

CITY OF MIDLAND, TEXAS
BRIEFING SESSION AGENDA
July 23, 2013 - 9:30 AM
BASEMENT CONFERENCE ROOM
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 an update from the Communication and Information Services Department regarding the Mass Notification System.

AGENDA FOR CITY COUNCIL MEETING

July 23, 2013 – 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 - Reverend Pat Bryant, Travis Baptist Church
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 Quanah Macklin Day.

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. Special meeting of July 8, 2013.
 - b. Regular meeting of July 9, 2013.
6. Consider a resolution recording a vote on a proposal to consider an Ad Valorem Tax Rate for the Fiscal Year 2013 - 2014 and to establish dates to hold public hearings on the proposed tax rate; and to establish dates when there will be a record vote on the tax rate; and authorizing and directing the City Manager to post all appropriate notices. (FINANCE) (2013 - 203)

7. Consider a resolution authorizing the Mayor to negotiate and execute an interlocal agreement with the Midland County Fresh Water Supply District Number 1 regarding the development of the Clearwater Ranch; the Clearwater Ranch consists of approximately 6,750 acres in Winkler County, Texas; and the proposed interlocal agreement will allow the development of the Clearwater Ranch as a water supply for the City in conjunction with the T-Bar Ranch. (CITY ATTORNEY'S OFFICE) (2013 - 204)
8. Consider a resolution authorizing the City Manager to employ Parkhill, Smith & Cooper, Incorporated, to work with various state agencies including the Railroad Commission of Texas and the Texas Commission on Environmental Quality in regards to the development of the City's water supply in Winkler County and Loving County, Texas; the City Manager is authorized to employ other experts as needed for the development of the City's water supply in Winkler County and Loving County, Texas; and appropriating funds. (CITY ATTORNEY'S OFFICE) (2013 - 205)
9. Consider a resolution calling an election for three City Officials; amending the boundary of the City and City Council Districts; providing for use of accessible voting systems; establishing election precincts for said election; and establishing polling places for said election. (CITY SECRETARY'S OFFICE) (2013 - 206)
10. Consider a resolution authorizing the execution of an agreement with Rock the Desert Ministries, Incorporated as authorized by Chapter 351 of the Texas Tax Code; the funds allocated by this resolution shall be used to promote tourism and the motel and hotel industry; the allocated funds are expended in a manner directly enhancing and promoting tourism and the motel and hotel industry; the use and allocation of these funds are authorized by Chapter 351 of the Texas Tax Code; and the approval of this resolution should not be construed or interpreted as endorsing the message or activities promoted by Rock the Desert Ministries, Incorporated; and Rock the Desert Ministries, Incorporated is required to provide insurance prior to the event and the City Secretary shall ensure that the insurance is received and approved prior to the Rock the Desert event; and allocating funds. (CITY SECRETARY'S OFFICE) (2013 - 207)
11. Consider a resolution authorizing the adoption of the City of Midland's 2013-2014 Action Plan to the Consolidated Plan for Community Development and Housing Funds for Fiscal Years 2011-2015; the Consolidated Plan was approved by Resolution Number 2010-197; and authorizing the execution of an application for Community Development Block Grant Funds. (DEVELOPMENT SERVICES) (2013 - 208)
12. Consider a resolution authorizing the City Manager to negotiate and execute a Professional Services Agreement with Enprotec / Hibbs & Todd, Inc. for plan review services to assist the Engineering Services Department and the

Development Services Department; and authorizing payment in an amount not to exceed \$50,000. (DEVELOPMENT SERVICES) (2013 - 209)

13. Consider a resolution authorizing the execution of a Temporary Water and Sewer Service Agreement between the City of Midland and Stagg Investment Group, Inc. for services to 2701 West Francis Avenue, Midland County, Texas; said property is outside the City limits; Stagg Investment Group, Inc. has executed a letter agreeing to annexation if and when the property is annexed; Stagg Investment Group, Inc. 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 SERVICES) (2013 - 210)
14. Consider a resolution authorizing the execution of a Professional Services Agreement with Freese & Nichols, Inc. for engineering services in connection with the Midland Draw Study and the Jal Draw Study; and authorizing payment therefor in the amount of \$285,614.00. (ENGINEERING SERVICES) (2013 - 211)
15. Consider a resolution authorizing the execution of a Professional Services Agreement with Maverick Civil & Survey, LLC for engineering services in connection with the extension of Beal Parkway between Thomason Drive and Anetta Drive; and authorizing payment therefor in the amount of \$44,000.00; a request for qualifications was not advertised by the City of Midland for said services. (ENGINEERING SERVICES) (2013 - 212)
16. Consider a resolution appropriating interest earned in the amount of \$82.00 on the FY2010 Justice Assistance Grant Funds; the grant award plus interest must be expended or returned to the Federal Government as a requirement of the grant. (POLICE) (2013 - 213)
17. Consider a resolution authorizing the renewal of an Operating Certificate for GK's Shuttle Service, LLC. (POLICE) (2013 - 214)
18. Consider a resolution authorizing an Operating Certificate for B&B Platinum Limo, LLC to operate a limousine business; setting forth conditions accompanying the certificate; and establishing the terms of the certificate. (POLICE) (2013 - 215)
19. Consider a resolution terminating a lease on a 100' by 100' area out of a larger 10-acre tract of land out of Section 8, Block 38, T-2-S, T&P RR Company Survey, Midland County, Texas; and authorizing the Utilities Department to give 30 days written notice thereof to the lessee, Mr. W Fireworks, Incorporated. (UTILITIES) (2013 - 216)
20. Consider a resolution authorizing the execution of a Professional Services Agreement with Enprotec / Hibbs & Todd, Incorporated, for professional

consultation services for a fee not to exceed \$10,000.00; this item was not bid. (UTILITIES) (2013 - 217)

SECOND READINGS

21. Consider an ordinance on second reading prohibiting parking between 7:30 a.m. and 4:30 p.m. on school days only upon portions of certain streets in the vicinity of Henderson Elementary School described as on the north side of Graceland Drive from the north south alley west of Bentwood Drive continuing east a distance of 921 feet to the north south alley of Erie Drive, and from the west side of Bentwood Drive from the centerline of Graceland Drive continuing north a distance of 368 feet, and on the east side of Bentwood Drive from the centerline of Graceland Drive continuing north a distance of 398 feet, and on the west side of Wilshire Drive from the centerline of Graceland Drive continuing north a distance of 372 feet, and on the east side of Wilshire Drive from the centerline of Graceland Drive continuing north a distance of 271 feet, and on the west side of Erie Drive from the centerline of Graceland Drive continuing north a distance of 238 feet, and on the east side of Erie Drive from the centerline of Graceland Drive continuing north a distance of 397 feet except to residents whose property abuts such street and have obtained a valid parking permit; authorizing and directing the Traffic Engineer to erect appropriate signs; declaring any vehicle in violation of the provisions of this ordinance a nuisance and providing for the removal of same; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two hundred dollars (\$200.00); and ordering publication. (ENGINEERING SERVICES)(First reading held April 9, 2013.)(9136)
22. Consider an ordinance on second reading changing the zoning classification by amending Chapter One, Title XI, of the City Code of Midland, Texas, by permitting a 5.32-acre tract of land which is presently zoned PD, Planned District for a Housing Development, to be used as an Amended Planned District for a Housing Development; by permitting a 5.35-acre tract of land which is presently zoned 1F-1, One-Family Dwelling District, to be used as a 1F-2, One-Family Dwelling District; said tracts being out of Section 35, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas (Generally located on the east side of State Highway 158 and at the west extension of Mosswood 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. (DEVELOPMENT SERVICES)(First reading held July 9, 2013.)(9162)
23. Consider an ordinance on second reading changing the zoning classification by amending Chapter One, Title XI, of the City Code of Midland, Texas, by permitting a 10.32-acre tract of land out of Section 1, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas, which is presently zoned 1F3, One-Family Dwelling District, to be used as a TH, Townhouse Dwelling District

(Generally located at the east side of North Lamesa Road, approximately ½ mile north of East Loop 250 North); 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. (DEVELOPMENT SERVICES)(First reading held July 9, 2013.)(9163)

24. Consider an ordinance on second reading changing the zoning classification by amending Chapter One, Title XI, of the City Code of Midland, Texas, by permitting a 2.50-acre portion of Lot 1, Block 3, Wallace Heights Addition, Section 4, City and County of Midland, Texas, and more specifically described in Section One hereof, which is presently zoned PD, Planned District for a Mixed Use District, to be used as a PD, Planned District for a Housing Development (Generally located on the south side of Sinclair Avenue, approximately 380 feet west of 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. (DEVELOPMENT SERVICES)(First reading held July 9, 2013.)(9164)
25. Consider an ordinance on second reading amending the Official Municipal Budget for Fiscal Year 2012-2013 in order to provide additional funds to the Sports and Entertainment Association of Midland; the additional funding provided to the Sports and Entertainment Association of Midland will be used for upcoming events; the additional funds will allow for the promotion of tourism in the City of Midland; and ordering recordation; and appropriating funds. (CITY SECRETARY'S OFFICE)(First reading held July 9, 2013.)(9166)
26. Consider an ordinance on second reading vacating and abandoning a 0.138-acre portion of East Spruce Avenue right-of-way adjacent to Lots 23 and 24, Block 6, and to Lots 1 and 2, Block 5, Sun Garden Village, Second Section, City and County of Midland, Texas (Generally located on the west side of North Carver Street, approximately 270 feet south of Dormard Avenue); adopting the appraisal by the City Manager of \$599.20; and ordering recordation by the City Secretary. (DEVELOPMENT SERVICES)(First reading held July 9, 2013.)(9167)
27. Consider an ordinance on second reading vacating and abandoning a 0.098-acre portion of North Carver Street right-of-way adjacent to Lot 1, Block 5, Sun Garden Village, Second Section, City and County of Midland, Texas (Generally located on south side of East Spruce Avenue, approximately 150 feet north of East Pine Avenue); adopting the appraisal by the City Manager of \$424.90; and ordering recordation by the City Secretary. (DEVELOPMENT SERVICES)(First reading held July 9, 2013.)(9168)
28. Consider an ordinance on second reading vacating and abandoning a 0.185-acre portion of East Spruce Avenue right-of-way adjacent to Lot 4, Block 12, and to Lot 1, Block 11, Sun Garden Village, Second Section, City and County of

Midland, Texas (Generally located on the east side of North Jackson Street, approximately 270 feet south of Dormard Avenue); adopting the appraisal by the City Manager of \$804.00; and ordering recordation by the City Secretary. (DEVELOPMENT SERVICES)(First reading held July 9, 2013.)(9169)

29. Consider an ordinance on second reading establishing intersection stops at various locations within the City of Midland, Texas; requiring and authorizing the posting of appropriate signs at intersections; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two hundred dollars (\$200.00); and ordering publication. (ENGINEERING SERVICES)(First reading held July 9, 2013.)(9170)

PUBLIC HEARINGS

30. 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 6.08-acre tract of land ("Tract 1") which is presently zoned FD, Future Development District, to be used as an LR-2, Local Retail District; by permitting a 40.90-acre tract of land ("Tract 2") which is presently zoned FD, Future Development District, to be used as an LI, Light Industrial District; by permitting a 13.70-acre tract of land ("Tract 3") which is presently zoned PD, Planned District for a Shopping Center, to be used as an LR-2, Local Retail District; by permitting a 16.61-acre tract of land ("Tract 4") which is presently zoned PD, Planned District for a Shopping Center, to be used as a PD, Planned District for a Housing Development; by permitting a 34.39-acre tract of land ("Tract 5") which is presently zoned BP, Business Park District, to be used as a PD, Planned District for a Housing Development; by permitting a 37.72-acre tract of land ("Tract 6") which is presently zoned FD, Future Development District, to be used as a PD, Planned District for a Housing Development; by permitting a 21.82-acre tract of land ("Tract 7") which is presently zoned PD, Planned District for a Shopping Center, to be used as a BP, Business Park District; by permitting a 0.74-acre tract of land ("Tract 8") which is presently zoned LR-2, Local Retail District, to be used as a BP, Business Park District; by permitting a 2.77-acre tract of land ("Tract 9") which is presently zoned BP, Business Park District, to be used as a 1F-3, One-Family Dwelling District; by permitting a 55.83-acre tract of land ("Tract 10") which is presently zoned FD, Future Development District, to be used as a 1F-3, One-Family Dwelling District; all of said tracts being out of Section 12, Block 40, T-2-S, T&P RR Co. Survey, City and County of Midland, Texas; all of said tracts being more specifically described by metes and bounds made a part hereof; said tracts are generally located on the south side of West Interstate Highway 20, south of Loop 250; 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. (DEVELOPMENT SERVICES) (9171)

31. At approximately 10:33 A.M. hold a public hearing and consider an ordinance changing the zoning use classification of the property described as a 5,000 square foot portion of Lot 1, Block 1, mesa verde Addition, City and County of Midland, Texas (generally located on the southwest corner of the intersection of north Midland Drive and neely Avenue), which is presently zoned Ir-2, local retail District, by permitting said property to be used under a specific use permit with term for the sale of all alcoholic beverages in a lounge for on-premises consumption; 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 (DEVELOPMENT SERVICES) (9172)
32. At approximately 10:36 A.M. hold a public hearing and consider a resolution authorizing the temporary use of land for a carnival on Lot 1, Block 17, Skyline Terrace, Unit 2, City and County of Midland, Texas (Generally located on the southwest corner of the intersection of West Loop 250 North and North Midkiff Road); and making said permit subject to certain special conditions and restrictions contained herein; and providing that the Chief of Police shall ensure that all participants are licensed pursuant to Title V, Chapter 9 of the Midland City Code. (DEVELOPMENT SERVICES) (2013 - 218)
33. At approximately 10:39 a.m. hold a public hearing and consider a resolution expressing the intent of the Midland City Council to continue in effect Title VI, "Police Regulations", Chapter 9, "Curfew Hours for Minors", of the Midland City Code pursuant to Texas Local Government Code Section 370.002. (POLICE) (2013 - 219)

MISCELLANEOUS

34. Consider a motion approving a proposed preliminary plat of Southwest Crossing, being a 254.33-acre tract of land out of Section 12, Block 40, T-2-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the south side of West Interstate Highway 20, south of South Loop 250 West.) (DEVELOPMENT SERVICES)
35. Consider a motion making various 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 551.087 Deliberate Economic Development Negotiations.
 - a.1. Discuss business prospects that the City seeks to have, locate, stay, or expand in or near the City of Midland, Texas, and discuss possible incentives.
- b. Section 551.072 Deliberation Regarding Real Property.
 - b.1. Discuss the purchase, exchange, lease or value of real property described as Acres: 0.321, Block 035, Lots 5 & 6, Block 35 Addition, Original Town, Midland, Midland County, Texas.
 - b.2. Discuss the purchase, exchange, lease or value of real property described as Acres: 0.321; Block: 035, Lots 7 & 8, Original Town, Midland, Midland County, Texas.
 - b.3. Discuss the purchase, exchange, lease or value of real property described as Acres: 1.0 acres more or less, Lots 7-12, Block 039, Original Town Addition, City of Midland, Midland County, Texas.
 - b.4. Discuss the purchase, exchange, lease or value of real property described as Acres: 1.0 acres more or less, Block 38, Lots 1-6, Original Town, City of Midland, Midland County, Texas.

Respectfully Submitted,

Courtney B. Sharp
City Manager

MEETING ASSISTANCE INFORMATION: The Midland City Hall and Council Chamber are wheelchair accessible. If you need special assistance to participate in this meeting, please contact the City Secretary's Office at (432) 685-7430. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

**MIDLAND CITY COUNCIL
MINUTES
July 8, 2013**

The City Council convened in a Special Session in the basement conference room, City Hall, Midland, Texas, at 9:07 a.m. on July 8, 2013.

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

Council Members absent: Mayor W. Wesley Perry (arrived at 9:09 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, Administrative Service Director Catherine Clifton, General Services Director Robert Patrick, Chief Information Officer Sharlett Chowning, Comptroller Tommy Howell, Accounting Manager Charlene Fox, and Public Information Officer Sara Higgins.

Mayor Pro Tem Sparks called the meeting to order at 9:05 a.m.

SPECIAL SESSION

1. Conduct a budget work session for the purpose of reviewing and discussing the proposed 2013-2014 City of Midland budget.

City Manager Courtney Sharp and Finance Director Bob McNaughton presented an overview of the 2013/2014 budget. Mr. McNaughton noted that the Water Fund lost about \$6 million. Absent a rate modification it will lose another \$6 million next year. He reported the Golf Course Fund has added another couple of hundred thousand dollars. Discussion ensued about potential golf course improvements. The Airport Fund is doing well, and the sports complex is generating additional working capital. Discussion ensued about how the sports complex is funded and the tax collected. Mr. McNaughton reviewed the Medical/Dental Self-Insurance Fund noting it was in a little better shape and that the General Liability Self-Insurance Fund remains stable. The Garage Fund has a working capital of \$6.6 million which is where it should be because they purchase large pieces of equipment.

Mr. McNaughton reviewed the Ad Valorem Tax Rates as compared to other similar cities noting that overall Midland is the lowest.

City Manager Courtney Sharp reported that the proposed tax rate is a little over 44 cents noting that each year the rate has decreased substantially. The General Fund budget is proposing the effective rate plus a 3% increase as they have in years past. He reviewed some performance indicators noting that the City is having a hard time keeping employees and noting how this budget would be used to help address that issue.

Discussion ensued about the possibility of outsourcing or hiring employees who live in other areas who could telecommute or only come in a few days a week.

When asked about actual numbers, Finance Director McNaughton noted the certified tax roll will be available at the end of July.

City Manager Sharp reviewed proposed technology enhancements and personnel enhancements. He reported that in 2000, the census showed Midland had a population of 95,000 with 952 employees. Today, he estimates on the low side the population to be 119,000 with 1,043 employees, noting the population increased 25% but the number of employees only increased 9.5%. He relayed that \$12 million will be spent on one-time projects.

Discussion ensued about the Airport Fund and if they should be charged their actual cost. Finance Director McNaughton explained that the City receives revenue from three sources and cautioned against becoming too reliant on any one of those three sources and getting out of balance.

When discussing employee benefits, Council asked to have the total contribution that the City makes to employees which will help to better answer questions they receive.

Mr. Sharp reviewed the Hotel/Motel Fund, the Scharbauer Sports Complex Fund, MDC Fund and overall operating budget. He noted the proposed budget will be submitted to the City Secretary's Office for public viewing on July 25 and will go on the City's webpage at the same time. He reviewed the upcoming City Council dates and actions required for the adoption of the budget.

Mr. McNaughton noted that on July 23 the rate that is represented will be the maximum rate the City can adopt. They can choose to go lower than that rate, but they cannot go higher. The final budget meeting will be Monday, August 26.

Discussion ensued about having an evening public meeting to accommodate those who cannot make it during the day time. Consensus was received to meet at 6:00 p.m. on August 6.

Discussion ensued regarding Police Officers and if we had the right staffing level.

All of the business at hand having been completed, the meeting adjourned at 11:17 a.m.

PASSED AND APPROVED the 23rd day of July, 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

**MIDLAND CITY COUNCIL
MINUTES
July 09, 2013**

BRIEFING SESSION

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at 9:30 a.m. on July 09, 2013.

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

Council Members absent: Council Member Michael Trost (District 4) (arrived at 9:33 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, First Assistant City Attorney John Ohnemiller, Engineering Director Jose Ortiz, City Engineer David Beard, Building Official Steve Thorpe, Public Information Officer Sara Higgins, Downtown Development Director Genora Young, Transportation Manager Gary Saunders, and Assistant Code Administration Manager Ron Jenkins.

Mayor Perry called the meeting to order at 9:30 a.m.

1. Receive a presentation from Parkhill, Smith & Cooper regarding the conceptual layout for the Briarwood Avenue Extension (Holiday Hill Road - Avalon Drive).

Eric West of Parkhill, Smith and Cooper introduced Jonathan Ziegner, Transportation Team Leader, and John Hellinghausen, Project Manager.

Jonathan Ziegner reported this project is one mile from Holiday Hill Road to Avalon Avenue. The construction funding is already in place and ultimately the construction will continue down the next two mile to State Highway 158. He reviewed the current conditions and proposed changes that will include two lanes in each direction, a left turn lane, and a bicycle lane. An area for pedestrians and drainage would also be encompassed in the 120 foot right of way. He addressed some special design considerations including alternatives to pavement structure, raised continuous medians, a right turn lane at Holiday Hill Road, deceleration lanes at the Bush Tennis Center, ultimate conditions at Avalon Drive (approach of intersection at full width for when Avalon is built out), and interim safety during construction. He addressed the benefits of a raised median section with left turn points at specific locations. The plans for the first mile section should be completed by mid-November.

Discussion ensued about how conflict points are reduced, acquiring right of way, how the road would be aligned, and retention ponds to decrease flooding issues.

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 10:00 a.m., July 09, 2013.

Council Members present: Mayor W. Wesley Perry, Council Member Jerry Morales (At-Large), Council Member Scott Dufford (At-Large), Mayor Pro Tem Jeff Sparks (District 1), Council Member John Love (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 Agenda Items were heard in the following order: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 20, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 41, 46, 48, (recess), 16, 18, 19, 21, 22, 23, 24, 40, 42, 43, 44, 45, 47.

OPENING ITEMS

1. Invocation - Reverend Pat Bryant, Travis Baptist Church
2. Pledge of Allegiance

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
 - a. Doreen Womack highlighted the several different awards Keep Midland Beautiful received.

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.

Tom Miller, 4311 Valley Drive, Executive Director of Family Promise, Midland, brought to the attention of Council that a two bedroom apartment costs \$1,400 per month noting that this price is out of reach for most single mothers. He shared the story of a family who is in that situation. The mother works full-time and has four children at home and is unable to afford an apartment when she only earns \$8.18 per hour. He urged the Council to bring affordable housing to Midland.

Paul Grimes, P.O. Box 61871, gave the Council a complaint and spoke about illegal gambling practices at Hogan Golf Course. Council Member Love noted he has asked for this to be investigated.

CONSENT AGENDA

Council Member Morales moved to approve Consent Agenda items 5 - 14; seconded by Council Member Trost. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

5. Approved a motion approving the following minutes:
 - a. Regular meeting of June 25, 2013.
6. Approved a resolution authorizing the Office of the City Attorney to file all documents, etc. in a lawsuit. (CITY ATTORNEY'S OFFICE)

RESOLUTION NO. 2013 - 192

RESOLUTION AUTHORIZING THE OFFICE OF THE CITY ATTORNEY TO FILE ALL DOCUMENTS, EMPLOY ALL NECESSARY EXPERTS AND MAKE ALL NECESSARY APPEARANCES TO REPRESENT THE CITY OF MIDLAND IN A LAWSUIT STYLED COLONIAL COUNTY MUTUAL INSURANCE COMPANY V. CITY OF MIDLAND; COUNTY COURT AT LAW NO. 2, MIDLAND COUNTY, TEXAS; CAUSE NO. CC17101; AND AUTHORIZING THE PAYMENT OF ALL COSTS

7. Approved a resolution affirming the City of Midland's policy of non-discrimination regarding all city programs, activities and services; adopting a non-discrimination policy statement; authorizing the City Manager to handle all inquiries regarding said policy; and appointing the Administrative Services Director as the City's ADA liaison. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2013 - 193

RESOLUTION AFFIRMING THE CITY OF MIDLAND'S POLICY OF NON-DISCRIMINATION REGARDING ALL CITY PROGRAMS, ACTIVITIES AND SERVICES; ADOPTING A NON-DISCRIMINATION POLICY STATEMENT; AUTHORIZING THE CITY MANAGER TO HANDLE ALL INQUIRIES REGARDING SAID POLICY; AND APPOINTING THE DIRECTOR OF ADMINISTRATIVE SERVICES AS THE CITY OF MIDLAND'S AMERICANS WITH DISABILITIES ACT (ADA) LIAISON

8. Approved a resolution approving plans and specifications and authorizing advertisement for bids for the Animal Services Building Renovation Project for the Community Services Department. (GENERAL SERVICES)

RESOLUTION NO. 2013 - 194

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR THE ANIMAL SERVICES BUILDING RENOVATION PROJECT

9. Approved a resolution to amend the Public Improvement Development Agreement with Playa Del Pueblo Ltd. by authorizing the additional allocation of funds in the amount of \$88,461. The site is generally located on the north side of I-20 approximately 300' east of Terrell Street. Said agreement being authorized by Section 395.081 of the Texas Local Government Code. (ENGINEERING SERVICES)

RESOLUTION NO. 2013 - 195

RESOLUTION AUTHORIZING THE EXECUTION OF AN ADDENDUM TO THE PUBLIC IMPROVEMENT DEVELOPMENT AGREEMENT WITH PLAYA DEL PUEBLO, LTD. FOR DEVELOPMENT OF PLAY DEL PUEBLO ADDITION; AND APPROPRIATING FUNDS IN THE AMOUNT OF \$88,461 THEREFOR; SAID AGREEMENT BEING AUTHORIZED BY SECTION 395.081 OF THE TEXAS LOCAL GOVERNMENT CODE

10. Approved a resolution to accept a modification to the FY2013 grant award in the amount of \$75,816 from the Southwest Border High Intensity Drug Trafficking Areas (HIDTA) Program and appropriate funds. (POLICE)

RESOLUTION NO. 2013 - 196

RESOLUTION ACCEPTING A MODIFICATION TO THE FISCAL YEAR 2013 GRANT AWARD FROM THE SOUTHWEST BORDER HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM IN THE AMOUNT OF \$75,816.00; THESE FUNDS WILL BE DIRECTED TO THE FISCAL YEAR 2013 HIGH INTENSITY DRUG TRAFFICKING AREAS GRANT PROJECT 7107; AND APPROPRIATING FUNDS

11. Approved a resolution approving application to the FY 2013 Justice Assistance Grant (JAG) Program. (POLICE)

RESOLUTION NO. 2013 - 197

RESOLUTION AUTHORIZING THE CITY OF MIDLAND TO FILE A JOINT APPLICATION WITH MIDLAND COUNTY FOR FISCAL YEAR 2013 JUSTICE ASSISTANCE GRANT FUNDS PROGRAM TOTALING \$29,554.00; AND AUTHORIZING THE EXECUTION OF AN AGREEMENT REGARDING THE DIVISION OF SAID GRANT FUNDS; THE CITY OF MIDLAND WILL RECEIVE \$17,732.00 (60%) AND MIDLAND COUNTY WILL RECEIVE \$11,822.00 (40%) OF THE GRANT FUNDS RESPECTIVELY; THIS AGREEMENT DOES NOT SUPERSEDE, MODIFY OR AMEND ANY OTHER PRIOR AGREEMENTS

12. Approved a resolution approving Change Order Number 3 for the Headworks Improvements - Replacement of Influent Screens Project with Red River Construction Company and appropriate funds. (UTILITIES)

RESOLUTION NO. 2013 - 198

RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NUMBER THREE WITH RED RIVER CONSTRUCTION COMPANY, INCORPORATED, ADDING \$22,660.56 FOR ADDITIONAL WORK TO THE EXISTING CONTRACT FOR THE HEADWORKS IMPROVEMENTS - REPLACEMENT OF INFLUENT SCREENS PROJECT; AND APPROPRIATING \$22,660.56; THE ORIGINAL CONTRACT WAS FOR \$5,357,080.00; THIS CHANGE ORDER BRINGS THE TOTAL CONTRACT PRICE TO \$6,208,395.56

13. Approved a resolution approving a Discharge License with Holly Energy Partners-Operating, L.P. (UTILITIES)

RESOLUTION NO. 2013 - 199

RESOLUTION AUTHORIZING THE EXECUTION OF A DISCHARGE LICENSE AGREEMENT WITH HOLLY ENERGY PARTNERS - OPERATING, L.P., FOR THE

PURPOSE OF DISCHARGING TREATED WASTEWATER

14. Approved a resolution authorizing the employment of a law firm to represent the City of Midland in a lawsuit. (CITY ATTORNEY'S OFFICE)

RESOLUTION NO. 2013 - 200

RESOLUTION AUTHORIZING THE EMPLOYMENT OF THE LAW FIRM OF COTTON, BLEDSOE, TIGHE & DAWSON, P.C. TO REPRESENT CITY OF MIDLAND EMPLOYEES IN DEPOSITIONS ARISING FROM THE LAWSUIT STYLED RICHARD SANCHEZ, ET AL. V. UNION PACIFIC RAILROAD, INC. AND SMITH INDUSTRIES, INC. (441st JUDICIAL DISTRICT COURT, MIDLAND COUNTY, TEXAS; CAUSE NO. CV-49,117) OR THE LAWSUIT STYLED CATHERINE STOUFFER, ET AL. V. UNION PACIFIC RAILROAD, INC. AND SMITH INDUSTRIES, INC. (116th JUDICIAL DISTRICT COURT, DALLAS COUNTY, TEXAS; CAUSE NO. 12-15024); AND AUTHORIZING THE PAYMENT OF ALL COSTS

SECOND READINGS

15. Consider an ordinance on second reading on a request by GBT Realty Corporation for a zone change from PD, Planned District for an Office Center to PD, Planned District for a Transition District, on a 1.011-acre tract of land being the north 141.00 feet of Block 1, Harrison Tract, City and County of Midland, Texas. (Generally located at the east side of North Midland Drive, approximately 160 feet north of Shell Avenue.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9149

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 1.011-ACRE TRACT OF LAND BEING THE NORTH 141 FEET OF BLOCK 1, HARRISON TRACT, CITY AND COUNTY OF MIDLAND, TEXAS, AND MORE SPECIFICALLY DESCRIBED IN SECTION ONE HEREOF, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR AN OFFICE CENTER, TO BE USED AS A PD, PLANNED DISTRICT FOR A TRANSITION DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF NORTH MIDLAND DRIVE, APPROXIMATELY 160 FEET NORTH OF SHELL AVENUE); 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. 9149.

Mayor Perry noted the applicant has requested that his application be withdrawn.

City Attorney Stretcher reported that the City Council took action on first reading and needs to take action on the applicant's request to withdraw.

Council Member James moved to withdraw the application per the applicant's request. If a new application is resubmitted, the applicant would need to go through the normal process as a new applicant; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY:

None. ABSTAIN: None. ABSENT: None.

16. Consider an ordinance on second reading on a request for the annexation of a 40.498-acres tract (Tract 1) of land out of Section 37, 38 and 48, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located at the south extension of Avalon Drive, approximately 700 feet south of Hall of Fame Boulevard.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9158

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 40.498-ACRE TRACT OF LAND OUT OF SECTIONS 37, 38 AND 48, 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 AT THE SOUTH EXTENSION OF AVALON DRIVE, APPROXIMATELY 700 FEET SOUTH OF HALL OF FAME BOULEVARD); AND APPROVING A PUBLIC SERVICE PLAN

Deputy City Secretary Reyes read the caption of Ordinance No. 9158.

Council Member James moved to approve the second and final reading of Ordinance No. 9158 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

17. Consider an ordinance on second reading on a request of the annexation of a 305.17-acres (Tract 2) of land out of Section 37, Block 41, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the north side of State Hwy 191 west of N. FM 1788.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9159

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 305.17-ACRE TRACT OF LAND OUT OF SECTION 37, BLOCK 41, 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 STATE HIGHWAY 191, WEST OF NORTH FARM-TOMARKET ROAD 1788); AND APPROVING A PUBLIC SERVICE PLAN

Deputy City Secretary Reyes read the caption of Ordinance No. 9159.

Council Member Love moved to approve the second and final reading of Ordinance No. 9159 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

18. Consider an ordinance on second reading on a request for the annexation of a 2.47-acres tract (Tract 3) of land out of Section 8, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the west side of Wright Drive, approximately 850 feet south of Loop 40.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9160

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 2.47-ACRE TRACT OF LAND OUT OF SECTION 8, 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 ON THE WEST SIDE OF WRIGHT DRIVE, APPROXIMATELY 850 FEET SOUTH OF LOOP 40); AND APPROVING A PUBLIC SERVICE PLAN

Deputy City Secretary Reyes read the caption of Ordinance No. 9160.

Council Member James moved to approve the second and final reading of Ordinance No. 9160 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

19. Consider an ordinance on second reading on a request by Real Property Resources (Tract 1) the initial zoning of annexed land to FD, Future Development District, on a 40.498-acre tract of land out of Section 37, 38 and 48, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located at the south extension of Avalon Drive, approximately 700 feet south of Hall of Fame Boulevard.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9152

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 40.498-ACRE TRACT OF LAND OUT OF SECTIONS 37, 38 AND 48, 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 AT THE SOUTH EXTENSION OF AVALON DRIVE, APPROXIMATELY 700 FEET SOUTH OF HALL OF FAME BOULEVARD; 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. 9152.

Council Member Dufford moved to approve the second and final reading of Ordinance No. 9152 in accordance with the Charter of the City of Midland; seconded by Council Member Love. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

20. Consider an ordinance on second reading on a request by Covington (Tract 2) the initial zoning of annexed land to LI, Light Industrial District, on a 305.17-acre tract of land out of Section 37, Block 41, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the north side of State Highway 191 west side of N. FM 1788.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9153

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 305.17-ACRE TRACT OF LAND OUT OF SECTION 37, BLOCK 41, 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 LI, LIGHT INDUSTRIAL DISTRICT; SAID TRACT IS GENERALLY LOCATED ON THE NORTH SIDE OF STATE HIGHWAY 191, WEST OF NORTH FARM-TO-MARKET ROAD 1788; 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. 9153.

Council Member Sparks moved to approve the second and final reading of Ordinance No. 9153 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

21. Consider an ordinance on second reading on a request by Younger Properties (Tract 3) the initial zoning of annexed land to IP-2, Industrial Park District, on a 2.47-acre tract of land out of Section 8, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the west side of Wright Drive, approximately 850 feet south of Loop 40.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9154

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 2.47-ACRE TRACT OF LAND OUT OF SECTION 8, 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, AS AN IP-2, INDUSTRIAL PARK DISTRICT; SAID TRACT IS GENERALLY LOCATED ON THE WEST SIDE OF WRIGHT DRIVE, APPROXIMATELY 850 FEET SOUTH OF LOOP 40; 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. 9154.

Council Member Dufford moved to approve the second and final reading of Ordinance No. 9154 in accordance with the Charter of the City of Midland; seconded by Council Member James. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

22. Consider an ordinance on second reading on a request by David Miller for a zone change from PD, Planned District for a Housing Development, to an Amended Planned District on Lot 21, Block 3, Wyndwood Estates, Section 33, City and County of Midland, Texas. (Generally located at the south side of West Wadley Avenue, approximately 450 feet east of Sunburst Drive.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9155

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING

CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 21, BLOCK 3, WYDEWOOD ESTATES, SECTION 33, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT, TO BE USED AS AN AMENDED PLANNED DISTRICT (GENERALLY LOCATED ON THE SOUTH SIDE OF WADLEY AVENUE, APPROXIMATELY 450 EAST OF SUNBURST 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. 9155.

Council Member Morales moved to approve the second and final reading of Ordinance No. 9155 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

23. Consider an ordinance on second reading on a request by COM Aquatics for a zone change from PD, Planned District for a Community Center and a Planned District for a Shopping Center, to an Amended Planned District on Lot 3, Block 3, and the vacated 0.162-acre east/west alley, "A" Street Community Center, Section 7, City and County of Midland, Texas. (Generally located near the southwest corner of the intersection of W. Wadley Avenue and N. "A" Street.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9156

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 3, BLOCK 3, THE ADJACENT VACATED 0.162-ACRE EAST/WEST ALLEY, "A" STREET COMMUNITY CENTER, SECTION 3, AND LOT 1C, BLOCK 3, "A" STREET COMMUNITY CENTER, SECTION 7, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A COMMUNITY CENTER, IN PART, AND PD, PLANNED DISTRICT FOR A SHOPPING CENTER, IN PART, TO BE USED AS AN AMENDED PLANNED DISTRICT (GENERALLY LOCATED NEAR THE SOUTHWEST CORNER OF THE INTERSECTION OF WEST WADLEY AVENUE AND NORTH "A" STREET); 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. 9156.

Council Member Trost moved to approve the second and final reading of Ordinance No. 9156 in accordance with the Charter of the City of Midland; seconded by Council Member Love. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

24. Consider an ordinance on second reading amending City Code Sections 5-10-2 and 5-10-9 to include Midland County Courthouse, 500 N. Loraine. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9157

AN ORDINANCE AMENDING TITLE V, "BUSINESS REGULATIONS", CHAPTER 10, "SIDEWALK SALES AND SELLING FROM FIXED LOCATIONS", SECTION 2, "PERMIT AND LICENSE REQUIRED IF SELLING FROM A FIXED LOCATION", AND SECTION 9, "DUTY OF POLICE", SO AS TO ALLOW LICENSED FOOD VENDORS TO SELL FOOD AT A LOCATION ADJACENT TO THE MIDLAND COUNTY COURTHOUSE; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF FIVE HUNDRED DOLLARS (\$500.00); AND ORDERING PUBLICATION

Deputy City Secretary Reyes read the caption of Ordinance No. 9157.

Council Member Love moved to approve the second and final reading of Ordinance No. 9157 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

25. Consider an ordinance on second reading on a request for the vacation of alley right-of-ways being a 0.13-acre portion adjacent to Lots 18 – 21, Block 166; of the 0.25-acres adjacent to Lots 1 – 15, Block 165; of the 0.14-acres adjacent to Lots 1 – 4, Block 167; and for the vacation of street right-of-ways being the 1.78-acres of Leslie Drive and of the 0.64-acres of Kristie Lane, all out of Wilshire Park Addition, Section 11, City and County of Midland, Texas. (Generally located on the southeast corner of the intersection of Leisure Drive and Beal Parkway.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9161

AN ORDINANCE VACATING AND ABANDONING A 0.13-ACRE PORTION OF ALLEY RIGHT-OF-WAY ADJACENT TO LOTS 18-21, BLOCK 166, A 0.25-ACRE PORTION OF ALLEY RIGHT-OF-WAY ADJACENT TO LOTS 1-15, BLOCK 165, A 0.14-ACRE PORTION OF ALLEY RIGHT-OF-WAY ADJACENT TO LOTS 1-4, BLOCK 167, A 1.78-ACRE PORTION OF LESLIE DRIVE RIGHT-OF-WAY, AND A 0.64-ACRE PORTION OF KRISTIE LANE RIGHT-OF-WAY, ALL OUT OF WILSHIRE PARK ADDITION, SECTION 11, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF LEISURE DRIVE AND BEAL PARKWAY); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$192,073.50; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary Reyes read the caption of Ordinance No. 9161.

Council Member Trost moved to approve the second and final reading of Ordinance No. 9161 in accordance with the Charter of the City of Midland; seconded by Council Member Love.

Mayor Perry noted that this item passed its first reading but there were questions about the value of the property.

Granger MacDonald, Kerrville, reported he found comparable properties priced at both

10 cents a square foot and 29 cents a square foot and offered the City Council 29 cents a square foot which would equal \$45,000.

Council Member James moved to amend the ordinance by changing the price to 29 cents a square foot for a total of \$45,000; seconded by Council Member Dufford.

Discussion ensued about the price variations with City Manager Sharp noting the City gets the appraisal amount from Midland Central Appraisal District.

Discussion ensued about how to ensure that prices are fair to all. It was suggested that when a question is raised about the price of a property to have the developer do the same as Mr. MacDonald.

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

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

26. Consider an ordinance on second reading on a request by Leslie Diann Hahn and L. H. Hahn for a zone change from 1F-2, One-Family Dwelling District to PD, Planned District for a Housing Development on Lots 1 through 15, Block 165; Lots 1 through 25, Block 166; Lots 1 through 4, Block 167, and the adjacent to be vacated 1.79-acres of Leslie Drive, the 0.43-acre of Kristie Lane and the 0.45-acres of alley rights-of-way, all out of Wilshire Park Addition, Section 11, City and County of Midland, Texas. (Generally located on the southeast corner of the intersection of Leisure Drive and Beal Parkway.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9150

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A LOTS 1-15, BLOCK 165, LOTS 1-25, BLOCK 166, LOTS 1-4, BLOCK 167, THE ADJACENT TO BE VACATED 1.79 ACRES OF LESLIE DRIVE, THE 0.43 ACRES OF KRISTIE LANE, AND THE 0.45 ACRES OF ALLEY RIGHTS-OF-WAY, ALL OUT OF WILSHIRE PARK ADDITION, SECTION 11, CITY AND COUNTY OF MIDLAND, TEXAS, AND MORE SPECIFICALLY DESCRIBED IN SECTION ONE HEREOF, WHICH IS PRESENTLY ZONED 1F-2, ONE-FAMILY DWELLING DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF LEISURE DRIVE AND BEAL PARKWAY); 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. 9150.

Council Member Sparks moved to approve the second and final reading of Ordinance No. 9150 in accordance with the Charter of the City of Midland; seconded by Council Member Trost. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

PUBLIC HEARINGS

27. At approximately 10:30 A.M. hold a public hearing regarding a proposed oil and gas permit to Vector Oil & Gas (Operator) for a Permit to Drill an Oil & Gas Well within the City Limits, (Barron #4) located 838 feet from north line and 2186 feet from west line, Section 6, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the west side of the Oriole Drive, approximately 840 feet south of Mockingbird Lane.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Oil and Gas Compliance Officer Ron Jenkins gave an overview of the item noting it had been reviewed by the Oil and Gas Advisory Committee and that this was the fourth of four wells in the area. Two letters of objection had been received with objection to potential lower property values, concern for fresh water and noise concerns.

