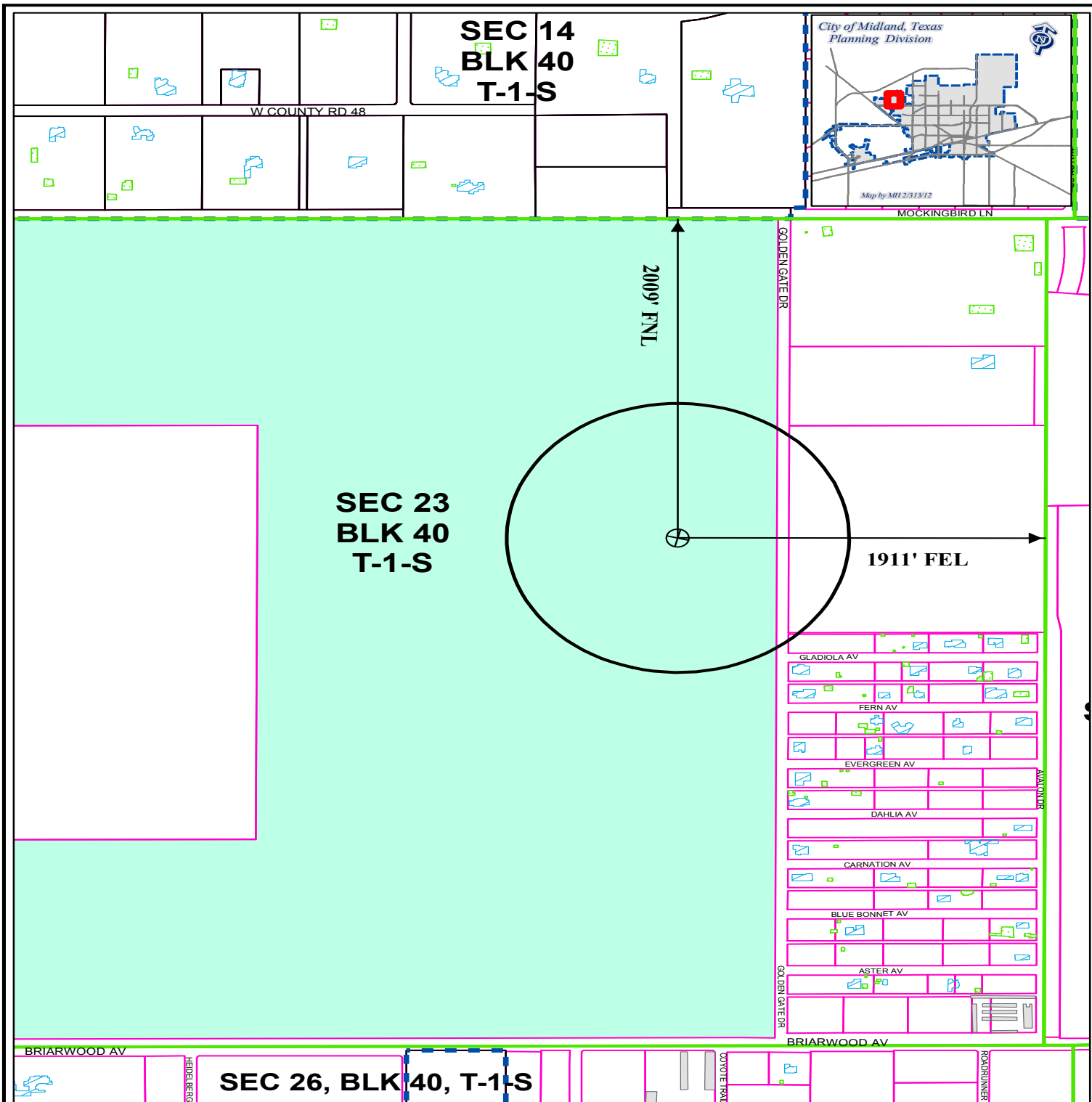
If the Council finds by a majority vote in favor of the applicant it may: (1) grant the relief requested, or (2) direct the City Manager to rescind action taken by City Staff that formed the basis of the takings determination appeal. If the Council denies the appeal, or after a favorable determination the City Council fails to take action as specified above, the applicant may appeal the decision or inaction of the City Council to the county or district court of the county in which the affected real property is located within thirty (30) days of the date that the Council issues its final decision or in the event the Council does not act on the application, then the operator may appeal to the county or district court after the expiration of one hundred twenty (120) days from the date the application is heard by the City Council.

Notice addresses are as follows:

City of Midland  
Attn: Office of the City Manager  
P. O. Box 1152  
Midland, Texas 79702

OPERATOR: \_\_\_\_\_  
Jimmy Baggett-Operations Manager

**Callon Petroleum Operating Company**  
4305 N. Garfield, Ste. 235  
Midland, Texas 79705  
(432) 686-1828



## LOCATION AND ZONING MAP

**O - 12 - 003**

**Scale: 1" = 700'**

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 1911' FEL and 2009' FNL, Section 23, Block 40, T-1-S, T & P RR Co. Survey, Midland County, Texas.

**Pecan Acres 23 #12**

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### LEGEND

|  |                |  |                 |  |                |
|--|----------------|--|-----------------|--|----------------|
|  | CITY PARCELS   |  | PUBLIC BLDGS    |  | CITY LIMITS    |
|  | COUNTY PARCELS |  | PRIVATE BLDGS   |  | 860 FT. BUFFER |
|  | ZONING         |  | ACCESSORY BLDGS |  | SURVEY SEC.    |

### ZONING DISTRICTS:

FD  
PD  
AE  
1F1, 1F2, 1F3  
MH  
TH  
2F  
MF1, MF2

FUTURE DEVELOPMENT  
PLANNED DISTRICT  
AGRICULTURE ESTATE  
ONE-FAMILY DWELLING  
MOBILE HOME DWELLING  
TOWNHOUSE DWELLING  
TWO-FAMILY DWELLING  
MULTIPLE FAMILY DWELLING

BP  
P  
01, 02  
NS  
LR1, LR2, LR3  
C1, C2, C3  
IP, JP1, IP2, IP3  
LI  
HI

BUSINESS PARK  
PARKING  
OFFICE  
NEIGHBORHOOD SERVICE  
LOCAL RETAIL  
COMMERCIAL  
INDUSTRIAL PARK  
LIGHT INDUSTRY  
HEAVY INDUSTRY



## APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

**I. General Information**

|                                                                                                                                                            |                                                                                                                  |                                                             |
|------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|
| Date<br><b>1/17/2012</b>                                                                                                                                   | Operator Name (must match W-1)<br><b>Callon Petroleum Operating Company</b>                                      | Operator Address<br><b>P.O. Box 1287, Natchez, Ms 39121</b> |
| Representative Name<br><b>Jimmy Baggett</b>                                                                                                                | Representative Address (within Midland)<br>(City Limits) <b>4305 N. Garfield, Ste. 235<br/>Midland, TX 79710</b> | Rep. Tele. <b>(432) 686-1828</b>                            |
| Fee: \$4,000.00 Rec'd Yes ___ No ___                                                                                                                       |                                                                                                                  | Rep. Fax <b>(432) 686-2764</b>                              |
| Permit Compliance Contact (Choose 1):<br>Option A:<br>24/7 Answering Services - No. 1 (tele): _____ No. 2 (Tele.) _____                                    |                                                                                                                  |                                                             |
| Option B: <b>Jimmy Baggett 4305 N. Garfield, Ste. 235, Midland, TX 79710</b>                                                                               |                                                                                                                  |                                                             |
| Company Compliance Representative (Name, Address, Local Telephone) (ATTACH STATEMENT AS EXHIBIT A):                                                        |                                                                                                                  |                                                             |
| Emergency Contact Representative (Name, Address, 24-Hour Tele. No.):<br><b>Vince Borrello (432) 553-9522 4305 N. Garfield, Ste. 235, Midland TX, 79170</b> |                                                                                                                  |                                                             |
| Other Permitted Wells in City (ATTACH EXHIBIT B [see § J(26)]): <b>Annie #3, #8, Pecan Acres 23A #1, #2, #3</b>                                            |                                                                                                                  |                                                             |

**II. Mineral Ownership**Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease): **SEE ATTACHMENT 1**

- 1.
- 2.
- 3.