Mayor Perry opened the public hearing at 10:43 a.m.

Tim McNealy, 1545 Meadowlark, reported he contacted the oil company and they agreed to test his two water wells before and after drilling. He asked Council to change regulations to require noise barriers on wells noting some wells included sound buffers.

Mayor Perry asked Mr. Jenkins if concern for sound was raised during the Oil & Gas Advisory Committee meeting. Mr. Jenkins confirmed that it had not.

Mike Wallace, 200 Blackberry Circle, representing Vector Oil and Gas, reported that this is the fourth of four wells they plan to drill in that area. He said he is cognizant of sound issues and is trying to be proactive in minimizing sound. Normal conversation is 60 decibels and that at 120 feet from the well the sound decibel is 60. He spoke about a previous experience where pipe was being dropped at night noting they have changed that practice and try to only drop pipe during daytime hours. He expressed concern over the cost of sound walls.

There being no one else wishing to speak, the public hearing was closed. 10:49 a.m.

28. At approximately 10:33 A.M. hold a public hearing regarding a proposed oil and gas permit to Petroplex Energy, Inc. (Operator) for a Permit to Drill an Oil & Gas Well within the City Limits, (Western T-8 #4) located 2173 feet from south line and 2173 feet from west line, Section 8, Block 39, T-1-S, T&P RR Co Survey, Midland County, Texas. (Generally located on the east side of the extension of North Midland Drive, approximately ½ mile north of Green Tree Boulevard.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Oil and Gas Compliance Officer Ron Jenkins gave an overview of the item noting it had been reviewed by the Oil and Gas Advisory Committee. A landscape and irrigation variance had been requested as well as waiver of the Road Repair Agreement as they will not be accessing the site through City streets. No letters of objection had been received.

Mayor Perry opened the public hearing at 10:50 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

29. At approximately 10:36 A.M. hold a public hearing regarding a proposed oil and gas permit to Midland Energy, Inc. (Operator) for a Permit to Drill an Oil & Gas Well within the City Limits, (Wimberley 1 #4) located 832 feet from south line and 982 feet from east line, Section 1, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the north side of the E. Loop 250 North, north of N. Fairgrounds Road.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Oil and Gas Compliance Officer Ron Jenkins gave an overview of the item noting the item had been reviewed by the Oil & Gas Advisory Committee. A landscape and irrigation variance had been requested as well as a waiver to the Road Repair Agreement because no City streets will be used to access the well. No letters of objection were received.

Mayor Perry opened the public hearing at 10:51 a.m.

Mark Payne, 1603 Idyllwild, reported he just purchased acreage to the west of this property.

There being no one else wishing to speak, the public hearing was closed at 10:51 a.m.

30. At approximately 10:39 A.M. hold a public hearing regarding a proposed oil and gas permit to Crownquest Operating, LLC (Operator) for a Permit to Drill an Oil & Gas Well within the City Limits, (COM Nail #1) located 1550 feet from south line and 1980 feet from east line, Section 36, Block 39, T-1-N, T&P RR Co. Survey, Martin County, Texas. (Generally located on the east side of the State Highway 349, approximately 2 ½ mile north of Arapahoe Road.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Oil and Gas Compliance Officer Ron Jenkins gave an overview of the item noting that a request for waiver was received for landscape and irrigation, fence slating and the Road Repair Agreement. He reported they have a right of way agreement for the permit and no letters of objection had been received.

Mayor Perry opened the public hearing at 10:52 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

31. At approximately 10:42 A.M. hold a public hearing regarding a proposed oil and gas permit to Crownquest Operating, LLC (Operator) for a Permit to Drill an Oil & Gas Well within the City Limits, (COM Nail #2) located 660 feet from north line and 2173 feet from east line, Section 36, Block 39, T-1-N, T&P RR Co. Survey, Martin County, Texas. (Generally located on the east side of the State Highway 349, approximately three miles north of Arapahoe Road.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Oil and Gas Compliance Officer Ron Jenkins gave an overview of the item noting no letters of objection had been received.

Mayor Perry opened the public hearing at 10:53 a.m. There being no one present wishing to speak the public hearing was immediately closed.

32. At approximately 10:45 A.M. hold a public hearing regarding a proposed oil and gas permit to Crownquest Operating, LLC (Operator) for a Permit to Drill an Oil & Gas Well within the City Limits, (COM Nail #3) located 467 feet from north line and 467 feet from east line, Section 36, Block 39, T-1-N, T&P RR Co. Survey, Martin County, Texas. (Generally located on the east side of the State Hwy 349, approximately three miles north of Arapahoe Road.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Oil and Gas Compliance Officer Ron Jenkins gave an overview of the item noting this well had the same circumstance and was in the same location as the previous item. No letters of objection had been received.

Mayor Perry opened the public hearing at 10:54 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

33. At approximately 10:48 A.M. hold a public hearing regarding a proposed oil and gas permit to Callon Petroleum Energy (Operator) for a Permit to Drill an Oil & Gas Well within the City Limits, (Pecan Acres 23 #8) located 660 feet from north line and 660 from west line, Section 23, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the south side of the west extension of Mockingbird Lane, approximately $\frac{3}{4}$ mile west of Golden Gate Drive.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Oil and Gas Compliance Officer Ron Jenkins gave an overview of the item noting it had been reviewed by the Oil & Gas Advisory Committee and that the Committee recommended a two-year landscape and irrigation variance due to the location of the well. No letters of objection had been received.

Mayor Perry opened the public hearing at 10:55 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

34. At approximately 10:51 A.M. hold a public hearing regarding a proposed oil and gas permit to Callon Petroleum Energy (Operator) for a Permit to Drill an Oil & Gas Well within the City Limits, (Pecan Acres 22A #3) located 660 feet from north line and 587 from east line, Section 22, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the south side of the west extension of Mockingbird Lane, approximately one mile north of Briarwood Avenue.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Oil and Gas Compliance Officer Ron Jenkins gave an overview of the item noting it had been reviewed by the Oil & Gas Advisory Committee and that one letter of objection had been received. He reported a surface agreement is not in place on the property and the one letter of objection received was from the surface owner.

Mayor Perry opened the public hearing at 10:56 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

35. At approximately 10:54 A.M. hold a public hearing and consider an ordinance on a request by Grassland 2 Dev. Co., LLP for a zone change from PD, Planned District for a Housing Development to an Amended Planned District for a Housing Development on a 5.32-acre tract of land (Tract 1) and from 1F-1, One-Family Dwelling District to 1F-2,

One-Family Dwelling District on 5.35-acre tract of land (Tract 2), all out of Section 35, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located at the east side of State Highway 158 and at the west extension of Mosswood Drive.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9162

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 5.32-ACRE TRACT OF LAND WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT, TO BE USED AS AN AMENDED PLANNED DISTRICT FOR A HOUSING DEVELOPMENT; BY PERMITTING A 5.35-ACRE TRACT OF LAND WHICH IS PRESENTLY ZONED 1F-1, ONE-FAMILY DWELLING DISTRICT, TO BE USED AS A 1F-2, ONE-FAMILY DWELLING DISTRICT; SAID TRACTS BEING OUT OF SECTION 35, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF STATE HIGHWAY 158 AND AT THE WEST EXTENSION OF MOSSWOOD 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

Interim Planning Division Manager Ken VanDyne gave an overview of the item noting it was a rezone for two tracts of land and the applicant was planning to create smaller tracts of land.

Mayor Perry opened the public hearing at 10:58 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. 9162.

Council Member Morales moved approval of the first of two readings of Ordinance No. 9162 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

36. At approximately 10:57 A.M. hold a public hearing and consider an ordinance on a request by Innovative Land Development for a zone change from 1F-3, One-Family Dwelling District to TH, Townhouse Dwelling District on a 10.32-acre tract of land out of Section 1, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas. (Generally located at the east side of Lamesa Road, approximately ½ mile north of E. Loop 250 North.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9163

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 10.32-ACRE TRACT OF LAND OUT OF SECTION 1, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED 1F-3, ONE-FAMILY DWELLING DISTRICT, TO BE USED AS A TH, TOWNHOUSE DWELLING DISTRICT (GENERALLY LOCATED AT THE EAST SIDE OF NORTH LAMESA ROAD, APPROXIMATELY ½ MILE NORTH OF EAST LOOP 250 NORTH); 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

Interim Planning Division Manager Ken VanDyne gave overview of the item noting it was a request to rezone a 10.32 acre tract of land to slightly increase the density while still maintaining medium density in order to accommodate a demand for housing.

Mayor Perry opened the public hearing at 11:00 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. 9163.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 9163 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

37. At approximately 11:00 A.M. hold a public hearing and consider an ordinance on a City initiated request by for a zone change from PD, Planned District for a Mixed Use District to PD, Planned District for Housing Development on a 2.50-acre portion of Lot 1, Block 3, Wallace Heights Addition, Section 4, City and County of Midland, Texas. (Generally located on the south side of Sinclair Avenue, approximately 380 feet west of N. Midland Drive.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9164

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 2.50-ACRE PORTION OF LOT 1, BLOCK 3, WALLACE HEIGHTS ADDITION, SECTION 4, CITY AND COUNTY OF MIDLAND, TEXAS, AND MORE SPECIFICALLY DESCRIBED IN SECTION ONE HEREOF, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A MIXED USE DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE SOUTH SIDE OF SINCLAIR AVENUE, APPROXIMATELY 380 FEET WEST OF 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

Interim Planning Division Manager Ken VanDyne gave an overview of the item noting it was a request for City initiated zoning for the new fire station. When asked he noted this zoning was specific to a fire department building in order to protect the property in case the fire house is not built. Any other type of structure would require rezoning.

Mayor Perry opened the public hearing at 11:03 a.m.

Jim Blischke, 2104 Freeport, asked if only a fire station could be built there. Mr. VanDyne confirmed that it could only be used for a fire station.

There being no one else wishing to speak, the public hearing was closed at 11:04 a.m.

Deputy City Secretary Reyes read the caption of Ordinance No. 9164.

Council Member Morales moved approval of the first of two readings of Ordinance No. 9164 in accordance with the Charter of the City of Midland; seconded by Council Member Trost. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

38. At approximately 11:03 A.M. hold a public hearing and consider an ordinance on a City initiated request for a zone change from MH, Manufactured Home District on Lot 1A, Block 5, and Lots 2A – 5A, & 7A, Block 4, Bizzell-Kiser; from MH, Manufactured Home, Section 5; Lot 6B, Block 4, Bizzell-Kiser, Section 6; a 0.45-acre portion of Tract 4, Bizzell-Kiser; on Lots 10A – 16A, Block 7, Bizzell-Kiser, Section 5; a 0.145-acre portion of Tract 7, Bizzell-Kiser; from 1F-3, One-Family Dwelling District and all of Block 3, Bizzell-Kiser, Sections 4 & 5; Lots 1A, 10A – 12A, Block 4, Bizzell-Kiser, Section 5; Lots 8B & 9B, Block 4, Bizzell-Kiser, Section 6; Lot 2A, Block 5, Bizzell-Kiser, Section 5; Lots 1A – 3A, 5A – 9A, 12A – 22A, Block 6, Bizzell-Kiser, Section 5; Lots 10A & 11A, Block 6, Bizzell-Kiser, Section 4; a 0.166-acre portion of Tract 6, Bizzell-Kiser; Lots 1A & 2A, Block 7, Bizzell-Kiser, Section 4; Lots 3A – 9A, Block 7, Bizzell-Kiser, Section 5; 0.656-acre portions (DEVELOPMENT SERVICES)

ORDINANCE NO. 9165

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 1A, BLOCK 5, AND LOTS 2A-5A AND 7A, BLOCK 4, BIZZELL-KISER, SECTION 5, AND LOT 6B, BLOCK 4, BIZZELL-KISER, SECTION 6, AND A 0.45-ACRE PORTION OF TRACT 4, BIZZELL-KISER, AND LOTS 10A-16A, BLOCK 7, BIZZELL-KISER, SECTION 5, AND A 0.145-ACRE PORTION OF TRACT 7, BIZZELL-KISER, AND ALL OF BLOCK 3, BIZZELL-KISER, SECTIONS 4 AND 5, AND LOTS 1A, 10A-12A, BLOCK 4, BIZZELL-KISER, SECTION 5, AND LOTS 8B AND 9B, BLOCK 4, BIZZELL-KISER, SECTION 6, AND LOT 2A, BLOCK 5, BIZZELL-KISER, SECTION 5, AND LOTS 1A-3A, 5A-9A, 12A-22A, BLOCK 6, BIZZELL-KISER, SECTION 5, AND LOTS 10A AND 11A, BLOCK 6, BIZZELL-KISER, SECTION 4, AND A 0.166-ACRE PORTION OF TRACT 6, BIZZELL-KISER, AND LOTS 1A AND 2A, BLOCK 7, BIZZELL-KISER, SECTION 4, AND LOTS 3A-9A, BLOCK 7, BIZZELL-KISER, SECTION 5, AND A 0.656-ACRE PORTION OF TRACT 7, BIZZELL-KISER, AND LOTS 1A-4A, BLOCK 9, BIZZELL-KISER, SECTION 4, AND A 0.45-ACRE PORTION OF TRACT 9, BIZZELL-KISER, AND ALL OF BLOCK 10, BIZZELL-KISER, SECTION 4, AND LOTS 1A-7A, BLOCK 11, BIZZELL-KISER, SECTION 4, AND LOT 8A, BLOCK 11, BIZZELL-KISER, SECTION 5, AND A 0.87-ACRE PORTION OF TRACT 11, BIZZELL-KISER, AND ALL OF BLOCK 12, BIZZELL-KISER, SECTION 4, AND LOTS 1A-21A, BLOCK 13, BIZZELL-KISER, SECTION 7, AND LOTS 22B AND 23B, BLOCK 13, BIZZELL-KISER, SECTION 8, AND LOTS 1A-18A, BLOCK 14, BIZZELL-KISER, SECTION 4, AND A 0.18-ACRE PORTION OF TRACT 14, BIZZELL-KISER, AND BLOCKS 45 AND 46, BELMONT ADDITION, AND ALL ADJACENT AND PREVIOUSLY VACATED RIGHTS-OF-WAY, CITY AND COUNTY OF MIDLAND, TEXAS, AND MORE SPECIFICALLY DESCRIBED IN SECTION ONE HEREOF, WHICH IS PRESENTLY ZONED MH, MANUFACTURED HOME DWELLING DISTRICT, IN PART, AND 1F-3, ONE-FAMILY DWELLING DISTRICT, IN PART, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED SOUTH OF EAST GIST AVENUE, BETWEEN SOUTH MAIN STREET AND SOUTH TERRELL STREET);

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

Interim Planning Division Manager Ken VanDyne gave an overview of the item noting it was City initiated zoning to help clean up the windowpane area which was annexed in 2009. Staff would like to help facilitate development in the area.

Council Member James noted that zoning the property this way was not consistent with what drove the City to annex it in the first place.

Mr. VanDyne noted it would preserve the setbacks and increase right of way on narrow streets.

Discussion ensued that this zoning does not improve the area when stick built homes can be built next to mobile homes. The City should zone the property the way they would like to have it ultimately end up.

Council Member Love noted it is an economically challenged area and expensive homes would not be built in this area. This item was discussed with the neighborhood and staff. The neighborhood feels that this is the perfect solution to a unique situation.

Building Official Steve Thorpe reported that when speaking with the neighborhood they tried to come up with a solution that would work for everyone. In the ordinance there would be criteria that every mobile home would have to meet and this would be taking baby steps towards code compliance.

Max Cuellar reported they wanted to help people progress and to enhance upgrades in the neighborhood. He suggested that zoning another way would make it too strict for the neighborhood and no changes would be made.

Due to technical difficulties, Mayor Perry recessed the meeting at 11:29 a.m. The meeting was reconvened at 11:37 a.m.

Mr. Cuellar completed his comments noting that people cannot get financed for homes in that area for \$200,000 like a person could in another area of town.

Adriana Miranda, 505 E. Peck, reported her family owns a huge portion of land and understands that the City is trying to make it a better area. She reported that people cannot afford to make big improvements and the highest value in the area would probably be \$150,000. She reported most of the people cannot get loans from banks so they save as much money as they can and slowly make the improvements themselves. She felt like the whole area will be turned into apartments and that they will have to give up and move off of their land.

There being no one else wishing to speak, the public hearing was closed at 11:46 a.m.

Deputy City Secretary Reyes read the caption of Ordinance No. 9165.

Council Member Love moved approval of the first of two readings of Ordinance No. 9165 in accordance with the Charter of the City of Midland; seconded by Council Member Morales.

Discussion ensued about the current zoning. With the current plan, every time someone wanted to build in this area they would have to have plans drawn up and come before the Council for approval. A point was made that if the tough decision is not made now, it only prolongs what needs to be done.

Mr. VanDyne stated there were other mechanisms that could be used such as setting up an empowerment zone to encourage developers to bring areas up to par.

Council Member Love stated he wished other members had attended the community meeting emphasizing this was a compromise the citizens could embrace. He asked the Council to attend any future meetings in that area.

Discussion ensued about using CDBG funds to help in this area and that David Diaz of Midland Community Development Commission should be contacted about potential resources that could be brought to the area.

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

39. At approximately 11:06 A.M. hold a public hearing and consider a resolution on a request for a Temporary Land Use Permit for a School Faculty Housing on Lot 1, Block 2, Parkway South Addition, Section 2, City and County of Midland, Texas. (Generally located on the southwest corner of the intersection of South Lamesa Road and East Gist Avenue.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 201

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR SCHOOL FACULTY HOUSING ON LOT 1, BLOCK 2, PARKWAY SOUTH ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF SOUTH LAMESA ROAD AND EAST GIST AVENUE); AND MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN

Interim Planning Division Manager Ken VanDyne gave an overview of the item noting it was a request by the MISD Superintendent for temporary housing for school teachers due to the rising cost of housing and increasing population. He noted the district intends to place 70 manufactured homes on school owned property, noting this was a temporary land use permit that would be good for one year. He reported that all requirements for setbacks would be adhered to as well as the Fire Code and Building Code.

Mayor Perry opened the public hearing at 12:15 p.m.

Eric West, 1700 W. Wall, of Parkhill, Smith and Cooper reported they have been working with MISD on finding a location for this unique situation due to demand for bringing in teachers and a need to find affordable housing. The school district understands this is a temporary situation and hopes the housing market will catch up with the population growth.

There being no one else wishing to speak, the public hearing was closed at 12:17 p.m.

Council Member James moved to adopt Resolution No. 2013 - 201; seconded by Council Member Sparks.

Discussion ensued about being able to revoke the permit due to violation of terms. City Attorney Stretcher clarified that the City reserves the right to rescind to avoid a situation where someone thinks this is a permanent rezoning. He noted that Council has never activated that clause.

Discussion ensued about whether the possibility this property could be sold as a mobile home park, illegal dumping that is currently taking place on this property off of Terrell, and how trash will be picked up.

Council Member James moved to amend the motion by requiring that the property cannot be sold to a third party as a mobile home park; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

Council Member Love moved to amend the motion by requiring fencing to be installed along Terrell to prohibit dumping; seconded by .; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

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

MISCELLANEOUS

40. Consider an ordinance amending the Fiscal Year 2012-2013 Budget to provide additional funds to the Sports and Entertainment Association of Midland (SEAM) in the amount of \$50,000. (CITY SECRETARY'S OFFICE)

ORDINANCE NO. 9166

AN ORDINANCE AMENDING THE OFFICIAL MUNICIPAL BUDGET FOR FISCAL YEAR 2012-2013 IN ORDER TO PROVIDE ADDITIONAL FUNDS TO THE SPORTS AND ENTERTAINMENT ASSOCIATION OF MIDLAND; THE ADDITIONAL FUNDING PROVIDED TO THE SPORTS AND ENTERTAINMENT ASSOCIATION OF MIDLAND WILL BE USED FOR UPCOMING EVENTS; THE ADDITIONAL FUNDS WILL ALLOW FOR THE PROMOTION OF TOURISM IN THE CITY OF MIDLAND; AND ORDERING RECORDATION; AND APPROPRIATING FUNDS

Deputy City Secretary Reyes read the caption of Ordinance No. 9166.

Council Member Love moved approval of the first of two readings of Ordinance No. 9166 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

41. Consider a resolution approving the issuance of a permit to Petroplex Energy, Inc.

(Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (Western T-8 #2) located 1260 feet from north line and 672 feet from east line, Section 8, Block 39, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the west side of the extension of N. Midkiff Road, approximately ¾ mile north of the extension of Green Tree Boulevard.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 202

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO PETROPLEX ENERGY, INC. ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 1,260 FEET FROM THE NORTH LINE AND 672 FEET FROM THE EAST LINE, SECTION 8, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF THE EXTENSION OF NORTH MIDKIFF ROAD, APPROXIMATELY 3/4 OF A MILE NORTH OF THE EXTENSION OF GREEN TREE BOULEVARD); AND WAIVING THE REQUIREMENT OF A ROAD REPAIR AGREEMENT

Oil and Gas Compliance Officer Ron Jenkins gave an overview of the item noting that no letters of objection had been received; the item was approved by the Oil & Gas Advisory Committee with the recommendation of granting a landscape and irrigation variance until the property changes ownership and waiving the requirement for a Road Repair Agreement.

Council Member Dufford moved to adopt Resolution No. 2013 - 202; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

42. Consider a motion on a request by James Grose (Tradewinds Apartments) for interpretation of City of Midland Ordinance No. 9090 which approved site plans for a Planned District for a Housing Development on Lot 1A, Block 4, Gateway Plaza, City and County of Midland, Texas. This request relates to the removal of dormers from the front and rear elevations of building and reduced stone on buildings. This property is generally located on the west side of Tradewinds Boulevard, approximately 800 feet north of Business Interstate 20. This motion involves the City Council's interpretation of a Planned District. (DEVELOPMENT SERVICES)

Interim Planning Division Manager Ken VanDyne shared changes that are proposed to be made noting staff feels the changes are minor.

Jim Grose, Dallas, reported he is the developer and a general partner. He reported he was available to answer any questions.

Council Member Love moved to approve a motion on a request by James Grose (Tradewinds Apartments) for interpretation of City of Midland Ordinance No. 9090 which approved site plans for a Planned District for a Housing Development on Lot 1A, Block 4, Gateway Plaza, City and County of Midland, Texas. This request relates to the removal of dormers from the front and rear elevations of building and reduced stone on buildings. This property is generally located on the west side of Tradewinds Boulevard, approximately 800 feet north of Business Interstate 20. This motion involves the City Council's interpretation of a Planned District; seconded by Council Member Trost. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, Sparks.

NAY: None. ABSTAIN: None. ABSENT: James.

43. Consider an ordinance on a request for the vacation of a 0.138-acre portion of the right-of-way of E. Spruce Avenue adjacent to Lots 23 and 24, Block 6 and to Lots 1 and 2, Block 5, Sun Garden Village, Second Section, City and County of Midland, Texas. (Generally located on the west side of North Carver Street, approximately 270 feet south of Dormard Avenue.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9167

AN ORDINANCE VACATING AND ABANDONING A 0.138-ACRE PORTION OF EAST SPRUCE AVENUE RIGHT-OF-WAY ADJACENT TO LOTS 23 AND 24, BLOCK 6, AND TO LOTS 1 AND 2, BLOCK 5, SUN GARDEN VILLAGE, SECOND SECTION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF NORTH CARVER STREET, APPROXIMATELY 270 FEET SOUTH OF DORMARD AVENUE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$599.20; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary Reyes read the caption of Ordinance No. 9167.

Interim Planning Division Manager Ken VanDyne gave an overview of the item noting this was the first of three vacations.

Council Member Morales moved approval of the first of two readings of Ordinance No. 9167 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, Sparks. NAY: None. ABSTAIN: None. ABSENT: James.

44. Consider an ordinance on a request for the vacation of a 0.098-acre portion of the right-of-way of North Carver Street adjacent to Lot 1, Block 5, Sun Garden Village, Second Section, City and County of Midland, Texas. (Generally located on the south of East Spruce Avenue, approximately 150 feet north of East Pine Avenue.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9168

AN ORDINANCE VACATING AND ABANDONING A 0.098-ACRE PORTION OF NORTH CARVER STREET RIGHT-OF-WAY ADJACENT TO LOT 1, BLOCK 5, SUN GARDEN VILLAGE, SECOND SECTION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON SOUTH SIDE OF EAST SPRUCE AVENUE, APPROXIMATELY 150 FEET NORTH OF EAST PINE AVENUE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$424.90; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary Reyes read the caption of Ordinance No. 9168.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 9168 in accordance with the Charter of the City of Midland; seconded by Council Member Love. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

45. Consider an ordinance on a request for the vacation of a 0.185-acre portion of the right-of-way of Spruce Avenue adjacent to Lot 4, Block 12 and to Lot 1, Block 11, Sun

Garden Village, Second Section, City and County of Midland, Texas. (Generally located on the east side of Jackson Street, approximately 270 feet south of Dormard Avenue.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9169

AN ORDINANCE VACATING AND ABANDONING A 0.185-ACRE PORTION OF EAST SPRUCE AVENUE RIGHT-OF-WAY ADJACENT TO LOT 4, BLOCK 12, AND TO LOT 1, BLOCK 11, SUN GARDEN VILLAGE, SECOND SECTION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF NORTH JACKSON STREET, APPROXIMATELY 270 FEET SOUTH OF DORMARD AVENUE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$804.00; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary Reyes read the caption of Ordinance No. 9169.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 9169 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

46. Consider an ordinance establishing intersection stops at various locations within the City of Midland, Texas; requiring and authorizing the posting of appropriate signs at intersections; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two hundred dollars (\$200.00); and ordering publication. (ENGINEERING SERVICES)

ORDINANCE NO. 9170

AN ORDINANCE ESTABLISHING INTERSECTION STOPS AT VARIOUS LOCATIONS WITHIN THE CITY OF MIDLAND, TEXAS; REQUIRING AND AUTHORIZING THE POSTING OF APPROPRIATE SIGNS AT INTERSECTIONS; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO HUNDRED DOLLARS (\$200.00); AND ORDERING PUBLICATION

Transportation Manager Gary Saunders reported this Ordinance is done every few months when new traffic control devices are installed.

Deputy City Secretary Reyes read the caption of Ordinance No. 9170.

Council Member Dufford moved approval of the first of two readings of Ordinance No. 9170 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, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Love.

47. Consider a motion making appointments to various Boards and Commissions.

No appointments were made.

EXECUTIVE SESSION

48. Mayor Perry announced that 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 551.087 Deliberate Economic Development Negotiations
 - a.1. Discuss business prospects that the City seeks to have, locate, stay, or expand in or near the City of Midland, Texas, and discuss possible incentives.
- b. Section 551.072 Deliberation Regarding Real Property.
 - b.1. Discuss the purchase, exchange lease or value of real property described as Acres: 0.321, Block 035, Lots 5 & 6, Block 35 Addition, Original Town, Midland, Midland County, Texas.
 - b.2. Discuss the purchase, exchange lease or value of real property described as Acres: 0.321; Block: 035, Lots 7 & 8, Original Town, Midland, Midland County, Texas.

Mayor Perry recessed the meeting to Executive Session at 1:45 p.m. noting they would reconvene in open session no earlier than 1:45 p.m. to hear the remainder of items.

Mayor Perry reconvened the meeting in Regular Session at 2:20 p.m. with all Council Members present.

All of the business at hand having been completed, the meeting adjourned at 2:45 p.m.

PASSED AND APPROVED the 23rd day of July, 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary



City Council Agenda

Approved for Agenda:
CSharp
City Manager's Office

MEETING DATE: 7/23/2013

TO: City Council / City Manager

FROM: Bob McNaughton, Finance Director

SUBJECT: Consider a resolution recording a vote on a proposal to consider an ad valorem tax rate for the Fiscal Year 2013 – 2014 and establish dates to hold public hearings on the proposed tax rate; and to establish dates when there will be a record vote on the tax rate; and authorizing and directing the City Manager to post all appropriate notices.

Purpose:

Consider a resolution recording a vote on a proposal to consider an ad valorem tax rate for the Fiscal Year 2013 – 2014 and establish dates to hold public hearings on the proposed tax rate; and to establish dates when there will be a record vote on the tax rate; and authorizing and directing the City Manager to post all appropriate notices.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

Required for FY'14 budget and tax rate adoption of a proposed ad valorem tax rate of .xxxxx per \$100 valuation

Discussion:

Truth-in-Taxation requirements call for a vote to place a proposal to adopt a tax rate that exceeds the lower of the effective rate or the rollback rate, whichever is lower, on the agenda of a future meeting as an action item.

The current proposed rate exceeds the lower of these two rates and therefore does require a record vote.

The item is placed on the agenda to meet requirements in public notification of the upcoming vote on the tax rate.

The proposal must specify a desired rate.

The rate specified does not require the Council to adopt that rate, but is the maximum rate that can be adopted.

RESOLUTION NO.

**RESOLUTION RECORDING A VOTE ON A PROPOSAL
TO CONSIDER AN AD VALOREM TAX RATE FOR THE
FISCAL YEAR 2013 - 2014 AND TO ESTABLISH DATES
TO HOLD PUBLIC HEARINGS ON THE PROPOSED
TAX RATE; AND TO ESTABLISH DATES WHEN
THERE WILL BE A RECORD VOTE ON THE TAX
RATE; AND AUTHORIZING AND DIRECTING THE
CITY MANAGER TO POST ALL APPROPRIATE
NOTICES**

WHEREAS, the City Council of the City of Midland (“City”) finds it to be in the public interest to call for a vote to place a proposal to adopt a tax rate of \$_____ per \$100 taxable assessed valuation on the agenda of a future Council meeting as an action item;

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

SECTION ONE. That there will be public hearings on the proposed tax rate of \$_____ per \$100 taxable assessed valuation on August 6, 2013, at 9:00 a.m., and August 13, 2013, at 6:00 p.m., and there will be a record vote on said proposed tax rate on August 20, 2013, at 9:00 a.m., and August 26, 2013, at 9:00 a.m.

SECTION TWO. That the City Manager is hereby authorized and directed to execute all documents necessary to give proper notice to the public regarding the property tax rate issue to be discussed at the August 6, 2013, and August 13, 2013 meetings of the Midland City Council and any other notices required by law.

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., 2013, 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:

Robert McNaughton, Finance Director

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City of Midland
Office Memorandum

DATE: 7/23/2013

TO: The Honorable Mayor and City Council Members

FROM: Keith Stretcher, City Attorney

SUBJECT: Interlocal Agreement Regarding the Clearwater Ranch

The proposed resolution authorizes the Mayor to negotiate and execute an interlocal agreement with the Midland County Fresh Water Supply District No. 1 regarding the development of the Clearwater Ranch in Winkler County, Texas.

RESOLUTION NO.

RESOLUTION AUTHORIZING THE MAYOR TO NEGOTIATE AND EXECUTE AN INTERLOCAL AGREEMENT WITH THE MIDLAND COUNTY FRESH WATER SUPPLY DISTRICT NUMBER 1 REGARDING THE DEVELOPMENT OF THE CLEARWATER RANCH; THE CLEARWATER RANCH CONSISTS OF APPROXIMATELY 6,750 ACRES IN WINKLER COUNTY, TEXAS; AND THE PROPOSED INTERLOCAL AGREEMENT WILL ALLOW THE DEVELOPMENT OF THE CLEARWATER RANCH AS A WATER SUPPLY FOR THE CITY IN CONJUNCTION WITH THE T-BAR RANCH

WHEREAS, the Council finds it to be in the public interest to authorize the Mayor to negotiate and execute an interlocal agreement;

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

SECTION ONE. That the Mayor is hereby authorized and directed to negotiate and execute an Interlocal Agreement with the Midland County Fresh Water Supply District Number 1 for the development of the Clearwater Ranch in Winkler County, Texas.

SECTION TWO. That the Interlocal Agreement is on file in the City Secretary's Office referenced by the date and number of this resolution.

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., 2013, 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
Office Memorandum

DATE: 7/23/2013

TO: The Honorable Mayor and City Council Members

FROM: Keith Stretcher, City Attorney

SUBJECT: The Employment of Parkhill, Smith and Cooper, Incorporated to Develop the Clearwater Ranch and Coordinate the Development with the T-Bar Ranch

The proposed resolution authorizes the City Manager to employ Parkhill, Smith and Cooper, Inc., to develop the City's water supply in Winkler County and Loving County, Texas. The proposed resolution also authorizes the employment of other needed experts and appropriates funds in the amount of \$75,000.00.

RESOLUTION NO.

RESOLUTION AUTHORIZING THE CITY MANAGER TO EMPLOY PARKHILL, SMITH & COOPER, INCORPORATED, TO WORK WITH VARIOUS STATE AGENCIES INCLUDING THE RAILROAD COMMISSION OF TEXAS AND THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY IN REGARDS TO THE DEVELOPMENT OF THE CITY'S WATER SUPPLY IN WINKLER COUNTY AND LOVING COUNTY, TEXAS; THE CITY MANAGER IS AUTHORIZED TO EMPLOY OTHER EXPERTS AS NEEDED FOR THE DEVELOPMENT OF THE CITY'S WATER SUPPLY IN WINKLER COUNTY AND LOVING COUNTY, TEXAS; AND APPROPRIATING FUNDS

WHEREAS, the City Council finds it to be in the public interest to authorize the City Manager to employ Parkhill, Smith & Cooper, Incorporated, regarding the development of the City's water supply in Winkler County and Loving County, Texas;

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 employ Parkhill, Smith & Cooper, Incorporated to work with various State Agencies including the Railroad Commission of Texas and the Texas Commission on Environmental Quality in regards to the development of the City's Water Supply in Winkler County and Loving County, Texas.

SECTION TWO. That the City Manager is hereby authorized and directed to employ other experts as needed for the development of the City's Water Supply in Winkler County and Loving County, Texas.

SECTION THREE. That the sum of \$75,000 is hereby appropriated from the T-Bar Ranch Fund (340) Unappropriated Fund Balance (5650) to the T-Bar Development Engineering Service Project (9051).

SECTION FOUR. That the City Treasurer is hereby authorized and directed to pay the above described experts upon receipt of proper invoice or statement approved by the City Manager or City Attorney.

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., 2013, 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 FORM:

Keith Stretcher, City Attorney



City of Midland
Office Memorandum

DATE: 7/23/2013

TO: The Honorable Mayor and City Council Members

FROM: Amy Turner, City Secretary

SUBJECT: Consider a resolution calling an election on November 5, 2013 for three City Officials.

The proposed resolution calls the election to be held on November 5, 2013 for the Mayor and for Council Members representing Districts 3 and 4, and designates the polling places for said election.

The City's share of the cost of this joint election with Midland County is estimated at \$20,000 and is handled through the master inter-local agreement with the County.

RESOLUTION NO.

RESOLUTION CALLING AN ELECTION FOR THREE CITY OFFICIALS; AMENDING THE BOUNDARY OF THE CITY AND CITY COUNCIL DISTRICTS; PROVIDING FOR USE OF ACCESSIBLE VOTING SYSTEMS; ESTABLISHING ELECTION PRECINCTS FOR SAID ELECTION; AND ESTABLISHING POLLING PLACES FOR SAID ELECTION

WHEREAS, the laws of the State of Texas provide that an election of City officials may be held on the first Tuesday after the first Monday in November during 2013; and

WHEREAS, it is necessary for the City Council to order that an election be held on Tuesday, November 5, 2013, and to establish election precincts and voting places for the current election year beginning April 1, 2013;

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

SECTION ONE. That an election be, and is, hereby ordered to be held on Tuesday, November 5, 2013, during the hours of 7:00 a.m. to 7:00 p.m. for the offices of Mayor and City Council Members representing Districts 3 and 4.

SECTION TWO. That due to the recent annexations by the City of Midland, the limits or boundaries of Single Member District 2 and Single Member District 4, and of the City as a whole, along with the boundaries of City Election Precinct Nos. 5,6, 10, 13, 14, 17, and 29, are hereby amended to add the additional property shown on Exhibit "A", which is attached hereto and incorporated herein for all purposes.

SECTION THREE. That the City hereby adopts for use in early and election day voting the iVotronic Direct Recording Electronic (DRE) Voting System as approved by the Secretary of State. Optical scan ballots shall be used for early voting by mail and provisional ballots, and the DRE voting system shall be used for early voting by personal appearance; the DRE Voting System shall be used in each polling place in the City on election day.

SECTION FOUR. That in accordance with the provisions of V.A.T.S., Election Code, § 42.061, the Municipal Election precincts for the voting year effective April 1, 2013,

through March 31, 2014, are hereby designated as follows:

- City Election Precinct No. 1, containing County Voting Precinct No. 211;
- City Election Precinct No. 2, containing County Voting Precinct Nos. 308 and 310;
- City Election Precinct No. 3, containing County Voting Precinct No. 306;
- City Election Precinct No. 4, containing County Voting precinct No. 305;
- City Election Precinct No. 5, containing County Voting Precinct No. 304;
- City Election Precinct No. 6, containing County Voting Precinct No. 309;
- City Election Precinct No. 7, containing County Voting Precinct No. 307;
- City Election Precinct No. 8, containing County Voting Precinct No. 205;
- City Election Precinct No. 9, containing County Voting Precinct No. 212;
- City Election Precinct No. 10, containing County Voting Precinct Nos. 104, 109 and 303;
- City Election Precinct No. 11, containing County Voting Precinct No. 208;
- City Election Precinct No. 12, containing County Voting Precinct No. 105;
- City Election Precinct No. 13, containing County Voting Precinct No. 106;
- City Election Precinct No. 14, containing County Voting Precinct No. 102;
- City Election Precinct No. 15, containing County Voting Precinct No. 103;
- City Election Precinct No. 16, containing County Voting Precinct No. 405;
- City Election Precinct No. 17, containing County Voting Precinct Nos. 107 and 110;
- City Election Precinct No. 18, containing County Voting Precinct No. 407;
- City Election Precinct No. 19, containing County Voting Precinct No. 404;
- City Election Precinct No. 20, containing County Voting Precinct No. 403;
- City Election Precinct No. 21, containing County Voting Precinct No. 206;
- City Election Precinct No. 22, containing County Voting Precinct No. 207;
- City Election Precinct No. 23, containing County Voting Precinct No. 210;
- City Election Precinct No. 24, containing County Voting Precinct No. 204;
- City Election Precinct No. 25, containing County Voting Precinct No. 408;

City Election Precinct No. 26, containing County Voting Precinct No. 409 and 411;

City Election Precinct No. 27, containing County Voting Precinct No. 402;

City Election Precinct No. 28, containing the tracts of land described below:

Beginning at a point in the west R.O.W. line of State Highway 349, said point lying 72 feet west of the east section line of Section 11, Block 39, T-1-S, T&P Ry. Co. Survey, more or less;

Thence northwesterly approximately 5,097 feet along the west R.O.W. line of State Highway 349 to a point for a corner, said point lying in the west R.O.W. of State Highway 349 and on the Martin County-Midland County line;

Thence east along the Martin-Midland County Line approximately 17,250 feet to a point for a corner, said point being 660 feet east of the west section line and 491 feet north of the south section line of Section 9, Block 38, T-1-S, T&P Ry. Co. Survey;

Thence southeasterly approximately 1,151 feet along a line lying 660 feet east of and parallel to the west section lines of Sections 9 and 16, Block 38, T-1-S, T&P Ry. Co. Survey, to a point for a corner; said point being 660 feet east of the west line and 660 feet south of the north line of Section 16, Block 38, T-1-S, T&P Ry. Co. Survey;

Thence southwesterly approximately 5,280 feet along a line lying 660 feet south of and parallel to the north line of Sections 16 and 17, Block 38, T-1-S, T&P Ry. Co. Survey; to a point for a corner; said point being 660 feet east of the west line and 660 feet south of the north line of said Section 17, Block 38, T-1-S, T&P Ry. Co. Survey;

Thence northwesterly 1,320 feet along a line lying 660 feet more or less east of and parallel to the western line of Sections 17 and 8, Block 38, T-1-S, T&P Ry. Co. Survey, to a point for a corner; said point being 660 feet east of the west line and 660 feet north of the south line of Section 8, Block 38, T-1-S, T&P Ry. Co. Survey;

Thence westerly approximately 11,292 feet along a line lying 660 feet, more or less, north of and parallel to the northern line of Section 18, Block 38, T-1-S, T&P Ry. Co. Survey and Sections 11 and 12, Block "X", H. P. Hilliard Survey to the point of beginning:

And a tract of land lying in Martin County described as follows:

Beginning at a point on the City limits line of the City of Midland, said point lying at the intersection of the west R.O.W. line of State Highway 349 and the Midland-Martin County line and located approximately 73 feet west of the east section line and 183 feet south of the north section line of Section 11, Block 39, T-1-S, T&P Ry. Co. Survey;

Thence northwesterly along the west R.O.W. line of State Highway 349 approximately 11,403 feet to a point for a corner, said point being 660 feet

north of the south section line and 170.5 feet west of the east section line of Section 26, Block 39, T-1-N, T&P Ry. Co. Survey, said point lying on the west R.O.W. line of State Highway 349;

Thence northeasterly 660 feet north of and parallel to the south section lines of Sections 26 and 25, Block 39, T-1-N, T&P Ry. Co. Survey and Sections 32, 31 and 30, Block 38, T-1-N, T&P Ry. Co. Survey to a point for a corner; said point being 660 feet north of the south line and 660 feet east of the west line of said Section 30, Block 38, T-1-N, T&P Ry. Co. Survey;

Thence southeasterly a distance of approximately 15,909 feet along a line lying 660 feet east of and parallel to the west section lines of Sections 30 and 35, Block 38, T-1-N, T&P Ry. Co. Survey, and Sections 4 and 9, Block 38, T-1-S, T&P Ry. Co. Survey, to a point for a corner; said point being 660 feet east of the west line of said Section 9, and lying on the Midland-Martin County line:

Thence west along the Midland-Martin County line a distance of approximately 17,250 feet to the point of beginning;

City Election Precinct No. 29, containing County Voting Precinct No. 410.

SECTION FIVE. That in accordance with the provisions of V.A.T.S., Election Code §§ 43.004, 271.002 and 271.003, the Municipal Polling Places for the election to be held on Tuesday, November 5, 2013, are hereby designated as follows:

Christ Church located at 5501 N. Midkiff
Cogdell Learning Center located at 211 W. Florida
Fairmont Park Church of Christ located at 3813 N. Midland Drive
Golf Course Church of Christ located at 3500 W. Golf Course
Greenwood Baptist Church located at 10908 Farm to Market Rd 307
Manor Park located at 5212 Sinclair
Midland County Library located at 2503 W. Loop 250 N.
Martin Luther King, Jr. Community Center located at 2300 Butternut
Odessa Country Club located at #1 Fairway
Palmer Drug (PDAP) located at 1208 W. Wall
St. Paul's Methodist Church located at 4501 Thomason

SECTION SIX. That the method of voting shall be by paper ballots which are counted by a centralized optical scanner or by use of the Direct Recording Electronic (DRE) Voting System, as set out in Section Two hereunder. Voting shall be conducted between the hours of 7:00 a.m. and 7:00 p.m. on the date of such election; and election shall be held in accordance with the constitutional laws of the State of Texas and all qualified electors of the City of Midland, Texas, shall be entitled to vote.

SECTION SEVEN. That early voting shall be conducted at the Midland County

Election Administrator's office, in the County Annex, 2110 North A Street, in accordance with the provisions of V.A.T.S., Election Code, § 85.002. Early voting shall be by Direct Recording Electronic (DRE) Voting System, and shall be conducted during the regular office hours of 8:00 a.m. to 5:00 p.m. on October 21, 2013 through October 25, 2013 from 8:00 a.m. to 5:00 p.m and October 28, 2013 through October 30, 2013; and from 7:00 a.m. to 7:00 p.m. on October 31, 2013 through November 1, 2013. Application for ballots by mail shall be addressed to Early Voting Clerk, P. O. Box 3434, Midland, TX, 79702.

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., 2013, 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

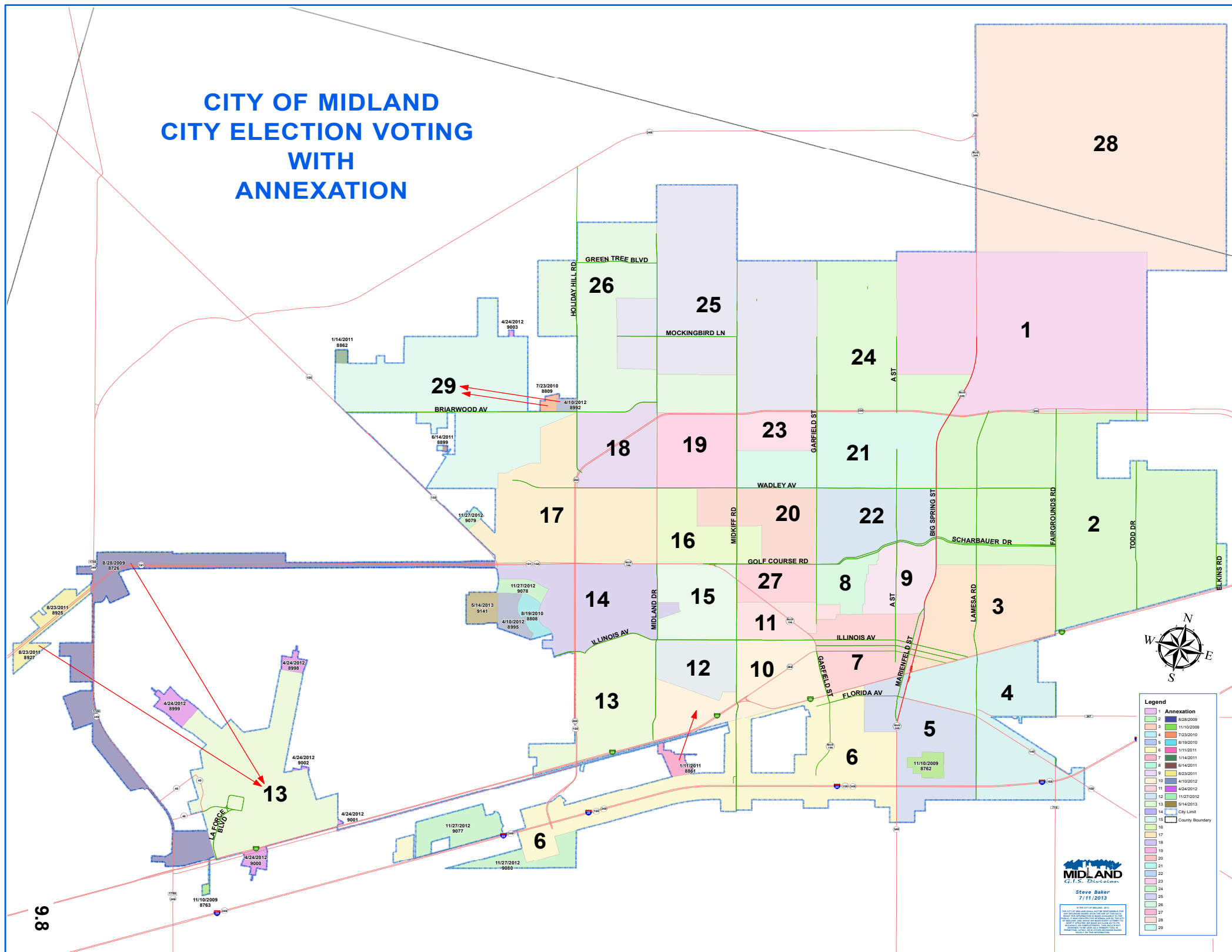
APPROVED AS TO CONTENT AND
COMPLETENESS:

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

CITY OF MIDLAND CITY ELECTION VOTING WITH ANNEXATION



- Legend**
- 1 Annexation
 - 2 8/28/2009
 - 3 11/10/2009
 - 4 7/23/2010
 - 5 8/19/2010
 - 6 1/11/2011
 - 7 1/11/2011
 - 8 1/11/2011
 - 9 8/23/2011
 - 10 4/10/2012
 - 11 4/24/2012
 - 12 11/27/2012
 - 13 5/14/2013
 - 14 City Limit
 - 15 County Boundary
 - 16
 - 17
 - 18
 - 19
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 - 21
 - 22
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 - 24
 - 25
 - 26
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 - 28
 - 29

MIDLAND
G.T.S. Inc.

Steve Baker
7/11/2013

8/10/2013 10:00 AM
This map was created using GIS software and data provided by the City of Midland. It is not intended to be used for legal purposes. The City of Midland is not responsible for any errors or omissions in this map.



City of Midland
Office Memorandum

DATE: 7/23/2013

TO: The Honorable Mayor and City Council Members

FROM: Amy Turner, City Secretary

SUBJECT: Consider a resolution authorizing the execution of an agreement with Rock the Desert Ministries, Incorporated to promote tourism and the convention/hotel industry in Midland.

The proposed resolution authorizes the execution of an Agreement with Rock the Desert Ministries, Incorporated. The proposed Agreement allows the City to reimburse Rock the Desert Ministries, Incorporated for certain expenditures in an amount not to exceed \$50,000 from the City's Hotel-Motel fund. The proposed resolution contains language that the resolution is not to be construed or interpreted as endorsing the message or activities promoted by Rock the Desert Ministries, Incorporated.

RESOLUTION NO.

RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH ROCK THE DESERT MINISTRIES, INCORPORATED AS AUTHORIZED BY CHAPTER 351 OF THE TEXAS TAX CODE; THE FUNDS ALLOCATED BY THIS RESOLUTION SHALL BE USED TO PROMOTE TOURISM AND THE MOTEL AND HOTEL INDUSTRY; THE ALLOCATED FUNDS ARE EXPENDED IN A MANNER DIRECTLY ENHANCING AND PROMOTING TOURISM AND THE MOTEL AND HOTEL INDUSTRY; THE USE AND ALLOCATION OF THESE FUNDS ARE AUTHORIZED BY CHAPTER 351 OF THE TEXAS TAX CODE; AND THE APPROVAL OF THIS RESOLUTION SHOULD NOT BE CONSTRUED OR INTERPRETED AS ENDORSING THE MESSAGE OR ACTIVITIES PROMOTED BY ROCK THE DESERT MINISTRIES, INCORPORATED; AND ROCK THE DESERT MINISTRIES, INCORPORATED IS REQUIRED TO PROVIDE INSURANCE PRIOR TO THE EVENT AND THE CITY SECRETARY SHALL ENSURE THAT THE INSURANCE IS RECEIVED AND APPROVED PRIOR TO THE ROCK THE DESERT EVENT; AND ALLOCATING FUNDS

WHEREAS, the City Council finds it to be in the public interest to authorize the execution of an Agreement with Rock the Desert Ministries, Incorporated; and

WHEREAS, this Agreement is authorized by Chapter 351 of the Texas Tax Code; and

WHEREAS, the funds authorized to be spent under this Agreement shall be expended in a manner directly enhancing and promoting tourism and the motel and hotel industry; and

WHEREAS, the Agreement promotes tourism and the motel and hotel industry; and

WHEREAS, this Resolution should not be construed or interpreted as endorsing the message or activities conducted by Rock the Desert Ministries, Incorporated;

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

SECTION ONE. That the recitals stated above are hereby approved and adopted 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, Texas, an Agreement with the Rock the Desert Ministries, Incorporated. Said Agreement is on file in the City Secretary's office referenced by the date and number of this resolution.

SECTION THREE. That the City Secretary is responsible for ensuring that a Certificate of Insurance is received after July 23, 2013 or before August 1, 2013 for the event. Said Certificate of Insurance shall be provided to the City Attorney's office for approval after July 23, 2013, along with a copy to the City Secretary's office which will be on file referenced by the number and date of this resolution. The insurance shall name the City of Midland, Texas as an additional insured with a waiver of subrogation.

SECTION FOUR. That the City Treasurer is hereby authorized and directed to pay Rock the Desert Ministries, Incorporated according to the terms of the Agreement upon receipt of proper invoice or statement received from the City Manager. Funds are available in the Fiscal Year 2012-2013 Hotel/Motel Fund (090) Administration (005) Hotel/Motel (0690) Rock the Desert (6195) budget account.

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., 2013, 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:

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

THIS AGREEMENT, made and entered into on this 24th day of July, 2013, between the City of Midland, Texas, a home rule municipal corporation, hereinafter called “City,” and Rock the Desert Ministries, Incorporated, a Texas nonprofit corporation, hereinafter called “Rock the Desert”.

W I T N E S S E T H:

WHEREAS, the City, recognizing the need for promoting continued tourism in the City of Midland, has budgeted certain funds to be used pursuant to the authority under Chapter 351 of the Texas Tax Code, for the purpose of advertising the municipality and promoting its growth and development; and

WHEREAS, Rock the Desert has plans to enhance and promote tourism in the City of Midland; and

WHEREAS, Rock the Desert and this Agreement shall promote tourism and the hotel industry; and

WHEREAS, there is nothing inherently religious about the services authorized by this Agreement and these services do not have the primary effect of advancing or inhibiting religion; and

WHEREAS, no funds authorized by this Agreement shall be used for religious purposes; and

WHEREAS, the City shall not intrude unduly in the operations of Rock the Desert but will only monitor the use of the funds to ensure compliance with this Agreement; and

WHEREAS, the City allocated these funds on the basis of a neutral, secular nature; and

WHEREAS, no funds authorized by this Agreement shall reach the coffers of Rock the Desert but shall be used to pay for services and supplies; and

WHEREAS, the City Manager must adopt adequate safeguards to ensure that the funds authorized by this Agreement are not put to a religious use; and

WHEREAS, the City's adoption of this Agreement shall not and does not in fact convey a message of endorsement or disapproval thereby aiding one religion, aiding all religions, or favoring one religion over another; and

WHEREAS, the City of Midland does not endorse any message from the event; and

WHEREAS, one of the City's secular purposes is the promotion of commerce and the hotel and motel industry; and

WHEREAS, when a hotel or motel guest is motivated to come to Midland or to extend his or her stay to enjoy activities, the Midland economy benefits and in turn the room tax on the additional hotel and motel nights operate as a continuing endowment to fund future activities and tourism-related facilities; and

WHEREAS, the services and items for which Rock the Desert will be reimbursed are clearly identifiable; and

WHEREAS, the careful procedures outlined in this Agreement provide an adequate safeguard regarding the reimbursement of funds; and

WHEREAS, the Agreement provides ample safeguards against excessive or misdirected reimbursement; and

WHEREAS, the reimbursements described in the Agreement will serve the City's legitimate secular ends without any risk of being used to transmit or teach religious views;

NOW, THEREFORE, in consideration of the covenants and conditions stated herein, and in consideration of the mutual benefits which will accrue to each of the parties hereof, as well as the general citizenry of the City of Midland, Texas, the parties have agreed and do hereby agree as follows:

I.

RECITALS

The recitals stated above are hereby adopted, approved and incorporated into this Agreement for all purposes.

II.

ADVERTISING AND PROMOTION OF THE CITY OF MIDLAND

1. Rock the Desert agrees to promote tourism and the hotel industry in the City of Midland, Texas as authorized by Chapter 351 of the Texas Tax Code.

2. The City agrees to pay to Rock the Desert as compensation for the services rendered under this Agreement a sum not to exceed \$50,000.00. The City Manager is authorized to pay Rock the Desert upon receipt of proper invoice. Such sum shall be paid based on invoices or statements received from Rock the Desert and approved by the City Manager.

The City shall only reimburse expenses directly related to paying for Security Personnel, Emergency Medical Personnel, and food and non-alcoholic beverages for these personnel. The City shall also reimburse Rock the Desert for expenses directly related to providing sanitation services such as portable toilets, trash and garbage collection, and cleaning up all litter from the grounds. The City's obligation under this Agreement shall not exceed \$50,000.00. This Agreement has the secular purpose of protecting the health and safety of security personnel and medical emergency personnel, attendees and the general public.

Rock the Desert must maintain a separate account or system of accounts or invoices for the expenses incurred in rendering the reimbursable services. Rock the Desert must submit to the City Manager an application for reimbursement with invoices or reports and documents prescribed by the City Manager. Applications for reimbursement cannot be approved until the City Manager audits invoices or other documents submitted by Rock the Desert to substantiate their claims. If Rock the Desert ever receives an amount in excess of its actual cost for reimbursable expenses, the excess must be returned to the City immediately.

III.

INDEMNITY

ROCK THE DESERT 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 ROCK THE DESERT, its agents or employees, or any subcontractor, arising out of, or resulting from Rock the Desert's use of, or activities on, the Agreement Premises, and Rock the Desert 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.

ROCK THE DESERT SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL 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 ROCK THE DESERT OR ROCK THE DESERT'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 ROCK THE DESERT 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.

IV.

INDEPENDENT CONTRACTOR

It is expressly understood and agreed that Rock the Desert shall operate hereunder as an independent contractor and not as an officer, agent, servant or employee of the City; that Rock the Desert 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 Rock the Desert, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between City and Rock the Desert. No person performing any of the work and services described hereunder by Rock the Desert 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. Rock the Desert 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 Rock the Desert’s work. Rock the Desert shall assume exclusive responsibility for the work. Rock the Desert is entirely free to do the work in its own way.

V.

REPORTING

By the end of this agreement, Rock the Desert shall submit to the City Manager a reporting of its accomplishments and ongoing projects and programs during this agreement.

VI.

TERM OF AGREEMENT

The term of this agreement is for a period beginning on July 24, 2013, and ending on September 30, 2013.

Rock the Desert agrees that, in the event they desire to extend the term of this agreement beyond its stated date of expiration, they shall submit a written request for extension to the City Manager of the City of Midland at least ten (10) days prior to the current expiration date hereof and that such submission shall include Rock the Desert’s anticipated budget, goals and objectives for the extended period as well as the annual report on accomplishments during the current term; provided, however, that the City is under no duty or obligation to grant the requested extension, and that before any such extension becomes effective, it must be in writing as an amendment to this agreement and approved by the City Council of the City of Midland.

VII.

DEFAULT

If Rock the Desert shall fail or neglect to do or perform or observe any of the covenants contained herein on their part to be kept and performed and such failure or neglect shall continue for a period of at least ten (10) days after the City has notified Rock the Desert

in writing of Rock the Desert's default hereunder and Rock the Desert has failed to correct such default within said ten (10) days, then City may, at its option, immediately or at any time thereafter without demand or notice, cancel this agreement in its entirety. The waiver by City of any breach of any term, condition, or covenant herein contained shall not be deemed a waiver of any subsequent breach of the same, or any other term, condition, or covenant.

VIII.

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.

IX.

ASSIGNMENT

Rock the Desert 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.

X.

AMENDMENTS

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

XI.

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.

XII.

ATTORNEY'S FEES

BY EXECUTING THIS AGREEMENT, ROCK THE DESERT AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM THEY HAVE 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. ROCK THE DESERT SPECIFICALLY AGREES THAT IF ROCK THE DESERT 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, ROCK THE DESERT AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH ROCK THE DESERT MIGHT OTHERWISE BE ENTITLED.

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

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

XIII.

RELEASE

NOTWITHSTANDING ANY OTHER PROVISION, ROCK THE DESERT 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 ROCK THE DESERT 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.

XIV.

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.

XVI.

RTD'S INSURANCE

Rock the Desert shall procure and carry at its sole cost and expense throughout the life of the Agreement, insurance protection as hereinafter specified. Insurance shall name the City as an additional insured with a waiver of subrogation. Such insurance shall be carried with an insurance company licensed to transact business in the State of Texas and shall cover all operations in connection with this Agreement.

Rock the Desert's Public Liability and Property Damage Liability Insurance: Providing for a limit of not less than One Million Dollars (\$1,000,000.00) for all damages arising out of bodily injuries to or death of one person, and subject to that limit for each person, a total limit of One Million Dollars (\$1,000,000.00) for all damages arising out of bodily injuries to or death of two or more persons in any one accident, and regular Property Damage Liability Insurance providing for a limit of not less than One Million Dollars (\$1,000,000.00) for all damages arising out of injury to or destruction of property in any one accident, and subject to that limit per accident, a total (or aggregate) limit of One Million Dollars (\$1,000,000.00) for all damages arising out of injury to or destruction of property during the policy period. This insurance shall name the City as an additional insured with a waiver of subrogation.

Automobile Insurance: Providing for a limit of not less than One Million Dollars (\$1,000,000.00) for injuries, including accidental death, to any one person and, subject to the same limit for each person a total limit of One Million Dollars (\$1,000,000.00) on account of one accident, and automobile property damage insurance in an amount not less than Five

Hundred Thousand Dollars (\$500,000.00). This insurance shall name the City as an additional insured with a waiver of subrogation.

Proof of Carriage of Insurance: Rock the Desert shall submit to the City for approval one (1) certificate covering each insurance policy carried and offered as evidence of compliance with the above requirements, signed by an authorized representative of the insurance company, setting forth:

1. Name and address of the insured. Also showing the City as an additional insured and showing a waiver of subrogation.
2. The location of the operations to which the insurance applied.
3. The number of the policy and the type or types of insurance in force thereunder on the date borne by such certificate.
4. The expiration date of the policy and the limit or limits of liability thereunder on the date borne by such certificate.
5. A statement that the insurance of the type afforded by the policy applied to all of the operations of whatever character, which are undertaken by the insured during the performance of this contract, provided such operations are required in the performance of the contract.
6. A provision that the policy may be cancelled only by mailing written notice to the named insured at the address shown in this policy stating when, not less than thirty (30) days thereafter, cancellation of such policy shall be effective, with copy to the City of letter of intent.

EXECUTED by the duly authorized officials of the City and Rock the Desert as of 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 CONTENT AND
COMPLETENESS:

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

ROCK THE DESERT MINISTRIES,
INCORPORATED

By _____

Title _____

THE STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this day personally appeared _____ 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 Rock the Desert Ministries, Incorporated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2013.

Notary Public, State of _____



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: 7/23/2013

TO: City Council / City Manager

FROM: Sylvester Cantu, Community Development Manager

SUBJECT: 2013/2014 Community Development Block Grant Application

Purpose:

Consider a resolution authorizing the adoption of the City of Midland's 2013/2014 Action Plan to the City of Midland Consolidated Plan for Community Development and Housing Funds for Fiscal Years 2011 through 2015; the Consolidated Plan was approved by Resolution Number 2010-197; and authorizing the execution of an application for Community Development Block Grant funds

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

The General Fund will need to cover all of CDBG program administration, lot clearing and demolition program costs as well as the cost of general support. The reconstruction and homebuyer assistance programs do provide for increased property tax base due to new residential construction.

Discussion:

To receive CDBG funds, we have undertaken a lengthy process allowing for citizen participation with the process culminating in a draft Action Plan that underwent a 30-day public review period. The review period was completed on July 16, 2013. Therefore, the City can finalize and approve the Action Plan. Staff will then submit the Plan to HUD who must receive it by August 15, 2013. Funding will consist of the 2013 entitlement grant of \$743,626 and \$120,000 in program income. Therefore, the total CDBG budget will be \$863,626. The program income will be used by the program (the reconstruction loan program) that generates the income. The Action Plan also serves as the City's application for 2013/2014 CDBG funds.

RESOLUTION NO.

**RESOLUTION AUTHORIZING THE ADOPTION OF
THE CITY OF MIDLAND'S 2013-2014 ACTION PLAN
TO THE CONSOLIDATED PLAN FOR COMMUNITY
DEVELOPMENT AND HOUSING FUNDS FOR FISCAL
YEARS 2011-2015; THE CONSOLIDATED PLAN WAS
APPROVED BY RESOLUTION NUMBER 2010-197; AND
AUTHORIZING THE EXECUTION OF AN
APPLICATION FOR COMMUNITY DEVELOPMENT
BLOCK GRANT FUNDS**

WHEREAS, the Department of Housing and Urban Development requires the recipients of Community Development Block Grant Funds to prepare a yearly action plan to the Consolidated Plan for Community Development and Housing Funds for fiscal years 2011-2015; and

WHEREAS, the City Council of the City of Midland, Texas, finds it to be in the public interest to adopt the 2013-2014 Action Plan; and

WHEREAS, the City Council finds it to be in the public interest for the City to apply to the United States Department of Housing and Urban Development for Community Development Block Grant Funds for the fiscal year 2013-2014;

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

SECTION ONE. That the document which is on file with the City Secretary's office referenced by the number and date of this resolution is hereby approved and adopted as the City of Midland 2013-2014 Action Plan to the City of Midland Consolidated Plan for Community Development and Housing Funds for fiscal years 2011-2015.

SECTION TWO. That the Mayor is hereby authorized and directed to execute on behalf of the City of Midland an application, No. B-13-MC-48-0023, to the United States Department of Housing and Urban Development for Community Development Block Grant Funds in the amount of \$743,626.00 for fiscal year 2013-2014, by GSA Standard Form 424 with budgetary attachments, copies of which are attached hereto and are incorporated within the City of Midland 2013-2014 Action Plan and made a part hereof for all legal purposes.

SECTION THREE. That an estimated amount of \$120,000.00 in program income will be received for program year 2013-2014 which will be used by the program that generated the income.

SECTION FOUR. That the City will receive \$743,626.00 in Community Development Block Grant Entitlement Grand Funds for the 2013-2014 program, an estimated amount of \$120,000.00 in program income will be received for program year 2013-2014 which will be used by the program that generates the income thus resulting in a total of \$863,626.00 in Community Development Block Grant funds that will be available in 2013-2014.

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., 2013, 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:

Sylvester Cantu, Community Development
Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



**City of Midland
Community Development
Program**

"Changing Communities, Changing Lives"

**October 2013 to September 2014
ACTION PLAN**

to the

**City Of Midland's Consolidated Plan
For Community Development
And Housing Funds
October 2010 - September 2015**

Prepared for the U.S. Department of Housing and Urban Development



City of Midland

FOURTH YEAR ACTION PLAN October 2013 to September 2014

Consolidated Plan for Community
Development and Housing Funds
October 2010 to September 2015

Mayor:

W. Wesley Perry

City Manager:

Courtney Sharp

City Council Members:

District 1: Jeff Sparks
District 2: John B. Love
District 3: John James
District 4: Michael B. Trost
At-Large: Scott Dufford
At-Large: Jerry Morales

Deputy City Manager:

Tommy Hudson

Assistant City Manager:

Jim Nichols

CDBG Committee: Council members Love and Trost and Vicky Hailey

Community Development Office Staff:

Sylvester Cantu, Community Development Administrator
Wanda Valles, Program Coordinator

Special thanks to Steve Baker, GIS Specialist for maps included in the Plan

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**CITY OF MIDLAND CONSOLIDATED PLAN
FOR COMMUNITY DEVELOPMENT AND HOUSING FUNDS**

ACTION PLAN for the 2013/14 PROGRAM YEAR

EXECUTIVE SUMMARY

The Consolidated Plan establishes Midland's long-range strategy for investment of its U.S. Department of Housing and Urban Development (HUD) resources and other resources linked to activities directed at community development, housing and homeless services needs. The Plan covers a five-year period, beginning October 1, 2010 and ending September 30, 2015.

The purpose of the 2013/2014 Action Plan is to identify the HUD resources that will be used in the coming year to address the various housing, homeless and community development needs in the City. This Action Plan represents Year Four of the Consolidated Plan. The sole funding source is the City's 2013/2014 Community Development Block Grant (CDBG) program entitlement allocation of \$743,626. Additionally, the City expects to receive \$120,000 in program income for a total of \$863,626.

Priority housing needs to be addressed are those of owner households in the 0% to 80% of median income range, and renter households in the 31% to 80% of median income range who will be making home purchases. The City will also address public services (senior citizens) and other park improvement. Specific objectives with intended outcomes to be addressed are:

- reconstruct 4 homes and perform 42 minor repairs on homes occupied by low-income homeowners
- assist 13 low-income first time homebuyers with home purchases
- support meals program and home cleaning program for seniors (375 persons)
- Washington Park – improvements to pavilion and recreational facilities

The Action Plan provides information as to the locations of the proposed activities. The City anticipates that 100% of funds will benefit low and moderate income persons.

In summary, the Action Plan was developed through the following citizen participation and consultation process: public organizations and affected groups were informed of the 2013/2014 plan development process and schedule, two community meetings were held, formal project proposals were accepted, two public hearings were held, media outreach was conducted, and public notification including direct mail-outs. The draft plan was made available for a 30-day review period (June 17 to July 16, 2013). Concerning progress on the 2010-2014 Consolidated Plan, the City is seven months into the Third Year Action Plan. Specifically, public service activities, the owner housing assistance programs and public improvements are progressing well towards their respective goals. The demolition program and the homebuyer assistance program are experiencing slower progress. Greater detail is provided on Table 3A. The City's

Consolidated Annual Performance and Evaluation Report that is generally published in December should also be reviewed for past performance.

The Plan includes narrative responses on a variety of issues posed as part of the Consolidated Plan. CDBG program specific requirements including required certifications are contained in the Action Plan. The agency responsible for development of the Plan is the Community Development Division of the City's Development Services Department.

Specific projects proposed to be undertaken with the total \$863,626 CDBG funds are:

<u>Project</u>	<u>Funds</u>
1 Owner Occupied Housing Reconstruction Projects	\$395,626*
2 Minor Repair Program	\$110,000
3 Homebuyer Assistance Program	\$80,000
4 SE Senior Nutrition Program	\$45,000
5 Community Services Home Cleaning Program	\$30,000
6 Washington Park Improvements	\$175,000
7 Contingency	<u>\$28,000</u>
TOTAL	\$863,626

* = includes \$120,000 in program income.



SF 424

The SF 424 is part of the CPMP Annual Action Plan. SF 424 form fields are included in this document. Grantee information is linked from the 1CPMP.xls document of the CPMP tool.

SF 424

Complete the fillable fields (blue cells) in the table below. The other items are pre-filled with values from the Grantee Information Worksheet.

Date Submitted	Applicant Identifier	Type of Submission	
Date Received by state	State Identifier	Application	Pre-application
Date Received by HUD	Federal Identifier	☐ Construction	☐ Construction
		☐ Non Construction	☐ Non Construction
Applicant Information			
City of Midland, Texas		TX483564 MIDLAND	
300 N Loraine		73186579	
PO BOX 1152			
Midland	Texas	Development Services	
79702	Country U.S.A.	Community Development	
Employer Identification Number (EIN):		Midland	
75-6000608		Program Year Start Date (10/13)	
Applicant Type:		Specify Other Type if necessary:	
Local Government: City			
Program Funding		U.S. Department of Housing and Urban Development	
Catalogue of Federal Domestic Assistance Numbers; Descriptive Title of Applicant Project(s); Areas Affected by Project(s) (cities, Counties, localities etc.); Estimated Funding			
Community Development Block Grant		14.218 Entitlement Grant	
CDBG Project Titles 2013/14 Community Development Program for Neighborhood Revitalization		Description of Areas Affected by CDBG Project(s)	
\$743,626	\$Additional HUD Grant(s) Leveraged	Describe	
\$Additional Federal Funds Leveraged		\$Additional State Funds Leveraged	
\$Locally Leveraged Funds		\$Grantee Funds Leveraged	
Anticipated Program Income \$120,000		Other (Describe)	
Total Funds Leveraged for CDBG-based Project(s)			
Home Investment Partnerships Program		14.239 HOME	
NOT APPLICABLE		Description of Areas Affected by HOME Project(s)	
\$HOME Grant Amount \$0	\$Additional HUD Grant(s) Leveraged	Describe	
\$Additional Federal Funds Leveraged		\$Additional State Funds Leveraged	
\$Locally Leveraged Funds		\$Grantee Funds Leveraged	

\$Anticipated Program Income		Other (Describe)	
Total Funds Leveraged for HOME-based Project(s)			
Housing Opportunities for People with AIDS		14.241 HOPWA	
NOT APPLICABLE		Description of Areas Affected by HOPWA Project(s)	
\$0	\$Additional HUD Grant(s) Leveraged	Describe	
\$Additional Federal Funds Leveraged		\$Additional State Funds Leveraged	
\$Locally Leveraged Funds		\$Grantee Funds Leveraged	
\$Anticipated Program Income		Other (Describe)	
Total Funds Leveraged for HOPWA-based Project(s)			
Emergency Shelter Grants Program		14.231 ESG	
NOT APPLICABLE		Description of Areas Affected by ESG Project(s)	
\$ 0	\$Additional HUD Grant(s) Leveraged	Describe	
\$Additional Federal Funds Leveraged		\$Additional State Funds Leveraged	
\$Locally Leveraged Funds		\$Grantee Funds Leveraged	
\$Anticipated Program Income		Other (Describe)	
Total Funds Leveraged for ESG-based Project(s)			
Congressional Districts of:		Is application subject to review by state Executive Order 12372 Process?	
11	11		
Is the applicant delinquent on any federal debt? If "Yes" please include an additional document explaining the situation.		☐ Yes	This application was made available to the state EO 12372 process for review on DATE
		☐ No	Program is not covered by EO 12372
		☐ N/A	Program has not been selected by the state for review
☐ Yes	☐ No		

Person to be contacted regarding this application		
Sylvester	C	Cantu
Community Dev. Administrator	432-685-7408	432-686-1609
scantu@midlandtexas.gov	www.midlandtexas.gov	Other Contact
Signature of Authorized Representative		Date Signed

Resolution

Pages are reserved for City's Resolution that authorizes filing the annual Action Plan.

Resolution page 2

Resolution page 3

Fourth Program Year Action Plan Narrative

GENERAL

Executive Summary

An **Executive Summary** is located at the beginning of the Action Plan.

General Questions

1. Describe the geographic areas of the jurisdiction (including areas of low income families and/or racial/minority concentration) in which assistance will be directed during the next year. Where appropriate, the jurisdiction should estimate the percentage of funds the jurisdiction plans to dedicate to target areas.
2. Describe the basis for allocating investments geographically within the jurisdiction (or within the EMSA for HOPWA) (91.215(a)(1)) during the next year and the rationale for assigning the priorities.
3. Describe actions that will take place during the next year to address obstacles to meeting underserved needs.
4. Identify the federal, state, and local resources expected to be made available to address the needs identified in the plan. Federal resources should include Section 8 funds made available to the jurisdiction, Low-Income Housing Tax Credits, and competitive McKinney-Vento Homeless Assistance Act funds expected to be available to address priority needs and specific objectives identified in the strategic plan.

The geographic areas in which CDBG funds will be directed are shown on the **Locations of Proposed 2013 Projects Map**. The Map also identifies the location criteria for beneficiaries of each proposed project. The reader should also refer to the census tract boundaries, minority population and low-income area maps. The minority population maps are based on 2010 Census Tracts boundaries and data. The low income areas map relies on the 2000 Census geographic areas.

The City's rationale for its geographic distribution of CDBG funds is based on compliance with the CDBG Primary Objective - the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income. Generally, CDBG supported public services are available on a citywide basis to income eligible households or persons. However, public capital improvements and other development projects are specifically directed at sites within low- and moderate-income neighborhoods.

Housing assistance, and elderly programs specifically target underserved populations. The targeting techniques include providing higher levels of assistance for lower income applicants and limiting assistance to low income areas.

As per the **Funding Sources Report**, the City will receive \$743,626 in CDBG Entitlement Grant

funds for the 2013/2014 program. A total \$120,000 is estimated as CDBG program income for 2013/2014. Altogether, \$863,626 in CDBG funds will be available in 2013/2014. The City anticipates that 100% of CDBG funds will benefit low and moderate income persons.

As it relates to other HUD programs, the City shall support applications by other entities as reported in the **Support Other Applications Report**. It is hoped that the State of Texas will continue to offer HUD HOME funds on a competitive application basis. The City and the various housing providers should apply for these HOME funds as well as access the State's HOME Reservation System Participant program component. Currently a Low-Income Housing Tax Credit application for Midland is under consideration. The City does encourage local providers to seek suitable federal resources such as the Emergency Shelter Grants (ESG) and federal weatherization funds.

Private funds to be used in conjunction with CDBG funding include United Way funds received by CDBG subrecipients. The City will use its non-federal funds for lot clearing and demolition programs, other public improvements (e.g. street paving, park improvements) and for general CDBG Administration as well as project management performed by other city departments. Organizations like Christmas in Action and Habitat for Humanity rely on private donations for their programs.

Managing the Process

1. Identify the lead agency, entity, and agencies responsible for administering programs covered by the consolidated plan.
2. Identify the significant aspects of the process by which the plan was developed, and the agencies, groups, organizations, and others who participated in the process.
3. Describe actions that will take place during the next year to enhance coordination between public and private housing, health, and social service agencies.

The lead agency for administering the Action Plan is the City of Midland's Department of Development Services through its Community Development (CD) Division. Major public and private agencies responsible for administering programs covered by the Consolidated Plan are the City of Midland, local housing authorities and numerous housing (Midland Community Development Corporation, Midland Habitat for Humanity) and social service non-profits (Casa de Amigos, Community and Senior Services of Midland, the local Workforce Network).

The process for developing the Action Plan includes public notification, citizen input situations and target area selection. Public notification consisted of informing over 100 public organizations, non-profits and key target organizations about the upcoming Action Plan cycle was made on February 1, 2013. Proposals from outside organizations and city departments for the use of funds were accepted until April 18, 2013. Two community meetings and two public hearings were conducted and the above groups were encouraged to attend. The City communicates and coordinates with other Midland governmental entities, local housing

authorities, the City of Odessa and various State departments on an as needed basis. The City provided copies of the Action Plan to the following governmental entities: Permian Basin Regional Planning Commission, local housing authorities and Midland County. Midland is not adjacent to another municipal government.

The City will continue to participate in local, regional and state efforts that serve to enhance coordination among public and private housing, health, and social service agencies. Such efforts include those of the Midland Affordable Housing Alliance, the Midland Homeless Coalition, the Midland Asset Building Coalition, the United Way, Board of Realtors, home builders association, and social service case managers among others.

Citizen Participation

1. Provide a summary of the citizen participation process.
2. Provide a summary of citizen comments or views on the plan.
3. Provide a summary of efforts made to broaden public participation in the development of the consolidated plan, including outreach to minorities and non-English speaking persons, as well as persons with disabilities.
4. Provide a written explanation of comments not accepted and the reasons why these comments were not accepted.

As per the Citizen Participation Plan for the City's Community Development program, the citizen participation process consists of providing notification and having formal opportunity for citizen input. The City informs the public through various means of upcoming input opportunities such as community meeting or public hearings. Specifically, the City conducted two neighborhood community meetings at the SE Senior Center on February 28, 2013 and at Casa de Amigos on March 7, 2013 to solicit citizen input on priority community development and housing needs. Two public hearings (May 14, 2013 and June 11, 2013) at City Hall were also held to solicit citizen input. Spanish interpretation was available at the meetings. Minutes of the public hearings are maintained by the City Secretary Office. Copies of the draft plan were made available at several locations including the housing authorities as part of the 30-day review period (that occurred from June 17 to July 16, 2013). Comments received on the proposed Action Plan are included in the **Citizen Participation section**. This section also contains copies of published notices of the above meetings and public hearings.

Institutional Structure

1. Describe actions that will take place during the next year to develop institutional structure.

Major changes to the institutional structure described in the Consolidated Plan are not anticipated in the coming year. The City will continue to support activity by the various providers and encourage them to seek other funding sources to enhance the service delivery

system in Midland. City staff and/or elected officials will continue to be involved in housing and homeless concerns that seek to improve service delivery. Examples can be seen in the existence of the Midland Affordable Housing Alliance and the Midland Homeless Coalition among others.

Monitoring

1. Describe actions that will take place during the next year to monitor its housing and community development projects and ensure long-term compliance with program requirements and comprehensive planning requirements.

The City's Community Development Office has the responsibility of monitoring plan implementation. For its CDBG activity, monitoring will be done on a continuous basis regardless of whether a project is undertaken by a subrecipient or City staff. The **Summary of Specific Annual Objectives Tables** are used to track progress of individual activities toward addressing the broader Program objectives. All CDBG projects will be monitored monthly for progress in expenditure of funds. Public service programs also report performance monthly. Technical assistance to project managers by the CD Office is available throughout the year. Written agreements with subrecipients contain provisions on complying with HUD requirements that will be enforced. The City will perform on-site monitoring of such projects. Program objectives will be stated in measurable terms in the agreements. Any project involving development must conform to City development standards and other City Master Plan Objectives. Housing reconstruction homes and units under homebuyer assistance programming will meet HUD's housing quality standards. The City has a performance manual that is used on the reconstruction program. City staff will strive to attend HUD sponsored training to help maintain the capacity needed to monitor programs effectively.

Although the City is not responsible for monitoring HUD funds it does not directly receive, the City will issue certificates of consistency with the Consolidated Plan on the condition that receiving agencies provide periodic reports to the City. In this manner, the City can better track progress related to the implementation of the plan. The City will seek information on the number and categories of households served by such projects. To obtain a certificate, an agency must provide information on its ability to implement the proposed program, the proposal's measurable objectives and time frames for completion, and the responsible officials.

Lead-based Paint

1. Describe the actions that will take place during the next year to evaluate and reduce the number of housing units containing lead-based paint hazards in order to increase the inventory of lead-safe housing available to extremely low-income, low-income, and moderate-income families, and how the plan for the reduction of lead-based hazards is related to the extent of lead poisoning and hazards.

The City will implement its CDBG-aided activities consistent with the lead-based paint hazard

reduction objective. Specifically, prospective households shall be made aware of the potential hazard and appropriate evaluation and reduction steps will be pursued in rehabilitation programs. Referrals to services for testing of children by local health and child welfare agencies will be made as needed.

HOUSING

Specific Housing Objectives

*Please also refer to the Housing Needs Table in the Needs.xls workbook.

1. Describe the priorities and specific objectives the jurisdiction hopes to achieve during the next year.
2. Describe how Federal, State, and local public and private sector resources that are reasonably expected to be available will be used to address identified needs for the period covered by this Action Plan.

Available resources for the coming year will consist of the 2013/2014 CDBG funds budgeted for housing and the program income generated by the owner occupied housing program. The City anticipates housing programming to address priority housing needs of owner households, principally in the 0% to 50% of median income range and first time homebuyers in the 40% to 80% of median income range. As shown in the **Project Tables**, it is expected that homebuyer assistance, owner housing major projects, and owner housing minor repairs will be undertaken. The Project Tables contain information on outcome measurements. Privately funded Christmas in Action should annually achieve 300 plus minor repair projects. West Texas Opportunities is responsible for weatherization projects funded by the DOE. **Table 3B Annual Housing Completion Goals** of the Action Plan also identifies the specific housing goals including resources to be used.