ATTACHED AS EXHIBIT C is (a Title Opinion by ---- **Mike Canon** . A licensed Texas Attorney/Title Commitment by Abstract Company/a Take-off from \_\_\_\_\_ , a Certified Petroleum Landman/an opinion letter from \_\_\_\_\_ , a licensed Texas Attorney) indicating that |Operator| has a legal right to develop the mineral estate that is the subject of this Application. [See § J(5)]. **ATTACHED**

**III. Surface Ownership & Use**

General Description of Current Surface Use (within 860 feet of proposed surface location):

**UNDEVELOPED RESIDENTIAL**

ATTACHED AS EXHIBIT D is (a Title Opinion by \_\_\_\_\_ . A licensed Texas Attorney/a Take-off from \_\_\_\_\_ , a Certified Petroleum Landman/Current Tax Roll from Midland Central Appraisal District), which lists the name(s) and address(es) of all surface owners within 860 feet of the surface well location. [See § J(7)]. **ATTACHED**

ATTACHED AS EXHIBIT E is a (map/p lat/satellite/aerial photo) depicting all Residences, commercial structures, public buildings, all publicly dedicated Streets and alleys, Rights of Way, and permanent accessory structures surrounding the proposed Drill Site. The (map/p lat/satellite/aerial photo) includes two circles, as required by the Ordinance - one depicting a 500 foot radius and one depicting an 860 foot radius from the proposed well's surface location. [See § J(10)]. **ATTACHED**

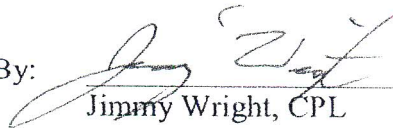
ATTACHED AS EXHIBIT F is a copy of the notification letter(s) sent to 100 percent of the surface owners, Certified Mail, Return Receipt Requested. [See § J(36)]. **ATTACHED**



|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>IV. Well &amp; Operations Information</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Proposed Well Name: <b>PECAN ACRES 23 #12</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Proposed Hole Size, Casing Program and Cementing Program (attach Exhibit as Necessary) [See § J(11) and § L(4)]:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Legal Description of Proposed Well Site: <b>1911' FEL, 2009' FNL of Section 23, Block 40, T1S, T &amp; P RR Co.<br/>Survey, Midland County, Texas</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <p>ATTACHED AS EXHIBIT G is the Location Site Plan [See § J(9)]. <b>ATTACHED</b></p> <p>ATTACHED AS EXHIBIT H is the Map with the proposed transportation route(s) and road(s) for equipment, chemicals, or refuse products used or produced in the proposed oil and gas operations. [See § J(12)]. <b>ATTACHED</b></p> <p>ATTACHED AS EXHIBIT I is a copy of the approved Texas Railroad Commission permit to drill (Form W-1), together with all attachments (also file copy of W-1 with City Secretary before commencement of drilling operations). [See § J(16) and (20)].</p> <p>ATTACHED AS EXHIBIT J is a copy of the required TCEQ report as to depth of usable quality ground water. [See § J(17)]. <b>ATTACHED</b></p> <p>ATTACHED AS EXHIBIT K (if applicable) is the list of alternative locations developed in consultation with the Oil &amp; Gas Advisory Committee. [See § J(27)].</p> <p>ATTACHED AS EXHIBIT L is the Fencing and Irrigation Plan. [See § J(30)]. <b>ATTACHED VARIANCE REQUEST</b></p> <p>ATTACHED AS EXHIBIT M is the Road Repair Agreement and Letter of Credit/Certificate of Deposit/Surety Bond in the amount of at least \$25,000. Option (if applicable): Applicant would further state that no City-owned streets or alleys will be used by the Operator in connection with its oil and gas operations and as a result, requests a waiver from the Council of this requirement. Option B (if applicable): Beause Applicant has three Road Repair Agreements in effect that have been approved by the Council, Applicant requests that the Council consolidate all agreements into one and is filing the necessary \$75,000 letter of credit/certificate of deposit/surety bond in conjunciton with this request. [See § J(31)].</p> <p>ATTACHED AS EXHIBIT N is the Concept Plan depicting the proposed Operations Site (which includes tanks, roads, power lines, and pipeline routes). [See § J(32)].</p> |
| Description of Public Utilities required during (1) drilling and (2) operations:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <p>(1) Drilling: <b>No public utilities will be needed during drilling operations.</b></p> <p>(2) Operations: <b>See Exhibit N and N-3</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Deescription of water source to be used during Drilling:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>Water will be pulled from water wells existing on the property and hauled if necessary.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Description of all electric lines to production facilities (reference exhibits as necessary) [See § L(10)]:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>See Exhibits G &amp; N attached</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Plan detailing construction, location, and closure of pits used for Drilling and Completion operations (attach exhibit if necessary) [See § J(35)]:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>See Exhibit O - Pits will be deep Buried in accordance to City of Midland requirements.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>V. Additional Required Exhibits</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <p>ATTACHED AS EXHIBIT P is the Letter of Credit/Certificate of Deposit in accordance with Subsection (K)(2). [See § J(18)]. <b>ATTACHED</b></p> <p>ATTACHED AS EXHIBIT Q are Tax certificates from Midland Central Appraisal District to be submitted indicating that all taxes on personal and real property, including minerals, owned by Applicant are current. [See § J(29)]. <b>ATTACHED</b></p> <p>ATTACHED AS EXHIBIT R is the required Insurance Certificate. [See § J(19) and § K(3)]. <b>ATTACHED</b></p> <p>ATTACHED AS EXHIBIT S (if applicable) is the Drainage Plan approved by the City Engineer relating to Applicant's proposed operations. [See § J(21)]. <b>ATTACHED</b></p> <p>ATTACHED AS EXHIBIT T is Applicant's Emergency Action Response Plan. [See § J(22)]. <b>See Exhibit T &amp; Attachment T-1</b></p> <p>ATTACHED AS EXHIBIT U is Applicant's Hazardous Materials Management Plan, a copy of which has been submitted and is on file with the Midland Fire Department. [See § J(23)]. <b>ATTACHED</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

**Callon Petroleum Operating Company**

By:

  
Jimmy Wright, CPL  
Land Manager – Permian Basin

STATE OF TEXAS

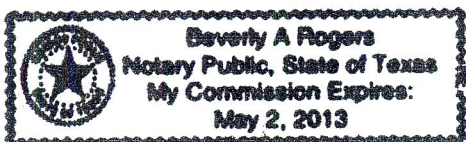
§

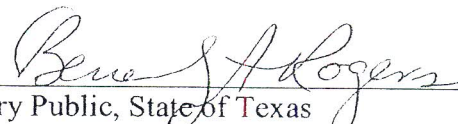
§

COUNTY OF MIDLAND

§

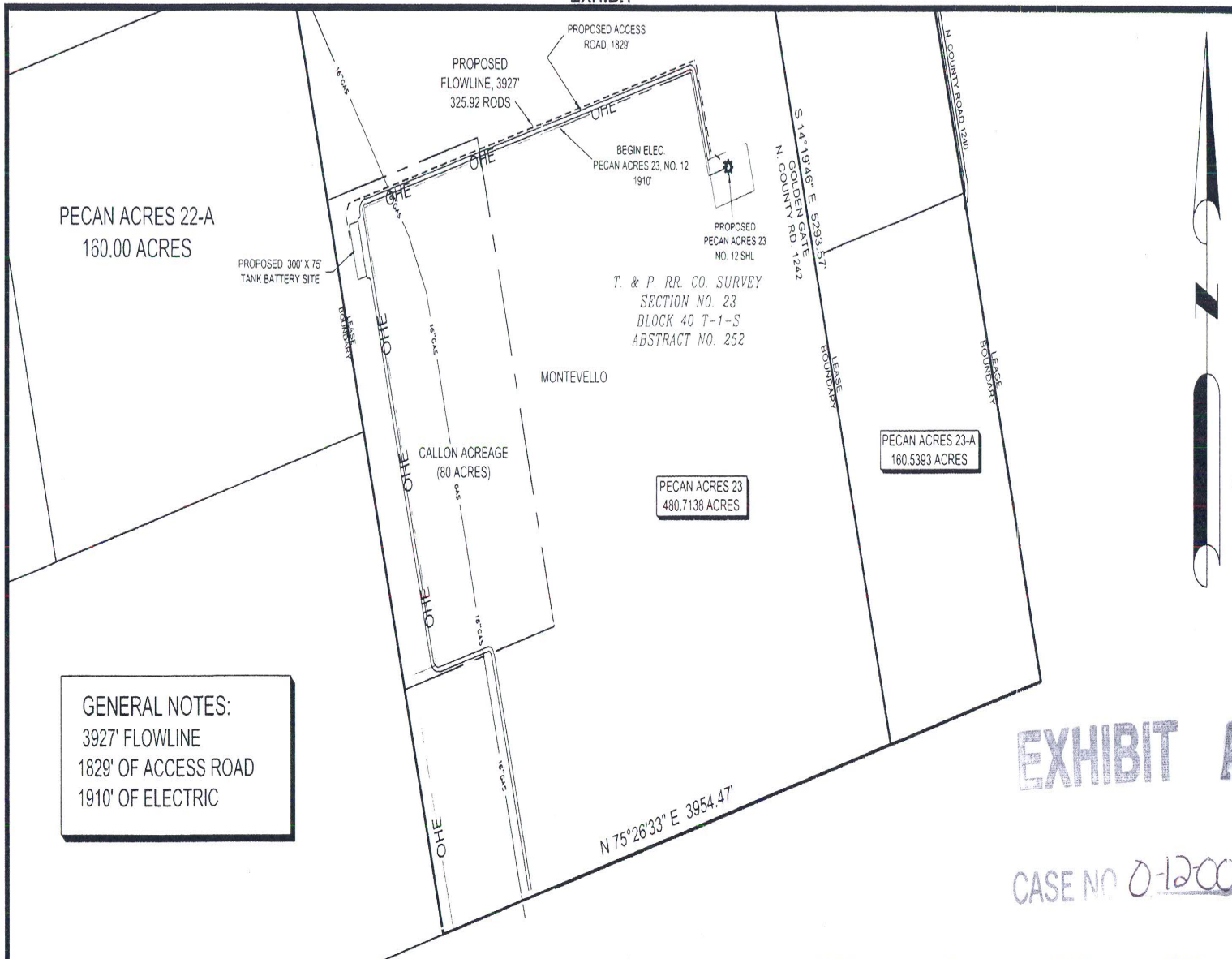
This instrument was acknowledged before me on the 24 day of January, 2012 by Jimmy Wright, Land Manager – Permian Basin of Callon Petroleum Operating Company, who personally appeared before me and states that he has read the above application and attached exhibits and the statements therein are true and correct to the best of his knowledge.



  
Notary Public, State of Texas



EXHIBIT



GENERAL NOTES:  
3927' FLOWLINE  
1829' OF ACCESS ROAD  
1910' OF ELECTRIC

EXHIBIT A

CASE NO 0-12003

I HEREBY STATE THAT THIS PLAT SHOWS  
THE PROPOSED LOCATIONS AS SHOWN.