Needs of Public Housing

1. Describe the manner in which the plan of the jurisdiction will help address the needs of public housing and activities it will undertake during the next year to encourage public housing residents to become more involved in management and participate in homeownership.
2. If the public housing agency is designated as "troubled" by HUD or otherwise is performing poorly, the jurisdiction shall describe the manner in which it will provide financial or other assistance in improving its operations to remove such designation during the next year.

The only public housing project in Midland is for the elderly and is in good condition but was built in 1976. The City will remain receptive to assisting the PHAs, upon request, on their "resident initiative" activity and will continue to provide information on homeownership opportunities to households assisted by the PHAs. The CD Office provides its housing brochure to the PHAs for distribution at its offices, and the PHAs reciprocate. Currently, the PHAs are not designated as "troubled" or otherwise performing poorly.

Barriers to Affordable Housing

1. Describe the actions that will take place during the next year to remove barriers to affordable housing.

The City shall continue to be receptive to cases supporting the objective. Often, favorable outcomes can be achieved when re-zoning cases, mobile home occupancy permit and sidewalk waivers are considered. The City shall also strive to reduce or waive certain development and building fees for affordable housing projects and use local funds to pay for public improvements and the disposal of site clearance debris on affordable housing sites. Services such as platting and surveying aspects can also be considered for non-profit developers. The City uses its Street Fund that is generated from each building permit for street improvements primarily within the city's low income areas. The City shall strive to use City resources for street improvements, primarily in Midland's south and east sides. Continuation of CDBG funding for the housing reconstruction program contributes toward this objective. These actions also have the effect of fostering and maintaining affordable housing.

The City of Midland is not a HOME/ADDI participating jurisdiction.

HOMELESS

Specific Homeless Prevention Elements

*Please also refer to the Homeless Needs Table in the Needs.xls workbook.

1. Sources of Funds—Identify the private and public resources that the jurisdiction expects to receive during the next year to address homeless needs and to prevent homelessness. These include the McKinney-Vento Homeless Assistance Act programs, other special federal, state and local and private funds targeted to homeless individuals and families with children, especially the chronically homeless, the HUD formula programs, and any publicly-owned land or property. Please describe, briefly, the jurisdiction's plan for the investment and use of funds directed toward homelessness.
2. Homelessness—In a narrative, describe how the action plan will address the specific objectives of the Strategic Plan and, ultimately, the priority needs identified. Please also identify potential obstacles to completing these action steps.
3. Chronic homelessness—The jurisdiction must describe the specific planned action steps it will take over the next year aimed at eliminating chronic homelessness by 2012. Again, please identify barriers to achieving this.
4. Homelessness Prevention—The jurisdiction must describe its planned action steps over the next year to address the individual and families with children at imminent risk of becoming homeless.
5. Discharge Coordination Policy—Explain planned activities to implement a cohesive, community-wide Discharge Coordination Policy, and how, in the coming year, the community will move toward such a policy.

Not counting the CDBG program, the City does not receive any funds to carryout homeless programs. Therefore, the City relies on other organizations to pursue funds to serve homeless needs. For 2013/2014, the City does not anticipate using CDBG funds that will directly assist in programs that serve the homeless or on projects involving homeless facilities.

By being an active partner in the Midland Homeless Coalition, the Midland Asset Building Coalition, and the Midland Affordable Housing Alliance, the City aims to work toward addressing gaps within the Midland continuum of care for the homeless and eliminating chronic homelessness. As required, partners in the Homeless Coalition are still considering an appropriate discharge coordination policy. Collaborations with the United Way and local foundations are vital in efforts to ensure current funding levels are sustained and that federal/state funding opportunities are not missed in order to apply for shelter and transitional housing needs. The Midland United Way has designated one million dollars over the next three years for transitional housing.

Nonetheless, the current system of support services and facilities through the Salvation Army, Midland Fair Havens, Safe Place, local churches and social service agencies, and agencies dealing with offenders will continue. This system intends that extremely low income individuals and families can be prevented from becoming homeless and that homeless persons can be aided in their transition to permanent housing and independent living.

Emergency Shelter Grants (ESG)

The City of Midland does not receive an ESG allocation.

COMMUNITY DEVELOPMENT

Community Development

*Please also refer to the Community Development Table in the Needs.xls workbook.

1. Identify the jurisdiction's priority non-housing community development needs eligible for assistance by CDBG eligibility category specified in the Community Development Needs Table (formerly Table 2B), public facilities, public improvements, public services and economic development.
2. Identify specific long-term and short-term community development objectives (including economic development activities that create jobs), developed in accordance with the statutory goals described in section 24 CFR 91.1 and the primary objective of the CDBG program to provide decent housing and a suitable living environment and expand economic opportunities, principally for low- and moderate-income persons.
*Note: Each specific objective developed to address a priority need, must be identified by number and contain proposed accomplishments, the time period (i.e., one, two, three, or more years), and annual program year numeric goals the jurisdiction hopes to achieve in quantitative terms, or in other measurable terms as identified and defined by the jurisdiction.

With 2013/2014 CDBG funds, the City will address the following non-housing community development needs: public services (senior care) and neighborhood park improvement needs.

Specifically as shown in the **Project Tables**, the City will address the following Community Development Objectives:

- Fund meals and home cleaning programs that benefit the elderly
- Public facility improvements at Washington Park

The individual Project Tables contain information on outcome measures.

The City will use General Fund dollars for proper administration of the CDBG program including citizen participation and fair housing programming.

No changes to the Consolidated Plan were made during the past year.

Antipoverty Strategy

1. Describe the actions that will take place during the next year to reduce the number of poverty level families.

The City will continue its overall anti-poverty strategy that revolves around economic development – using the economic development sales tax to create jobs for Midland. Fortunately, the current oil based economic boom has resulted in the generation of jobs in all sectors of the local economy. Other aspects of the local strategy are to continue to direct assistance programs towards the neediest households, employment-training programs and the hiring of low income individuals on federally supported contracts. Small businesses that hire low income persons typically are vendors in housing assistance programs. Adherence to HUD's Section 3 requirements is another way to help eliminate poverty.

NON-HOMELESS SPECIAL NEEDS HOUSING

Non-homeless Special Needs (91.220 (c) and (e))

*Please also refer to the Non-homeless Special Needs Table in the Needs.xls workbook.

1. Describe the priorities and specific objectives the jurisdiction hopes to achieve for the period covered by the Action Plan.
2. Describe how Federal, State, and local public and private sector resources that are reasonably expected to be available will be used to address identified needs for the period covered by this Action Plan.

While the City does not anticipate having any resources that will be devoted to the non-homeless special needs objectives of the Consolidated Plan, the public services to be funded by

CDBG do serve special needs populations – the elderly, frail elderly and persons with disabilities. Owner housing assistance programs are also designed to be most helpful towards those special needs individuals with lower incomes.

Housing Opportunities for People with AIDS

The City of Midland is not a direct HOPWA grantee.

Specific HOPWA Objectives

The City of Midland is not a direct HOPWA grantee.

PROJECT TABLES

CITY OF MIDLAND, TEXAS
PROJECT DESCRIPTION TABLE
Program Year 4 – Begins October 1, 2013

Project #:	1	Project Name:	Owner Occupied Major Project Program		
Project Description:	Financial assistance to low and moderate income homeowners for reconstruction of substandard homes. Program will be available for single family dwellings on a loan basis. An estimated \$120,000 in program income will also be used. Funds will also pay for program delivery costs incurred by the City's Community Development Office.				
Location:	Generally Census Tracts 1,9,11,14,15,16,17 in Midland Texas			Expected Completion Date:	12/31/2014
Eligibility Matrix Code:	14A Rehabilitation – Single Unit Residential 570.202		National Objective:	570.208(a)(3) Housing–Low/Moderate Income	
Consolidated Plan Priority Need Category:	Owner Households		Explanation:	Low/Moderate Income Owner Households	
HUD Specific Objectives:	Improve the quality of owner housing				
HUD Objective Category:	X	<i>Decent Housing</i>		<i>Suitable Living Environment</i>	<i>Economic Opportunity</i>
HUD Outcome Category:		<i>Availability/Accessibility</i>	X	<i>Affordability</i>	<i>Sustainability</i>
Local Specific Objective:	DH1.4: Housing – Rehabilitation or reconstruction of homes occupied by low-income homeowners.				
Local Proposed Outcome:	Affordable safe, sanitary standard homes				
Performance Measure:	Homes reconstructed		Accomplishments Goal and Type:	4 Households	
FUNDING SOURCE		CDBG		Amount:	\$275,626
FUNDING SOURCE		HOME		Amount:	\$0
FUNDING SOURCE		Other – CDBG Income		Amount:	\$120,000
TOTAL					\$395,626

CITY OF MIDLAND, TEXAS
PROJECT DESCRIPTION TABLE
Program Year 4 – Begins October 1, 2013

Project #:	2	Project Name:	Owner Occupied Minor Repairs Program			
Project Description:	Minor repair assistance will be available to low income owner households. Generally, eligible repairs will be plumbing, electrical, roofing and heating. Some minor program revenue will be earned and will be used for same activity. Funds will also pay for program delivery costs incurred by the City’s Community Development Office.					
Location:	Generally Census Tracts 1,9,11,14,15,16,17 in Midland Texas			Expected Completion Date:	09/30/2014	
Eligibility Matrix Code:	14A Rehabilitation – Single Unit Residential 570.202		National Objective:	570.208(a)(3) Housing–Low/Moderate Income		
Consolidated Plan Priority Need Category:	Owner Households		Explanation:	Low/Moderate Income Owner Households		
HUD Specific Objectives:	Improve the quality of services to low moderate income persons					
HUD Objective Category:	X	Decent Housing		Suitable Living Environment		Economic Opportunity
HUD Outcome Category:	X	Availability/Accessibility		Affordability		Sustainability
Local Specific Objective:	DH1.5: Housing – Minor repair services to low-income homeowners by City and other non-profits.					
Local Proposed Outcome:	Affordable safe, sanitary standard homes					
Performance Measure:	Minor repairs completed		Accomplishments Goal and Type:	42 Households		
FUNDING SOURCE		CDBG		Amount:	\$110,000	
FUNDING SOURCE		HOME		Amount:	\$0	
FUNDING SOURCE		Other		Amount:	\$0	
TOTAL					\$110,000	

**CITY OF MIDLAND, TEXAS
PROJECT DESCRIPTION TABLE
Program Year 4 – Begins October 1, 2013**

Project #:	3	Project Name:	Homebuyer Assistance Program		
Project Description:	Closing costs and downpayment financial assistance to low and moderate income first time home buyers. Only single family homes will be eligible. Funds will also pay for the program delivery costs incurred by the City's Community Development Office.				
Location:	Citywide, Midland Texas			Expected Completion Date:	10/31/2014
Eligibility Matrix Code:	13 Direct Homeownership Assistance 570.201(n)		National Objective:	570.208(a)(3) Housing–Low/Moderate Income	
Consolidated Plan Priority Need Category:	Renter Households		Explanation:	Low/Moderate Income Renter Households	
HUD Specific Objectives:	Improve the quality of services to low moderate income persons				
HUD Objective Category:	X	<i>Decent Housing</i>		<i>Suitable Living Environment</i>	
HUD Outcome Category:		<i>Availability/Accessibility</i>	X	<i>Affordability</i>	
Local Specific Objective:	DH2.1: Housing – Financial assistance by non-profit entities and the City from CDBG, HOME and other sources to low-income homebuyers.				
Local Proposed Outcome:	Affordable safe, sanitary standard homes				
Performance Measure:	Households assisted in purchase of homes		Accomplishments Goal and Type:	13 Households	
FUNDING SOURCE	CDBG			Amount:	\$80,000
FUNDING SOURCE	HOME			Amount:	\$0
FUNDING SOURCE	Other			Amount:	\$0
TOTAL					\$80,000

**CITY OF MIDLAND, TEXAS
PROJECT DESCRIPTION TABLE
Program Year 4 – Begins October 1, 2013**

Project #:	4	Project Name:	SE Senior Nutrition Program		
Project Description:	This is the nutrition program at the Southeast Community Senior Citizen Center that provides a noon time meal Monday through Friday for the elderly. Kitchen for the year-long program is at 3301 Sinclair. This activity will be performed by Community and Senior Services of Midland, a non-profit.				
Location:	1803 E Indiana, Midland Texas 79701		Expected Completion Date:	09/30/2014	
Eligibility Matrix Code:	05A Senior Services 570.201(e)	National Objective:	570.208(a)(2)Limited Clientele – Presumed Low/Moderate Income		
Consolidated Plan Priority Need Category:	Public Services	Explanation:	Senior Services – High Priority		
HUD Specific Objectives:	Improve the quality of services to low moderate income persons				
HUD Objective Category:	<i>Decent Housing</i>	X	<i>Suitable Living Environment</i>		<i>Economic Opportunity</i>
HUD Outcome Category:	X	<i>Availability/Accessibility</i>		<i>Affordability</i>	<i>Sustainability</i>
Local Specific Objective:	SL1.4: Public Services – Senior services – support senior citizen center meal program and home cleaning program.				
Local Proposed Outcome:	Better mental and physical health of seniors				
Performance Measure:	Seniors Served		Accomplishments Goal and Type:	175 People	
FUNDING SOURCE	CDBG		Amount:	\$45,000	
FUNDING SOURCE	HOME		Amount:	\$0	
FUNDING SOURCE	Other		Amount:	\$0	
TOTAL				\$45,000	

**CITY OF MIDLAND, TEXAS
PROJECT DESCRIPTION TABLE
Program Year 4 – Begins October 1, 2013**

Project #:	5		Project Name:	Citywide Home Cleaning Program	
Project Description:	This is the home cleaning service for low income elderly and/or handicapped residents of Midland. Service enables recipients to continue independent safe and sanitary living in their own home. This activity will be performed by Casa de Amigos, a non-profit.				
Location:	Citywide, Midland Texas			Expected Completion Date:	09/30/2014
Eligibility Matrix Code:	05A Senior Services 570.201(e)		National Objective:	570.208(a)(2)Limited Clientele – Presumed Low/Moderate Income	
Consolidated Plan Priority Need Category:	Public Services		Explanation:	Senior Services – High Priority	
HUD Specific Objectives:	Improve the quality of services to low moderate income persons				
HUD Objective Category:		<i>Decent Housing</i>	X	<i>Suitable Living Environment</i>	<i>Economic Opportunity</i>
HUD Outcome Category:	X	<i>Availability/Accessibility</i>		<i>Affordability</i>	<i>Sustainability</i>
Local Specific Objective:	SL1.4: Public Services – Senior services – support senior citizen center meal program and home cleaning program.				
Local Proposed Outcome:	Safe and sanitary living conditions for seniors				
Performance Measure:	Persons Served		Accomplishments Goal and Type:	200 People	
FUNDING SOURCE	CDBG			Amount:	\$30,000
FUNDING SOURCE	HOME			Amount:	\$0
FUNDING SOURCE	Other			Amount:	\$0
TOTAL					\$30,000

**CITY OF MIDLAND, TEXAS
PROJECT DESCRIPTION TABLE
Program Year 4 – Begins October 1, 2013**

Project #:	6	Project Name:	Washington Park Improvements		
Project Description:	The City's Parks and Recreation Division will procure contractors to accomplish the following improvements: replace pavilion structure, resurface tennis court, add shade structures and replace health and wellness equipment. The park has a 73% low/moderate income population.				
Location:	1803 E Indiana, Midland Texas 79701		Expected Completion Date:	09/30/2014	
Eligibility Matrix Code:	03F – Parks, Recreational Facilities		National Objective:	570.208(a)(1) LMA	
Consolidated Plan Priority Need Category:	Public Facilities		Explanation:	Parks/Recreational Facilities - High Priority	
HUD Specific Objectives:	Improve the quality of neighborhood facilities for lower income persons				
HUD Objective Category:		Decent Housing	X	Suitable Living Environment	Economic Opportunity
HUD Outcome Category:	X	Availability/Accessibility		Affordability	Sustainability
Local Specific Objective:	SL1.2: upgrade neighborhood parks that are deteriorating				
Local Proposed Outcome:	Upgraded neighborhood park				
Performance Measure:	Improved Facility		Accomplishments Goal and Type:	1,436 People	
FUNDING SOURCE		CDBG		Amount:	\$175,000
FUNDING SOURCE		HOME		Amount:	\$0
FUNDING SOURCE		Other		Amount:	\$0
TOTAL					\$175,000

**CITY OF MIDLAND, TEXAS
PROJECT DESCRIPTION TABLE
Program Year 4 – Begins October 1, 2013**

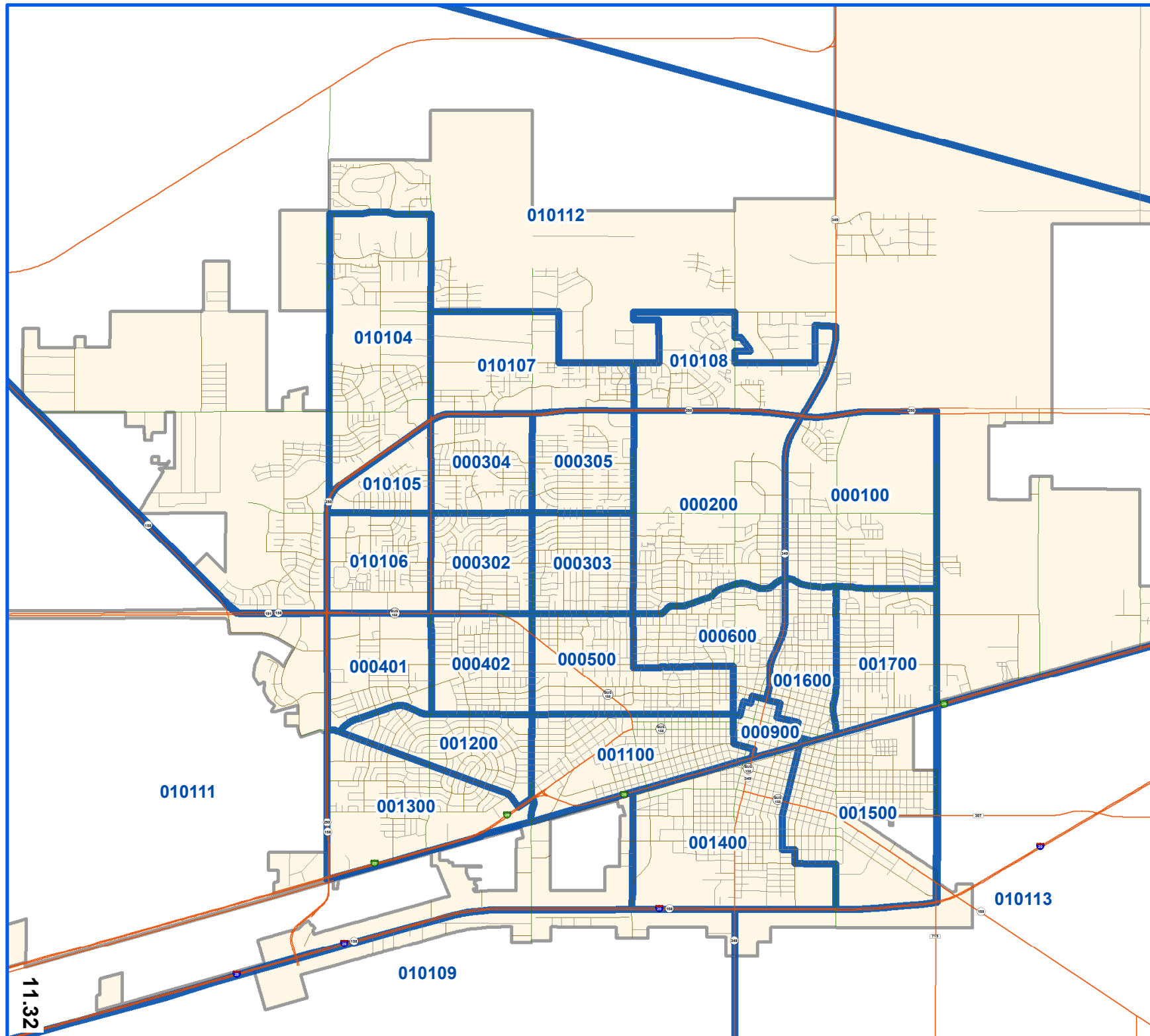
Project #:	7	Project Name:	Contingency		
Project Description:	This project consists of un-allocated funds that are reserved in the event an established CDBG project will need added funding due to cost overruns.				
Location:	Not Applicable			Expected Completion Date:	N/A
Eligibility Matrix Code:	22 Unprogrammed Funds		National Objective:	Not Applicable	
Consolidated Plan Priority Need Category:	Not Applicable		Explanation:	Not Applicable	
HUD Specific Objectives:	Not Applicable				
HUD Objective Category:		<i>Decent Housing</i>		<i>Suitable Living Environment</i>	
HUD Outcome Category:		<i>Availability/Accessibility</i>		<i>Affordability</i>	
Local Specific Objective:					
Local Proposed Outcome:					
Performance Measure:			Accomplishments Goal and Type:		
FUNDING SOURCE	CDBG		Amount:	\$28,000	
FUNDING SOURCE	HOME		Amount:	\$0	
FUNDING SOURCE	Other		Amount:	\$0	
				TOTAL	\$28,000

2000 CENSUS TRACTS FOR CITY OF MIDLAND



Legend

- Arterial
- Collector
- Interstate & State Highway
- Residential
- Census Tract 2000
- City Limit



JUNE 1, 2011
STEVE BAKER

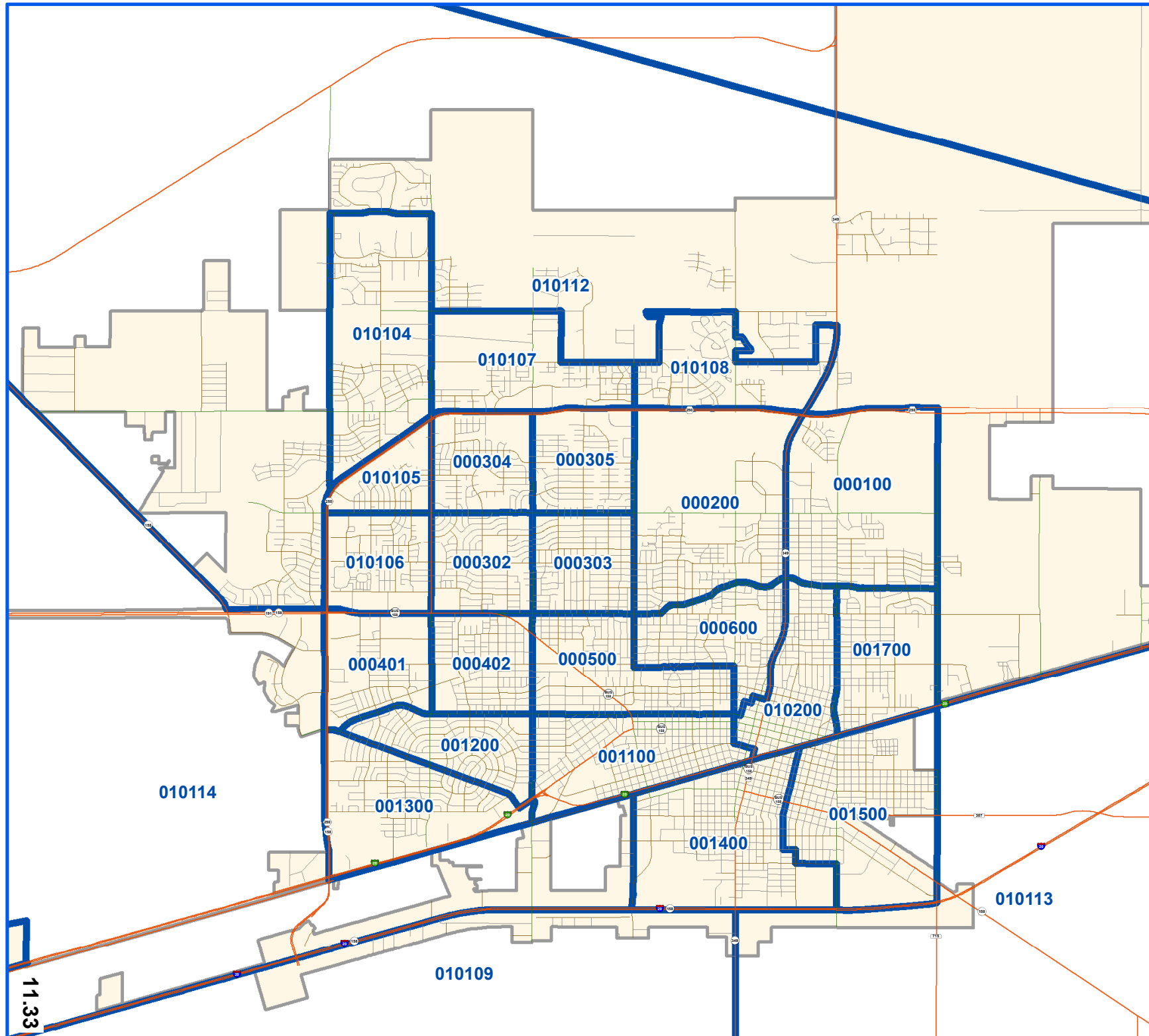
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2010 CENSUS TRACTS FOR CITY OF MIDLAND



Legend

- Arterial
- Collector
- Interstate & State Highway
- Residential
- Census Tract 2010
- City Limit



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PERCENTAGE OF LOW INCOME POPULATION BY CENSUS TRACT



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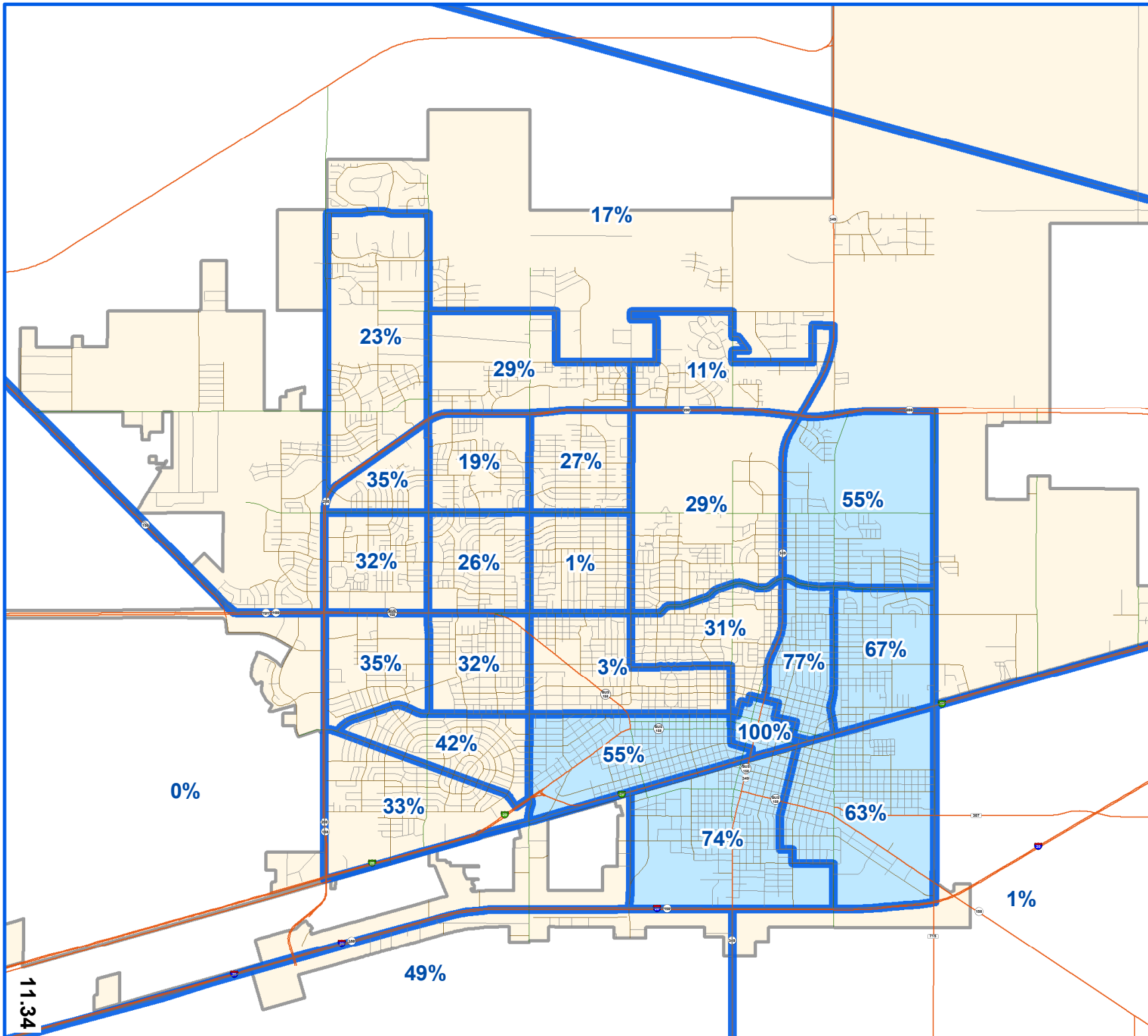
- Arterial
- Collector
- Interstate & State Highway
- Residential
- Census Tract 2000
- Low to Moderate Income
- City Limit

**CITYWIDE
PERCENTAGE
IS 36.1%**



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PERCENTAGE OF NON-WHITE POPULATION BY 2010 CENSUS TRACT



Legend

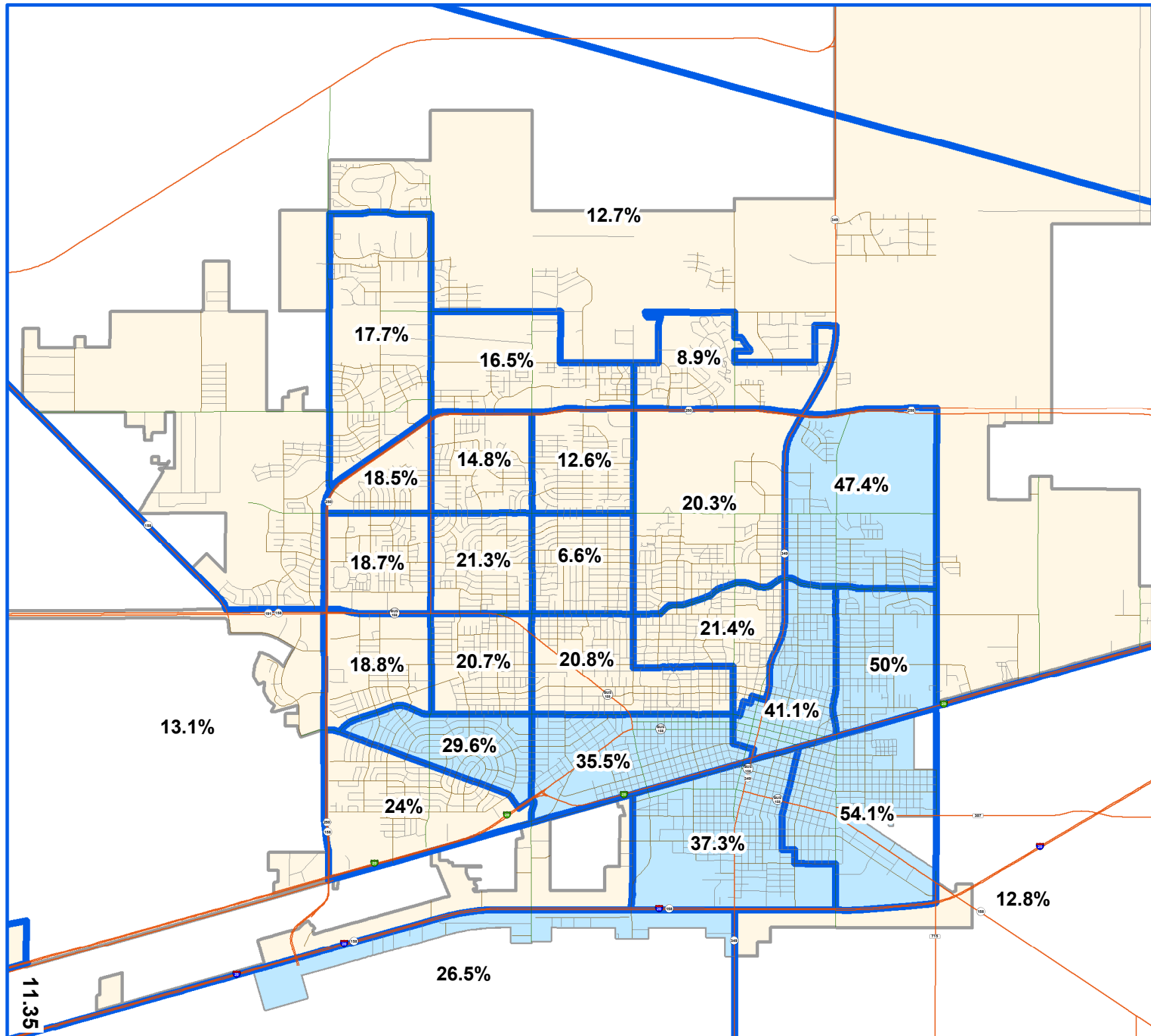
- Arterial
- Collector
- Interstate & State Highway
- Residential
- Census Tract 2010
- Above City Average
- City Limit

CITYWIDE PERCENTAGE IS 24.5%



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PERCENT OF HISPANIC POPULATION BY 2010 CENSUS TRACT



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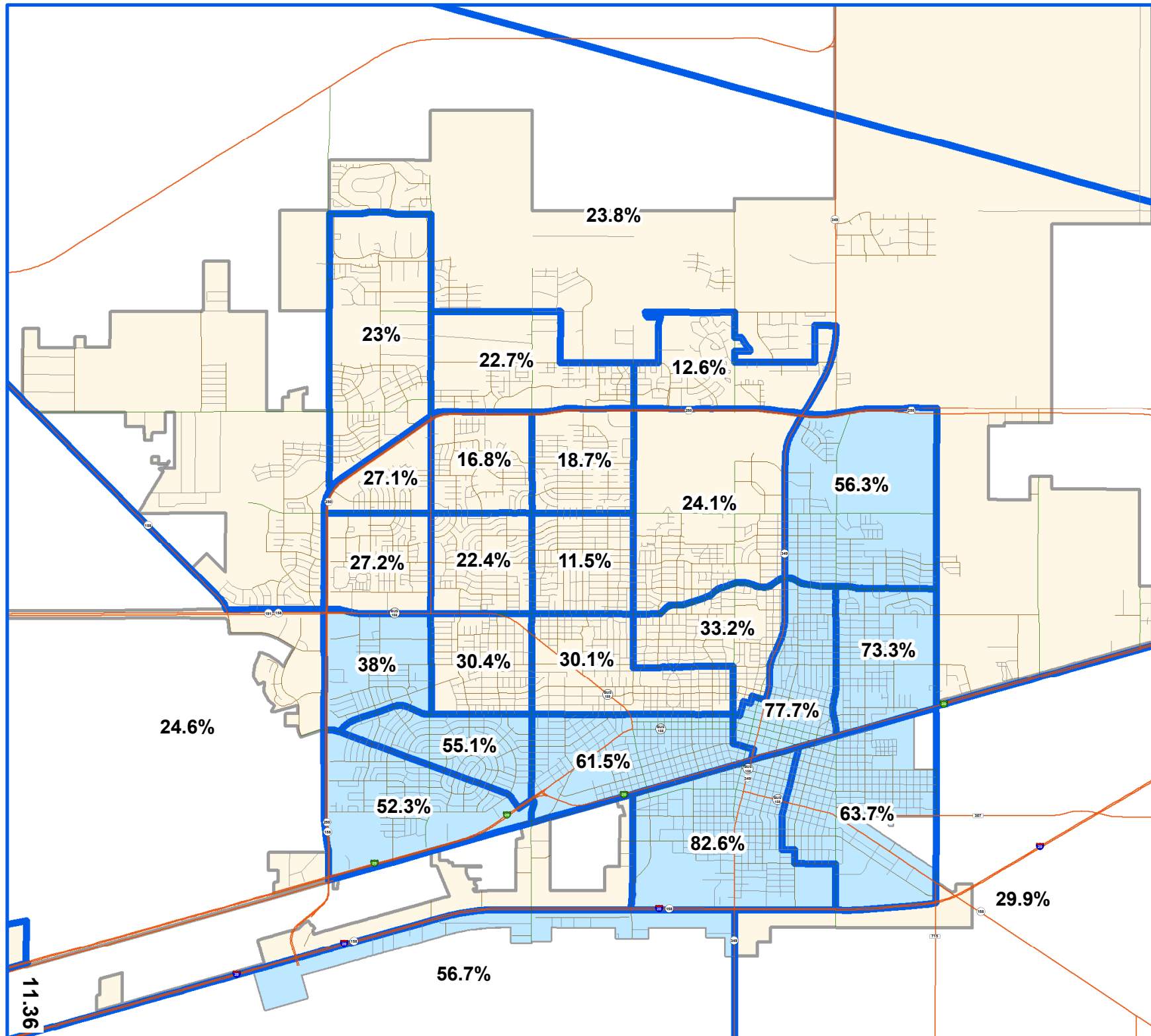
- Arterial
- Collector
- Interstate & State Highway
- Residential
- Census Tract 2010
- Above City Percent
- City Limit

CITYWIDE PERCENTAGE IS 37.6%



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PERCENT SUBSTANDARD HOUSING BY CENSUS TRACT



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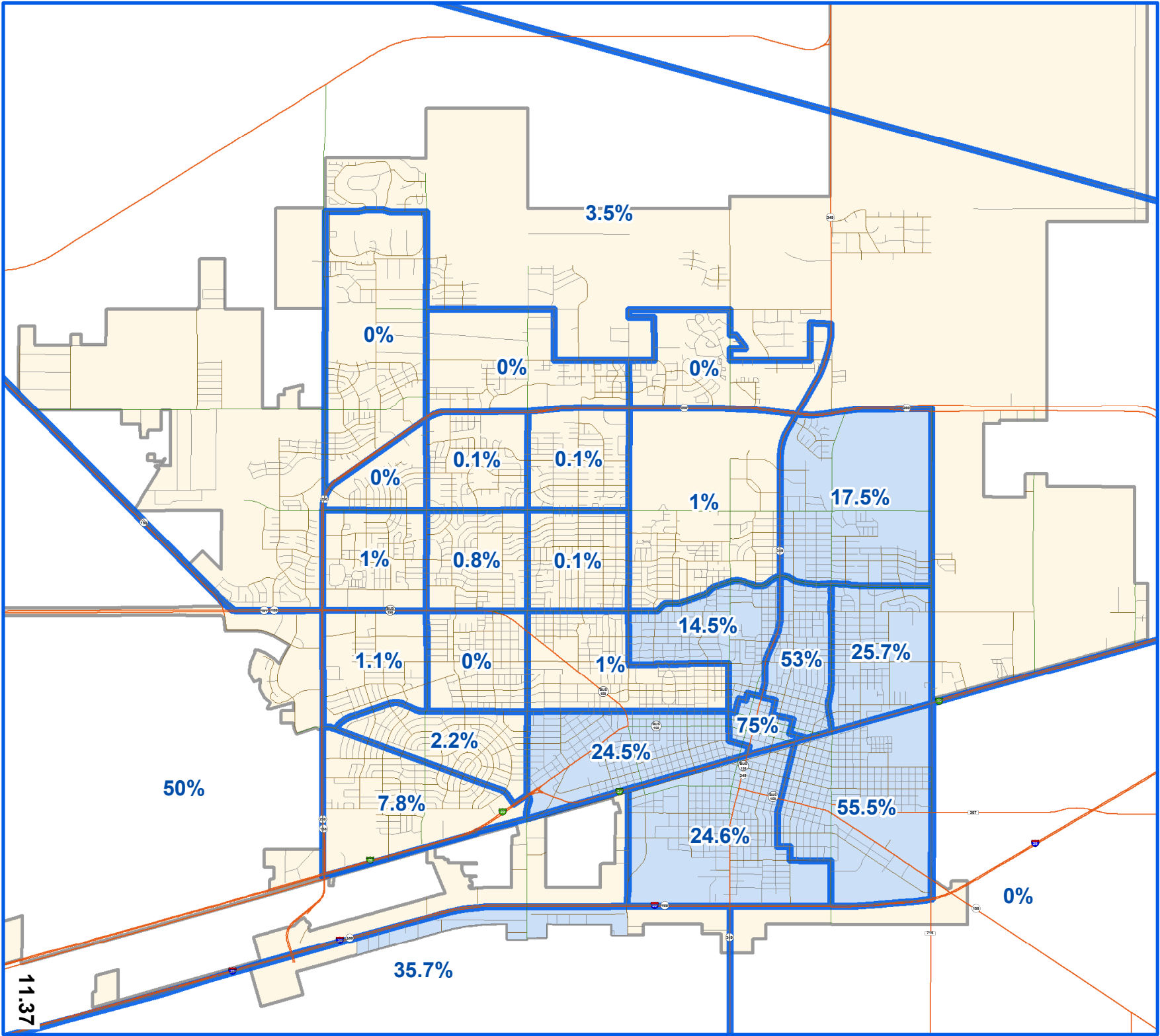
- Arterial
- Collector
- Interstate & State Highway
- Residential
- Census Tract 2000
- Slum/Blight Area
- City Limit

CITYWIDE PERCENTAGE
IS 9.7%



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Citywide Programs – Home Cleaning Program, Homebuyer Assistance Program.

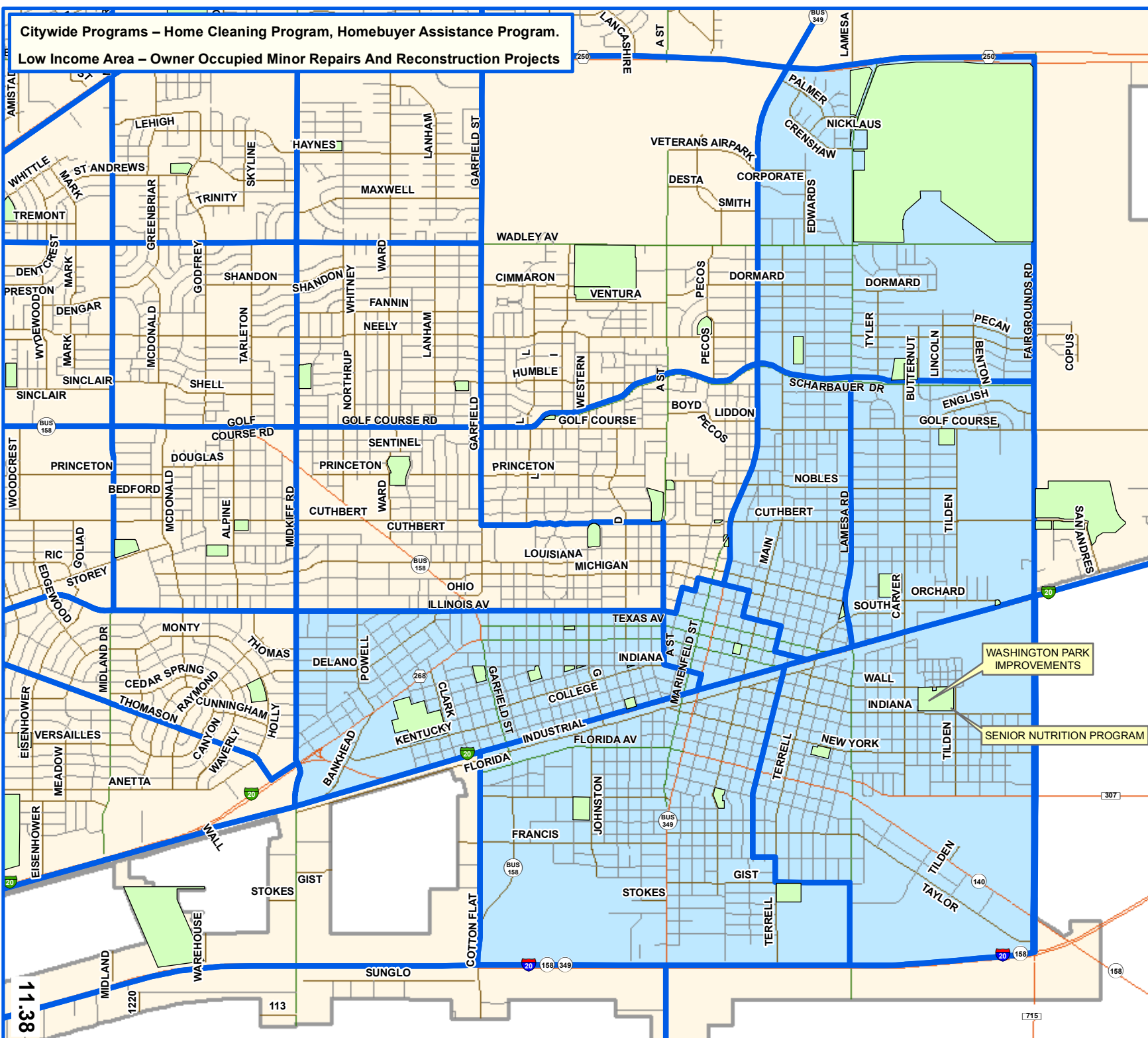
Low Income Area – Owner Occupied Minor Repairs And Reconstruction Projects

LOCATIONS OF PROPOSED 2013 PROJECTS



Legend

- Arterial
- Collector
- Interstate & State Highway
- Residential
- Low to Moderate Income
- Census Tract 2000
- Parks
- City Limit



JUNE 11, 2013
STEVE BAKER

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TABLE 3A - SUMMARY OF SPECIFIC ANNUAL OBJECTIVES
DH-1: Availability/Accessibility of Decent Housing

Specific Obj. #	Outcome/Objectives Specific Annual Objective	Sources of Funds	Performance Indicators	Year	Expected Number	Actual Number	Percent Completed
DH-1	Increase the availability of affordable decent housing	CDBG	Land Parcels Purchased	2010	0	1	n/a
				2011	0	0	n/a
				2012	0	0	n/a
				2013	0		
				2014			
			MULTI-YEAR GOAL		0	1	
		CDBG	Homes Reconstructed or Rehabilitated	2010	3	1	33%
	Acquire land for affordable housing development in target areas. Provide financial assistance for rehabilitation or reconstruction of homes occupied by low-income homeowners. Provide financial assistance to low-income homeowners for housing minor repairs.			2011	3	3	100%
				2012	7	4	57%
				2013	4		
				2014			
			MULTI-YEAR GOAL		17	8	
		CDBG	Minor Repairs Completed	2010	55	30	55%
				2011	33	38	115%
				2012	28	22	79%
				2013	42		
				2014			
			MULTI-YEAR GOAL		158	90	

TABLE 3A - SUMMARY OF SPECIFIC ANNUAL OBJECTIVES
DH-2: Affordability of Decent Housing

Specific Obj. #	Outcome/Objectives Specific Annual Objective	Sources of Funds	Performance Indicators	Year	Expected Number	Actual Number	Percent Completed
DH-2	Increase the affordability of decent housing	CDBG	Homebuyers Assisted	2010	11	6	55%
				2011	23	14	61%
				2012	7	3	43%
				2013	13		
				2014			
		MULTI-YEAR GOAL			54	23	
				2010			
				2011			
				2012			
				2013			
	Provide financial assistance to low-income first-time homebuyers to purchase homes.			2014			
				MULTI-YEAR GOAL			
				2010			
				2011			
				2012			
				2013			
				2014			
				MULTI-YEAR GOAL			

TABLE 3A - SUMMARY OF SPECIFIC ANNUAL OBJECTIVES
SL-1: Availability/Accessibility of Suitable Living Environment

Specific Obj. #	Outcome/Objectives Specific Annual Objective	Sources of Funds	Performance Indicators	Year	Expected Number	Actual Number	Percent Completed
SL-1	Improve and maintain availability of services and facilities.	CDBG	Blocks of Street Paving	2010	3	12	400%
				2011	0	0	n/a
				2012	0	3	n/a
				2013	0		
				2014	3	15	
		MULTI-YEAR GOAL					
		CDBG	Neighborhood Parks Improved	2010	1	0	0%
				2011	0	1	
				2012	0	0	
				2013	1		
	2014						
	MULTI-YEAR GOAL			2	1		
	Improve sidewalks and streets with paving, curb and gutter in low-income areas; improve deteriorating parks located in low-income areas. Fund meals and home cleaning programs that benefit the elderly.	CDBG	Senior Citizens Served.	2010	420	435	104%
				2011	500	363	73%
				2012	450	242	54%
				2013	375		
				2014			
		MULTI-YEAR GOAL			1,745	1,0538	

TABLE 3A - SUMMARY OF SPECIFIC ANNUAL OBJECTIVES
SL-1: Availability/Accessibility of Suitable Living Environment – CONTINUED

Specific Obj. #	Outcome/Objectives Specific Annual Objective	Sources of Funds	Performance Indicators	Year	Expected Number	Actual Number	Percent Completed	
SL-1 Continued		CDBG	Blocks of Sidewalks Constructed	2010	0	4	n/a	
				2011	7	0	0%	
				2012	0	11	n/a	
				2013	0			
				2014				
			MULTI-YEAR GOAL			7	15	
		CDBG		2010				
				2011				
				2012				
				2013				
				2014				
			MULTI-YEAR GOAL					
		CDBG		2010				
				2011				
				2012				
				2013				
				2014				
			MULTI-YEAR GOAL					

TABLE 3A - SUMMARY OF SPECIFIC ANNUAL OBJECTIVES
SL-2: Availability/Accessibility of Suitable Living Environment

Specific Obj. #	Outcome/Objectives Specific Annual Objective	Sources of Funds	Performance Indicators	Year	Expected Number	Actual Number	Percent Completed
SL-2	Increase the affordability of public services	CDBG	Children Served	2010	100	93	93%
				2011	50	62	124%
				2012	0	0	
				2013	0		
				2014			
		MULTI-YEAR GOAL			150	155	
				2010			
				2011			
				2012			
				2013			
				2014			
		MULTI-YEAR GOAL					
	Support childcare programming so that low-income head of households may attend training or maintain employment.			2010			
				2011			
				2012			
				2013			
				2014			
		MULTI-YEAR GOAL					
				2010			
				2011			
				2012			
				2013			
				2014			
		MULTI-YEAR GOAL					

TABLE 3A - SUMMARY OF SPECIFIC ANNUAL OBJECTIVES
SL-3: Sustainability of Suitable Living Environment

Specific Obj. #	Outcome/Objectives Specific Annual Objective	Sources of Funds	Performance Indicators	Year	Expected Number	Actual Number	Percent Completed
SL-3	Provide programs aimed at eliminating or preventing slum/blight	CDBG	Properties cleared	2010	360	443	123%
				2011	225	167	74%
				2012	333	180	54%
				2013	0		
				2014			
		MULTI-YEAR GOAL			918	790	
		CDBG	Dilapidated structures removed.	2010	12	0	0%
				2011	10	0	0%
				2012	0	8	n/a
				2013	0		
	2014						
	MULTI-YEAR GOAL			22	8		
	Clearing and mowing of unsightly properties in slum/blighted areas. Demolishing and removing dilapidated structures in slum/blighted areas.			2010			
				2011			
				2012			
				2013			
				2014			
		MULTI-YEAR GOAL					

TABLE 3A - SUMMARY OF SPECIFIC ANNUAL OBJECTIVES
O-1: Other

Specific Obj. #	Outcome/Objectives Specific Annual Objective	Sources of Funds	Performance Indicators	Year	Expected Number	Actual Number	Percent Completed
0-1	CDBG Program Administration	CDBG		2010			
				2011			
				2012			
				2013			
				2014			
		MULTI-YEAR GOAL					
				2010			
				2011			
				2012			
				2013			
				2014			
	MULTI-YEAR GOAL						
				2010			
				2011			
				2012			
				2013			
				2014			
		MULTI-YEAR GOAL					
				2010			
				2011			
				2012			
				2013			
				2014			
		MULTI-YEAR GOAL					

TABLE 3B ANNUAL HOUSING COMPLETION GOALS					
ANNUAL AFFORDABLE RENTAL HOUSING GOALS (SEC. 215)	Annual Expected Number Completed	Resources used during the period			
		CDBG	HOME	ESG	HOPWA
Acquisition of existing units		☐	☐		☐
Production of new units		☐	☐		☐
Rehabilitation of existing units		☐	☐	☐	☐
Rental Assistance		☐	☐		☐
Total Sec. 215 Rental Goals		☐	☐	☐	☐
ANNUAL AFFORDABLE OWNER HOUSING GOALS (SEC. 215)					
Acquisition of existing units		☐	☐		
Production of new units		☐	☐		
Rehabilitation of existing units	4	☒	☐		
Homebuyer Assistance	13	☒	☐		☐
Total Sec. 215 Owner Goals	17	☒	☐	☐	☐
ANNUAL AFFORDABLE HOUSING GOALS (SEC. 215)					
Homeless		☐	☐	☐	☐
Non-Homeless	17	☐	☐	☐	☐
Special Needs		☐	☐	☐	☐
Total Sec. 215 Affordable Housing	17	☐	☐	☐	☐
ANNUAL HOUSING GOALS					
Annual Rental Housing Goal		☐	☐	☐	☐
Annual Owner Housing Goal	17	☒	☐	☐	☐
Total Annual Housing Goal	17	☒	☐	☐	☐
For the purpose of identification of annual goals, an assisted household is one that will receive benefits through the investment of Federal funds, either alone or in conjunction with the investment of other public or private funds.					

**FUNDING SOURCES
CITY OF MIDLAND, TEXAS
2013/2014 Program Year**

Entitlement Grant (includes reallocated funds)	
CDBG	\$743,626
ESG	\$0
HOME	\$0
HOPWA	\$0
Total	\$743,626
Prior Years' Program Income NOT previously programmed or reported	
CDBG	\$0
ESG	\$0
HOME	\$0
HOPWA	\$0
Total	\$0
Reprogrammed Prior Years' Funds	
CDBG	\$0
ESG	\$0
HOME	\$0
HOPWA	\$0
Total	\$0
Total Estimated Program Income	
Owner Housing Assistance Program	\$120,000
Total	\$120,000
Section 108 Loan Guarantee Fund	\$0
 TOTAL FUNDING SOURCES	 \$863,626
 Other Funds	 \$0
 Submitted Proposed Projects Totals	 \$835,626
 Un-Submitted Proposed Projects Totals	 \$28,000

**SUPPORT OF APPLICATIONS BY OTHER ENTITIES REPORT
CITY OF MIDLAND, TEXAS
2013/2014 Program Year**

Funding Source	Support Application by Other Entities?
B. Formula/Entitlement Programs	
ESG	N
Public Housing Comprehensive Grant	N
B. Competitive Programs	
HOPE 1	N
HOPE 2	N
HOPE 3	Y
ESG	Y
Supportive Housing	Y
HOPWA	Y
Safe Havens	Y
Rural Homeless Housing	N
Sec. 202 Elderly	Y
Sec. 811 Handicapped	Y
Moderate Rehab SRO	Y
Rental Vouchers	Y
Rental Certificates	Y
Public Housing Development	Y
Public Housing MROP	Y
Public Housing CIAP	Y
LIHTC	Y

2010-2014 Consolidated Plan Specific Community Development Objectives

#	Objective	Outcome
DH1.1	Purchase of land for affordable housing development by the City in target areas.	100 parcels
DH1.2	Construction of affordable rental units under Low Income Housing Tax Credit Program by private developers at appropriate citywide locations.	200 units
DH1.3	Construction of affordable rental housing for low-income elderly households through HUD 202 funding by non-profit sponsor at appropriate citywide location.	100 units
DH1.4	Rehabilitation or reconstruction of homes occupied by low-income homeowners. This is the City's major projects loan program available to ICT residents.	30 units
DH1.5	Minor repair services to low-income homeowners by City and other non-profits.	1,750 units
DH1.6	Increase the number of emergency shelter beds for individuals.	5 beds
DH1.7	Increase the transitional housing capacity for individuals.	8 beds
DH1.8	Increase the number of emergency shelter units for intact families.	5 units
DH1.9	Increase the transitional housing capacity for intact families.	10 units
DH1.10	Develop a 60 unit affordable housing assisted living facility for frail elderly.	60 units
DH1.11	Develop a 60 unit affordable housing assisted living facility for near frail elderly.	60 units
DH2.1	Financial assistance by non-profit entities and the City from CDBG, HOME and other sources to low-income homebuyers.	130 units
SL1.1	Infrastructure – City Streets – Paving construction with curb and gutter in low-income areas.	8 blocks per year
SL1.2	Public Facility – City Parks – Upgrade neighborhood parks that are deteriorating. Located in low-income areas.	5 parks
SL1.3	Public Facility - Community Facility/Youth Center - an indoor/outdoor multi-purpose facility. Developer and owner operator are needed.	1 facility
SL1.4	Public Services – Senior services – support senior citizen center meal program and home cleaning program.	1,500 persons
SL1.5	Infrastructure – City Sidewalks – Sidewalk construction in low-income areas.	8 blocks per year
SL2.1	Public Services – Childcare – support local match childcare program for working families.	50 children
SL3.1	Demolition of dilapidated structures by the City in slum/blighted areas.	100 structures
SL3.2	Clearing of unsightly properties by the City in slum/blighted areas.	2,000 properties

Amended July 2011

CERTIFICATIONS

In accordance with the applicable statutes and the regulations governing the consolidated plan regulations, the jurisdiction certifies that:

Affirmatively Further Fair Housing -- The jurisdiction will affirmatively further fair housing, which means it will conduct an analysis of impediments to fair housing choice within the jurisdiction, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting that analysis and actions in this regard.

Anti-displacement and Relocation Plan -- It will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and implementing regulations at 49 CFR 24; and it has in effect and is following a residential antidisplacement and relocation assistance plan required under section 104(d) of the Housing and Community Development Act of 1974, as amended, in connection with any activity assisted with funding under the CDBG or HOME programs.

Drug Free Workplace -- It will or will continue to provide a drug-free workplace by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
2. Establishing an ongoing drug-free awareness program to inform employees about –
 - (a) The dangers of drug abuse in the workplace;
 - (b) The grantee's policy of maintaining a drug-free workplace;
 - (c) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph 1;
4. Notifying the employee in the statement required by paragraph 1 that, as a condition of employment under the grant, the employee will -
 - (a) Abide by the terms of the statement; and
 - (b) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
5. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph 4(b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

6. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph 4(b), with respect to any employee who is so convicted:

(a) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(b) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1, 2, 3, 4, 5 and 6.

Anti-Lobbying -- To the best of the jurisdiction's knowledge and belief:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
3. It will require that the language of paragraph 1 and 2 of this anti-lobbying certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

Authority of Jurisdiction -- The consolidated plan is authorized under State and local law (as applicable) and the jurisdiction possesses the legal authority to carry out the programs for which it is seeking funding, in accordance with applicable HUD regulations.

Consistency with plan -- The housing activities to be undertaken with CDBG, HOME, ESG, and HOPWA funds are consistent with the strategic plan.

Section 3 -- It will comply with section 3 of the Housing and Urban Development Act of 1968, and implementing regulations at 24 CFR Part 135.

W. Wesley Perry

Date

Mayor
Title

Specific CDBG Certifications

The Entitlement Community certifies that:

Citizen Participation -- It is in full compliance and following a detailed citizen participation plan that satisfies the requirements of 24 CFR 91.105.

Community Development Plan -- Its consolidated housing and community development plan identifies community development and housing needs and specifies both short-term and long-term community development objectives that provide decent housing, expand economic opportunities primarily for persons of low and moderate income. (See CFR 24 570.2 and CFR 24 part 570)

Following a Plan -- It is following a current consolidated plan (or Comprehensive Housing Affordability Strategy) that has been approved by HUD.

Use of Funds -- It has complied with the following criteria:

1. **Maximum Feasible Priority.** With respect to activities expected to be assisted with CDBG funds, it certifies that it has developed its Action Plan so as to give maximum feasible priority to activities which benefit low and moderate income families or aid in the prevention or elimination of slums or blight. The Action Plan may also include activities which the grantee certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available);
2. **Overall Benefit.** The aggregate use of CDBG funds including section 108 guaranteed loans during program year(s) , 2013 , shall principally benefit persons of low and , shall principally benefit persons of low and moderate income in a manner that ensures that at least 70% of the amount is expended for activities that benefit such persons during the designated period;
3. **Special Assessments.** It will not attempt to recover any capital costs of public improvements assisted with CDBG funds including Section 108 loan guaranteed funds by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements. However, if CDBG funds are used to pay the proportion of a fee or assessment that relates to the capital costs of public improvements (assisted in part with CDBG funds) financed from other revenue sources, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than CDBG funds.

The jurisdiction will not attempt to recover any capital costs of public improvements assisted with CDBG funds, including Section 108, unless CDBG funds are used to pay the proportion of fee or assessment attributable to the capital costs of public improvements financed from other revenue sources. In this case, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than CDBG funds. Also, in the case of properties owned and occupied by moderate-income (not low-income) families, an assessment or charge may be made against the property for public improvements financed by a source other than CDBG funds if the jurisdiction certifies that it lacks CDBG funds to cover the assessment.

Excessive Force -- It has adopted and is enforcing:

1. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and
2. A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction;

Compliance With Anti-discrimination laws -- The grant will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (42 USC 2000d), the Fair Housing Act (42 USC 3601-3619), and implementing regulations.

Lead-Based Paint -- Its activities concerning lead-based paint will comply with the requirements of 24 CFR Part 35, subparts A, B, J, K and R;

Compliance with Laws -- It will comply with applicable laws.

W. Wesley Perry

Date

Mayor
Title

OPTIONAL CERTIFICATION CDBG

Submit the following certification only when one or more of the activities in the action plan are designed to meet other community development needs having a particular urgency as specified in 24 CFR 570.208(c):

The grantee hereby certifies that the Annual Plan includes one or more specifically identified CDBG-assisted activities which are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community and other financial resources are not available to meet such needs.

APPENDIX TO CERTIFICATIONS

INSTRUCTIONS CONCERNING LOBBYING AND DRUG-FREE WORKPLACE REQUIREMENTS:

A. Lobbying Certification

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

B. Drug-Free Workplace Certification

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification.
2. The certification is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HUD, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.
3. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.
4. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio stations).
5. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph three).
6. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Midland, City Hall, 300 N Loraine, Midland, Midland, Texas 79701

Check if there are workplaces on file that are not identified here.

The certification with regard to the drug-free workplace is required by 24 CFR part 24, subpart F.

7. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

ACTION PLAN

CITIZEN PARTICIPATION

The required thirty day public review period occurred from June 17 to July 16, 2013. Copies of the proposed Action Plan were available per the notice that was published on June 16, 2013. Copies of all notices published during the Action Plan development process and other newspaper coverage are also included in this section.

Written comments on the Action Plan submitted during the review period are as follows:

(to be listed on final version)

change work appeared to have been left to dedicated, action if the new administrator exceeds the bounds of



COMMUNITY DEVELOPMENT PROGRAM PUBLIC MEETING

The City of Midland will hold the following public meetings on the city's community development program:

February 28, 2013
Southeast Senior Center
1803 E Indiana
Meeting begins at 7 p.m.

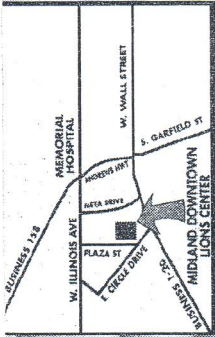
March 7, 2013
Casa de Amigos
1101 E Garden Lane
Meeting begins at 7 p.m.

The City encourages you to attend a meeting to help plan the 2013-14 year's community development program. The City received \$699,035 Community Development Block Grant funds for the 2012-13 program. These funds are primarily intended for programs and projects to benefit low- and moderate-income persons.

For further information, call the Community Development Office at 685-7472 or 685-7408.



FAIR HOUSING is the LAW



- The Texas Lions Camp for Physically Handicapped, Diabetic and Downs Syndrome Children
- The Texas Lions Eyeglass Recycling Center (located at 2550 Flynt in Midland)
- College Scholarships
- Lions Dist. 2A-1 Eye Bank & Dist. 2A-1 Acuña, Mex. Eye Clinic
- And Many More!

A Big Thank You To Our Sponsors:

- A-1 Sign • Bill Williams Tire • Corey Sly Electric
- Midland Reporter-Telegram • Midland Small Engine Service

Action Discount Carpet, American Heritage, B&B Wrecker, Bosworth, Builders & Homeowners Supply, Chaparral Bolt & Supply, Community National Bank, Custom Benefit Services, Ellis Funeral Home, Energi Personnel, Fast Sign, Fender Truck Accessories, KWEL AM1070-FM107.1, Legacy Elite, Liberty Tax Service, Lonnie John Plumbing, Mazda of Midland, Midland Muffler, Midland Tire & Brake, Overhead Door, Printer Solutions, Quality Body Works, Susie's South 40 Confections, Swensen's and Toyota of Midland.

BLOOD MOBILE WILL BE PRESENT TO TAKE DONATIONS.

MOSC's Lone Star Brass Chamber Concert Featuring Special Commissioned Work by Danny McIntyre February 24 at 2pm



LOCAL & STATE

MIDLAND REPORTER-TELEGRAM, SUNDAY, FEBRUARY 24, 2013

PAGE 6B

10-foot image of Obama, which is located near a popular Houston midtown restaurant.

It was the second act of vandalism against the mural. The first one happened Oct. 16 when someone threw red paint onto the image painted by artist Reginald C. Adams.

The mural was repainted earlier this month as a dozen volunteers helped Adams create a new image showing Obama holding a baby boy.

EDINBURG

Authorities

investigating death in corn silo

Authorities are conducting a questionable death investigation after the body of a 21-year-old worker was found in a South Texas corn silo.

Edinburg police spokesman Oscar Trevino told the McAllen Monitor that the department is conducting the investigation in conjunction with the Occupational Safety and Health Administration.

The body of Oscar Arel-

A Houston police officer according to the criminal complaint.



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For further information, call the Community Development Office at 685-7472 or 685-7408.



FAIR HOUSING is the LAW

COCKTAIL RECEPTION **ADMISSION** **INFO CALL**
5:30~7:00PM **7:00PM** **550.9696**

**PURCHASE GENERAL ADMISSION TICKETS FOR \$40 EACH
AT THE MUSEUM OR ONLINE AT WWW.NOELARTMUSEUM.ORG**

WHO THE GEEKS CALL

(432) 550-GEEK

1111 N. Midkiff Rd

Midland, TX 79701

These Texas Lottery Commission drawings will close on July 3, 2013. You have until December 30, 2013, to redeem any tickets for these games: #1386 Hit \$100 (\$2) overall odds are 1 in 4.38, #1402 Amazing 8's (\$1) overall odds are 1 in 4.69, #1424 Dallas Cowboys (\$5) overall odds are 1 in 3.67, #1425 Houston Texans (\$5) overall odds are 1 in 3.66, #1458 Lucky 3's (\$3) overall odds are 1 in 3.72, #1472 Double Action (\$10) overall odds are 1 in 3.18, #1475 Wild Doubler \$5 (\$1) overall odds are 1 in 4.56, #1479 Match 3 Tripler (\$1) overall odds are 1 in 4.43, #1481 Wild Cherry (\$1) overall odds are 1 in 4.56, #1482 Neon 9's (\$2) overall odds are 1 in 4.14, #1484 \$100,000 Winnings (\$5) overall odds are 1 in 3.83, #1485 \$100,000 Cash (\$5) overall odds are 1 in 4.20, #1489 Blackjack Tripler (\$2) overall odds are 1 in 4.21, #1503 \$50,000 Fast Cash (\$5) overall odds are 1 in 3.11. The odds listed here are the overall odds of winning any prize in a game, including break-even prizes. Lottery retailers are authorized to redeem prizes of up to and including \$599. Prizes of \$600 or more must be claimed in person at a Lottery Claim Center or by mail with a completed Texas Lottery claim form; however, annuity prizes or prizes over \$1,000,000 must be claimed in person at the Commission Headquarters in Austin. Call Customer Service at 1-800-377-LOTTO or visit the Lottery Web site at txlottery.org for more information and location of nearest Claim Center. The Texas Lottery is not responsible for lost or stolen tickets, or for tickets lost in the mail. Tickets, transactions, players, and winners are subject to, and players and winners agree to abide by, all applicable laws, Commission rules, regulations, policies, directives, instructions, conditions, procedures, and final decisions of the Executive Director. A Scratch-Off game may continue to be sold even when all the top prizes have been claimed. Must be 18 years of age or older to purchase a Texas Lottery ticket. PLAY RESPONSIBLY. The Texas Lottery supports Texas education.

Legal & Public Notices

NOTICE OF RIGHT TO PRESENT CLAIM AGAINST TRINITY PRESBYTERIAN CHURCH

April 28, 2013

Trinity Presbyterian Church, a nonprofit corporation, has elected to dissolve. You may have a claim against the dissolved corporation. In order to preserve your claim you must:

1. Present the claim in writing to the dissolved corporation on or before August 26, 2013.
2. Describe the claim in sufficient detail to reasonably inform the corporation of your identity and of the amount and nature of your claim. You must make this description as part of the written presentation of your claim.

Trinity Presbyterian Church, a nonprofit corporation, has elected to dissolve. You may have a claim against the dissolved corporation. In order to preserve your claim you must:

MCHD Board of Trustees reserves the right to reject any and/or all responses and waive all formalities in the solicitation process.

Legal & Public Notices

Community Development Program

The City Council of Midland, Texas will hold a public hearing in the City Council Chambers, City Hall, 300 N. Loraine, Midland, Texas, on May 14, 2013, at 7:00 p.m. The purpose of the public hearing is to allow the public to participate in the development of the City's 2013/14 Community Development Program. Past usage of Community Development Block Grant (CDBG) funds, community development and housing needs, and proposed uses of 2013/14 CDBG funds will be discussed.

The City estimates that it will receive \$727,000 from the U.S. Department of Housing and Urban Development. The City expects to receive \$120,000 in program income during the 2013/14 program. A minimum 70% of CDBG funds must be allocated to projects that benefit low and moderate-income persons. Examples of activities eligible for CDBG funding are: housing rehabilitation, sidewalk and street improvement, park improvements, code enforcement, lot clearance, economic development and public services.

For further information, call the City's Community Development Office at 685-7408 or 685-7472.

For persons needing a wheelchair entry ramp, one is located at the southeast entrance to City Hall. A parking space designated for use by disabled persons is available near the southeast entrance doors. Any disabled person needing special accommodations or hearing impaired person wishing to have an interpreter should request services through the City Administrative Services Department at least 48 hours prior to the scheduled meeting by contacting the Compliance Coordinator for the City of Midland at (432) 685-7250. If communication via TDD is required please call 1-800-735-2989.

FAIR HOUSING is the Law. The HUD national Housing Discrimination Claim Hotline number is 1-800-669-9777 (TDD, 1-800-927-9275).

Midland Independent School District will receive sealed proposals for Ice Cream Products, Bid No. 2013-3003F. Bids are to be addressed to Karen Chapman, Child Nutrition Services Director, 801 S. Moran, BLDG 2, Midland, TX 79701. Bids will be received at the above address until 9:00 a.m. CST, Friday, May 17, 2013, at which time they will be publicly opened. Bid forms and specifications may be obtained by emailing your request to karen.chapman@midlandisd.net.

Legal & Public Notices

Public Notice

Proposal #2013-012

Midland College District is accepting competitive sealed proposals for paving improvements on the main campus. Proposal packets may be picked up Monday through Friday, 8:00 a.m. until 5:00 p.m., in the Purchasing Office, located at 3600 N. Garfield, Midland, Texas. Proposals will be accepted until 2:00 p.m., Thursday, May 9, 2013. The proposals will be opened and read aloud in the Administrative Services Conference Room PAD #106. For proposal packet information contact Barbara Fennell, Purchasing Agent, (432) 686-4250 or bfennell@midland.edu. A final determination may be made at a future board meeting. The College reserves the right to accept or reject any and/or all bids submitted.

General Announcements

General Announcements

Classified Ads

Auction #2013-006

An online auction of Midland College surplus property will be held by Rene Bates Auctioneers, Inc. The auction will begin on Monday, April 23, 2013 and close on Tuesday, May 7, 2013. Items will be available for viewing and bidding on the auctioneer's website: <http://www.renebates.com>. The College will be auctioning desks, chairs, pool tables, doors, lathe, mill and many more items. For additional information contact Barbara Fennell, Purchasing Agent, (432) 686-4250 or bfennell@midland.edu. The College reserves the right to accept or reject any and/or all auction bids. For a complete list of instructions, or to participate in the online auction go to <http://www.renebates.com>.

agreements with major companies, travel trailers with bunks, generators and water tanks for trailers, light towers, personell cooling trailers, '08 GMC truck 318-548-8915

Fax Your Classified Ad In Today! 682-6999

Lost & Found

FOUND AN ITEM?

If you are trying to return an item to its rightful owner, let us help you. Call 432-682-6222 For Your Complimentary Ad!

LINCOLN 2000 TownCar. 71,000 miles, \$5,000. 432-682-7245

LINCOLN 2011 4D Luxury Sedan. Certified Pre-Owned warranty. Power sun-roof, Navigation system, New tires, excellent condition with 29K miles. Black on black. \$23,500. 432-684-4407 or 432-260-0010

MERCURY 2001 GRAND Marquis LS, 4 door Sedan, in excellent condition. Leather interior, lots of new upgrades & all new A.C. Well maintained with all maintenance records. Must see, reduced \$5,000 O.B.O. Call 432-563-0675.

Meetings

Masonic Lodges Communications 1600 W. Wall 432-853-1273

Stated Meetings Acacia Lodge #1414 1st & 3rd Tues. @ 7:30pm, Midland Lodge #623 2nd & 4th Thurs. 7:30pm

Centennial Lodge #1448 1st & 3rd Sat. 8:30am

Did you know Davy Crockett was a Master Mason?

NISSAN 2004 Titan, crew cab, 4x4, lift kit. We finance. B&B Auto Sales 432-683-6222

Ford 2004 F150 Super Crew XLT V8. We finance. B&B Auto Sales 432-683-6222

Ford 2004 F150 Super Crew XLT V8. We finance. B&B Auto Sales 432-683-6222

Ford 2004 F150 Super Crew XLT V8. We finance. B&B Auto Sales 432-683-6222

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Ford 2004 F150 Super Crew XLT V8. We finance. B&B Auto Sales 432-683-6222

Ford 2004 F150 Super Crew XLT V8. We finance. B&B Auto Sales 432-683-6222

bed cover. Very Nice. 28K NADA \$51,600 asking \$47,000. 432-682-3214 or 432-559-8001

CHEVY 2005 Silverado Crew Cab 2500 Heavy Duty. 52K miles, bedliner, toolbox and grillguard. Silver outside, charcoal inside. New Alpine CD Player/Radio. Asking \$17,500 OBO. Call 432-386-7105

CHEVY 2007 Avalanch LT 4X4, leather, Navigation, B&B Auto 683-6222 or 559-4977

DODGE 1992 Ram runs needs little work asking \$2500. Call 634-0096

DODGE 2009 1500SLT Crew Cab 2WD, low miles, Herni, tow, chrome & lone star packages, power rear window & power seat, Rhino spray & tool box, excellent condition, \$23,950. 432-559-1217.

FORD 2004 F150 Super Crew XLT V8. We finance. B&B Auto Sales 432-683-6222

NISSAN 2004 Titan, crew cab, 4x4, lift kit. We finance. B&B Auto Sales 432-683-6222

Fax Your Ad 682-6999

Legal & Public Notices

Sealed Bids addressed to Mr. James Riggan, AIA, Midland ISD, 801 South Moran, Midland, TX 79701, for Mechanical Equipment for Replacement Deferred Maintenance Phase 1 for MISD Schools, located in Midland, TX, will be received at the above address no later than 2:00 PM, on Tuesday, May 28, 2013. The bid forms and specifications may be obtained at 801 South Moran, Building #1 Midland, TX or by calling 432-689-1500.

NOTICE TO CREDITORS

Notice is given of issuance of Letters Testamentary for the Estate of Amanda Jane Thompson, on April 16, 2013, in No. P17410 in the Probate Court of Midland County, Texas to Elizabeth S. Thompson, Independent Executor.

Ath address for Claims is:

Estate of Amanda Jane Thompson
c/o: R. Keith Thompson
Attorney at Law
7350 Remcon, Ste. 6
El Paso, Texas 79912

All persons having claims against the Estate are required to present them within the time and manner prescribed by law.

Dated May 10, 2013.

/s/ Elizabeth S. Thompson

LEGAL NOTICE

Sealed Bid(s) will be received until 11:00 A.M., May 29, 2013 to be opened at 11:00 A.M., in the City Hall, 300 N. Lorraine, Midland, Texas for the following Bid(s):

Bid No. 6501-13
For: Refuse Containers/Parts and Open Top Containers for Solid Waste

If the Contract is awarded, it will be awarded to either the lowest responsible bidder, or to the bidder who provides goods or services at the best value for the City of Midland. In determining the best value for the City of Midland, the City of Midland may consider the criteria enumerated in Section 252.043 of the Texas Local Government Code. Information for Bidders, Proposal Forms, Specifications and General conditions for bidding may be obtained from the office of the Purchasing Agent, City Hall, 300 N. Lorraine, Midland, Texas.

Purchasing Division
City of Midland, Texas

LEGAL NOTICE

The City of Midland is taking requests for participation in demolition of dilapidated structures and is seeking interested parties to be notified in

Fax It!

432-682-6999

Legal & Public Notices

Public Meeting Notice 2013 Unified Transportation Program Revision

The Texas Department of Transportation (TxDOT) will host an open-house style public meeting via WebEx to solicit public comments and input for revisions to the 2013 UTP, which covers FY 2013 through 2022.

The statewide public meeting will be held at 4:00 PM (CST) on Thursday May 23, 2013, at the following locations:

Abilene District
4250 N. Clark
Abilene, Texas 79601

Amarillo District
5715 Canyon Drive
Amarillo, Texas 79114

Childress District
7599 US 287
Childress, Texas
79201-9705

El Paso District
13301 Gateway West
El Paso, Texas 79928-54101

Unified Transportation Program

The UTP is a comprehensive ten-year plan for the development and construction of State of Texas transportation projects including roads, ways, aviation, public transportation, waterways and coastal waters, and rail projects and includes specific funding levels for each fiscal year.

Beginning promptly at 4:00 p.m., TxDOT staff will conduct a brief presentation via WebEx, on the purpose and revisions to the 2013 UTP. Additional information will be available for public viewing and TxDOT representatives will be on-hand to discuss the development process and answer questions. Comments can be made in person by attending a designated meeting location, by phone, or by typing in your question during the WebEx.

For information to join the online WebEx meeting or to view a recorded copy of this WebEx after the scheduled meeting date, please go to https://www.txdot.gov/public_involvement/utp.htm. If the meeting time is not convenient or you would like to arrange for an alternative time to receive information on this revision, please contact your local district office or you can call the toll-free information line at (800) 687-8108 to leave a request or any comments.

Written comments may be submitted on the UTP website at: <http://www.txdot.gov>, using search engine keyword: UTP; by email at: TPP_UTP@txdot.gov; or by mail to: TxDOT TPP Division UTP, 1111

92% OF OUR READERS LOOK AT
THE INSERTS EVERY WEEK.

Midland
Reporter-Telegram
Delivering life...every day.

Legal & Public Notices

Community Development Program

The City Council of Midland, Texas will hold a public hearing in the City Council Chambers, City Hall, 300 N. Lorraine, Midland, Texas, on May 14, 2013, at 7:00 p.m. The purpose of the public hearing is to allow the public to participate in the development of the City's 2013/14 Community Development Program. Past usage of Community Development Block Grant (CDBG) funds, community development and housing needs, and proposed uses of 2013/14 CDBG funds will be discussed.

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For further information, call the City's Community Development Office at 685-7408 or 685-7472.

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FAIR HOUSING is the Law. The HUD national Housing Discrimination Claim Hotline number is 1-800-669-9777 (TDD, 1-800-927-9275).

SHERIFF'S SALE OF ABANDONED VEHICLES

AS REGISTERED OWNER AND/OR LIEN HOLDER OF RECORD, OF THE BELOW DESCRIBED MOTOR VEHICLE, YOU ARE HEREBY NOTIFIED THAT SAID MOTOR VEHICLE WILL BE SOLD AT PUBLIC AUCTION AS AN ABANDONED VEHICLE UNDER AUTHORITY OF SEC. 5.04 ARTICLE V OF THE TEXAS LITTER ABATEMENT ACT (ARTICLE 4477-9a) EFFECTIVE JANUARY 1, 1982. SAID VEHICLE(S) WILL BE STRUCK OFF TO THE HIGHEST BIDDER.

YR MAKE/MODEL VIN

Meetings

Masonic
Lodges

Communications

1600 W. Wall

432-853-1273

Stated Meetings

Acacia Lodge #1414

1st & 3rd Tues.

@ 7:30pm,

Midland Lodge #623

2nd & 4th Thurs.

7:30pm

Centennial Lodge

#1448

1st & 3rd Sat.

8:30am

Did you know

Stephen F. Austin

was a

Master Mason?

General Announcements

PUBLIC NOTICE

AFTER May 31, 2013 Michael D. Tschoepe, M.D. will be limiting his surgery practice to laser vision correction only. He will no longer be performing cataract surgery or other procedures in the Midland, Odessa area. If you require your surgical records you may download a release of information form from my website at www.realeyesvision.com, complete it, and mail it to my office at 218 E. Austin St., New Braunfels, Texas 78130, send a written and signed request for your records or you may call my office at 830/625-6905 ext. 205 to request a release of information form be mailed to you.

General Announcements

BETTER READ
Mark Berryhill.com
Ministering for Christ.

Lost & Found

FOUND BORDER Collie mix, collar, no tags, vicinity of Grata Park, 432-889-3056.

FOUND SMALL DOG, Midland St. Call to identify 432-682-8867

Lost & Found

FOUND AN ITEM?