1000' 0' 1000' 2000'



SCALE: 1" = 1000'

LEGEND

- OHE — = PROPOSED ADDITIONAL OVERHEAD ELECTRIC LINES
- ..... = PROPOSED FLOWLINES
- = PROPOSED ADDITIONAL ACCESS ROADS
- = PROPOSED WELL LOCATION

*James Curtis Yarger*

JAMES CURTIS YARGER  
REGISTERED PROFESSIONAL LAND SURVEYOR  
STATE OF TEXAS #5854



EXHIBIT SHOWING  
PROPOSED  
PECAN ACRES 23 NO. 12  
PROPOSED FLOWLINE, ACCESS ROAD AND  
ELECTRIC LINE LOCATIONS  
CITY OF MIDLAND, MIDLAND COUNTY, TEXAS

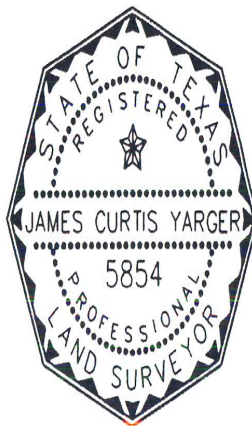
| REV. | DATE     | BY: | DESCRIPTION                              | CHK |
|------|----------|-----|------------------------------------------|-----|
| 2    | 01-20-12 | GG  | REVISE ACCESS ENTRANCE AND GENERAL NOTES | CY  |
| 1    | 12-05-11 | RG  | EDIT ACCESS & ELECTRIC LINEAR FOOTAGE    | CY  |

PROJECT NO. 1109036



403 West Loop 820, Suite 160  
Fort Worth, Texas 76108  
(817) 367-6900 ~ Fax (817) 367-1973

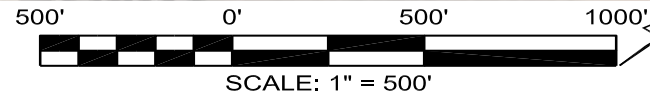
Zero Degrees Surveying & Mapping Services



|                 |                |                                      |      |
|-----------------|----------------|--------------------------------------|------|
| DRAWN BY: NR    | DATE: 11-29-11 | DWG. NO.                             | REV. |
| CHECKED BY: CY  | DATE: 11-29-11 | 1109036 PECAN ACRES 23 NO 12 EXHIBIT | 2    |
| SCALE: 1"=1000' | APP.:          | PAGE 1 OF 1                          |      |

Attachment G-4

31.40



## NOTES:

1.) BEARINGS & COORDINATES SHOWN HEREON ARE REFERENCED TO THE TEXAS STATE PLANE COORDINATE SYSTEM, NAD 83 DATUM (TEXAS CENTRAL ZONE 4203) DERIVED FROM GPS OBSERVATIONS AND ARE BASED ON NGS MONUMENT MDD A (GRID COORDINATES X=1750074.49, Y=10709180.31)

2.) LATITUDE & LONGITUDE ARE NAD 83 & 27 GEOGRAPHIC.

3.) THIS IS A PROPOSED WELL PLAT AND DOES NOT REPRESENT A TRUE BOUNDARY SURVEY. THIS SURVEY IS BASED ON OWNERSHIP AND EASEMENT INFORMATION PROVIDED BY CALLON PETROLEUM OPERATING COMPANY. SURVEYOR DID NOT ABSTRACT SUBJECT TRACT AND THERE MAY BE EASEMENTS OR OTHER ENCUMBRANCES THAT AFFECT THE SUBJECT TRACT THAT ARE NOT SHOWN HEREON.

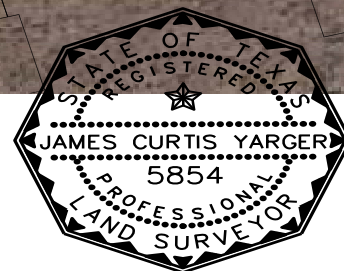
| REV.                | DATE    | BY: | DESCRIPTION                | CHK |
|---------------------|---------|-----|----------------------------|-----|
| 1                   | 2-29-12 | CY  | CHANGE FRAC WATER PIT NAME | CY  |
| PROJECT NO. 1109036 |         |     |                            |     |



403 West Loop 820, Suite 160  
Fort Worth, Texas 76108  
(817) 367-6900 ~ Fax (817) 367-1973

I HEREBY STATE THAT THIS PLAT SHOWS  
THE PROPOSED LOCATIONS ABSTAKED  
ON THE GROUND.

*James Curtis Yarger*  
JAMES CURTIS YARGER  
REGISTERED PROFESSIONAL LAND SURVEYOR  
STATE OF TEXAS #5854



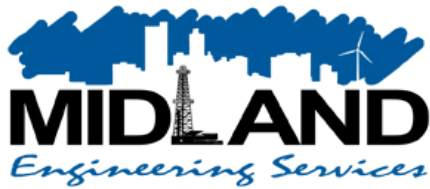
Callon Petroleum Operating Company

**PECAN ACRES 23 TANK BATTERY  
AND FRAC WATER PIT  
(FRESH WATER)  
PROPOSED RESIDENCE STRUCTURE TIES PLAT**

SITUATED IN THE  
T. & P. RR. CO. SURVEY  
SECTION NO. 23, BLOCK 40, ABSTRACT NO. 252  
MIDLAND COUNTY, TEXAS  
BEING THE WEST 1/2 AND THE WEST 1/2 OF THE EAST 1/2 OF  
T. & P. RR. CO. SURVEY  
SECTION NO. 23, BLOCK 40, ABSTRACT NO. 252  
CALLED 482.72 ACRES IN DOCUMENT NO. 2009-24676  
DEED RECORDS, MIDLAND COUNTY, TEXAS

|                |                |                                                       |      |
|----------------|----------------|-------------------------------------------------------|------|
| DRAWN BY: GG   | DATE: 02-29-12 | DWG. NO.                                              | REV. |
| CHECKED BY: CY | DATE: 02-29-12 | 1109036 PECAN ACRES 23 FRAC AND<br>BATTERY STRUCTURES | 1    |
| SCALE: 1"=500' | APP.:          | PAGE 1 OF 1                                           |      |





# City Council Agenda

Approved for Agenda:  
**JNichols**  
City Manager's Office

**MEETING DATE:** April 10, 2012

**TO:** CITY COUNCIL/CITY MANAGER

**FROM:** David D. Beard, P.E. – City Engineer

**SUBJECT:** Consider a motion on a request by the owner of the property (SMBC Inc.) to approve items requested for deferral in the amount of \$24,855.00, and to waive the associated public improvement guarantee. This property is positioned in the City Limits, generally located at the northeast corner of the intersection of W. Florida Ave. and Connell St. (District #2 - Hailey)

---

## Purpose:

To discuss the following items requested of deferral:

|                            |          |
|----------------------------|----------|
| Street/Paving Improvements | \$24,855 |
|----------------------------|----------|

**Total \$24,855**

## Recommended City Council Action

☐ Approve

☐ Deny

☒ Direction/Informational

## Fiscal Impact:

|                                             |                 |
|---------------------------------------------|-----------------|
| Total value of deferral (recommended items) | <b>\$24,855</b> |
|---------------------------------------------|-----------------|

Staff will be working with council, in the near future, to develop a policy to trigger when the deferred improvements will be required to be constructed.

## Discussion:

The subject property (601 W. Florida Ave.) is located at the northeast side of the intersection of W. Florida Ave. and Connell St.



The current model for deferring public improvements is to collect the cost of the improvements associated with the development at the time of platting or when a building permit application is submitted. The funds are then placed in a project account and held until construction of the public improvements is deemed appropriate.