If you are trying to return an item to its rightful owner, let us help you.

Call 432-682-6222

For Your Complimentary Ad!

Legal & Public Notices

Sealed Bids addressed to Mr. James Riggan,

Spring. Goods will be sold as a live bid for cash. Property includes contents of spaces of the following tenants: Gary Garlitz -- Furniture and miscellaneous household items; Shamika Reed - beds, furniture, and miscellaneous household items; Alexander Vallacchi - miscellaneous household items.

Legal & Public Notices

Sealed Bids addressed to Mr. James Riggan, AIA, Midland ISD, 801 South Moran, Midland, TX 79701, for Electrical Lighting Replacement for Deferred Maintenance Projects Phase 1 MISD Schools, located in Midland, TX, will be received at the above address no later than 3:00 PM, on Monday, June 3, 2013. The bid forms and specifications may be obtained at 801 South Moran, Building #1 Midland, TX or by calling 432-689-1500.

Sealed Bids addressed to Mr. James Riggan, AIA, Midland ISD, 801 South Moran, Midland, TX 79701, for Energy Management System Projects for Deferred Maintenance for MISD Schools, located in Midland, TX, will be received at the above address no later than 3:00 PM, on Tuesday, June 4, 2013. The bid forms and specifications may be obtained at 801 South Moran, Building #1 Midland, TX or by calling 432-689-1500.

REQUEST FOR COMPETITIVE SEALED PROPOSALS

Midland Independent School District will receive competitive sealed proposals for General Construction Work, including mechanical and electrical work, for West Education Center, 2101 West Missouri, Midland, Texas. Sealed proposals (prepared according to the instructions to Proposers and Request for Competitive Sealed Proposals) shall be addressed to Mr. James W. Riggan, AIA, Executive Director of School Plant and Construction Services, Midland Independent School District, 801 South Moran, Building 1, Midland, Texas 79701, and received no later than 4:00 P.M., local time, June 6, 2013. Proposals received prior to this time will be securely kept, unopened. Proposals received after this time will not be considered. The proposal opening will be held in the Midland Independent School District Administrative Offices, Board Room (Ground Floor), 615 West Missouri Avenue, Midland, Texas 79701 at 4:00 P.M. local time, Thursday, June 6, 2013. Proposal documents will be available beginning May 15, 2013 through electronic transfer by contacting Vandergriff Group Architects PC, 312 N. Big Spring Street, Suite 100, Midland, Texas - (432) 687-0781.

PUBLIC NOTICE FOR BID

Midland County Hospital District is accepting proposals for **CONSTRUCTION AUDITING SERVICES** for Midland Memorial Hospital.

Specifications may be secured at the Purchasing Office of Midland Memorial Hospital on or after **Monday, May 20, 2013.**

All proposals must be received in the Department of Purchasing by 2:00 PM on Monday, May 20, 2013.

Legal & Public Notices

COMMUNITY DEVELOPMENT PROGRAM PUBLIC HEARING

The City Council of Midland, Texas will hold a public hearing in the City Council Chambers, City Hall, 300 N. Lorraine, Midland, Texas, on Tuesday, June 11, 2013, at 10:30 a.m. At the public hearing the City Council will accept input on the proposed distribution of 2013/14 Community Development Block Grant (CDBG) funds. After the public hearing City staff will prepare a draft Action Plan and make it available for a thirty day public review and comment period. Final approval of the Plan is scheduled on July 23, 2013.

Funds covered by the Plan is the CDBG grant for 2013/14 that (current grant is \$699,035) the City will receive from the U.S. Department of Housing and Urban Development's CDBG program and \$120,000 in program income. A minimum of 70% of CDBG funds must be allocated to projects that benefit low and moderate-income persons.

For further information, call the City's Community Development Office at 685-7472 or 685-7408.

FAIR HOUSING is the Law. The HUD national HOUSING DISCRIMINATION CLAIM HOTLINE number is 1-800-669-9777 (TDD 1-800-927-9276)

Legal & Public Notices

PUBLIC NOTICE FOR BID

Midland County Hospital District is accepting bids for the construction project entitled: **COURTYARD RENOVATIONS** at Midland Memorial Hospital - Main Campus, 400 Rosalind Redfern Grover Parkway, Midland, Texas, 79701.

Bidders may secure bid documents from Parkhill, Smith & Cooper, Inc. at 1700 W. Wall, Suite 100, Midland, Texas 79701. Upon request, an e-mail will be provided with a download link to access the documents. Please contact 432-697-1447 for more information. Bid documents are available on or after Wednesday, May 22, 2013.

A mandatory Pre-Bid conference will be held on Thursday, May 30, 2013 at 11:00 AM in the Facilities Services Department of Midland Memorial Hospital - Main Campus.

A Bid Bond in an amount not less than five percent (5%) will be required for all bids exceeding \$50,000. A Performance Bond and Payment Bond in an amount of one hundred percent (100%) of the contract price will be required by the Owner.

The successful bidder will be required to enter into a general contract with the Midland County Hospital District.

Three (3) copies of all bids must be received in the Department of Materials Management of Midland Memorial Hospital - Main Campus, 400 Rosalind Redfern Grover Parkway, Midland, Texas, 79701, by 12:00 (Noon) PM, Tuesday, June 11, 2013. Under no circumstances will bids received beyond June 11, 2013, 12:00 (Noon) PM be accepted.

All bids must be sealed and labeled "BID #1098-052213 Enclosed".

Faxed or emailed bids from bidders will not be accepted.

All bids must be price protected until September 11, 2013.

All bids will remain confidential until after an award has been made. Vendors will then be allowed to review the bids in the purchasing office according to the policy/procedure of Midland Memorial Hospital. Midland County Hospital District reserves the right to reject any and all bids and to waive formalities.

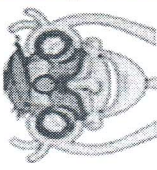
432-682-6222

Legal & Public Notices

Sealed Bids addressed to Mr. James Riggan, AIA, Midland ISD, 801 South Moran, Midland, TX 79701, for Cafeteria/Gymnasium Sound System Upgrades and Retrofits for Deferred Maintenance Projects for MISD Schools, located in Midland, TX, will be received at the above address no later than 4:00 PM, on Tuesday, June 4, 2013. The bid forms and specifications may be obtained at 801 South Moran, Building #1 Midland, TX or by calling 432-689-1500.

Ministering for Christ.

Looking for a New Career?



Find it at:

from my kitchen porch. The table is heavy steel, black, 30" round with pedestal base and glass top. The chairs are black metal with black and white seats. If returned to the porch on the corner of Ainslee and Golf Course Road, no questions will be asked. If you have info regarding this, please call 695-4421.

FOUND WHITE male dog off 'A' Street. Call to identify. 432-661-6858

LOST 5/14 from Illinois/Midkiff area, female, golden yellow with white spots, red nosed Pit Bull named Faith, collar with no tags, large reward if found, 432-230-5688

Today's Sudoku Puzzle brought to you by Quiroz's Companies.

**Hurry To Get Your Spot In Line!
For Your New Swimming Pool Or Repairs.**

30 Yrs. Experience

Mike 631-5640

Felix 631-6734

Matt 631-2475

**QUIROZ
COMPANIES**

SUDOKU

THE SAMURAI OF PUZZLES By The Mepham Group

Level:

1 2 3 4

Complete the grid so each row, column and 3-by-3 box (in bold borders) contains every digit, 1 to 9. For strategies on how to solve Sudoku, visit www.sudoku.org.uk

SOLUTION TO LAST WEEK'S PUZZLE

1	7	3	2	8	9	5	4	6
9	5	6	4	3	7	1	2	8
8	4	2	1	6	5	3	9	7
6	8	4	5	2	3	9	7	1
7	2	1	9	4	6	8	3	5
3	9	5	7	1	8	4	6	2
5	3	7	6	9	1	2	8	4
4	1	8	3	7	2	6	5	9

7		3	1				6
	8	6			5	3	
				2			
6		2	1			4	
		4			9		
5		7	6			1	
				6			
9	5					6	2



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: July 23, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Ken Van Dyne, Acting Planning Division Manager

SUBJECT: Consider a resolution authorizing the City Manager to negotiate a contract for with Enprotec / Hibbs & Todd, Inc. (eHT) to provide professional services for the City of Midland relating to the development review processes within the Departments of Development Services and Engineering Services on an as-needed basis with respect to planning, engineering, and building site development as defined in the scope of services.

Purpose:

Consider a resolution authorizing the City Manager to negotiate a contract with Enprotec / Hibbs & Todd, Inc. (eHT) to provide professional services for the City of Midland relating to the development review processes within the Departments of Development Services and Engineering Services on an as-needed basis with respect to planning, engineering, and building site development as defined in the scope of services.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

The cost of services will be negotiated with the consultant, not to exceed \$50,000. The cost of this work will be taken from the City's General Fund.

Discussion:

Currently, our Engineering Department has one unfilled engineer position while our Development Services Department has two unfilled planning positions. These staffing shortages combined with the unprecedented private development growth in Midland necessitate the use of outside assistance to ensure we continue to meet the needs and expectations of the development community. Staff is proposing to enter into a contract with eHT in which they will provide plan review services associated with private

development projects, on an as-needed basis. These services will be paid on an hourly basis, but will be capped at \$50,000. Staff supports this contract and requests Council's approval.

Attachments:

Scope of Services

Contract Terms

Proposed Resolution

RESOLUTION NO.

**RESOLUTION AUTHORIZING THE CITY MANAGER
TO NEGOTIATE AND EXECUTE A PROFESSIONAL
SERVICES AGREEMENT WITH ENPROTEC / HIBBS &
TODD, INC. FOR PLAN REVIEW SERVICES TO ASSIST
THE ENGINEERING SERVICES DEPARTMENT AND
THE DEVELOPMENT SERVICES DEPARTMENT; AND
AUTHORIZING PAYMENT IN AN AMOUNT NOT TO
EXCEED \$50,000**

WHEREAS, the City Council finds it to be in the public interest to authorize the City Manager to negotiate and execute a professional services agreement with Enprotec / Hibbs & Todd, Inc. for plan review services to assist the Engineering Services Department and the Development Services Department;

**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 negotiate and execute, on behalf of the City of Midland, a professional services agreement with Enprotec / Hibbs & Todd, Inc. for plan review services to assist the Engineering Services Department and the Development Services Department. Said agreement shall be 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 Enprotec / Hibbs & Todd, Inc., pursuant to the terms of said agreement, in amount not to exceed \$50,000.00, from funds available in the General Fund upon receipt of proper invoice or statement therefor 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., 2013, 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:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: 7/23/2013

TO: City Council / City Manager

FROM: David Beard, City Engineer

SUBJECT: Consider a resolution approving a Temporary Water Service Agreement with Stagg Investment Group, Inc. This property is positioned in the City of Midland ETJ, generally located at 2701 W. Francis Ave.

Purpose:

Consider a resolution approving a Temporary Water Service Agreement with Stagg Investment Group, Inc. This property is positioned in the City of Midland ETJ, generally located at 2701 W. Francis Ave.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / 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:

Stagg Investment Group, Inc. is proposing to expand the existing building on-site and is requesting a temporary water and waster service tap for the site. The site is generally located at 2701 W. Francis Ave. There is an 8" water main and a 6" wastewater main in Francis Ave. that is accessible for this purpose. This property is positioned in the ETJ approximately 700' from the City Limits. Stagg Investment Group, Inc. has no opposition to annexation at such time the City chooses to do so.

RESOLUTION NO.

RESOLUTION AUTHORIZING THE EXECUTION OF A TEMPORARY WATER AND SEWER SERVICE AGREEMENT BETWEEN THE CITY OF MIDLAND AND STAGG INVESTMENT GROUP, INC. FOR SERVICES TO 2701 WEST FRANCIS AVENUE, MIDLAND COUNTY, TEXAS; SAID PROPERTY IS OUTSIDE THE CITY LIMITS; STAGG INVESTMENT GROUP, INC. HAS EXECUTED A LETTER AGREEING TO ANNEXATION IF AND WHEN THE PROPERTY IS ANNEXED; STAGG INVESTMENT GROUP, INC. 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, Stagg Investment Group, Inc. owns a tract of land, located at 2701 West Francis Avenue, Midland County, Texas, 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 Stagg Investment Group, Inc., the property owner at 2701 West Francis Avenue, Midland County, Texas, 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., 2013, 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:

Jose Ortiz, Engineering Services Director

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 current rates established in the City of Midland Water/Wastewater/Fire Hydrant Tap Project.

6. Customer agrees to pay the City an inspection fee of THIRTY AND NO/100 DOLLARS (\$30.00) per connection to 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:

Jose Ortiz
Engineering Services Director
P.O. Box 1152
Midland, Texas 79702

To Customer:

Gary M. Glasscock
Stagg Investment Group, Inc.
203 W. Wall St., Suite 1200
Midland, Texas 79701

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.

CITY OF MIDLAND, TEXAS

By _____
Courtney Sharp, City Manager

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Jose Ortiz, Engineering Services Director

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

CUSTOMER:
STAGG INVESTMENT GROUP, INC.

By _____

Title _____

STATE OF TEXAS

§

§

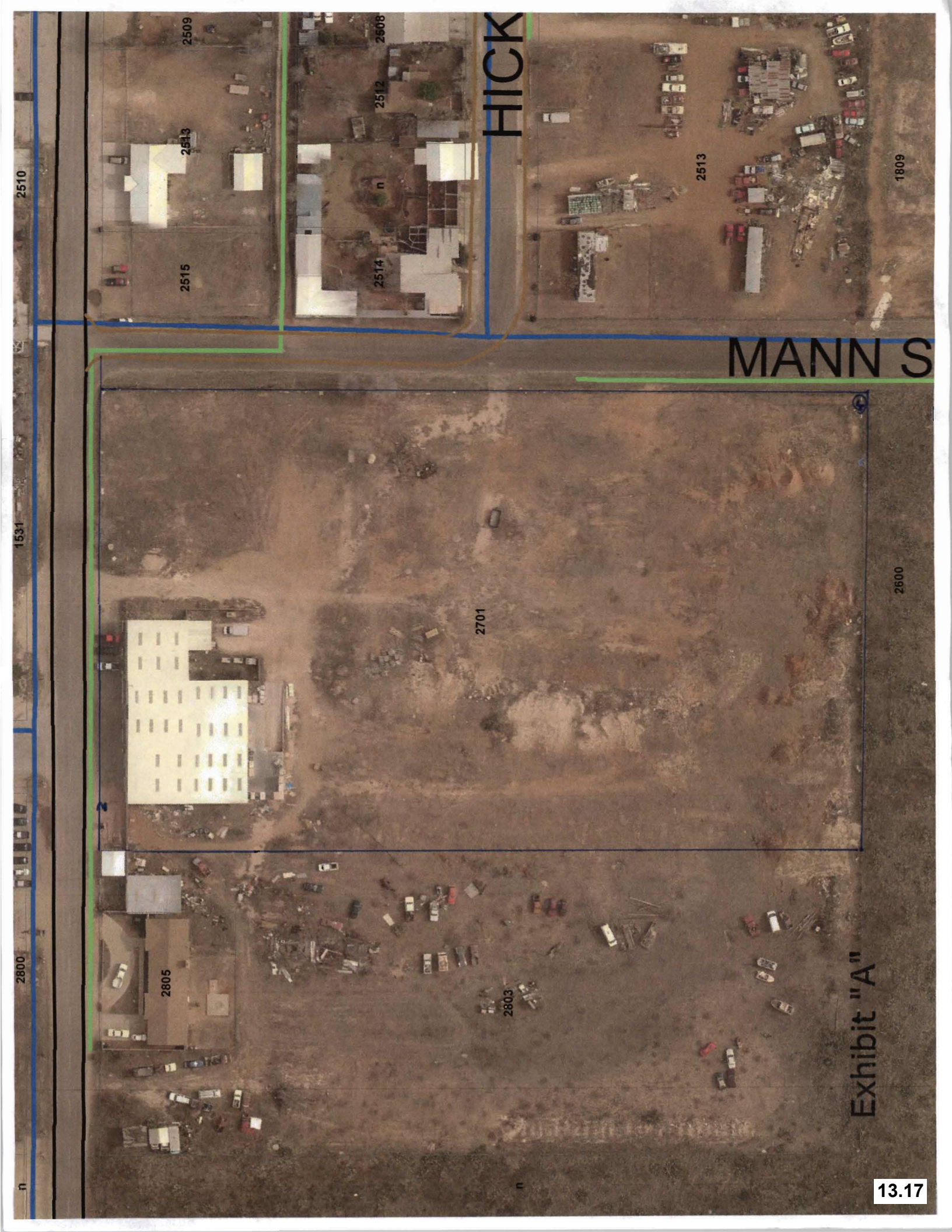
COUNTY OF MIDLAND

§

BEFORE ME, the undersigned authority, on this day personally appeared _____, 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 STAGG INVESTMENT GROUP, INC., for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS _____ day of _____, A.D., 2013.

Notary Public, in and for
the State of Texas



HICK

MANN ST

Exhibit "A"

City of Midland
P.O. Box 1152
Midland, Texas 79702-1152

Attn: Jose Ortiz, Engineering Director

Re: Water & Sewer Service Agreement

Dear Mr. Ortiz,

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

Address of site or legal description of property:

2701 W. FRANCIS
MIDLAND TX 79701

Contact information for land owner:

GARY G. LASCOCK
203 W. WALL #1200
MIDLAND TX 79701

Estimated Monthly Water Usage:

?

Exhibit "B"



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: 7/23/2013

TO: City Council / City Manager

FROM: David Beard,

SUBJECT: Consider a resolution to approve a Professional Service Agreement with Freese & Nichols, Inc. in the amount of \$285,614 for engineering services in connection with the Midland Draw and Jal Draw Channel Studies

Purpose:

Consider a resolution to approve a Professional Service Agreement with Freese & Nichols, Inc. in the amount of \$285,614 for engineering services in connection with the Midland Draw and Jal Draw Channel Studies.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

Funds are available in the following Projects in the following amounts:

Midland Draw Watershed Study (9025)	\$125,000
Jal Draw Watershed Study (9025)	\$125,000

That the sum of \$35,614 is hereby appropriated from the General Fund (001) Unappropriated Fund Balance (5650) to the following projects in the following amounts:

Midland Draw Watershed Study (9025)	\$ 6,834
Jal Draw Watershed Study (9025)	\$28,780

Discussion:

The intent of this project is to study the hydrology and hydraulics of the Midland Draw and Jal Draw. We will assess existing and future development within the channel watersheds which, in turn, will allow us to determine existing and future flows within the channels. Based on those results, we can then formulate and evaluate various alternative channel and bridge improvements that can accommodate the projected flows, and estimate costs associated with those improvements. We can then prioritize and recommend on which improvements the City should undertake, which improvements can be incorporated into future development projects. An amendment to the City's Master Drainage Plan can then be prepared to guide future land development.

Attached is a map of the study areas along each Draw.

RESOLUTION NO.

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH FREESE & NICHOLS, INC. FOR ENGINEERING SERVICES IN CONNECTION WITH THE MIDLAND DRAW STUDY AND THE JAL DRAW STUDY; AND AUTHORIZING PAYMENT THEREFOR IN THE AMOUNT OF \$285,614.00

WHEREAS, the City of Midland advertised a Request for Qualifications for professional services for engineering services in connection with the Midland Draw Study and the Jal Draw Study; and

WHEREAS, Freese & Nichols, Inc. has agreed to perform said professional services for an estimated \$285,614.00; and

WHEREAS, the City Council finds that Freese & Nichols, Inc. is qualified to perform said professional services; and

WHEREAS, the City Council finds that the professional fees proposed by Freese & Nichols, Inc. are consistent with and not higher than the recommended practices and fees published by the applicable professional associations and do not exceed any maximum provided by law; and

WHEREAS, the City Council finds that Freese & Nichols, Inc. provides professional services for a fair and reasonable price; and

WHEREAS, the City Council finds it to be in the public interest to execute a professional services agreement with Freese & Nichols, Inc. as the most highly qualified provider of said professional services based on demonstrated competence, knowledge, and qualifications and on the reasonableness of the proposed fee for the services;

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, a professional services agreement with Freese & Nichols, Inc. for said professional services.

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

SECTION TWO. That the sum of \$35,614.00 is hereby appropriated from the General Fund (001) Unappropriated Fund Balance (5650) to the following projects in the following amounts:

Midland Draw Watershed Study (9025)	\$6,834.00
Jal Draw Watershed Study (9026)	\$28,780.00.

SECTION THREE. That the City Treasurer is hereby authorized and directed to make payment to Freese & Nichols, Inc., pursuant to the terms of said agreement, in an amount not to exceed \$285,614.00, from funds available in said project accounts upon receipt of proper invoice or statement 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., 2013, 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:

Jose Ortiz, Engineering Services Director

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and effective the 24th day of July, 2013, by and between the CITY OF MIDLAND, TEXAS, a municipal corporation, hereinafter called “City,” and FREESE & NICHOLS, INC., hereinafter referred to as “Company.”

ARTICLE I. PURPOSE

The purpose of this Agreement is to state the terms and conditions under which Company shall provide engineering services (also referred to as the “services”) in connection with the Midland Draw Study and the Jal Draw Study.

ARTICLE II. SERVICES TO BE PERFORMED

1. Company shall provide those services described in Exhibits “A” and “B”, which are attached hereto and incorporated herein for all legal purposes.
2. Company shall perform all the services under this Agreement consistent with the same level of skill and care as other professionals in approximately the same location at approximately the same point in time and for the same types of projects. Company represents that any employee who performs services under this Agreement shall be fully qualified and competent to perform the services described in Exhibit “A.”

ARTICLE III. FINANCIAL CONSIDERATIONS

City agrees to pay Company in an amount not to exceed **\$285,614.00** for the professional services described in Exhibits “A” and “B”. City agrees to pay Company in accordance with the Fee Schedule set forth in Exhibits “C” and “D”, which are attached hereto and incorporated herein for all legal purposes, upon presentation of a monthly invoice. The monthly invoice shall set forth all fees and costs. The City Manager must approve all additional expenses and reimbursable expenses in advance. Within 30 days of receipt of the monthly invoice, City shall pay the full amount of such invoice; provided, however, that if City objects to any portion of an invoice, City shall notify Company of City’s objection and the grounds therefor within 30 days of the date of receipt of the invoice, and the parties immediately shall make every effort to settle the disputed portion of the invoice. The City in any event shall pay every portion of the invoice that is not in dispute within the 30-day period for payment.

ARTICLE IV. TERM

The term of this Agreement shall be from July 24, 2013, until the project is completed, unless the Agreement is terminated earlier as provided in Article V below.

ARTICLE V. TERMINATION

Either party may terminate this Agreement at will, for no or any reason, upon giving the other party sixty (60) days written notice. The parties to this Agreement understand and agree that it is in either party's sole discretion to cancel the Agreement during the term of the Agreement without penalty to the other party. All work and services under this Agreement shall be suspended immediately upon termination of the Agreement becoming effective. The parties have bargained for the flexibility to terminate the Agreement upon giving the requisite notice. In the event of termination of the Agreement under this Article, the Company shall be paid for all services performed up to the termination date.

ARTICLE VI. CONTRACT PERSONAL

This Agreement provides for personal or professional services, and the Company shall not assign this Agreement, in whole or in part, without the prior written consent of City. It is understood that any necessary engineering services shall be either self-performed or subcontracted by the Company.

ARTICLE VII. OWNERSHIP AND CONFIDENTIALITY OF DOCUMENTS AND OTHER WORK PRODUCT

All reports, information and other data ("instruments of service"), given to, prepared or assembled by Company under this Agreement, and any other related documents or items shall become the sole property of City and shall be delivered to City, without restriction, except that Company may make copies of any and all instruments of service for its files. The City shall not make any modification to the plans and specifications or make them available for use by third parties without the prior written authorization of Company, which consent shall not be unreasonably withheld.

ARTICLE VIII. 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 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 shall be 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 the Company's work. Company shall assume exclusive responsibility for the work. Company is entirely free to do the work in its own way.

ARTICLE IX. INSURANCE

Company shall at all times during the term of this Agreement maintain and keep in full force and effect insurance in the following types and minimum amounts with companies authorized to do business in the State of Texas:

Comprehensive General Liability (including Contractual liability):

-Personal Injury:	\$1,000,000.00 per person \$1,000,000.00 per occurrence
-Property Damage:	\$500,000.00 per occurrence

<u>Business Automobile Liability:</u>	\$250,000.00 combined single limit - Personal Injury and Property Damage
---------------------------------------	---

<u>Worker's Compensation:</u>	Statutory limits
-------------------------------	------------------

Employers' Liability:

\$500,000.00 per accident or occurrence

The Workers' Compensation coverage provided by Company shall inure to the benefit of employees injured during the course and scope of their employment by Company pursuant to this Agreement.

The Business Automobile Liability insurance provided by Company shall cover any auto for bodily injury and property damage, including owned vehicles, hired and non-owner vehicles, and employee non-ownership, and the amount of such policy shall be a minimum of \$250,000.00 covering any vehicle used for the execution of the work that is the subject of this Agreement.

All insurance required pursuant to this Agreement, except for Worker's Compensation Insurance, shall name the City as an additional insured. All insurance required pursuant to this Agreement, including Worker's Compensation Insurance, shall provide for a waiver of subrogation as to the City.

The parties agree that, prior to the execution of the Agreement, Company shall provide one or more certificates of insurance showing that the requirements of this article have been met, and specifically containing, without limitations, the following endorsement:

"The City of Midland is included as an additional insured on all policies except for Worker's Compensation. The Company and Insurer hereby waive all rights of subrogation with respect to claims against the City of Midland, its agents, employees and officers, on all policies of insurance."

City shall be provided the notice by Company's insurance provider not later than thirty (30) days prior to any reduction or termination of such coverage. City shall not be required to provide any insurance whatsoever pursuant to this Agreement.

Company shall contractually require all contractors, subcontractors, and sub-subcontractors that work on any portion of the work that is the subject of this Agreement to obtain insurance coverage that meets or exceeds the minimum amounts specified herein. All contractors, subcontractors, and sub-subcontractors shall obtain insurance policies that provide blanket waivers of subrogation in favor of the City of Midland and policies that name the City of Midland as an additional insured (except workers compensation).

**ARTICLE X.
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 OF 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. 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 OF SOVEREIGN IMMUNITY.

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

**ARTICLE XI.
SOVEREIGN IMMUNITY**

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

**ARTICLE XII.
NO THIRD PARTY BENEFICIARIES**

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.

**ARTICLE XIII.
RELEASE**

WITH THE EXCEPTION OF CLAIMS COMPANY MIGHT HAVE IN THE FUTURE RELATED ARTICLE III, "FINANCIAL CONSIDERATIONS", 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.

**ARTICLE XIV.
GENERAL PROVISIONS**

A. Waiver. No waiver by City of a breach of any covenant, condition, or restriction of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other covenant, condition, or restriction contained in this Agreement.

B. Governing Law and 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.

C. Notice. Any notice or demand that shall be made regarding this Agreement, shall be made in writing and delivered either in person or by certified or registered mail. Notice by mail shall be complete upon deposit of the paper, postage prepaid, in a post office or

official depository under the care and custody of the United States Postal Service addressed as follows:

If to City: City Manager's Office
P.O. Box 1152
Midland, Texas 79702

If to Company: Freese & Nichols, Inc.
4055 International Plaza, Suite 200
Fort Worth, Texas 76109

The parties hereto may change the above designated addresses by giving notice pursuant to the terms of this Section.

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

E. Use of Language. Words in the singular shall be held to include the plural, unless the context otherwise requires.

F. Amendments, Modifications, Alterations. No amendment, modification, or alteration of the terms of this Agreement shall be binding unless it is in writing, dated subsequent to the date of this Agreement, and duly executed by the parties to this Agreement.

G. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed as original, and all of which shall constitute one and the same instrument.

ARTICLE XV.
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 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, 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.

ARTICLE XVI. 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.

EXECUTED IN DUPLICATE the day and year first above mentioned.

THE CITY OF MIDLAND, TEXAS

By: _____
Courtney Sharp, City Manager

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

Company :
FREESE & NICHOLS, INC.

By: _____

Title: _____

STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this day personally appeared _____
_____ known to me to be the person whose name is subscribed to the foregoing
instrument and acknowledged to me that he executed the same for the purposes and
consideration therein expressed on behalf of FREESE & NICHOLS, INC.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS _____ day of
_____, A.D., 2013.

Notary Public, State of Texas

Printed Name

My Commission Expires: _____

EXHIBIT A

SCOPE OF SERVICES AND RESPONSIBILITIES OF OWNER

ARTICLE I

GENERAL OVERVIEW

The objective of the Jal Draw Watershed Study is to perform detailed hydrologic and hydraulic analyses for the Jal Draw watershed between CJ Kelly Park and Loop 349. The hydrologic analysis will include existing and fully-developed land use conditions analyses to calculate stormwater discharges to Jal Draw. The scope of work also includes a detailed hydraulic analysis of Jal Draw. The hydraulic study will provide existing and fully-developed 100-year floodplain maps for guidance with future development and will identify flood prone areas. An alternatives analysis will be performed to identify potential capital drainage improvements for planning and development. Figure 1 is the Jal Draw Watershed Study project location map highlighting the watershed area and stream to be studied.

BASIC SERVICES: FNI shall provide the following professional services in connection with the development of the Project:

TASK A: DATA COLLECTION/PROJECT COORDINATION

1. Attend a project kick-off meeting with the City to obtain available existing data for the watershed and establish the schedule. Data needed includes, but is not limited to: previous study correspondence, documentation, hydraulic and hydrologic models, and support data, including survey data; property ownership; easement descriptions; zoning; aerials; construction documents of previous improvements; existing City of Midland topographic survey information; and proposed development plans.
2. Conduct a site visit to verify the limits of the study and to document initial conditions with photographs.
3. Obtain effective hydrologic and hydraulic models and supporting data from FEMA.
4. Conduct periodic project coordination meetings with City staff at project milestones or as needed. Assume approximately four (4) project coordination meetings.
5. Submit monthly one page project status reports.

TASK B: HYDROLOGIC ANALYSIS

1. Review the previous hydrologic studies for the Jal Draw watershed.
2. Create both existing and fully-developed land use hydrologic models for the Jal Draw watershed based on the Soil Conservation Service (SCS) unit hydrograph method. Calculate the existing and fully-developed discharges for the Jal Draw watershed for the 2-, 5-, 10-, 25-, 50- and 100-year storm events.
3. Update channel and pond routings in hydrologic model based upon available hydraulic models or if not available use lag routings.

4. Develop a draft report summarizing the methodology and results of the hydrologic analysis.
5. Submit two (2) hard copies of the draft hydrologic report with all electronic supporting data, models, and exhibits to the OWNER for review.
6. Meet with OWNER to obtain comments and make revisions to the document.

TASK C: HYDRAULIC ANALYSIS

1. Review the previous hydraulic studies for the Jal Draw watershed.
2. Develop new HEC Geo-RAS hydraulic models for study streams.
3. Update the hydraulic models with known improvements from record drawings and field survey. Improvements shall consist of bridge and culvert crossings, road improvements, and channel improvements within the study limits. Supplement the hydraulic HEC-RAS models with field surveyed data, as outlined in Task E, to more accurately reflect existing conditions.
4. Update channel and pond routings in hydrologic model based on created HEC-GeoRAS models.
5. Input the existing and fully-developed discharges into the hydraulic model for the Jal Draw watershed for the 2-, 5-, 10-, 25-, 50- 100-, and 500-year storm events.
6. Execute the hydraulic models with the existing and fully-developed discharges for the 2-, 5-, 10-, 25-, 50- 100-, and 500-year storm events.
7. Prepare existing and fully developed conditions floodway models.
8. Develop the existing and fully-developed conditions 100-year floodplains and floodway within the stream study limits.
9. Identify flood prone areas and document existing and fully-developed structure overtopping and flooding potential.
10. Submit two (2) hard copies of the draft hydraulic report with all electronic supporting data, models, and exhibits to the OWNER for review.
11. Meet with OWNER to obtain comments and make revisions to the document.

TASK D: ALTERNATIVES ANALYSIS

1. Meet with City to discuss future plans for the Jal Draw watershed and to formulate potential drainage improvements to be analyzed in further detail. Potential improvements may include, but are not limited to: property buyouts, floodplain acquisition, channel improvements, regional stormwater detention, local multi-use stormwater retention/detention systems, flow diverters, bridge, culvert, roadway and utility improvements and parks and amenities improvements. One particular location to analyze is the Jal Draw crossing of SH 158.

2. Perform a detailed alternatives analysis for up to four (4) proposed drainage improvements to include conceptually sizing of proposed drainage channels or undersized bridge/culvert crossings to meet City drainage criteria. Conceptual design of proposed drainage systems to include exhibits and opinions of probable construction cost for budgeting purposes.
3. Assist the City to develop a proposed capital improvements evaluation criteria and ranking system to prioritize proposed capital improvement alternatives from this study.
4. Submit two (2) hard copies of the overall draft summary report including hydrology, hydraulics and alternatives analyses with all electronic supporting data, models, and exhibits to the OWNER for review.
5. Meet with OWNER to obtain comments and make revisions to the document.
6. Select one (1) alternative to consider for Conditional Letter of Map Revision (CLOMR) to FEMA.
7. Submit two (2) hard copies of final summary report.

TASK E: FIELD SURVEYS/SUBSURFACE UTILITY ENGINEERING

1. Field survey points of interest for hydrologic, hydraulic, and stream assessment analyses. Points of interest will include channel hydraulic cross sections, bridge/culvert/roadway elevations and hydraulic structures. Field surveys for this study include approximately 20 hydraulic cross sections and 8 hydraulic structures.
2. Prepare field sketches, and take photographs to document upstream and downstream conditions at each hydraulic cross section and hydraulic structure surveyed.
3. Set horizontal and vertical control. Vertical benchmarks will be set at each road crossing.
4. Perform Level A subsurface utility engineering (SUE) for approximately 3 utility locations to uncover and pinpoint location of utility crossing.

TASK F: PUBLIC INVOLVEMENT

1. FNI will facilitate and attend up to 2 public meetings to present the proposed project to the general public and City officials.
2. FNI will assist in preparation of any visual aides to include presentations, poster board exhibits, or conceptual design charrettes for use in public meetings.
3. FNI will assist in presenting project at 1 City Council meetings.

ARTICLE II

ADDITIONAL SERVICES: Additional Services to be performed by FNI, if authorized by Owner, which are not included in the above described basic services, are described as follows:

1. Preparation of environmental statements.
2. Preparation and Submission of CLOMR to FEMA.
3. Appearances before regulatory agencies other than the OWNER.
4. Assistance to the OWNER as an expert witness in any litigation with third parties arising from the development of the Project.
5. Soil and foundation investigations, including field and laboratory tests, borings, related engineering analyses, and recommendations.
6. Providing Geotechnical investigations, studies, or reports.
7. Preparation of applications and supporting documents for government grants, loans, or planning advances for public works projects.
8. Acquisition of individual federal or state permits that may be required.
9. Providing Basic, Special, or Additional Services on an accelerated time schedule.

ARTICLE III

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

- A. Designate in writing a person to act as OWNER's representative with respect to the services to be rendered under this AGREEMENT. Such person shall have contract authority to transmit instructions, receive information, interpret and define Owner's policies and decisions with respect to FNI's services for the Project.
- B. OWNER is to assist with preparation and submittal of right-of-entry letters to gain property access for FNI and subconsultants to perform field work.
- C. This Scope of Services is based on the assumption that the OWNER will provide the existing hydrologic and hydraulic models and supporting electronic data if available. This includes but is not limited to drainage basin delineations, soils data, existing and future land use data, flow paths, stream and channel routing data.
- D. Provide property ownership information, existing easement descriptions, construction documents of previous proposed improvements, zoning, and aerial photos if available.
- E. Provide any topographic survey that was previously prepared.

- F. Examine all reports presented by FNI, obtain advice of an attorney, insurance counselor, and other consultants as OWNER deems appropriate for such examination, and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of FNI.
- G. City to arrange for access to, and make all provisions, for FNI and subconsultants to enter upon public and private property as required for FNI to perform services under this Agreement.
- H. Give prompt written notice to FNI whenever OWNER observes or otherwise becomes aware of any development that affects the scope or timing of FNI's services.
- I. Bear all costs incident to compliance with the requirements of these Additional Responsibilities.
- J. Furnish, or direct FNI to provide, Additional Services as stipulated in Attachment SC, Article II of this AGREEMENT or other services as required.

ARTICLE IV

DESIGNATED REPRESENTATIVES: FNI and Owner designate the following representatives:

Owner's Designated Representative –

Owner's Accounting Representative –

FNI's Designated Representative – Scott Berman, P.E., CFM; 4055 International Plaza, Suite 200, Fort Worth, Texas 76109, Phone 817-735-7460; Fax 817-735-7491; email sfb@freese.com

FNI's Accounting Representative – Patti Allen; 4055 International Plaza, Suite 200, Fort Worth, Texas 76109, Phone 817-735-7466; Fax 817-735-7491; email pla@freese.com

EXHIBIT B

SCOPE OF SERVICES AND RESPONSIBILITIES OF OWNER

ARTICLE I

GENERAL OVERVIEW

The objective of the Midland Draw Watershed Study is to perform detailed hydrologic and hydraulic analyses for the Midland Draw watershed between A Street and Loop 349. The hydrologic analysis will include existing and fully-developed land use conditions analyses to calculate stormwater discharges to Midland Draw. The scope of work also includes a detailed hydraulic analysis of Midland Draw. The hydraulic study will provide existing and fully-developed 100-year floodplain maps for guidance with future development and will identify flood prone areas. An alternatives analysis will be performed to identify potential capital drainage improvements for planning and development. Figure 1 is the Midland Draw Watershed Study project location map highlighting the watershed area and stream to be studied.

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2. Conduct a site visit to verify the limits of the study and to document initial conditions with photographs.
3. Obtain effective hydrologic and hydraulic models and supporting data from FEMA.
4. Conduct periodic project coordination meetings with City staff at project milestones or as needed. Assume approximately four (4) project coordination meetings.
5. Submit monthly one page project status reports.

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1. Review the previous hydrologic studies for the Midland Draw watershed.
2. Create both existing and fully-developed land use hydrologic models for the Midland Draw watershed based on the Soil Conservation Service (SCS) unit hydrograph method. Calculate the existing and fully-developed discharges for the Midland Draw watershed for the 2-, 5-, 10-, 25-, 50- and 100-year storm events.

3. Update channel and pond routings in hydrologic model based upon available hydraulic models or if not available use lag routings.
4. Develop a draft report summarizing the methodology and results of the hydrologic analysis.
5. Submit two (2) hard copies of the draft hydrologic report with all electronic supporting data, models, and exhibits to the OWNER for review.
6. Meet with OWNER to obtain comments and make revisions to the document.

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1. Review the previous hydraulic studies for the Midland Draw watershed.
2. Develop new HEC Geo-RAS hydraulic models for study streams.
3. Update the hydraulic models with known improvements from record drawings and field survey. Improvements shall consist of bridge and culvert crossings, road improvements, and channel improvements within the study limits. Supplement the hydraulic HEC-RAS models with field surveyed data, as outlined in Task E, to more accurately reflect existing conditions.
4. Update channel and pond routings in hydrologic model based on created HEC-GeoRAS models.
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2. Perform a detailed alternatives analysis for up to four (4) proposed drainage improvements to include conceptually sizing of proposed drainage channels or undersized bridge/culvert crossings to meet City drainage criteria. Conceptual design of proposed drainage systems to include exhibits and opinions of probable construction cost for budgeting purposes.
3. Assist the City to develop a proposed capital improvements evaluation criteria and ranking system to prioritize proposed capital improvement alternatives from this study.
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2. Prepare field sketches, and take photographs to document upstream and downstream conditions at each hydraulic cross section and hydraulic structure surveyed.
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4. Perform Level A subsurface utility engineering (SUE) for approximately 3 utility locations to uncover and pinpoint location of utility crossing.

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2. Preparation and submission of CLOMR to FEMA.
3. Appearances before regulatory agencies other than the OWNER.
4. Assistance to the OWNER as an expert witness in any litigation with third parties arising from the development of the Project.
5. Soil and foundation investigations, including field and laboratory tests, borings, related engineering analyses, and recommendations.
6. Providing Geotechnical investigations, studies, or reports.
7. Preparation of applications and supporting documents for government grants, loans, or planning advances for public works projects.
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- B. OWNER to assist FNI with submission of right-of-entry letters to property owners to gain access for FNI and subconsultants to perform field work.
- C. This Scope of Services is based on the assumption that the OWNER will provide the existing hydrologic and hydraulic models and supporting electronic data if available. This includes but is not limited to drainage basin delineations, soils data, existing and future land use data, flow paths, stream and channel routing data.
- D. Provide property ownership information, existing easement descriptions, construction documents of previous proposed improvements, zoning, and aerial photos if available.
- E. Provide any topographic survey that was previously prepared.

- F. Examine all reports presented by FNI, obtain advice of an attorney, insurance counselor, and other consultants as OWNER deems appropriate for such examination, and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of FNI.
- G. City to arrange for access to, and make all provisions, for FNI and subconsultants to enter upon public and private property as required for FNI to perform services under this Agreement.
- H. Give prompt written notice to FNI whenever OWNER observes or otherwise becomes aware of any development that affects the scope or timing of FNI's services.
- I. Bear all costs incident to compliance with the requirements of these Additional Responsibilities.
- J. Furnish, or direct FNI to provide, Additional Services as stipulated in Attachment SC, Article II of this AGREEMENT or other services as required.

ARTICLE IV

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Owner's Designated Representative –

Owner's Accounting Representative –

FNI's Designated Representative – Scott Berman, P.E., CFM; 4055 International Plaza, Suite 200, Fort Worth, Texas 76109, Phone 817-735-7460; Fax 817-735-7491; email sfb@freese.com

FNI's Accounting Representative – Patti Allen; 4055 International Plaza, Suite 200, Fort Worth, Texas 76109, Phone 817-735-7466; Fax 817-735-7491; email pla@freese.com

COMPENSATION
Jal Draw Watershed Study

Not to Exceed: Compensation to FNI shall be computed on the basis of the Schedule of Charges, but shall not exceed One Hundred Fifty Three Thousand Seven Hundred Eighty Dollars (\$153,780.00).

Schedule of Charges:

<u>Position</u>	<u>Min</u>	<u>Max</u>
Professional - 1	66	124
Professional - 2	89	141
Professional - 3	114	180
Professional - 4	123	186
Professional - 5	162	231
Professional - 6	159	405
Construction Manager - 1	78	92
Construction Manager - 2	90	146
Construction Manager - 3	124	138
Construction Manager - 4	156	216
CAD Technician/Designer - 1	56	95
CAD Technician/Designer - 2	88	128
CAD Technician/Designer - 3	101	156
Corporate Project Support - 1	38	100
Corporate Project Support - 2	60	153
Corporate Project Support - 3	69	304
Intern/ Coop	31	61

Rates for In-House Services

<u>Travel</u>	<u>Bulk Printing and Reproduction</u>
Standard IRS Rates	Black and White \$0.10 per copy
	Color \$0.50 per copy
	Plot - Bond \$2.50 per plot
	Plot - Color \$5.75 per plot
	Plot - Other \$5.00 per plot
	Binding \$5.75 per book

OTHER DIRECT EXPENSES:

Other direct expenses are reimbursed at actual cost times a multiplier of 1.10. They include outside printing and reproduction expense, communication expense, travel, transportation and subsistence away from the FNI office and other miscellaneous expenses directly related to the work, including costs of laboratory analysis, test, and other work required to be done by independent persons other than staff members. For Resident Representative services performed by non-FNI employees and CAD services performed In-house by non-FNI employees where FNI provides workspace and equipment to perform such services, these services will be billed at cost times a multiplier of 2.0. This markup approximates the cost to FNI if an FNI employee was performing the same or similar services.

340-22013

COMPENSATION
Midland Draw Watershed Study

Not to Exceed: Compensation to FNI shall be computed on the basis of the Schedule of Charges, but shall not exceed One Hundred Thirty One Thousand Eight Hundred Thirty Four Dollars (\$131,834.00).

Schedule of Charges:

<u>Position</u>	<u>Min</u>	<u>Max</u>
Professional - 1	66	124
Professional - 2	89	141
Professional - 3	114	180
Professional - 4	123	186
Professional - 5	162	231
Professional - 6	159	405
Construction Manager - 1	78	92
Construction Manager - 2	90	146
Construction Manager - 3	124	138
Construction Manager - 4	156	216
CAD Technician/Designer - 1	56	95
CAD Technician/Designer - 2	88	128
CAD Technician/Designer - 3	101	156
Corporate Project Support - 1	38	100
Corporate Project Support - 2	60	153
Corporate Project Support - 3	69	304
Intern/ Coop	31	61

Rates for In-House Services

<u>Travel</u>	<u>Bulk Printing and Reproduction</u>
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	Plot - Other \$5.00 per plot
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Other direct expenses are reimbursed at actual cost times a multiplier of 1.10. They include outside printing and reproduction expense, communication expense, travel, transportation and subsistence away from the FNI office and other miscellaneous expenses directly related to the work, including costs of laboratory analysis, test, and other work required to be done by independent persons other than staff members. For Resident Representative services performed by non-FNI employees and CAD services performed In-house by non-FNI employees where FNI provides workspace and equipment to perform such services, these services will be billed at cost times a multiplier of 2.0. This markup approximates the cost to FNI if an FNI employee was performing the same or similar services.

340-22013

ENGINEERING DIVISION

Jal Draw Channel Study

Project Map



Map by DDB 07/16/2012

ENGINEERING DIVISION

Midland Draw Channel Study

Project Map



Map by DDB 07/16/2012





City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: 7/23/2013

TO: City Council / City Manager

FROM: David Beard, City Engineer

SUBJECT: Consider a resolution to approve a Professional Service Agreement with Maverick Engineering in the amount of \$44,000 for the engineering services in connection with the Beal Parkway Extension between Thomason Dr. and Anetta Dr. (District #4 – Trost)

Purpose:

Consider a resolution to approve a Professional Service Agreement with Maverick Engineering in the amount of \$44,000 for the engineering services in connection with the Beal Parkway Extension between Thomason Dr. and Anetta Dr. (District #4 – Trost)

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

Funds are available in the Street Paving and Ancillary Uses Project (8912)

Discussion:

The intent of this project is to develop construction drawings for Beal Parkway between Thomason Dr. and Anetta Dr. The design will include the extension of Beal Parkway to the City of Midland collector standard and the associated drainage and utility enhancements.

Attached is a project layout map.

RESOLUTION NO.

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH MAVERICK CIVIL & SURVEY, LLC FOR ENGINEERING SERVICES IN CONNECTION WITH THE EXTENSION OF BEAL PARKWAY BETWEEN THOMASON DRIVE AND ANETTA DRIVE; AND AUTHORIZING PAYMENT THEREFOR IN THE AMOUNT OF \$44,000.00; A REQUEST FOR QUALIFICATIONS WAS NOT ADVERTISED BY THE CITY OF MIDLAND FOR SAID SERVICES

WHEREAS, the Engineering Services Department has selected Maverick Civil & Survey, LLC to perform engineering services in connection with the extension of Beal Parkway between Thomason Drive and Anetta Drive; and

WHEREAS, Maverick Civil & Survey, LLC has agreed to perform said professional services for an estimated \$44,000.00; and

WHEREAS, the City Council finds that Maverick Civil & Survey, LLC is qualified to perform said professional services; and

WHEREAS, the City Council finds that the professional fees proposed by Maverick Civil & Survey, LLC are consistent with and not higher than the recommended practices and fees published by the applicable professional associations and do not exceed any maximum provided by law; and

WHEREAS, the City Council finds that Maverick Civil & Survey, LLC provides professional services for a fair and reasonable price; and

WHEREAS, the City Council finds it to be in the public interest to execute a professional services agreement with Maverick Civil & Survey, LLC as the most highly qualified provider of said professional services based on demonstrated competence, knowledge, and qualifications and on the reasonableness of the proposed fee for the services;

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, a

professional services agreement with Maverick Civil & Survey, LLC for said professional services. A copy said agreement is attached hereto as Exhibit “A” and incorporated herein for all legal purposes.

SECTION TWO. That the City Treasurer is hereby authorized and directed to make payment to Maverick Civil & Survey, LLC, pursuant to the terms of said agreement, in an amount not to exceed \$44,000.00, from funds available in the Street Paving and Ancillary Uses Project (8912) budget account upon receipt of proper invoice or statement 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., 2013, 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:

Jose Ortiz, Engineering Services Director

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and effective the 24th day of July, 2013, by and between the CITY OF MIDLAND, TEXAS, a municipal corporation, hereinafter called “City,” and MAVERICK CIVIL & SURVEY, LLC, hereinafter referred to as “Company.”

ARTICLE I. PURPOSE

The purpose of this Agreement is to state the terms and conditions under which Company shall provide engineering services (also referred to as the “services”) in connection with the extension of Beal Parkway.

ARTICLE II. SERVICES TO BE PERFORMED

1. Company shall provide those services described in Exhibit “A”, which is attached hereto and incorporated herein for all legal purposes.
2. Company shall perform all the services under this Agreement consistent with the same level of skill and care as other professionals in approximately the same location at approximately the same point in time and for the same types of projects. Company represents that any employee who performs services under this Agreement shall be fully qualified and competent to perform the services described in Exhibit “A.”

ARTICLE III. FINANCIAL CONSIDERATIONS

City agrees to pay Company in an amount not to exceed **\$44,000.00** for the professional services described in Exhibit “A.” City agrees to pay Company in accordance with the Hourly Rate Schedule set forth in Exhibit “B”, which is attached hereto and incorporated herein for all legal purposes, upon presentation of a monthly invoice. The monthly invoice shall set forth all fees and costs. The City Manager must approve all additional expenses and reimbursable expenses in advance. Within 30 days of receipt of the monthly invoice, City shall pay the full amount of such invoice; provided, however, that if City objects to any portion of an invoice, City shall notify Company of City’s objection and the grounds therefor within 30 days of the date of receipt of the invoice, and the parties immediately shall make every effort to settle the disputed portion of the invoice. The City in any event shall pay every portion of the invoice that is not in dispute within the 30-day period for payment.

ARTICLE IV. TERM

The term of this Agreement shall be from July 24, 2013, until the project is completed, unless the Agreement is terminated earlier as provided in Article V below.

ARTICLE V. TERMINATION

Either party may terminate this Agreement at will, for no or any reason, upon giving the other party sixty (60) days written notice. The parties to this Agreement understand and agree that it is in either party's sole discretion to cancel the Agreement during the term of the Agreement without penalty to the other party. All work and services under this Agreement shall be suspended immediately upon termination of the Agreement becoming effective. The parties have bargained for the flexibility to terminate the Agreement upon giving the requisite notice. In the event of termination of the Agreement under this Article, the Company shall be paid for all services performed up to the termination date.

ARTICLE VI. CONTRACT PERSONAL

This Agreement provides for personal or professional services, and the Company shall not assign this Agreement, in whole or in part, without the prior written consent of City. It is understood that any necessary engineering services shall be either self-performed or subcontracted by the Company.

ARTICLE VII. OWNERSHIP AND CONFIDENTIALITY OF DOCUMENTS AND OTHER WORK PRODUCT

All reports, information and other data ("instruments of service"), given to, prepared or assembled by Company under this Agreement, and any other related documents or items shall become the sole property of City and shall be delivered to City, without restriction, except that Company may make copies of any and all instruments of service for its files. The City shall not make any modification to the plans and specifications or make them available for use by third parties without the prior written authorization of Company, which consent shall not be unreasonably withheld.

ARTICLE VIII. 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 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 shall be 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 the Company's work. Company shall assume exclusive responsibility for the work. Company is entirely free to do the work in its own way.

ARTICLE IX. INSURANCE

Company shall at all times during the term of this Agreement maintain and keep in full force and effect insurance in the following types and minimum amounts with companies authorized to do business in the State of Texas:

Comprehensive General Liability (including Contractual liability):

-Personal Injury:	\$1,000,000.00 per person \$1,000,000.00 per occurrence
-Property Damage:	\$500,000.00 per occurrence

Business Automobile Liability: \$250,000.00 combined single limit -
Personal Injury and Property Damage

Worker's Compensation: Statutory limits

Employers' Liability:

\$500,000.00 per accident or occurrence

The Workers' Compensation coverage provided by Company shall inure to the benefit of employees injured during the course and scope of their employment by Company pursuant to this Agreement.

The Business Automobile Liability insurance provided by Company shall cover any auto for bodily injury and property damage, including owned vehicles, hired and non-owner vehicles, and employee non-ownership, and the amount of such policy shall be a minimum of \$250,000.00 covering any vehicle used for the execution of the work that is the subject of this Agreement.

All insurance required pursuant to this Agreement, except for Worker's Compensation Insurance, shall name the City as an additional insured. All insurance required pursuant to this Agreement, including Worker's Compensation Insurance, shall provide for a waiver of subrogation as to the City.

The parties agree that, prior to the execution of the Agreement, Company shall provide one or more certificates of insurance showing that the requirements of this article have been met, and specifically containing, without limitations, the following endorsement:

"The City of Midland is included as an additional insured on all policies except for Worker's Compensation. The Company and Insurer hereby waive all rights of subrogation with respect to claims against the City of Midland, its agents, employees and officers, on all policies of insurance."

City shall be provided the notice by Company's insurance provider not later than thirty (30) days prior to any reduction or termination of such coverage. City shall not be required to provide any insurance whatsoever pursuant to this Agreement.

Company shall contractually require all contractors, subcontractors, and sub-subcontractors that work on any portion of the work that is the subject of this Agreement to obtain insurance coverage that meets or exceeds the minimum amounts specified herein. All contractors, subcontractors, and sub-subcontractors shall obtain insurance policies that provide blanket waivers of subrogation in favor of the City of Midland and policies that name the City of Midland as an additional insured (except workers compensation).

**ARTICLE X.
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 OF 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. 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 OF SOVEREIGN IMMUNITY.

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

**ARTICLE XI.
SOVEREIGN IMMUNITY**

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

**ARTICLE XII.
NO THIRD PARTY BENEFICIARIES**

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.

**ARTICLE XIII.
RELEASE**

NOTWITHSTANDING ANY OTHER PROVISIONS, 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.

**ARTICLE XIV.
GENERAL PROVISIONS**

A. Waiver. No waiver by City of a breach of any covenant, condition, or restriction of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other covenant, condition, or restriction contained in this Agreement.

B. Governing Law and 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.

C. Notice. Any notice or demand that shall be made regarding this Agreement, shall be made in writing and delivered either in person or by certified or registered mail. Notice by mail shall be complete upon deposit of the paper, postage prepaid, in a post office or official depository under the care and custody of the United States Postal Service addressed as follows:

If to City: City Manager's Office
P.O. Box 1152
Midland, Texas 79702

If to Company: Maverick Civil & Survey, LLC
P.O. Box 6040
Midland, Texas 79704

The parties hereto may change the above designated addresses by giving notice pursuant to the terms of this Section.

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

E. Use of Language. Words in the singular shall be held to include the plural, unless the context otherwise requires.

F. Amendments, Modifications, Alterations. No amendment, modification, or alteration of the terms of this Agreement shall be binding unless it is in writing, dated subsequent to the date of this Agreement, and duly executed by the parties to this Agreement.

G. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed as original, and all of which shall constitute one and the same instrument.

ARTICLE XV. 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 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, 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.

ARTICLE XVI. 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.

EXECUTED IN DUPLICATE the day and year first above mentioned.

THE CITY OF MIDLAND, TEXAS

By: _____
Courtney Sharp, City Manager

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

Company :
MAVERICK CIVIL & SURVEY, LLC

By: _____

Title: _____

STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this day personally appeared _____
_____ known to me to be the person whose name is subscribed to the foregoing
instrument and acknowledged to me that he executed the same for the purposes and
consideration therein expressed on behalf of MAVERICK CIVIL & SURVEY, LLC.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS _____ day of
_____, A.D., 2013.

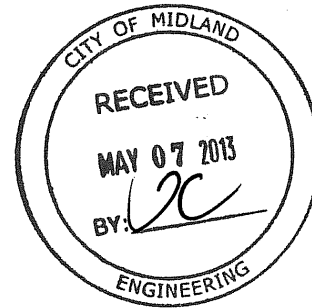
Notary Public, State of Texas

Printed Name

My Commission Expires: _____

May 7, 2013

David Beard
City of Midland
300 N. Loraine
Midland, TX 79701



Re: Beal Parkway Paving Plans, Survey, and Project Management

Dear Mr. Beard:

Maverick Engineering, LLC ("Maverick") is pleased to submit this proposal for professional services regarding the subject project to City of Midland ("The Client"). For a **lump sum fee of \$44,000**, Maverick will perform the services outlined below.

SCOPE OF WORK:

Survey Services

Boundary Verification

Lump Sum Fee: \$2,500

Maverick will facilitate a two man crew to the project site to perform boundary verification and stake the boundary corners of the surrounding project site boundary. All boundary points of the dedicated City of Midland Beal Parkway Right of Way alignment will be marked with rebar. This boundary will be provided in AutoCad delivered to the City of Midland for verification with the GIS department.

Design Topography

Estimated Not to Exceed: \$5,500

Maverick will facilitate a topographic survey including the dedicated alignment per (City of Midland recorded plats) along existing Beal Parkway and future Beal Parkway from Anetta to Thomason for approximately 2,380 linear feet of new City of Midland 41 foot back to back street section. We are assuming there will be an 8' concrete trail installed to accommodate the presented bike trail path from the City of Midland Parks Department. This topography will include horizontal and vertical location of visible utilities, including, but not limited to water, sanitary sewer, storm drain, electric, telephone and gas. The inverts of any conflicting sanitary sewer and storm drain are also included. Topography will be shot at 100 foot intervals extending out 100 feet to either side of the presented alignment. There will be several benchmarks placed along the alignment tied into the City's known benchmarks.



Engineering Services

Project Management

Estimated not to Exceed: \$6,000

Maverick will provide oversight Project Management from the site plan stage throughout the approval process for the infrastructure construction documents and plat recordation. We have estimated 40 hours of Professional Engineer Time to complete the project. This will include but not limited to the following:

- Project Staff Meetings
- City Council Staff Presentation Support
- Cost Estimates and Quantity Production
- Various Exhibits For Project Coordination
- Dry Utility Coordination
- Park Department Coordination
- Various Sub Consultant coordination (Geotechnical, Electrical for Lighting plan ect)
- Necessary City Staff Coordination (All Required Departments)

Note: Project Management will be billed on a Professional Engineer time basis. If we approach the limit additional negotiations may need to take place. See attached Fee Schedule for billing rates.

Onsite Drainage Analysis

Lump Sum Fee: \$3,500

- Document a drainage concept to safely convey flows generated on-site and intercepted from off-site through the project, discharging from the site in the same manner as existing conditions. The drainage design would be conceived to comply with the City of Midland criteria with the intent of neither increasing flood depths nor flood velocities off-site while meeting freeboard criteria for all drainage facilities.
- Prepare Drainage Report including text, drainage map, figures and calculations to meet the requirements of the City of Midland regulations. Present findings at pre-submittal meeting with the client.
- Address first submittal comments and re-submit. Any changes resulting in significant alteration of grading concept, site layout are considered out of scope.

Paving Plans

Lump Sum Fee: \$25,000

Maverick will prepare paving plans for the proposed Beal Parkway Alignment from Anetta Drive to Thomason Street. There is approximately 2,380 linear feet of new pavement for Beal Parkway. Paving Plans will adhere to the City of Midland guidelines. The plans will consist of a plan view section at a scale of 1"-40' and a profile to match the proposed design. Pavement saw cuts and tie-ins with taper design are included into the design.

SWPPP (Storm Water Pollution Prevention Plans)

Lump Sum Fee: \$1,500

Maverick will prepare a SWPPP report including figures and exhibits pertaining to the installation of Beal Parkway Paving and Sewer infrastructure.



Note: This proposal does not include submittal fees for any governmental agency.

Reimbursable Expenses

Charges for prints, deliveries, applications, postage and other fees not paid directly by the client will be billed on a time and materials basis.

FEE SUMMARY			
Description	Fee Type	Fee	
Surveying Services			
Boundary Verification	Lump Sum Fee	\$2,500	
Design Topography	Lump Sum Fee	\$5,500	
Engineering Services			
Project Management	Lump Sum Fee	\$6,000	
Onsite Drainage Analysis and Report	Lump Sum Fee	\$3,500	
Paving Plans	Lump Sum Fee	\$25,000	
SWPPP (Storm Water Pollution Prevention Plan)	Lump Sum Fee	\$1,500	
Reimbursable Expenses			
Reimbursable Expenses	Time & Materials		
TOTAL Possible FEES:		\$44,000	
Plus Reimbursable Expenses			

Closure





CLASSIFICATION	HOURLY RATE
Administrative	\$55
Drafter	\$70
Designer	\$80
Engineer	\$95
Project Manager	\$115
Principal	\$150

EFFECTIVE THRU 12/31/2013





City Council Agenda

Approved for Agenda:
CSharp
City Manager's Office

MEETING DATE: 7/23/2013

TO: City Council / City Manager

FROM: Price Robinson, Chief of Police

SUBJECT: Consider a resolution to appropriate interest earned on the FY2010 Justice Assistance Grant funds

Purpose:

Consider a resolution to appropriate interest earned on the FY2010 Justice Assistance Grant funds

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

That the sum of \$82 is hereby appropriated from the Department of Justice Grant Fund (074) Unappropriated Fund Balance (5650) to the 2010 JAG City Portion (7053)

Discussion:

As a requirement of the grant, the FY2010 Justice Assistance Grant funds were deposited into an interest bearing account. The entire grant award plus earned interest must be expended or returned to the Federal Government. Therefore, we are requesting that the interest be made accessible through this appropriation in order to make use of all of the funding that has been made available to us.

RESOLUTION NO. _____

**RESOLUTION APPROPRIATING INTEREST EARNED
IN THE AMOUNT OF \$82.00 ON THE FY2010 JUSTICE
ASSISTANCE GRANT FUNDS; THE GRANT AWARD
PLUS INTEREST MUST BE EXPENDED OR RETURNED
TO THE FEDERAL GOVERNMENT AS A
REQUIREMENT OF THE GRANT**

WHEREAS, the previously accepted FY2010 Justice Assistance Grant has earned \$82.00 in interest; and

WHEREAS, the entire grant award plus interest must be expended or returned to the Federal Government; and

WHEREAS, the City Council finds it to be in the public interest to appropriate said earned interest to provide funding for the Midland Police Department;

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

THAT the sum of \$82.00 is hereby appropriated from the Department of Justice Grant Fund (074) Unappropriated Fund Balance (5650) to the 2010 JAG City Portion (7053).

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., 2013, 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, Police Chief

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
CSharp
City Manager's Office

MEETING DATE: 7/23/2013

TO: City Council / City Manager

FROM: Price Robinson, Chief of Police

SUBJECT: Consider a resolution authorizing the renewal of an Operating Certificate for GK's Shuttle Service, LLC.

Purpose:

Consider a resolution authorizing the renewal of an Operating Certificate for GK's Shuttle Service, LLC.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

No fiscal impact to the City of Midland.

Discussion:

Willie White, owner of GK's Shuttle Service, LLC has filed an application with the City Secretary's Office for the renewal of his operating certificate. The applicant has passed the background investigation on criminal and driving records conducted by the Midland Police Department. He has also furnished all necessary documents related to proof of insurance and has signed a copy of the operating certificate indicating acceptance of the provisions.

RESOLUTION NO.

**RESOLUTION AUTHORIZING THE RENEWAL OF AN
OPERATING CERTIFICATE FOR GK'S SHUTTLE
SERVICE, LLC**

WHEREAS, the Council finds it to be in the public interest to authorize the renewal of an Operating Certificate for GK's Shuttle Service, LLC;

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

That the Operating Certificate for GK's Shuttle Service, LLC is hereby renewed.

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., 2013, 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:

Price Robinson, Police Chief

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
CSharp
City Manager's Office

MEETING DATE: 7/23/2013

TO: City Council / City Manager

FROM: Price Robinson, Police Chief

SUBJECT: Consider a resolution authorizing an Operating Certificate for B & B Platinum Limo, LLC to operate a limousine business

Purpose:

Consider a resolution authorizing an Operating Certificate for B & B Platinum Limo, LLC to operate a limousine business

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

None

Discussion:

Bryan James Baty recently filed a limousine franchise application with the City Secretary's Office to begin operating B & B Platinum Limo, LLC. The company will be operating with 1 limousine in Midland. Mr. Baty has passed the background investigation on criminal and driving record conducted by the Midland Police Department.

Therefore, we are requesting that the City Council consider a resolution granting a limousine franchise operating certificate to B & B Platinum Limo, LLC.

The original application and all supporting documents are on file in the City Secretary's Office.

RESOLUTION NO.

**RESOLUTION AUTHORIZING AN OPERATING
CERTIFICATE FOR B&B PLATINUM LIMO, LLC TO
OPERATE A LIMOUSINE BUSINESS; SETTING FORTH
CONDITIONS ACCOMPANYING THE CERTIFICATE;
AND ESTABLISHING THE TERMS OF THE
CERTIFICATE**

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

SECTION ONE. That the City Secretary is hereby authorized and directed to act on behalf of the City of Midland to grant to B&B Platinum Limo, LLC, an Operating Certificate for a limousine business pursuant to Title V, Chapter 6 of the Midland City Code, the provisions of said certificate to be as set forth in Exhibit “A”, attached hereto and incorporated herein by reference.

SECTION TWO. Notwithstanding Section One, above, the City Secretary shall not issue the Operating Certificate set forth above unless and until:

- A. B&B Platinum Limo, LLC, has delivered to the City Secretary a current certificate of insurance indicating compliance with the insurance requirements set forth in Section 5-6-2(F) of the Midland City Code for all motor vehicles to be used as limousines under the Operating Certificate; and
- B. B&B Platinum Limo, LLC, has paid to the City the amount of the annual fee required under Section 5-6-2(G) of the City Code; and
- C. B&B Platinum Limo, LLC, has signed a copy of the Operating Certificate indicating acceptance of the provisions set forth therein.

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., 2013, 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:

Price Robinson, Police Chief

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

**CITY OF MIDLAND OPERATING CERTIFICATE FOR
LIMOUSINE BUSINESS**

THIS OPERATING CERTIFICATE is issued to Bryan James Baty (hereafter called "Operator") whose address is 3710 Oakmont, Midland, Texas 79707, pursuant to Title V, Chapter 6 of the Midland City Code, for the purpose of granting to Operator the privilege of operating a limousine business along, across, and over the public streets of the City of Midland, Texas, now laid out or dedicated, and all extensions thereof, subject to the following provisions and conditions:

1. Business Name: The name of the limousine business operated pursuant to this certificate shall be B&B Platinum Limo, LLC.
2. Term: This certificate shall be valid and in effect for five years from the date of issuance indicated below, subject to earlier termination as set forth in the Midland City Code.
3. Suspension of Certificate for Non-Payment: This certificate shall be automatically suspended on March 1 of any year during the term of this certificate if Operator has not paid the annual fee required by Section 5-6-2(G) of the Midland City Code when due, and shall remain suspended until the annual fee is paid.
4. Compliance With All Laws: Operator must at all times operate the above-named limousine business in compliance with all applicable federal, state, and local laws, regulations, and ordinances, including, but not limited to, Title V, Chapter 6 and Title XIII, Chapter 2 of the Midland City Code, as amended from time to time, and this certificate may be revoked by the Midland City Council at any time for Operator's non-compliance with said laws, regulations, or ordinances.
5. Assignability and Transferability: This certificate is personal to the Operator named above and may not be assigned by sale or otherwise to any other person or entity. Any attempt to assign this certificate or any interest in this certificate shall be void and will serve as grounds for termination of this certificate by the City.
6. Airport Privileges: This certificate grants to the Operator the privilege of operating at Midland International Airport, provided that such operations shall not be permitted until Operator has complied with Section 5-6-8 of the Midland City Code.

ISSUED THIS ____ DAY OF _____, 2013.

Amy M. Turner, City Secretary
City of Midland, Texas

ACCEPTANCE

The Operator herein named accepts this Operating Certificate and agrees to abide by all its provisions and all applicable federal, state, and local laws, ordinances, and regulations, including, but not limited to, applicable provisions of the Midland City Code, as amended, and the regulations governing the charging of fares between the City of Midland and the City of Odessa.

Name: _____

Date: _____



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: 7/23/2013

TO: City Council / City Manager

FROM: Holly McGrath-Rosas, Assistant Director of Utilities

SUBJECT: **Consider a Resolution to Reject Any Extension of the Contract Lease Agreement with Mr. W Fireworks, Inc. and Authorizing the City Manager to Give Notice to the Tenant that he Surrender the Property to the City Immediately.**

Purpose:

Consider a resolution approving to reject any extension of the contract lease agreement with Mr. W Fireworks, Inc. and authorizing the City Manager to give notice to that tenant he is to surrender the property to the City immediately.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

No fiscal impact.

Discussion:

The City of Midland purchased the Plant Farm by the Water Pollution Control Plant in 2002. There was an existing contract lease between the previous owner and Mr. W Fireworks, Inc regarding the use of a 100' by 100' area out of a larger 10-acre tract on the North side of Hwy. 158 East in County Block 38. The lease permitted the lessee to continue to sell fireworks on this portion of property for the duration of the contract, which expired in June 2013. The City of Midland does not permit the sale of fireworks within the City limits. The contract has now expired and we now ask the Council to reject any extension of the lease and authorize the City Manager to give notice to that tenant he is to surrender the property to the City immediately.

RESOLUTION NO.

RESOLUTION TERMINATING A LEASE ON A 100' BY 100' AREA OUT OF A LARGER 10-ACRE TRACT OF LAND OUT OF SECTION 8, BLOCK 38, T-2-S, T&P RR COMPANY SURVEY, MIDLAND COUNTY, TEXAS; AND AUTHORIZING THE UTILITIES DEPARTMENT TO GIVE 30 DAYS WRITTEN NOTICE THEREOF TO THE LESSEE, MR. W FIREWORKS, INCORPORATED

WHEREAS, on February 11, 2004, the City of Midland acquired a large parcel of property located east of the City, north of Texas State Highway 158, and south of Interstate 20 (“Property”), as shown on the map attached hereto as Exhibit “A” and incorporated herein for all legal purposes; and

WHEREAS, at the time of the conveyance, a small portion of said Property was subject to a 10-year lease, which the previous owner executed prior to said conveyance, said Lease being attached hereto as Exhibit “B” and incorporated herein for all legal purposes; and

WHEREAS, said Lease expired on June 5, 2013; and

WHEREAS, despite the expiration of the Lease, the lessee sent a rental check, which was received by the Utilities Department in early June, 2013; and

WHEREAS, the City Council finds it to be in the public interest to terminate said Lease, return the rental check to the lessee, and give notice to the lessee to surrender the Property;

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

SECTION ONE. That the City Council hereby terminates said Lease.

SECTION TWO. That the City Council hereby authorizes the Utilities Department to return the rental check to the lessee.

SECTION THREE. That the City Council hereby authorizes the Utilities Department to give written notice to the lessee demanding he surrender the premises within

thirty days.

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., 2013, 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:

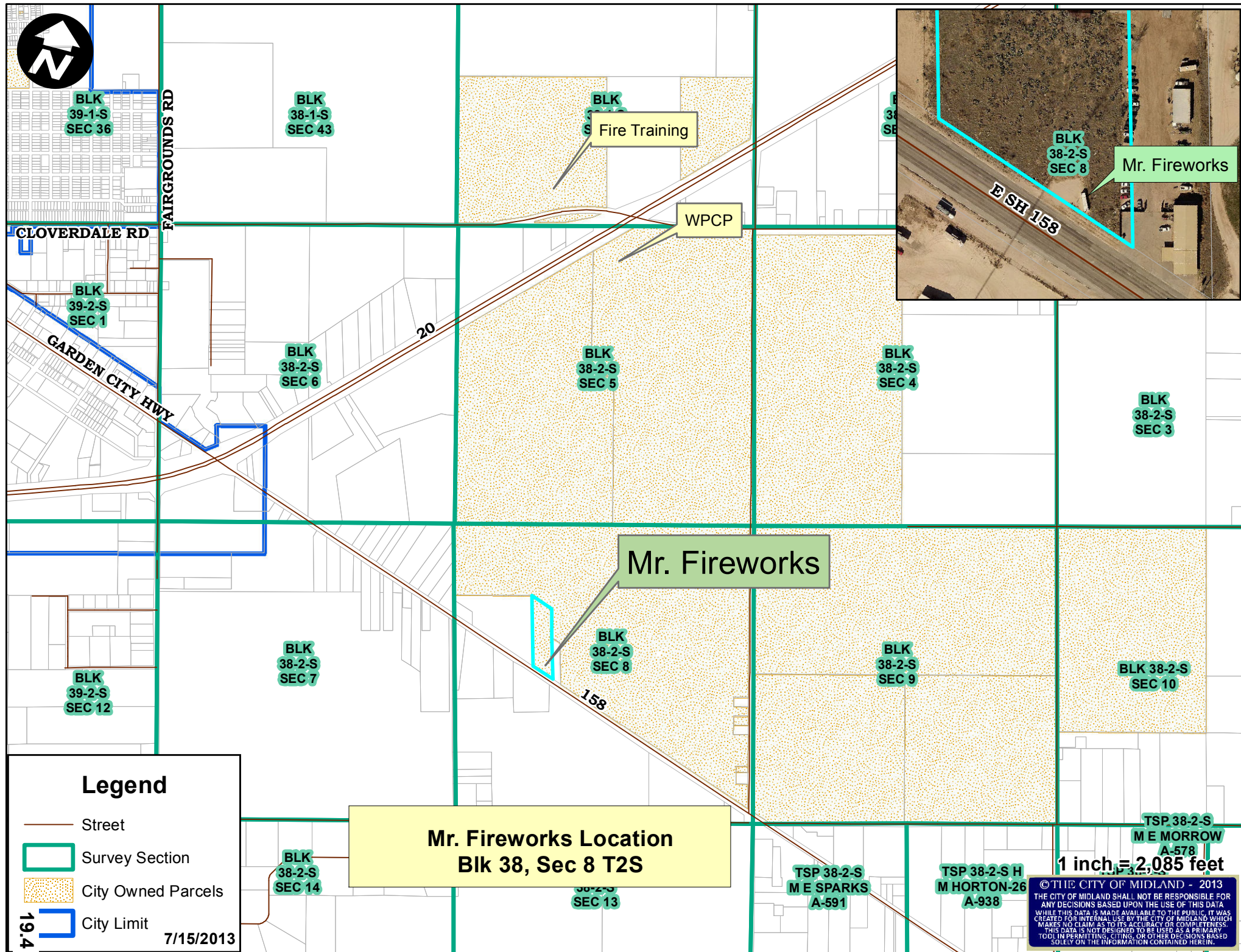
Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Stuart Purvis, Utilities Director

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



CONTRACT FOR LEASE

STATE OF TEXAS
COUNTY OF MIDLAND

KNOW ALL MEN BY THESE PRESENTS: This 4th day of September, 2002 by and between Russell E. Jones - Lessor(s) and MR. W FIREWORKS, INC. - Lessee.

WITNESSETH: That the Lessor(s), for and in consideration of the covenants and agreements hereinafter contained, does, and by these presents, demise, lease and let, for a period of one year with nine consecutive one year options from June 6, 2003, to the Lessee, the following described property, situated in Midland county, State of Texas, to-wit:

a 100' by 100' area out of a larger 10 Ac. tract on the North side of Hwy 158 East in County Block 38 TWP South T&P RR Co., tract 4.

The Lessee, for and in consideration of the use and possession of the above described property, for said period, does hereby agree to pay unto the Lessor(s), the total sum of \$10,000.00 if each year is optioned. Said sum to be paid in the following amounts, at the times herein designated, to-wit:

On the twentieth day of each and every June & December the sum of \$500.00 until the total sum of \$10,000.00 shall have been paid in full. Each year shall be considered optioned providing the rent is paid on or before the above-specified dates.

Lessee is leasing this property for the purpose of selling fireworks from said location, and shall remove same from the property upon the termination of this lease. Lessee shall also have the exclusive privilege to sell fireworks on subject property during the period of this lease and the term granted. In the event the sale of fireworks on the aforementioned property is or shall become unlawful during the period of this lease and the term granted, this lease shall become void and any unused payment be returned.

Lessor(s) agree not to sell or lease any part of said property including any adjoining or contiguous property to any person(s) or corporation for the purpose of selling fireworks in competition to the Lessee during the term of this lease, and for a period of ten years after lease is terminated. Lessor will give Lessee first right of refusal should Lessor decide to sell.

Lessee agrees to hold Lessor(s) free and harmless, and does hereby release said Lessor(s) from any and all damages that may occur by reason of Lessee's occupancy of said property during the period of this lease. Lessee will maintain liability insurance covering its' occupation of the lease premises.

It is further agreed, that at the end of this lease, or sooner termination thereof, Lessee shall give peaceful possession of the premises to the Lessor(s) in as good condition as of now, the usual wear and tear and damages by the elements excepted.

The covenants and agreements of this lease shall extend to and run with the land and be binding upon the heirs, representatives, executor, successors, and assigns of the parties hereto.

DATED this 4 day of SEPTEMBER, 2002.

Signed Russell E. Jones

LESSOR (S)

Mailing Address 4903 CASTLEFORD RD
House # or PO Box street

City state zip
Phone # (915) 6839876 TX 79705

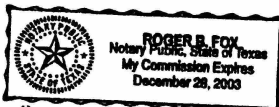
SS# OR EIN 464-82-9324

MR. W FIREWORKS, INC.
LESSEE

Signed Roy B. Fox

Address P.O. Box 114 Somerset, Tx 78069

Phone # (210) 622-3112 1 (800) 364-0136



Acknowledged before me this 4th day of September, 2002

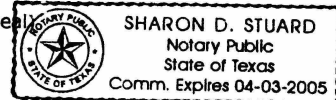
Notary Public

Lessee

Acknowledged before me this 4th day of September, 2002

Sharon D. Stuard

Notary Public





City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: 7/23/2013

TO: City Council / City Manager

FROM: Stuart T. Purvis, Director of Utilities

SUBJECT: Consider a Resolution Authorizing the City Manager to Enter into a Professional Services Agreement with Enprotec/Hibbs & Todd. to Evaluate and Recommend Water and Sewer Rate Adjustments

Purpose:

Consider a Resolution authorizing the City Manager to enter into a Professional Services Agreement with Enprotec/Hibbs & Todd. to evaluate and recommend water and sewer rate adjustments.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

Award amount is \$10,000 from the current budget. Funds are available in the Fiscal Year 2012 – 2013 Water and Sewer Fund (300) Utilities (300) Utilities Administration (0300) Consulting Fees (3450) budget account

Discussion:

Due to the pending departures of the Director of Utilities and Director of Finance, it has become necessary to contract with an outside firm for the development of flow based sewer rates and water rate adjustments. Enprotec Hibbs & Todd has been working with the City for several years on long term water supplies and has proven to be very qualified in what they do.

It is, therefore, recommended that this be approved.

RESOLUTION NO.

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH ENPROTEC/HIBBS & TODD, INCORPORATED, FOR PROFESSIONAL CONSULTATION SERVICES FOR A FEE NOT TO EXCEED \$10,000.00; THIS ITEM WAS NOT BID

WHEREAS, the Council finds it to be in the public interest to execute a professional services agreement with Enprotec/Hibbs & Todd, Inc., for professional consultation services (“Professional Services”); and

WHEREAS, the Council finds Enprotec/Hibbs & Todd, Inc., to be the most highly qualified provider for such Professional Services based on demonstrated competence, knowledge, and qualifications; and

WHEREAS, the Council finds it to be in the public interest to select Enprotec/Hibbs & Todd, Inc., to provide said Professional Services; and

WHEREAS, the Council authorizes the Mayor to execute a professional services agreement with Enprotec/Hibbs & Todd, Inc., for the performance of said Professional Services, said agreement being attached hereto as Exhibit “1” 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 Mayor and City Secretary are hereby authorized and directed to execute and attest, respectively, on behalf of the City of Midland, a professional services agreement with Enprotec/Hibbs & Todd, Inc., for performance of said Professional Services.

SECTION TWO. That the City Treasurer is hereby authorized and directed to make payments to Enprotec/Hibbs & Todd, Inc., for professional services pursuant to the terms of said professional services agreement from funds available in the Fiscal year 2012 - 2013 Water and Sewer Fund (300) Utilities (300) Utilities Administration (0300) Consulting Fees (3450) budget account upon receipt of proper invoice(s) 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., 2013, 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

PROFESSIONAL SERVICES AGREEMENT
FOR PERFORMANCE OF CONSULTATION SERVICES

THIS AGREEMENT is made and effective the 24th day of July, 2013, by and between the CITY OF MIDLAND, TEXAS, a municipal corporation, hereinafter called "City," and ENPROTEC/HIBBS & TODD, INCORPORATED, hereinafter referred to as "Consultant."

ARTICLE I.
PURPOSE

The purpose of this Agreement is to state the terms and conditions under which Consultant shall provide professional consultation services.

ARTICLE II.
SERVICES TO BE PERFORMED

1. Consultant shall provide those services described in Exhibit "A" attached hereto and incorporated herein for all legal purposes.
2. Consultant shall perform all the services under this Agreement consistent with the same level of skill and care as other professionals in approximately the same location at approximately the same point in time and for the same types of projects. Consultant represents that any employee who performs services under this Agreement shall be fully qualified and competent to perform the services described in Exhibit "A."

ARTICLE III.
FINANCIAL CONSIDERATIONS

City agrees to pay Consultant in an amount not to exceed \$10,000.00 for the professional services described in Exhibit "A." City agrees to pay Consultant for Labor, Incidental Direct Costs and Subcontractor Costs as set forth in Exhibit "A" upon presentation of a monthly invoice. The invoice shall set out Labor fees for the month and those Incidental Direct Costs and Subcontractor Costs described in Exhibit "A" incurred during the previous month. The City Manager must approve all additional expenses and reimbursable expenses in advance. Within 30 days of receipt of the monthly invoice, City shall pay the full amount of such invoice; provided, however, that if City objects to any portion of an invoice, City shall notify Consultant of City's objection and the grounds therefor within 30 days of the date of receipt of the invoice, and the parties immediately shall make every effort to settle the disputed portion of the invoice. City in any event shall pay every portion of the invoice that is not in dispute within the 30-day period for payment.