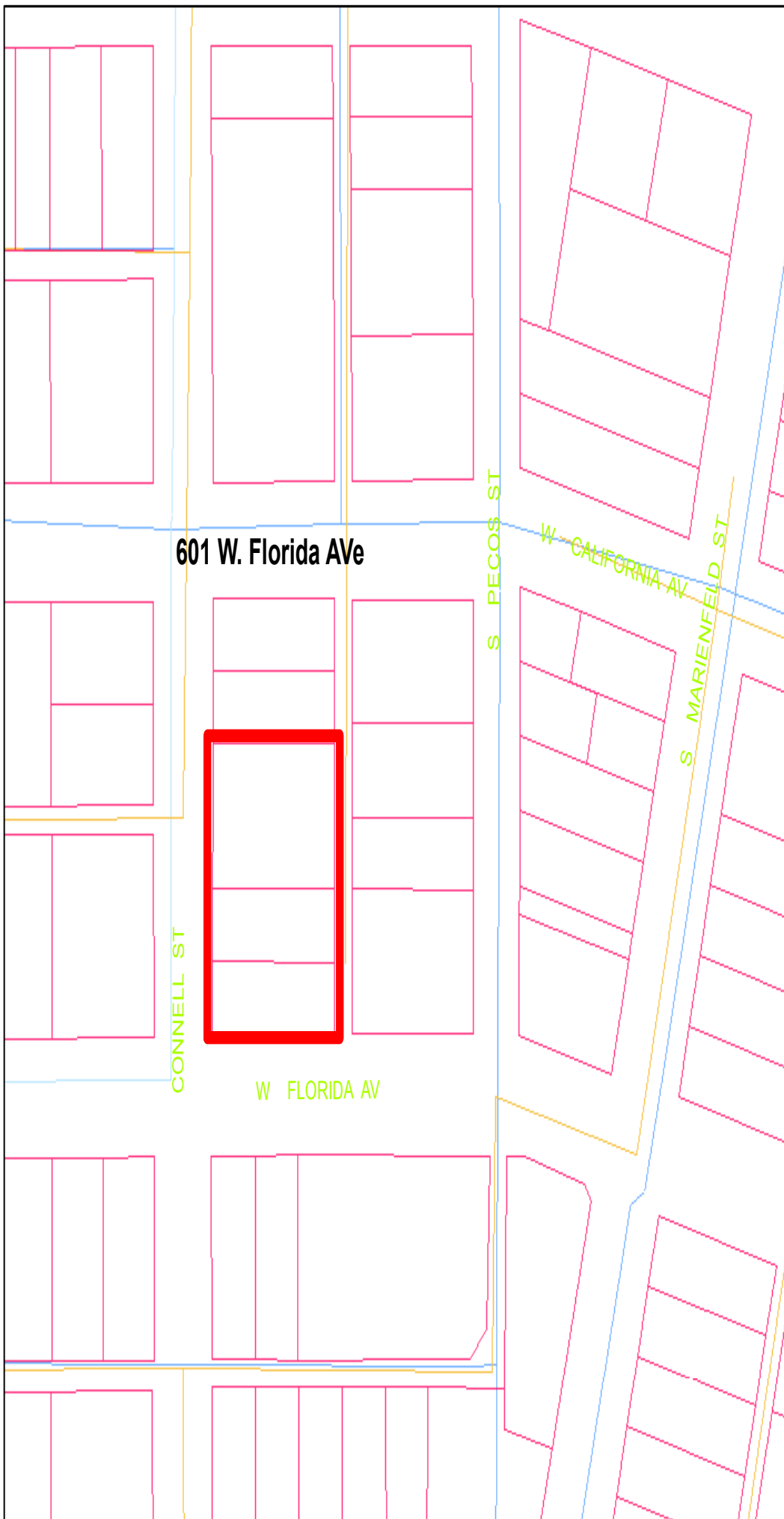
The owner is proposing to defer the payment of his share of the public improvement costs for street construction (\$24,855.00) until after the street is paved. Though this request contradicts staff's current practice with regard to deferrals, Councilwoman Hailey has asked that it be brought forward for Council's consideration. Staff is seeking Council's direction on this deferral request.

Attached is an opinion of probable cost prepared by City Staff and a location map.

# ENGINEERING DIVISION

601 W. Florida Ave.

Request for Deferral





# City Council Agenda

Approved For Agenda:  
**THudson**  
City Manager's Office

**MEETING DATE:** April 10, 2012

**TO:** CITY COUNCIL, CITY MANAGER

**FROM:** Robert Patrick, General Services Director

**SUBJECT:** Bid #4769-12 for Ward Street Bridge Rehabilitation and Garfield Street Bridge Rail Retrofit.

---

**Purpose:**

To request City Council approval of a resolution awarding the bid for the Ward Street Bridge rehabilitation and Garfield Street Bridge Rail Retrofit.

**Recommended City Council Action:**

☒ Approve

☐ Deny

☐ Direction/Informational

**Fiscal Impact:**

\$735,178.90 from the General Construction Fund.

**Discussion:**

This project for the rehabilitation of the Ward Street Bridge Rehabilitation and Garfield Street Bridge Rail Retrofit bid was opened on 3-28-2012. There were two bidders, with Onyx Contractors being the apparent low bid. Please refer to the attached memo from David Beard, City Engineer, as well as the attached bid tabulation.

Staff recommends that the bid be awarded to the apparent low bidder Onyx Contractors Operations, LP, of Midland Texas in the amount of \$639,286.00, and approve a 15% contingency for the project of \$95,892.90 for a total projected cost of \$735,178.90.



## MEMO

**TO:** Regina Stephenson; City of Midland, Purchasing Manager  
**FR:** David D. Beard, P.E.; City of Midland, City Engineer  
**DA:** 31 March 2012  
**RE:** Ward Street Bridge Rehabilitation and Garfield Street Bridge Rail Retrofit  
Project No. P-12-01-8880  
Recommend Award

---

Regina --

I have reviewed the bid tabulation for the Ward Street Bridge. Onyx Contractors Operations, LP. is the apparent low bidder. Onyx Contractors Operations, LP. has a track record of successfully completing work in the City of Midland and the surrounding areas. In addition, the unit prices appear to be in line with current pricing and trends. Therefore, I am recommending award of the Ward Street Bridge project to Onyx Contractors Operations, LP in the amount of \$735,178.90 (Base Bid + 15% Contingency).

|                  |                    |
|------------------|--------------------|
| Base Bid         | \$639,286.00       |
| Contingency, 15% | \$ 95,892.90       |
| <hr/> Total      | <hr/> \$735,178.90 |

The funding for this project was approved as part of the scope of the \$3.8 million appropriation on September 22, 2009 for the Jal Channel Rehabilitation Project. To date, approximately \$2,550,000 has been spent on the Jal Channel Retaining Wall and approximately \$50,000 has been spent on Engineering fees for the bridge design. To complete this project, including contingency, we will spend approximately \$3,330,000 of the total project budget, leaving \$500,000 remaining.

Attached are the contract and bond forms, filled-out and ready for signatures.

City of Midland

David D. Beard, P.E.  
City Engineer

**RESOLUTION NO.**

**RESOLUTION AWARDDING THE WARD STREET  
BRIDGE REHABILITATION AND GARFIELD STREET  
BRIDGE RAIL RETROFIT PROJECT TO ONYX  
CONTRACTORS OPERATIONS, LP, OF MIDLAND,  
TEXAS, AT A TOTAL COST OF \$735,178.90**

**WHEREAS**, the City Manager advertised the Ward Street Bridge Rehabilitation and Garfield Street Bridge Rail Retrofit Project for competitive bids; and

**WHEREAS**, Bid No. 4769-12 was opened on March 28, 2012, with the lowest and most responsible bid being submitted from Onyx Contractors Operations, LP, of Midland, Texas, at \$735,178.90 as shown on the bid tabulation attached hereto as Exhibit "A" and incorporated herein for all legal purposes; and

**WHEREAS**, the City Council finds it to be in the public interest to execute a contract with Onyx Contractors Operations, LP, for said project;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS:**

**SECTION ONE.** That the Mayor and City Secretary are hereby authorized and directed to execute and attest, respectively, on behalf of the City of Midland, a contract with Onyx Contractors Operations, LP, for said project at a cost not to exceed \$735,178.90, said contract being on file in the office of the City Secretary, referenced by the date and number of this Resolution.

**SECTION TWO.** That the City Treasurer is hereby authorized and directed to pay Onyx Contractors Operations, LP, pursuant to the terms of said contract from funds available in the General Construction Fund (005) Development Services (075) Jal Draw Channel Lining (8880) project account upon receipt of proper invoices or statements approved by the City Manager.

On motion of Council member \_\_\_\_\_, seconded by Council member \_\_\_\_\_, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2012, by

the following vote:

Council members voting "AYE":

Council members voting "NAY":

\_\_\_\_\_  
W. Wesley Perry, Mayor

ATTEST:

\_\_\_\_\_  
Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

\_\_\_\_\_  
Courtney Sharp, City Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
Keith Stretcher, City Attorney

**CITY OF MIDLAND**  
DEPT. OF ENGINEERING SERVICES

B I D T A B

**Ward St Bridge Rehabilitation and Garfield St Bridge Rail Retrofit Project D-45/8880**

| Ward St Bridge Rehabilitation and Garfield St Bridge Rail Retrofit Project D-45/8880 |                                                   |       |      | Onyx Contractors LP |                      | Coppell Construction Co., Inc. |                      |
|--------------------------------------------------------------------------------------|---------------------------------------------------|-------|------|---------------------|----------------------|--------------------------------|----------------------|
| Item                                                                                 | Description                                       | Qty   | Unit | Unit Price          | Total Price          | Unit Price                     | Total Price          |
| 1                                                                                    | Mobilization                                      | 1     | LS   | \$ 30,000.00        | \$ 30,000.00         | \$ 56,000.00                   | \$ 56,000.00         |
| 2                                                                                    | Barricades and Traffic Control                    | 1     | LS   | \$ 10,000.00        | \$ 10,000.00         | \$ 12,530.00                   | \$ 12,530.00         |
| 3                                                                                    | Remove existing roadway                           | 1     | LS   | \$ 65,000.00        | \$ 65,000.00         | \$ 39,000.00                   | \$ 39,000.00         |
| 4                                                                                    | Remove existing bridge                            | 1     | LS   | \$ 32,500.00        | \$ 32,500.00         | \$ 47,500.00                   | \$ 47,500.00         |
| 5                                                                                    | Blast clean concrete abutments                    | 780   | SF   | \$ 10.00            | \$ 7,800.00          | \$ 4.00                        | \$ 3,120.00          |
| 6                                                                                    | Blast clear and paint existing steel substructure | 11850 | SF   | \$ 2.56             | \$ 30,336.00         | \$ 8.56                        | \$ 101,436.00        |
| 7                                                                                    | Structural repair of steel piles                  | 1     | LS   | \$ 35,000.00        | \$ 35,000.00         | \$ 38,000.00                   | \$ 38,000.00         |
| 8                                                                                    | Clean and epoxy cracks in concrete abutments      | 200   | LF   | \$ 40.00            | \$ 8,000.00          | \$ 100.00                      | \$ 20,000.00         |
| 9                                                                                    | Construct new concrete bumper in stream           | 1     | LS   | \$ 50,000.00        | \$ 50,000.00         | \$ 39,000.00                   | \$ 39,000.00         |
| 10                                                                                   | Furnish and instal Nelson studs                   | 1     | LS   | \$ 20,000.00        | \$ 20,000.00         | \$ 15,500.00                   | \$ 15,500.00         |
| 11                                                                                   | New roadway items                                 | 1     | LS   | \$ 213,700.00       | \$ 213,700.00        | \$ 118,000.00                  | \$ 118,000.00        |
| 12                                                                                   | New bridge items                                  | 1     | LS   | \$ 64,500.00        | \$ 64,500.00         | \$ 184,000.00                  | \$ 184,000.00        |
| 13                                                                                   | Remove existing roadway items                     | 1     | LS   | \$ 10,000.00        | \$ 10,000.00         | \$ 12,200.00                   | \$ 12,200.00         |
| 14                                                                                   | Remove existing bridge items                      | 1     | LS   | \$ 16,200.00        | \$ 16,200.00         | \$ 13,000.00                   | \$ 13,000.00         |
| 15                                                                                   | New roadway items                                 | 1     | LS   | \$ 14,000.00        | \$ 14,000.00         | \$ 23,900.00                   | \$ 23,900.00         |
| 16                                                                                   | New bridge items                                  | 1     | LS   | \$ 32,250.00        | \$ 32,250.00         | \$ 35,700.00                   | \$ 35,700.00         |
| <b>TOTAL</b>                                                                         |                                                   |       |      |                     | <b>\$ 639,286.00</b> |                                | <b>\$ 758,886.00</b> |

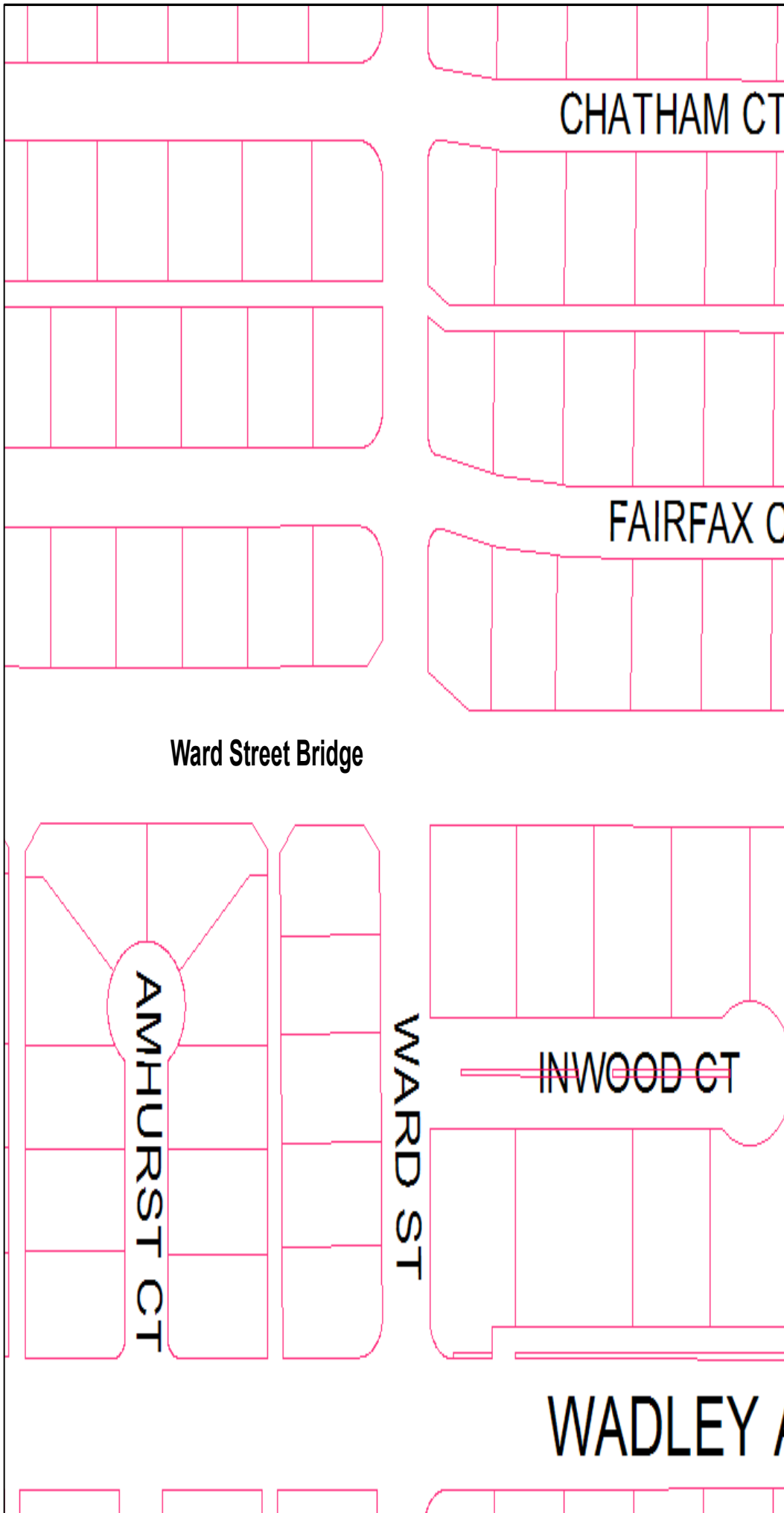
Bid Opening: 3/28/12; 3:00, City Hall



denotes apparent low bidder



denotes math error



# ENGINEERING DIVISION

## Ward Street Bridge

Permission to Advertise  
for Bids







**DATE:** April 4, 2012

**TO:** The Honorable Mayor and City Council Members

**FROM:** Keith Stretcher, City Attorney

**SUBJECT:** Amended and Restated Interlocal Agreement

---

The Midland County Freshwater Supply District No. 1 (District) has requested a second financial back-stop for costs incurred between June 1, 2012 and October 31, 2012, as the District prepares to issue bonds. The District has to get approval from the Texas Attorney General prior to issuing the bonds. It is anticipated that the District's bonds will be issued in September of 2012. Since the District has no money of its own, and since time is of the essence, they are asking various banks to provide the District a loan, so the District can proceed with buying pipe, rights-of-way, and drilling water wells. Before the banks will make the loans, they are requiring some type of guarantee on the repayment for the loans.

The City's true remedy in the case of a default by the District (i.e. the District's inability to issue debt or failure to issue debt) would be for the City to pay for and acquire all of the pipeline, right-of-way, equipment and engineering designs for the project and continue on with the project either by itself or through a new funding/managing source, as time is clearly of the essence. The reality of this project is that the District is funding and managing an infrastructure project for the City and for no other entity's benefit. As such, the risk really is not that some other entity will get the benefit of the project or the funds expended thus far, but the risk is really that the project will be slowed (or stopped) if the District isn't able to secure funding to continue. Considering the District is not capitalized on its own, the issuance of the loans and the ultimate bond issuance are fully predicated on the City's ability to pay, which is why the banks are requiring the second financial back-stop.

The Amended and Restated Interlocal Agreement requires that all pipe and other infrastructure that has been purchased by the District shall be transferred and conveyed to the City if the City has to step in and pay the costs. All easements and rights-of-way shall

be transferred, assigned and conveyed to the City upon payment by the City. All water wells and any data, reports, and records therefrom shall be transferred and conveyed to the City if the City has to pay for the water wells. In addition, upon payment of costs for professional services, all documents and designs shall be transferred and conveyed to the City.

In closing, if the City and the District enter into the Wholesale Water Delivery Contract in May of 2012, as contemplated, and the District issues the bonds, all outstanding principle and interest from any loans **shall** be paid in full from the proceeds of the bonds issued by the District. In that case, this Amended and Restated Interlocal Agreement will have no effect.

If you have any questions or if I may be of any assistance, do not hesitate to contact me.

Keith Stretcher

KS/lo

**RESOLUTION NO.**

**RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AMENDED AND RESTATED INTERLOCAL AGREEMENT BETWEEN THE CITY OF MIDLAND AND THE MIDLAND COUNTY FRESH WATER SUPPLY DISTRICT NO. 1. REGARDING THE DELIVERY OF WATER FROM THE T-BAR RANCH; THE T-BAR RANCH IS LOCATED IN WINKLER COUNTY AND LOVING COUNTY, TEXAS**

**WHEREAS**, the Council finds it to be in the public interest to authorize the execution of an amended and restated Interlocal Agreement between the City of Midland and the Midland County Fresh Water Supply District No. 1 regarding the delivery of water from the T-Bar Ranch;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS:**

**THAT** the Mayor and the City Secretary are hereby authorized and directed to execute and attest respectively, on behalf of the City of Midland, an amended and restated Interlocal Agreement between the City of Midland and the Midland County Fresh Water Supply District No. 1 regarding the delivery of water from the T-Bar Ranch in substantially the form as shown on Exhibit "A", which is attached hereto and incorporated herein for all purposes.

On motion of Council member \_\_\_\_\_, seconded by Council member \_\_\_\_\_, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2012, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

\_\_\_\_\_  
W. Wesley Perry, Mayor

ATTEST:

\_\_\_\_\_  
Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

\_\_\_\_\_  
Courtney Sharp, City Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
Keith Stretcher, City Attorney

**City of Midland**  
**City Secretary's Office**  
**Interoffice Memorandum**

**Date:** April 3, 2012  
**To:** The Honorable Mayor Perry and Council  
**From:** Amy M. Turner, City Secretary  
**Subject:** Membership - Boards and Commissions

Attached is an updated membership listing for the City's Boards and Commissions effective April 10, 2012. Remaining expirations and vacancies are listed below:

**CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS** –Two terms expired on September 30, 2011 and two vacancies for Alternate terms expired on September 30, 2007.

**MIDLAND FOOTBALL-SOCCER AND BASEBALL COMPLEX DEVELOPMENT CORPORATION** – Two terms expired in November 2011.

**MIDLAND HIGHER EDUCATION FACILITIES CORPORATION** – Three vacancies expired on January 1, 2007, one term expired on January 1, 2009, two terms expired on January 1, 2010 and one term expired on January 1, 2012.

**MIDLAND HOUSING FINANCE CORPORATION** –One vacancy expired on September 30, 2010 and two terms expired on September 30, 2011.

**MIDLAND MUNICIPAL MANAGEMENT DISTRICT BOARD** – One vacancy.

**PARKS AND RECREATION COMMISSION** –One term expired on September 30, 2011.

**PERMIAN BASIN AIRPORT BOARD** – Two terms expired on September 30, 2010 (Carlsbad and Hobbs New Mexico) and three terms expired on September 30, 2011.

**PLANING AND ZONING COMMISSION** – One term expired on September 30, 2011.

**TAX INCREMENT REINVESTMENT ZONE BOARD** – One term expired on March 20, 2009 (one College representative), seven terms expired on March 20, 2010 and two terms expired March 20, 2011. (Four City representatives, two Hospital representatives, two County representatives and one College representative.)

**ZONING BOARD OF ADJUSTMENT AND AIRPORT ZONING BOARD OF ADJUSTMENT-**  
Two terms expired on September 30, 2011, one vacancy for Alternate term expired on September 30, 2006 and one vacancy for Alternate term expired September 30, 2009.

## **BOARDS AND COMMISSIONS OF THE CITY OF MIDLAND**

**April 10, 2012**

### **AIRPORT PLANNING AND DEVELOPMENT BOARD**

(Advisory)

(Membership-10; Terms - 3 Years expiring 3-3-4.)

|                        | <b><u>Appt Date</u></b> | <b><u>Term Expires</u></b> | <b><u>Eligibility Expires</u></b> |
|------------------------|-------------------------|----------------------------|-----------------------------------|
| Ronald Schwisow        | 09/06                   | Sept 30 2012               | Sept 30 2012                      |
| Herbert Blankinship    | 09/06                   | Sept 30 2012               | Sept 30 2012                      |
| Jerry Walton           | 11/09                   | Sept 30 2012               | Sept 30 2015                      |
| Mike Owen              | 10/07                   | Sept 30 2013               | Sept 30 2013                      |
| Gregory F. Baiano      | 09/10                   | Sept 30 2013               | Sept 30 2016                      |
| John T. Echols         | 09/10                   | Sept 30 2013               | Sept 30 2016                      |
| Dallas L. Smith        | 09/10                   | Sept 30 2013               | Sept 30 2016                      |
| Earl Erdmann, Chairman | 09/08                   | Sept 30 2014               | Sept 30 2014                      |
| Brooks Smith           | 11/11                   | Sept 30 2014               | Sept 30 2017                      |
| Don "Woody" Woodward   | 11/11                   | Sept 30 2014               | Sept 30 2017                      |

Ex-Officio members are Harry Spannaus, the City Manager and the City Attorney. The Secretary is the Director of Aviation.

### **ANIMAL SERVICES ADVISORY COMMISSION**

(Advisory)

(Membership - 6; Terms - 4 Years)

|                              | <b><u>Appt Date</u></b> | <b><u>Term Expires</u></b> | <b><u>Eligibility Expires</u></b> |
|------------------------------|-------------------------|----------------------------|-----------------------------------|
| Dr. Tom Green (Veterinarian) | 10/07*                  | Sept 30 2013               | Sept 30 2017                      |
| Kelly Spencer                | 09/09                   | Sept 30 2013               | Sept 30 2017                      |
| Laura Hollifield             | 09/08*                  | Sept 30 2013               | Sept 30 2017                      |
| Justin Petty                 | 04/07*                  | Sept 30 2013               | Sept 30 2017                      |
| Tony Carrillo                | 09/09                   | Sept 30 2013               | Sept 30 2017                      |
| Paul O'Neill                 | 09/09                   | Sept 30 2013               | Sept 30 2017                      |

### **BUILDING CODES REVIEW COMMITTEE**

(Membership – 9; Terms – 2 Years)

|                   | <b><u>Appt Date</u></b> | <b><u>Term Expires</u></b> | <b><u>Eligibility Expires</u></b> |
|-------------------|-------------------------|----------------------------|-----------------------------------|
| James Rigger      | 12/09                   | Dec 31 2013                | Dec 31 2013                       |
| Chris Repman      | 12/09                   | Dec 31 2013                | Dec 31 2013                       |
| John Cooper       | 12/09                   | Dec 31 2013                | Dec 31 2013                       |
| Bill Routh        | 12/09                   | Dec 31 2013                | Dec 31 2013                       |
| Tom Woodruff      | 12/09                   | Dec 31 2013                | Dec 31 2013                       |
| Ron Ainsworth     | 12/09                   | Dec 31 2013                | Dec 31 2013                       |
| Walter Pate       | 12/09                   | Dec 31 2013                | Dec 31 2013                       |
| Robert Harrington | 12/09                   | Dec 31 2013                | Dec 31 2013                       |
| Jerry Morales     | 12/09                   | Dec 31 2013                | Dec 31 2013                       |

\* Indicates appointment to an unexpired term.

**CITY DEVELOPMENT ADVISORY COMMITTEE**

(Advisory)

(Membership - 5; Terms - 2 Years expiring 2 even &amp; 3 odd)

|                 | <b><u>Appt Date</u></b> | <b><u>Term Expires</u></b> | <b><u>Eligibility Expires</u></b> |
|-----------------|-------------------------|----------------------------|-----------------------------------|
| Vicky Hailey    | 09/10                   | Sept 30 2012               | Sept 30 2014                      |
| Reggie Lawrence | 09/10                   | Sept 30 2012               | Sept 30 2014                      |
| Lena Margita    | 10/09                   | Sept 30 2013               | Sept 30 2013                      |
| Alonda Massey   | 11/11                   | Sept 30 2013               | Sept 30 2015                      |
| Tim Bryson      | 11/11                   | Sept 30 2013               | Sept 30 2015                      |

**CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS**

(Decision Making)

(Membership - 7; Terms - 4 Years expiring 2-2-2-1)

**To sunset December 31, 2011**

|                                    | <b><u>Appt Date</u></b> | <b><u>Term Expires</u></b> | <b><u>Eligibility Expires</u></b> |
|------------------------------------|-------------------------|----------------------------|-----------------------------------|
| <b>Joe Molina, Jr.</b>             | <b>09/03</b>            | <b>Sept 30 2011</b>        | <b>Sept 30 2011</b>               |
| <b>James W. Rigger (Architect)</b> | <b>09/99</b>            | <b>Sept 30 2011</b>        | <b>Sept 30 2011</b>               |
| Don Woodward (At Large)            | 11/11*                  | Sept 30 2012               | Sept 30 2020                      |
| Richard D. Dunham                  | 10/05                   | Sept 30 2013               | Sept 30 2013                      |
| Greg Turner                        | 03/11*                  | Sept 30 2013               | Sept 30 2021                      |
| Chris Repman                       | 10/07*                  | Sept 30 2014               | Sept 30 2018                      |
| Jay K. Bradford                    | 09/10                   | Sept 30 2014               | Sept 30 2018                      |

**ALTERNATES:**

|                |                     |
|----------------|---------------------|
| <b>Vacancy</b> | <b>Sept 30 2007</b> |
| <b>Vacancy</b> | <b>Sept 30 2007</b> |

**HOTEL/MOTEL TAX ADVISORY BOARD**

(Advisory)

(Membership - 7; Terms - 2 Years Staggered)

|                                   | <b><u>Appt Date</u></b> | <b><u>Term Expires</u></b> | <b><u>Eligibility Expires</u></b> |
|-----------------------------------|-------------------------|----------------------------|-----------------------------------|
| Tyler Wolfe                       | 04/11*                  | Sept 30 2012               | Sept 30 2012                      |
| Jon S. Blair                      | 02/09*                  | Sept 30 2012               | Sept 30 2014                      |
| Karmen Hendrix Bryant             | 02/12*                  | Sept 30 2013               | Sept 30 2017                      |
| David Baur                        | 09/10                   | Sept 30 2013               | Sept 30 2014                      |
| Lisa Grissom                      | 9/09                    | Sept 30 2013               | Sept 30 2013                      |
| Steve Jones                       | 02/09*                  | Sept 30 2013               | Sept 30 2013                      |
| Alex Singh-Hotel/Motel Assn. Rep. | 09/09                   | Dec 31 2013                | Assn. Appt.                       |
| Vicky Hailey (Liaison Officer)    |                         |                            |                                   |

\* Indicates appointment to an unexpired term.

**HOUSING AUTHORITY COMMISSION**

(Membership - 5; Terms - 2 Years expiring 2 even & 3 odd.)

|                             | <b><u>Appt Date</u></b> | <b><u>Term Expires</u></b> | <b><u>Eligibility Expires</u></b> |
|-----------------------------|-------------------------|----------------------------|-----------------------------------|
| Rosie Gransberry            | 06/08*                  | Oct 2012                   | Oct 2012                          |
| Norma Duran                 | 11/08*                  | Oct 2012                   | Oct 2014                          |
| Gregory Maes                | 11/11                   | Oct 2013                   | Oct 2015                          |
| Carla Repman, Vice Chairman | 09/09                   | Oct 2013                   | Oct 2013                          |
| James A. Blischke           | 01/10                   | Oct 2013                   | Oct 2013                          |

**ALTERNATES:**

|             |       |          |          |
|-------------|-------|----------|----------|
| Dennis Bade | 11/11 | Oct 2013 | Oct 2015 |
|-------------|-------|----------|----------|

**JOINT ECONOMIC DEVELOPMENT TASK FORCE**

(Ad Hoc)

|                 | <b><u>Appt. Date</u></b> |
|-----------------|--------------------------|
| (Midland)       |                          |
| Wes Perry       | 01/08                    |
| LuAnn Morgan    | 12/00                    |
| Keith Stretcher | 12/00                    |
| Tommy Hudson    | 08/07                    |
| John Breier     | 01/04                    |
| (Odessa)        |                          |
| Larry Melton    | 08/01                    |
| Jim Morris      | 11/00                    |
| Richard Morton  | 01/02                    |
| Joel Roberts    | 11/00                    |
| Neil McDonald   | 11/00                    |

**MANAGED COMPETITION COMMITTEE**

(Ad Hoc)

|                     | <b><u>Appt. Date</u></b> |
|---------------------|--------------------------|
| Jon Morgan          | 01/02                    |
| Wes Perry           | 01/02                    |
| Roy Nelson          | 01/02                    |
| Hugh "Andy" Shaffer | 12/03                    |
| Scott Dufford       | 01/02                    |
| Ted Tipton          | 04/04                    |
| Kevin Sparks        | 11/07                    |
| Scott Lovett        | 04/10                    |
| P. Lourcey Sams     | 04/10                    |

Ex-Officio members are the Mayor and the City Manager.

• Indicates appointment to an unexpired term.



**MIDLAND CENTER ADVISORY BOARD**

(Advisory &amp; Decision Making)

(Membership - 9; Terms - 3 Years expiring 3-2-2.)

|                                 |        | <b><u>Appt Date</u></b> | <b><u>Term Expires</u></b> | <b><u>Eligibility Expires</u></b> |
|---------------------------------|--------|-------------------------|----------------------------|-----------------------------------|
| Brent Blackburn                 | (City) | 09/09*                  | Sept 30 2013               | Sept 30 2016                      |
| Charles Spence                  | (CC)   | 11/07                   | Sept 30 2013               | N/A                               |
| Lorri Lyon West                 | (City) | 09/10                   | Sept 30 2013               | Sept 30 2016                      |
| Patricia S. Blackwell           | (City) | 10/07*                  | Sept 30 2014               | Sept 30 2014                      |
| Paula Mitchell                  | (City) | 09/08                   | Sept 30 2014               | Sept 30 2014                      |
| Greg Turner                     | (CC)   | 12/11                   | Sept 30 2014               | N/A                               |
| Ttracy Bacon                    | (CC)   | 12/11                   | Sept 30 2014               | N/A                               |
| Jerry Morales (Liaison Officer) |        |                         |                            |                                   |

Ex-Officio members are the City Manager and Executive Director of the Chamber of Commerce.

**MIDLAND CENTRAL APPRAISAL DISTRICT BOARD OF DIRECTORS**

Five Directors, Elected by Local Taxing Entities.

City Nominates/Cast Vote for one Director

(Terms - 2 Years)

|            | <b><u>Appt Date</u></b> | <b><u>Term Expires</u></b> |
|------------|-------------------------|----------------------------|
| Chad Clark | 3/12*                   | Dec 31 2013                |

**MIDLAND DEVELOPMENT CORPORATION**

(Membership - 5; Terms -3 Years - Staggered)

|                          | <b><u>Appt Date</u></b> | <b><u>Term Expires</u></b> | <b><u>Eligibility Expires</u></b> |
|--------------------------|-------------------------|----------------------------|-----------------------------------|
| Michael Trost            | 02/11*                  | Jan 14 2013                | Jan 14 2019                       |
| Cary J. Love             | 12/09                   | Jan 14 2013                | Jan 14 2016                       |
| Gary Douglas             | 11/11*                  | Jan 14 2013                | Jan 14 2019                       |
| Laura Roman              | 01/08                   | Jan 14 2014                | Jan 14 2014                       |
| Robert Rendall, Chairman | 01/09*                  | Jan 14 2014                | Jan 14 2017                       |

- Indicates appointment to an unexpired term.

**MIDLAND FOOTBALL-SOCCER AND BASEBALL COMPLEX  
DEVELOPMENT CORPORATION**

(Decision Making)

Membership - 7; Terms - 2 Years)

|                                  | <u>Appt Date</u> | <u>Eligibility<br/>Term Expires</u> | <u>Expires</u>  |
|----------------------------------|------------------|-------------------------------------|-----------------|
| <b>Ken Marks, Vice President</b> | <b>10/07</b>     | <b>Nov 2011</b>                     | <b>Nov 2011</b> |
| <b>James G. Smith</b>            | <b>12/07</b>     | <b>Nov 2011</b>                     | <b>Nov 2011</b> |
| Mike Thompson                    | 11/11            | Nov 2013                            | Nov 2015        |
| Tim Bryson                       | 11/11            | Nov 2013                            | Nov 2015        |
| Wesley D. Bownds                 | 02/09*           | Nov 2013                            | Nov 2013        |
| John James                       | 08/08*           | Nov 2013                            | Nov 2013        |
| Rick Davis (MISD Resp.)          | 10/10*           | Nov 2013                            | Nov 2015        |

**MIDLAND HIGHER EDUCATION FACILITIES CORPORATION**

(Membership - 7; Terms - 2 Years Staggered)

|                       | <u>Appt Date</u> | <u>Term Expires</u> | <u>Eligibility<br/>Expires</u> |
|-----------------------|------------------|---------------------|--------------------------------|
| <b>Vacancy</b>        |                  | <b>Jan 1 2007</b>   |                                |
| <b>Vacancy</b>        |                  | <b>Jan 1 2007</b>   |                                |
| <b>Vacancy</b>        |                  | <b>Jan 1 2007</b>   |                                |
| <b>Vacancy</b>        |                  | <b>Jan 1 2009</b>   |                                |
| <b>Cathy Oestmann</b> | <b>11/05*</b>    | <b>Jan 1 2010</b>   | <b>Jan 1 2010</b>              |
| <b>Steve Jones</b>    | <b>09/08*</b>    | <b>Jan 1 2010</b>   | <b>Jan 1 2012</b>              |
| <b>Curt Kamradt</b>   | <b>11/05*</b>    | <b>Jan 1 2012</b>   | <b>Jan 1 2012</b>              |

**MIDLAND HOUSING FINANCE CORPORATION**

(Decision Making)

(Membership - 5; Terms - 2 Years - Staggered)

|                                      | <u>Appt Date</u> | <u>Term Expires</u> | <u>Eligibility<br/>Expires</u> |
|--------------------------------------|------------------|---------------------|--------------------------------|
| <b>Vacancy - (Damon L. Blakeley)</b> | <b>07/07*</b>    | <b>Sept 30 2010</b> |                                |
| <b>Adrianne Valencia</b>             | <b>10/07</b>     | <b>Sept 30 2011</b> | <b>Sept 30 2011</b>            |
| <b>Melissa Wicker</b>                | <b>10/07</b>     | <b>Sept 30 2011</b> | <b>Sept 30 2011</b>            |
| Jerry Morales (Liaison Officer)      | 10/08            | Sept 30 2012        | Sept 30 2012                   |
| Nathan Miller                        | 11/11*           | Sept 30 2012        | Sept 30 2016                   |

- Indicates appointment to an unexpired term.

**MIDLAND MUNICIPAL MANAGEMENT DISTRICT BOARD**

(Ad Hoc)

**Appt. Date****Vacancy**

|                       |       |
|-----------------------|-------|
| Richard Hatchett      | 11/08 |
| W. L. "Scooter" Brown | 09/04 |
| Ken Burgess           | 09/04 |
| Jim Hightower         | 11/08 |
| Ted H. Jones          | 09/04 |
| Mitch Malouf          | 11/08 |
| Christi Newton        | 09/04 |
| Dan Rush              | 09/04 |

**MIDLAND-ODESSA URBAN TRANSIT DISTRICT BOARD**

(Decision Making)

(Membership - 6; Terms - 2 Years Staggered)

|                  | <b><u>Appt Date</u></b> | <b><u>Term Expires</u></b> | <b><u>Eligibility Expires</u></b> |
|------------------|-------------------------|----------------------------|-----------------------------------|
| Willie Barber    | 09/08                   | Sept 30 2012               | Sept 30 2012                      |
| Raymond McCarthy | 09/08                   | Sept 30 2012               | Sept 30 2012                      |
| Michael Trost    | 09/08                   | Sept 30 2012               | Sept 30 2012                      |
| John H. James    | 09/09                   | Sept 30 2013               | Sept 30 2013                      |
| Karen York       | 06/09*                  | Sept 30 2013               | Sept 30 2013                      |
| Guy McKenize     | 03/11*                  | Sept 30 2013               | Sept 30 2015                      |

**OIL AND GAS ADVISORY COMMITTEE**

(Advisory)

(Membership – 5; Terms – 3 Years expiring 2-2-1)

|                                        | <b><u>Appt Date</u></b> | <b><u>Term Expires</u></b> | <b><u>Eligibility Expires</u></b> |
|----------------------------------------|-------------------------|----------------------------|-----------------------------------|
| Richard D. Dunham (Realtor/Petro Eng.) | 01/10                   | Sept 30 2013               | Sept 30 2016                      |
| D. Patrick Darden (Petroleum Eng.)     | 02/10                   | Sept 30 2012               | Sept 30 2015                      |
| Don Eubank (Drilling Eng.)             | 04/10                   | Sept 30 2012               | Sept 30 2015                      |
| Paul Brown                             | 11/11                   | Sept 30 2014               | Sept 30 2017                      |
| David Rosen                            | 11/11                   | Sept 30 2014               | Sept 30 2017                      |

\* Indicates appointment to an unexpired term.

**PARKS AND RECREATION COMMISSION**

(Advisory)

(Membership - 9; Terms - 3 Years expiring 3-3-3.)

|                      | <b><u>Appt Date</u></b> | <b><u>Term Expires</u></b> | <b><u>Eligibility Expires</u></b> |
|----------------------|-------------------------|----------------------------|-----------------------------------|
| <b>Berry Simpson</b> | <b>09/10*</b>           | <b>Sept 30 2011</b>        | <b>Sept 30 2017</b>               |
| Amanda McCann        | 11/11*                  | Sept 30 2012               | Sept 30 2018                      |
| David Ham            | 09/06                   | Sept 30 2012               | Sept 30 2012                      |
| Charles A. Spence    | 01/10*                  | Sept 30 2013               | Sept 30 2016                      |
| Susan Nichols        | 02/06*                  | Sept 30 2013               | Sept 30 2013                      |
| Eric L. West         | 10/07                   | Sept 30 2013               | Sept 30 2013                      |
| Kenny Harper         | 03/12*                  | Sept 30 2013               | Sept 30 2019                      |
| P. Lourcey Sams      | 09/08                   | Sept 30 2014               | Sept 30 2014                      |
| Tina Corbett         | 09/08                   | Sept 30 2014               | Sept 30 2014                      |

**PERMIAN BASIN AIRPORT BOARD**

(Advisory)

(Membership - 30; Terms - 1 year.)

|                                                                 | <b><u>Appt. Date</u></b> | <b><u>Term Expires</u></b> |
|-----------------------------------------------------------------|--------------------------|----------------------------|
| <b>10 Members of the Airport Planning and Development Board</b> |                          |                            |
| <b>Bob Forrest (Carlsbad, NM)</b>                               | <b>10/04</b>             | <b>Sept 30 2010</b>        |
| <b>Larry Shed (Hobbs, NM)</b>                                   | <b>10/01</b>             | <b>Sept 30 2010</b>        |
| <b>Larry Gill (Abilene)</b>                                     | <b>10/10</b>             | <b>Sept 30 2011</b>        |
| <b>Isabelle Blanchard (Pecos)</b>                               | <b>10/10</b>             | <b>Sept 30 2011</b>        |
| <b>David Harrell (Snyder)</b>                                   | <b>10/07</b>             | <b>Sept 30 2011</b>        |
| Elvin Brownlee III (Andrews)                                    | 12/10*                   | Sept 30 2012               |
| Jim Little (Big Spring)                                         | 09/03                    | Sept 30 2012               |
| David Hardwick (Ft. Stockton)                                   | 10/07                    | Sept 30 2012               |
| Don Bethel (Lamesa)                                             | 02/91                    | Sept 30 2012               |
| Henry Cutbirth (Monahans)                                       | 09/05                    | Sept 30 2012               |
| Willie Taylor (Odessa)                                          | 02/00                    | Sept 30 2012               |
| Gloria Pena (Odessa)                                            | 03/03*                   | Sept 30 2012               |
| Barbara Graff (Odessa)                                          | 06/10*                   | Sept 30 2012               |
| Luis E. Elguezabal (San Angelo)                                 | 10/07                    | Sept 30 2012               |
| Lex Hinds (Seminole)                                            | 10/08                    | Sept 30 2012               |
| Glenn Wortham (Sweetwater)                                      | 10/07                    | Sept 30 2012               |
| Lance Goodrich (Artesia, NM)                                    | 09/09                    | Sept 30 2012               |
| Larry Fry (Roswell, NM)                                         | 09/00                    | Sept 30 2012               |

Ex-Officio members are the City Manager and the City Attorney. The Secretary is the Director of Aviation.

\* Indicates appointment to an unexpired term.

**PERMIAN BASIN COMMUNITY CENTER FOR MENTAL HEALTH  
AND MENTAL RETARDATION**

(Decision Making)

(Membership - 2 (City); Terms - 2 Years)

|                           | <b><u>Appt Date</u></b> | <b><u>Term Expires</u></b> | <b><u>Eligibility Expires</u></b> |
|---------------------------|-------------------------|----------------------------|-----------------------------------|
| Janet R. Pritchett (City) | 05/09*                  | June 2012                  | June 2014                         |
| Larry Edgerton            | 07/10*                  | June 2013                  | June 2015                         |

**PERSONNEL BOARD OF APPEALS**

(Decision Making)

(Membership - 3; No designated terms.)

|                        | <b><u>Appt. Date</u></b> |
|------------------------|--------------------------|
| John James             | 03/08                    |
| Hugh A. "Andy" Shaffer | 09/05                    |
| Michael Trost          | 01/10                    |

**PLANNING AND ZONING COMMISSION**

(Advisory & Decision Making)

(Membership - 9; Terms - 3 Years)

|                                 | <b><u>Appt Date</u></b> | <b><u>Term Expires</u></b> | <b><u>Eligibility Expires</u></b> |
|---------------------------------|-------------------------|----------------------------|-----------------------------------|
| <b>Becky Ferguson, Chairman</b> | <b>03/04*</b>           | <b>Sept 30 2011</b>        | <b>Sept 30 2011</b>               |
| Kevin Wilton                    | 09/08*                  | Sept 30 2012               | Sept 30 2015                      |
| Bill Woodruff                   | 02/05*                  | Sept 30 2012               | Sept 30 2012                      |
| Royce Watkins                   | 02/08*                  | Sept 30 2012               | Sept 30 2015                      |
| Karen York                      | 01/10*                  | Sept 30 2012               | Sept 30 2018                      |
| Jane Wolf                       | 03/09*                  | Sept 30 2013               | Sept 30 2016                      |
| Cindy Lanning                   | 09/10                   | Sept 30 2013               | Sept 30 2016                      |
| Jay Norris                      | 11/11                   | Sept 30 2014               | Sept 30 2017                      |
| Galen Gatten, Vice Chairman     | 09/08                   | Sept 30 2014               | Sept 30 2014                      |

**ALTERNATES:**

|               |       |              |              |
|---------------|-------|--------------|--------------|
| Tony Carrillo | 11/11 | Sept 30 2014 | Sept 30 2017 |
|---------------|-------|--------------|--------------|

- Indicates appointment to an unexpired term.

**TAX INCREMENT REINVESTMENT ZONE BOARD**

(Decision Making)

(Membership - 12; Terms - 2 Years, or 3 Years if appointed after 3/1/07)

|                                      | <b><u>Appt Date</u></b> | <b><u>Term Expires</u></b> | <b><u>Eligibility Expires</u></b> |
|--------------------------------------|-------------------------|----------------------------|-----------------------------------|
| Neil Florer (College)                | 07/01                   | Mar 20 2009                | Mar 20 2009                       |
| Dan Rush (City)                      | 07/01                   | Mar 20 2010                | Mar 20 2010                       |
| Mark T. Wellen (City), Vice Chairman | 07/01                   | Mar 20 2010                | Mar 20 2010                       |
| Jay Reynolds (Hospital)              | 03/02                   | Mar 20 2010                | Mar 20 2010                       |
| Ralph Way (College)                  | 07/01                   | Mar 20 2010                | Mar 20 2010                       |
| Jimmy Davis (Hospital)               | 03/07                   | Mar 20 2010                | Mar 20 2013                       |
| Randy Prude (County)                 | 03/07                   | Mar 20 2010                | Mar 20 2013                       |
| Judge Mike Bradford (County)         | 01/07*                  | Mar 20 2010                | Mar 20 2014                       |
| C. Mark Wheeler (City), Treasurer    | 04/08                   | Mar 20 2011                | Mar 20 2014                       |
| Bob Lanier (City), Secretary         | 04/03                   | Mar 20 2011                | Mar 20 2011                       |
| Brent Kennedy (City)                 | 06/09                   | Mar 20 2012                | Mar 20 2015                       |
| John L. Kennedy (City)               | 10/09*                  | Mar 20 2012                | Mar 20 2018                       |

Ex-Officio member is President, Board of Trustees, Midland Independent School District

**ZONING BOARD OF ADJUSTMENT****AND****AIRPORT ZONING BOARD OF ADJUSTMENT**

(Decision Making)

(Membership - 5; Terms - 2 Years expiring 3 odd &amp; 2 even.)

|               | <b><u>Appt Date</u></b> | <b><u>Term Expires</u></b> | <b><u>Eligibility Expires</u></b> |
|---------------|-------------------------|----------------------------|-----------------------------------|
| Trudi Edwards | 10/07                   | Sept 30 2011               | Sept 30 2011                      |
| Manny Ribera  | 10/07                   | Sept 30 2011               | Sept 30 2011                      |
| Todd Byars    | 02/08*                  | Sept 30 2012               | Sept 30 2014                      |
| Ken Morgan    | 01/10*                  | Sept 30 2012               | Sept 30 2014                      |
| Carla Repman  | 01/10*                  | Sept 30 2013               | Sept 30 2015                      |

**ALTERNATES:** (not applicable to Airport Zoning)

|                 |       |              |              |
|-----------------|-------|--------------|--------------|
| Vacancy         |       | Sept 30 2006 |              |
| Vacancy         |       | Sept 30 2009 |              |
| Annabel Holguin | 11/11 | Sept 30 2013 | Sept 30 2015 |
| Greg Turner     | 11/11 | Sept 30 2013 | Sept 30 2015 |

\* Indicates appointment to an unexpired term.