**ARTICLE IV.
TERM**

The term of this Agreement shall be from July 24, 2013, until July 23, 2018, unless the project is completed sooner or the Agreement is terminated as provided below.

**ARTICLE V.
TERMINATION**

Either party may terminate this Agreement at will, for no or any reason, upon giving the other party at least One-Hundred-Eighty (180) days written notice. The parties to this Agreement understand and agree that it is in either party's sole discretion to cancel the Agreement during the term of the Agreement without penalty to the other party. All work and services under this Agreement shall be suspended immediately upon termination of the Agreement becoming effective. The parties have bargained for the flexibility to terminate the Agreement upon giving the requisite notice.

**ARTICLE VI.
CONTRACT PERSONAL**

This Agreement provides for personal or professional services, and the Consultant shall not assign this Agreement, in whole or in part, without the prior written consent of City.

**ARTICLE VII.
OWNERSHIP AND CONFIDENTIALITY OF
DOCUMENTS AND OTHER WORK PRODUCT**

All reports, information and other data ("instruments of service"), given to, prepared or assembled by Consultant under this Agreement, and any other related documents or items shall become the sole property of City and shall be delivered to City, without restriction, except that Consultant may make copies of any and all instruments of service for its files. The City shall not make any modification to the plans and specifications or make them available for use by third parties without the prior written authorization of Consultant, which consent shall not be unreasonably withheld.

**ARTICLE VIII.
INDEPENDENT CONTRACTOR**

It is expressly understood and agreed that Consultant 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 Consultant 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 Consultant, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between City and Consultant. No person performing any of the work and services described hereunder by Consultant 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. Consultant 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 Consultant’s work. Consultant shall assume exclusive responsibility for the work. Consultant is entirely free to do the work in its own way.

ARTICLE IX. INSURANCE

Consultant shall at all times during the term of this Agreement maintain and keep in full force and effect insurance in the following types and minimum amounts with companies authorized to do business in the State of Texas:

Commercial General Liability (including Contractual liability):

- | | |
|-------------------|-------------------------------|
| -Personal Injury: | \$1,000,000.00 per person |
| | \$1,000,000.00 per occurrence |
| -Property Damage: | \$500,000.00 per occurrence |

Business Automobile Liability: \$250,000.00 combined single limit -
Personal Injury and Property Damage

Worker’s Compensation: Statutory limits

Employers’ Liability: \$500,000.00 per accident or occurrence

The Commercial General Liability shall be on a per project aggregate, including completed operations, and shall be on an occurrence basis.

The Business Automobile Liability insurance provided by Consultant shall cover any

auto for bodily injury and property damage, including owned vehicles, hired and non-owner vehicles, and employee non-ownership, and the amount of such policy shall be a minimum of \$250,000.00 covering any vehicle used for the execution of the work that is the subject of this Agreement.

The Workers' Compensation coverage provided by Consultant shall inure to the benefit of employees injured during the course and scope of their employment by Consultant pursuant to this Agreement.

All insurance required pursuant to this Agreement shall provide for a waiver of subrogation in favor of the City. All insurance required pursuant to this Agreement, except for Worker's Compensation Insurance, shall name the City as an additional insured on a claims occurred basis. City shall be provided the notice by Consultant's insurance provider not later than thirty (30) days prior to any reduction or termination of such coverage.

Consultant shall contractually require all Consultants, subcontractors, and sub-subcontractors that work on any portion of the work that is the subject of this Agreement to obtain insurance coverage that meets or exceeds the policy requirements and minimum amounts specified herein. All contractors, subcontractors, and sub-subcontractors shall obtain insurance policies that provide blanket waivers of subrogation in favor of the City of Midland and policies that name the City of Midland as an additional insured on a claims occurred basis (except workers compensation).

The parties agree that, prior to the execution of the Agreement, Consultant shall provide one or more certificates of insurance specifically stating that these requirements have been met and subject to the approval of the City. The City shall not be required to provide any insurance whatsoever pursuant to this Agreement.

The Consultant certifies that the certificate of insurance provided as required herein complies with the requirements of Senate Bill 425, passed during the 82nd regular session of the Texas Legislature, and effective January 1, 2012.

ARTICLE X. ATTORNEY FEES

BY EXECUTING THIS AGREEMENT, CONSULTANT 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 CONSULTANT SPECIFICALLY AGREES THAT IF THE CONSULTANT 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 CONSULTANT AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH CONSULTANT MIGHT OTHERWISE BE ENTITLED.

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

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

ARTICLE XI. SOVEREIGN IMMUNITY

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

ARTICLE XII. NO THIRD PARTY BENEFICIARIES

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.

ARTICLE XIII. RELEASE

NOTWITHSTANDING ANY OTHER PROVISIONS, CONSULTANT 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 CONSULTANT 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.

**ARTICLE XIV.
GENERAL PROVISIONS**

A. Waiver. No waiver by City of a breach of any covenant, condition, or restriction of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other covenant, condition, or restriction contained in this Agreement.

B. Governing Law and 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.

C. Notice. Any notice or demand that shall be made regarding this Agreement, shall be made in writing and delivered either in person or by certified or registered mail. Notice by mail shall be complete upon deposit of the paper, postage prepaid, in a post office or official depository under the care and custody of the United States Postal Service addressed as follows:

If to City:	City Manager's Office P.O. Box 1152 Midland, Texas 79702
-------------	--

If to Consultant:	Scott F. Hibbs, PE Enprotec/Hibbs & Todd, Inc. PO Box 3097 Abilene, Texas, 79601
-------------------	---

The parties hereto may change the above designated addresses by giving notice pursuant to

the terms of this Section.

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

E. Use of Language. Words in the singular shall be held to include the plural, unless the context otherwise requires.

F. Amendments, Modifications, Alterations. No amendment, modification, or alteration of the terms of this Agreement shall be binding unless it is in writing, dated subsequent to the date of this Agreement, and duly executed by the parties to this Agreement.

G. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed as original, and all of which shall constitute one and the same instrument.

H. Prompt Pay Act - The City and Contractor agree that Texas Government Code, Chapter 2251, Payment for Goods and Services (the "Prompt Pay Act") does not waive governmental immunity.

I. Federal Wage Requirements - If applicable, the Davis-Bacon Act, 29 CFR 5.5, and any related acts or regulations are hereby incorporated by reference and made a part of this Agreement, and all terms and requirements under said laws, by such incorporation, are made terms and requirements of this Agreement, to which the parties to this Agreement have agreed to be bound.

ARTICLE XV. 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, Consultant 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 Consultant will settle, the physical and mailing addresses of Consultant at the time and date the claim was presented and the physical and mailing addresses of Consultant for the six months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom the Consultant 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 Consultant that Consultant'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, Consultant's failure to comply with the requirements herein shall perpetually bar Consultant'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. Consultant agrees that the requirements of this entire Agreement are reasonable.

ARTICLE XVI. ASSIGNMENT

Consultant 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.

EXECUTED IN DUPLICATE the day and year first above mentioned.

THE CITY OF MIDLAND, TEXAS

By: _____
W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

Consultant :
ENPROTEC/HIBBS & TODD, INC.

By: _____

Title: _____

STATE OF _____ §
COUNTY OF _____ §

BEFORE ME, the undersigned authority, on this day personally appeared _____
_____ known to me to be the person whose name is subscribed to the foregoing
instrument and acknowledged to me that he executed the same for the purposes and
consideration therein expressed on behalf of ENPROTEC/HIBBS & TODD, INC.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS _____ day of
_____, A.D., 2013.

Notary Public, State of _____

Printed Name

My Commission Expires: _____



July 11, 2013

Mr. Courtney Sharp, City Manager
City of Midland
300 N Loraine
Midland, Texas 79701-4725

Re: Utility Rate Analysis

Dear Mr. Sharp:

Enprotec / Hibbs & Todd, Inc. (eHT) in association with Water Resources Management, LLC (WRM) is pleased to have the opportunity to assist the City of Midland (City) in facilitating knowledge sharing meetings focused on the water and wastewater utility. With the upcoming departure of the City's Utility Director it is critical that the City maintain the financial integrity of the water and wastewater utility during this transition. The primary goal of this engagement will be to gain an understanding of the water and wastewater department operations as related to past financial decisions regarding water and wastewater rates, funding decisions and future plans including potential future water supply development. The eHT/WRM project team will meet with the City's current utility management to proactively learn about the history and management practices of the water and wastewater department. The scope of services and tasks associated with this project are listed below.

1. Conduct one-on-one and group meetings, over a 2-3 day period, with key water and wastewater leadership staff regarding the following topics:
 - ▴ Clarification of project goals and objectives,
 - ▴ Understanding the operation of the City's water and wastewater system,
 - ▴ Outlining current management practices specifically regarding financial planning and decision making,
 - ▴ Identifying critical financial and operational documents and gaps in documentation, if any and,
 - ▴ Evaluating current water and wastewater rate setting procedures including customer usage discussions.
2. Using the results of the meetings, eHT/WRM will outline the findings and issue recommendations in an assessment memo.

Environmental, Civil & Geotechnical Engineers

Abilene Office
402 Cedar
Abilene, Texas 79601
P.O. Box 3097
Abilene, Texas 79604
325.698.5560 | 325.691.0058 fax

Lubbock Office
6310 Genoa Avenue, Suite E
Lubbock, Texas 79424
806.794.1100 | 806.794.0778 fax

Granbury Office
2901 Glen Rose Hwy, Suite 107
Granbury, Texas 76048
817.579.6791 | 817.579.8491 fax

Plano Office
One Preston Park
2301 Ohio Drive, Suite 105
Plano, Texas 75093
972.599.3480 | 972.599.3513 fax

www.e-ht.com

PG Firm Registration No. 50103
PE Firm Registration No. 1151



Mr. Courtney Sharp
July 11, 2013
Page 2

The final deliverable will include a summary of the City's water and wastewater operational and management practices related to financial planning, as well as an evaluation of the City's current rate setting procedures along with recommendations for the refinement of those procedures to ensure the financial integrity of the City's water and wastewater operation for the next fiscal year.

Anticipated fees for the conduct of this engagement, as described herein are projected to **not exceed \$10,000.**

WRM bills clients on an hourly basis plus any out of pocket expenses incurred at cost. Therefore, if the project takes fewer than the estimated hours to complete, the total professional fees charged would be less than the estimated amount. Any additional work on this project outside of the established scope of services, and requested by the City, will be billed at WRM's standard hourly rate as listed below or as negotiated at the time.

Bill Riley, Project Manager	\$220 / hour
Robert Gadbois, P.E.	\$220 / hour
Nelisa Heddin, Lead Analyst	\$195 / hour
Kelly Condon	\$180 / hour
Administrative Support	\$ 50 / hour

eHT proposes that compensation for these services be on an hourly basis for actual hours worked based on the attached Schedule of Charges. The Schedule of Charges is updated beginning January 1 of each year. We appreciate the opportunity to provide these services on behalf of the City of Midland.

Sincerely,

Enprotec / Hibbs & Todd, Inc.

Scott F. Hibbs, PE

Attached: Schedule of Charges (2013)

ACCEPTED:

City of Midland, Texas

By: _____

Title: _____

Enprotec / Hibbs & Todd, Inc.
CURRENT HOURLY CHARGES FOR PROFESSIONAL SERVICES

Charges include all salaries, salary expense, overhead, and profit.

Principal	\$ 180.00 per hour
Senior Project Manager	150.00 per hour
Senior Engineer / Geologist / Project Manager.....	135.00 per hour
Project Engineer / Geologist	120.00 per hour
Senior Engineering Technician	115.00 per hour
Staff Engineer / Geologist.....	105.00 per hour
RPLS I	125.00 per hour
RPLS II	90.00 per hour
Operations Specialist / Regulatory Compliance Specialist	110.00 per hour
Engineering Technician I	95.00 per hour
Engineering Technician II	80.00 per hour
Engineering Technician III	70.00 per hour
CMT Tech I	50.00 per hour
CMT Tech II	45.00 per hour
Environmental Tech I	85.00 per hour
Environmental Tech II	70.00 per hour
Survey Tech I.....	60.00 per hour
Survey Tech II.....	45.00 per hour
CAD I	85.00 per hour
CAD II	75.00 per hour
Secretarial.....	50.00 per hour
Survey Party Conventional	140.00 per hour - 3 man
.....	120.00 per hour - 2 man
GPS Survey Party	155.00 per hour

Our survey parties come equipped with surveying equipment appropriate for the job before them. No separate charges are made for use of electronic distance measuring devices, theodolites, vehicles, radios, etc.

Expense Items

Consultants, Contractors & Supplies	Cost plus 10%
Blue Line Prints.....	2.50 per copy
Film Sepias	10.00 per copy
Travel (out of town only)	Current IRS rate per mile
Lodging and meals (out of town trips)	Actual cost



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: 7/23/2013

TO: City Council / City Manager

FROM: Gary Saunders, Transportation Manager

SUBJECT: Consider an ordinance on second reading prohibiting parking between 7:30 A.M. and 4:30 P.M. on school days only upon portions of certain streets in the vicinity of Henderson Elementary School; except to residents whose property abuts such streets and have obtained a valid parking permit.

Purpose:

Consider an ordinance on second reading prohibiting parking between 7:30 A.M. and 4:30 P.M. on school days only upon portions of certain streets in the vicinity of Henderson Elementary School; except to residents whose property abuts such streets and have obtained a valid parking permit.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

Approximately \$6,525.00 for installation cost of signs and posts including materials, equipment and labor.

Discussion:

The City of Midland has received a petition requesting prohibited parking between 7:30 A.M. and 4:30 P.M. on school days only upon portions of certain streets in the vicinity of Henderson Elementary School; except to residents whose property abuts such streets and have obtained a valid parking permit.

Streets included in this parking restriction are as follows:

On the north side of Graceland Drive from the north/south alley west of Bentwood Drive continuing east 921' to the north south alley east of Erie Drive.

On the west side of Bentwood Drive from the centerline of Graceland Drive continuing north a distance of 368'.

On the east side of Bentwood Drive from the centerline of Graceland Drive continuing north a distance of 398'.

On the west side of Wilshire Drive from the centerline of Graceland Drive continuing north a distance of 372'.

On the east side of Wilshire Drive from the centerline of Graceland Drive continuing north a distance of 271'.

On the west side of Erie Drive from the centerline of Graceland Drive continuing north a distance of 238'.

On the east side of Erie Drive from the centerline of Graceland Drive continuing north a distance of 397'.

This parking restriction has been requested by adjacent property owners due to the saturation of adjacent parking during school hours and on school days.

Attached is a map indicating location of the proposed parking restriction.

ORDINANCE NO.

AN ORDINANCE PROHIBITING PARKING BETWEEN 7:30 A.M. AND 4:30 P.M. ON SCHOOL DAYS ONLY UPON PORTIONS OF CERTAIN STREETS IN THE VICINITY OF HENDERSON ELEMENTARY SCHOOL DESCRIBED AS ON THE NORTH SIDE OF GRACELAND DRIVE FROM THE NORTH SOUTH ALLEY WEST OF BENTWOOD DRIVE CONTINUING EAST A DISTANCE OF 921 FEET TO THE NORTH SOUTH ALLEY OF ERIE DRIVE, AND FROM THE WEST SIDE OF BENTWOOD DRIVE FROM THE CENTERLINE OF GRACELAND DRIVE CONTINUING NORTH A DISTANCE OF 368 FEET, AND ON THE EAST SIDE OF BENTWOOD DRIVE FROM THE CENTERLINE OF GRACELAND DRIVE CONTINUING NORTH A DISTANCE OF 398 FEET, AND ON THE WEST SIDE OF WILSHIRE DRIVE FROM THE CENTERLINE OF GRACELAND DRIVE CONTINUING NORTH A DISTANCE OF 372 FEET, AND ON THE EAST SIDE OF WILSHIRE DRIVE FROM THE CENTERLINE OF GRACELAND DRIVE CONTINUING NORTH A DISTANCE OF 271 FEET, AND ON THE WEST SIDE OF ERIE DRIVE FROM THE CENTERLINE OF GRACELAND DRIVE CONTINUING NORTH A DISTANCE OF 238 FEET, AND ON THE EAST SIDE OF ERIE DRIVE FROM THE CENTERLINE OF GRACELAND DRIVE CONTINUING NORTH A DISTANCE OF 397 FEET EXCEPT TO RESIDENTS WHOSE PROPERTY ABUTS SUCH STREET AND HAVE OBTAINED A VALID PARKING PERMIT; AUTHORIZING AND DIRECTING THE TRAFFIC ENGINEER TO ERECT APPROPRIATE SIGNS; DECLARING ANY VEHICLE IN VIOLATION OF THE PROVISIONS OF THIS ORDINANCE A NUISANCE AND PROVIDING FOR THE REMOVAL OF SAME; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO HUNDRED DOLLARS (\$200.00); AND ORDERING PUBLICATION

WHEREAS, the Council finds that in order to expedite the orderly flow of traffic, to eliminate traffic congestion, to promote traffic safety, and to preserve the residential character of neighborhoods in the area of certain streets in the vicinity of Henderson Elementary School, it is in the public interest to regulate and restrict parking in the manner and on the portions of those streets described herein;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIDLAND:

SECTION ONE. That on any of the streets or places described in Section Two hereof, no person shall stop, stand or park a motor vehicle between the hours of 7:30 a.m and 4:30 p.m on school days. However, the owner or operator of a motor vehicle who resides on property immediately adjacent to said street or place and who has affixed to such vehicle a

valid parking permit issued pursuant to the provisions of this ordinance shall not be prohibited from parking on any of the streets or places described in Section Two between the hours of 7:30 a.m and 4:30 p.m on school days. It shall be an exception to the provisions of this ordinance that such person stopped or parked said vehicle because it was necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic control device.

SECTION TWO. The streets or places which are restricted by the terms of this ordinance are as follows:

- a. Graceland Drive – on the north side of Graceland Drive from the north south alley west of Bentwood Drive continuing east a distance of 921 feet to the north south alley of Erie Drive.
- b. Bentwood Drive – on the west side of Bentwood Drive from the centerline of Graceland Drive continuing north 368 feet; on the east side of Bentwood Drive from the centerline of Graceland Drive continuing north a distance 398 feet.
- c. Wilshire Drive – on the west side of Wilshire Drive from the centerline of Graceland Drive continuing north a distance of 372 feet; on the east side of Wilshire Drive from the centerline of Graceland Drive continuing a north a distance of 271 feet.
- d. Erie Drive – on the west side of Erie Drive from the centerline of Graceland Drive continuing north a distance of 238 feet; on the east side of Erie Drive from the centerline of Graceland Drive continuing north a distance of 397 feet.

SECTION THREE. A parking permit shall be issued by the Chief of Police or his designee upon application and payment of the fee authorized in Section Four hereof, only to the owner or operator of a motor vehicle who resides on property immediately adjacent to the street or place described in Section Two hereof.

SECTION FOUR. The Chief of Police is authorized to establish an annual residential parking permit fee to cover only the administrative costs of permits issued pursuant to the provisions of this ordinance.

SECTION FIVE. That all existing ordinances, or any part thereof, in conflict with this ordinance are hereby expressly repealed.

SECTION SIX. The repeal of the ordinances, or parts of ordinances, effectuated by the enactment of this ordinance shall not be construed as abating any actions pending under or by virtue of such ordinances; or as discontinuing, abating, modifying or altering any penalty accruing or to accrue; or as affecting the liability of any person, firm or corporation; or as waiving any right of the municipality under any section or provision existing at the time

of the passage of this ordinance.

SECTION SEVEN. That in the event any vehicle shall be found parked in violation of the provisions of this ordinance, the same shall be a nuisance per se, and shall be removed by any police officer and taken to some place designated by the Chief of Police for such purpose, and be kept by such officer until the application for its redemption shall be made by the owner or his duly authorized agent, who shall be entitled to the possession thereof upon payment to the City of Midland of the charges specified in Section 2 of Chapter 3 of Title VI of the City Code of Midland, Texas. In the event any vehicle so impounded should not be redeemed by the owner or his duly authorized agent after notice as provided in Section 4 of Chapter 3 of Title VI of said Code, then such vehicle shall be disposed of in accordance with Sections 3 and 8 of Chapter 3 of Title VI of said Code.

SECTION EIGHT. When any vehicle is parked in violation of the provisions of this ordinance, such fact shall be prima facie evidence that the person in whose name said vehicle is registered is guilty of a violation of the parking provision herein contained.

SECTION NINE. That the Traffic Engineer is hereby authorized and directed to erect appropriate signs and markings at the designated locations, in conformance with the State Highway Department's manual and specifications, where applicable, indicating and carrying out the provisions of this ordinance.

SECTION TEN. 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 ELEVEN. 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 TWELVE. 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 hundred dollars (\$200.00).

SECTION THIRTEEN. 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., 2013; 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., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

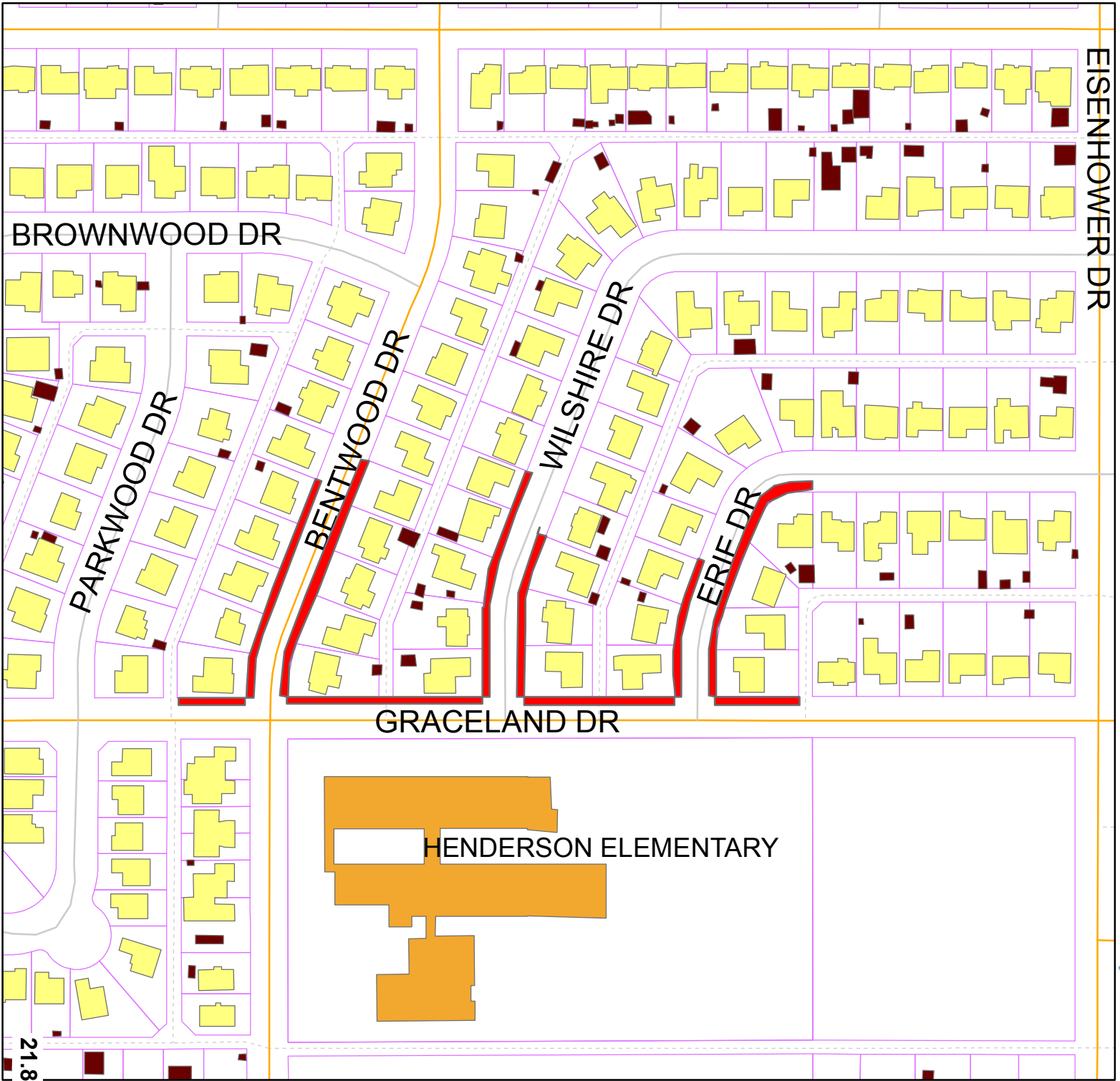
Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Gary Saunders, Transportation Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



 Proposed parking
by permit only



From: Courtney Sharp
Sent: Friday, April 19, 2013 8:25 AM
To: Amy Turner; Sara Higgins
Subject: FW: Henderson Parking Permit

Amy

Can you include this email with the agenda or forward it to City Council?

cs

From: Ryder Warren [<mailto:ryder.warren@midlandisd.net>]
Sent: Friday, April 19, 2013 8:21 AM
To: Wes Perry; Courtney Sharp
Subject: Fwd: Henderson Parking Permit

Wes and Courtney,

Hope you've had a great week. This is just a FYI for you - I am planning on attending your next city council meeting...I believe it is set for next Tuesday, and I did not want to surprise anyone with my attendance. It has been brought to my attention that the council will be considering altering parking processes around one of our elementary schools - Henderson Elementary. I asked my police chief (David Colburn) and our building principal of Henderson (Geta Mitchell) to submit some talking points about our concerns regarding parking permits, and those are listed below. If you would like to disseminate this to the other council members, please feel free to do so.

Thanks for everything and I'll see you on Tuesday.

Ryder

Dr. Ryder Warren, Superintendent
Midland Independent School District
615 West Missouri Ave.
Midland, Texas 79701
(432) 689-1000
ryder.warren@midlandisd.net

----- Forwarded message -----

From: **David Colburn** <dcolburn@midlandisd.net>
Date: Thu, Apr 18, 2013 at 10:34 AM
Subject: Fwd: Henderson Parking Permit
To: Ryder Warren <ryder.warren@midlandisd.net>, Henderson--Geta Mitchell <gmitchell@midlandisd.net>

On Thu, Apr 18, 2013 at 9:50 AM, Geta Mitchell <gmitchell@midlandisd.net> wrote:
Please change or alter anything that you feel might need tweaking :)

Henderson Elementary Parking Permit Concerns

1. Parents with disabled students use the front curb are directly across from the front door to bring their children to school. We have 3 Life Skills units with 22 kids who need this close proximity for drop off and pick up. While we have 2 handicap parking spaces, they are used by our Foster Grandparents.
2. By routing all traffic to the west side of the school we will be looking at extending our dismissal to at least 3:45 whereas at this point we are traffic free by 3:30.
3. A major concern is that parents will stop in the middle of the road and expect their kids to get in the car. If we are all on the west side of the building taking care of dismissal with classes and the "walkers" go to the front of the building there will not be the supervision to watch students and make sure this doesn't happen.
4. We encourage parent involvement and if we take away a parents access to easily get into the building they will be likely to not be involved.
5. We do have various activities during the year that parents attend such as, Spirit Days, parties, Awards, and special lunches. Our parents are already struggling with having to park several blocks away when we have a large crowd. I fear this would make our attendance drop at these events.
6. Our 2 crossing guards who park next to their crosswalk would have to park at least 5 houses away. When the weather is cold, snowing, rainy or even windy they will sit inside their vehicle until a child approaches. They would then be forced to endure the elements without a break.
7. Selfishly, I am worried about the complaints that teachers and myself will endure if we have to help enforce this. Our teachers who already have an enormous job will now be subject to the anger of parents who are effected and be required to be traffic patrol as well.
8. If the ordinance passes, it opens the door for any other elementary school parent to request the same treatment at their school.
9. The enforcement of the ordinance could be difficult as both MISDPD and MPD resources are stretched. There would most likely be daily violations. This would require an officer to be stationed at the school daily to enforce the ordinance. Not feasible.

--

Geta Mitchell
Principal
Henderson Elementary
[432-689-1801](tel:432-689-1801)

--

David Colburn
Chief of Police
Midland ISD
Office - [432-689-1077](tel:432-689-1077)
Cell - [432-967-3901](tel:432-967-3901)

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City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: July 23, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Ken Van Dyne, Acting Planning Division Manager

SUBJECT: Consider an ordinance on second reading on a request by Grassland 2 Development Company, LLP for a zone change from PD, Planned District for a Housing Development to an Amended Planned District for a Housing Development on a 5.32-acre tract of land (Tract 1) and from 1F-1, One-Family Dwelling District to 1F-2, One-Family Dwelling District on a 5.35-acre tract of land (Tract 2). (Generally located at the east side of State Hwy 158 and at the west extension of Mosswood Drive.)

Purpose:

Consider an ordinance on second reading on a request by Grassland 2 Development Company, LLP for a zone change from PD, Planned District for a Housing Development to an Amended Planned District for a Housing Development on a 5.32-acre tract of land (Tract 1) and from 1F-1, One-Family Dwelling District to 1F-2, One-Family Dwelling District on a 5.35-acre tract of land (Tract 2). City Council has approved this ordinance on first reading on July 9, 2013, and no changes have been made since that date.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

No City funds are required to process this request.

Discussion:

The applicant's property is located on the east side of State Highway 158, about a half mile north of State Highway 191, and at the west extension of Mosswood Drive. A 197-acre Preliminary Plat of Grassland Estates West, Section 9, was approved by both the Planning and Zoning Commission and City Council earlier this year. A smaller portion of that Preliminary Plat has been annexed and zoned by the City Council as PDHD,

Planned District for a Housing Development and 1F-1, One-Family Dwelling District. The applicant wishes to amend a 5.32 acre-tract of the PD's underlining zoning from 1F-1 to 1F-2 (lots south of the west extension of Mosswood Drive), and to rezone a 5.35 acre-tract of the 1F-1 zoning district to a 1F-2 zoning district (lots north of the west extension of Mosswood Drive) to better serve market demand as prospective buyers are not willing to invest in bigger lots backing towards a state highway, and instead, desire smaller lot sizes.

ORDINANCE NO. _____

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 5.32-ACRE TRACT OF LAND WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT, TO BE USED AS AN AMENDED PLANNED DISTRICT FOR A HOUSING DEVELOPMENT; BY PERMITTING A 5.35-ACRE TRACT OF LAND WHICH IS PRESENTLY ZONED 1F-1, ONE-FAMILY DWELLING DISTRICT, TO BE USED AS A 1F-2, ONE-FAMILY DWELLING DISTRICT; SAID TRACTS BEING OUT OF SECTION 35, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF STATE HIGHWAY 158 AND AT THE WEST EXTENSION OF MOSSWOOD 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, 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 an Amended Planned District for a Housing Development and a 1F-2, One-Family Dwelling 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 PD, Planned District for a Housing Development, and it shall be used as an Amended Planned District for a

Housing Development, said property being described as follows:

A 5.32-acre tract of land out of Section 35, Block 40, 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.

Special Conditions and Restrictions:

1. That the Amended Planned District for a Housing Development described herein shall be subject to regulations of the 1F-2, One-Family Dwelling District.
2. That all remaining conditions of City of Midland Ordinance Nos. 9088 and 9091 not otherwise amended by this ordinance shall remain in full force and effect.

SECTION TWO. 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 1F-1, One-Family Dwelling District, and it shall be used as a 1F-2, One-Family Dwelling District, said property being described as follows:

A 5.35-acre tract of land out of Section 35, Block 40, 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 “B”, which is attached hereto and incorporated herein.

SECTION THREE. 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 FOUR. 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 FIVE. 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 SIX. 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 SEVEN. 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., 2013; 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., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

WEST COMPANY

of Midland Inc.

110 W. Louisiana Ave. Suite. 110
MIDLAND TEXAS 79701-3414
OFFICE (432) 687-0865 FAX (432) 687-0868
www.team-west.com

May 13, 2013

FIELD NOTES OF A 5.32 ACRE TRACT OF LAND OUT OF SECTION 35, BLOCK 40, T-1-S, T & P RR. CO. SURVEY, MIDLAND COUNTY, TEXAS:

NOTE: All bearings, distances, coordinates, and area's shown hereon are based upon the Texas Coordinate System, Texas Central Zone, NAD83.

BEGINNING at (N=10,695,287.62', E=1,725,112.33') a point in the Southwest corner of Grassland Estates West, Section 7, as recorded in Cabinet "I", Page 104, Midland County Plat Records and in the Northern right-of-way of State Highway No. 158, for the Southeast corner this tract;

THENCE N 59°04'48" W, along the Northern right-of-way of State Highway No. 158, 1447.58 feet to a point (N=10,696,031.45', E=1,723,870.47') for the Southwest corner this tract;

THENCE N 30°55'48" E, 160.12 feet to a point for a corner this tract;

THENCE S 59°04'48" E, 1447.58 feet to a point in the Western boundary of said Grassland Estates West, Section 7 for the Northeast corner this tract;

THENCE S 30°55'12" W, along the Western boundary of said Grassland Estates West, Section 7, 160.12 feet to the Place of Beginning and containing 5.32 acres of land.

Grassland Estates West, Section 9
Grassland 2 Dev. Co., LLP
PDHD-1F-2 Zoning Request
Job No. 2013-0157

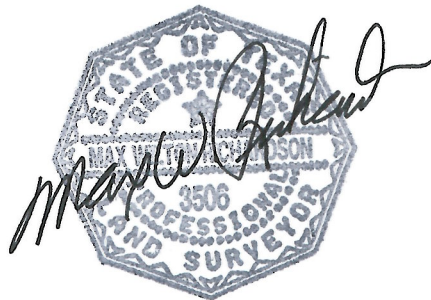


EXHIBIT A

CASE NO. 2-13-019

WEST COMPANY

of Midland Inc.

110 W. Louisiana Ave. Suite. 110
MIDLAND TEXAS 79701-3414
OFFICE (432) 687-0865 FAX (432) 687-0868
www.team-west.com

May 13, 2013

FIELD NOTES OF A 5.35 ACRE TRACT OF LAND OUT OF SECTION 35, BLOCK 40, T-1-S, T & P RR. CO. SURVEY, MIDLAND COUNTY, TEXAS:

NOTE: All bearings, distances, coordinates, and area's shown hereon are based upon the Texas Coordinate System, Texas Central Zone, NAD83.

BEGINNING at (N=10,695,424.98', E=1,725,194.60') a point in the Southwest corner of Grassland Estates West, Section 7, as recorded in Cabinet "I", Page 104, Midland County Plat Records, for the Southeast corner this tract;

THENCE N 59°04'48" W, 1447.56 feet to a point (N=10,696,168.80', E=1,723,952.77') for the Southwest corner this tract;

THENCE N 30°55'48" E, 30.00 feet to a point for a corner this tract;

THENCE N 21°12'11" E, 121.75 feet to a point for a corner this tract;

THENCE N 30°55'12" E, 10.00 feet to a point for the Northwest corner this tract;

THENCE S 59°04'48" E, 1468.10 feet to a point in the Western boundary of said Grassland Estates West, Section 7 for the Northeast corner this tract;

THENCE S 30°55'12" W, along the Western boundary of said Grassland Estates West, Section 7, 160.00 feet to the Place of Beginning and containing 5.35 acres of land.

Grassland Estates West, Section 9
Grassland 2 Dev. Co., LLP
1F-1 To 1F-2 Zoning Request
Job No. 2013-0157

Marcus 5/28/13




EXHIBIT B

CASE NO. 2-13-019

PLANNING AND ZONING COMMISSION

June 17, 2013

CASE: Z-13-019.

REQUEST: Hold a public hearing and consider a request for a zone change from PD, Planned District for a Housing Development to an Amended Planned District for a Housing Development on a 5.32-acre tract of land (Tract 1) and from 1F-1, One-Family Dwelling District to 1F-2, One-Family Dwelling District on a 5.35-acre tract of land (Tract 2).

APPLICANT: Grassland 2 Development Company, LLP.

OWNER: SBC Corporation.

REPRESENTATIVE: West Company of Midland, Inc.

LEGAL DESCRIPTION: Section 35, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas.

LOCATION: Generally located at the east side of State Hwy 158 at the west extension of Mosswood Drive.

CURRENT ZONING: PDHD, Planned District for a Housing Development and 1F-1, One-Family Dwelling District.

DETAILS OF REQUEST:

1. The Planning and Zoning Commission approved the Preliminary Plat for Grassland Estates West, Section 9, on January 14, 2013. The 197-acre subdivision was also approved by the City Council on February 12, 2013. A majority of this subdivision is located outside the City limits, but a smaller portion of that plat has been annexed and zoned by the City Council. This area is zoned PDHD, Planned District for a Housing Development, and 1F-1, One-Family Dwelling District. The Planned District, with an underlining zoning of 1F-1, is essentially in place because the area abuts State Highway 158, and therefore requires a common area with a screening fence. The front yard setback is also reduced to 15' instead of the usual 25'. The applicant wishes to amend a 5.32 acre-tract of the PD's underlining zoning from 1F-1 to 1F-2 (lots south of the west extension of Mosswood Drive), and wants to rezone a 5.35 acre-tract of the 1F-1 zoning district to a 1F-2 zoning district (lots north of the west extension of Mosswood Drive), both in order to obtain smaller lots to better serve market demand.

SURROUNDING ZONING AND LAND USE:

2. This applicant's property is northeast of State Highway 158 and approximately a half mile north of State Highway 191. To the north of this proposed subdivision, the property abuts the future extension of Wadley Avenue and then the Country Sky neighborhood. Midland's Extra Territorial Jurisdiction (ETJ) lies to the west. To the southeast is the Grassland Estates West 7th subdivision zoned both PDHD, Planned District for a Housing Development, and 1F-1, One-Family Dwelling District. To the east, the property is bounded by the Grassland Estates 16th subdivision, zoned AE, Agricultural Estate District, location of the Nueva Vista Golf Course.

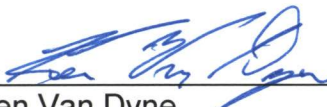
ANALYSIS:

3. During the initial zoning of the annexed property, the developer had requested the zoning districts for this area to be PDHD and 1F-1 for residential development. Currently, however, the developer is incurring a negative impact of some lots backing onto State Highway 158. Prospective buyers are not willing to invest in bigger lots backing towards a state highway, and instead, desire smaller lot sizes. Thus, in order to accommodate for and better serve this residential demand, the applicant wishes to amend the underlining zoning of the Planned District from 1F-1 to 1F-2, and change a portion of the 1F-1 district to a 1F-2. For this reason, we find the zone change request to be reasonable.

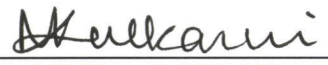
STAFF RECOMMENDATION:

Staff recommends approval of this request for a zone change from PD, Planned District for a Housing Development to an Amended Planned District for a Housing Development on a 5.32-acre tract of land (Tract 1) and from 1F-1, One-Family Dwelling District to 1F-2, One-Family Dwelling District, on a 5.35-acre tract of land (Tract 2), subject to the following conditions:

- A. That the underlining zoning classification of the amended PD be subject to 1F-2, One-Family Dwelling District.
- B. That all remaining conditions of Ordinances 9088 and 9091 not otherwise amended by these conditions shall remain in place.



Ken Van Dyne
Acting Planning Division Manager
Department of Development Services



Madhuri Kulkarni, City Planner
Department of Development Services

Attachments:

Application
Maps

ase Number 2-13-019

CITY OF MIDLAND
Planning Division

APPLICATION TO CHANGE ZONING CLASSIFICATION

<u>Grassland 2 Dev. Co., LLP</u>	<u>697-9866</u>
Applicant Name	(Phone/e-mail)
<u>P.O. Box 80246</u> <u>Midland, Texas</u>	<u>79708</u>
Address	Zip Code
<u>SBC Corporation</u>	<u>522-2040</u>
Property Owner Name	(Phone/e-mail)
<u>P.O. Box 10132</u> <u>Midland, Texas</u>	<u>79702</u>
Address	Zip Code
<u>West Company of Midland Inc.</u>	<u>697-0865</u>
Representative Name	(Phone/e-mail)
<u>110 W. Louisiana, Suite 110</u> <u>Midland, Texas</u>	<u>79701</u>
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. 10.67 Ac. Tr. out of Section 35, Block 40, T15, T&P R&G.

PRESENT ZONE: PDHD 1F-1 REQUESTED ZONE: PDHD 1F-2
(List by tracts if more than one district is requested)

Reason for Zone Change Request: To better serve residential demand.

Present Use of Property: Vacant

Proposed Use of Property: Residential

How will zone change affect the public health, safety and welfare? None

Describe how conditions affecting the property have changed since present zoning designation:
Residential lot requests.

Is a Specific Use Permit with Term for alcoholic beverages sales needed? Yes ☒ No

2013-0157

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: _____

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

Max W. Richardson who, being by me duly sworn, upon oath says: That (s)he is authorized by Grassland 2 Dev. Co., LLP & SBC Corporation, 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.

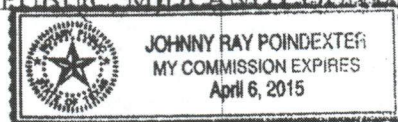
Max W. Richardson

Authorized Agent (signature)

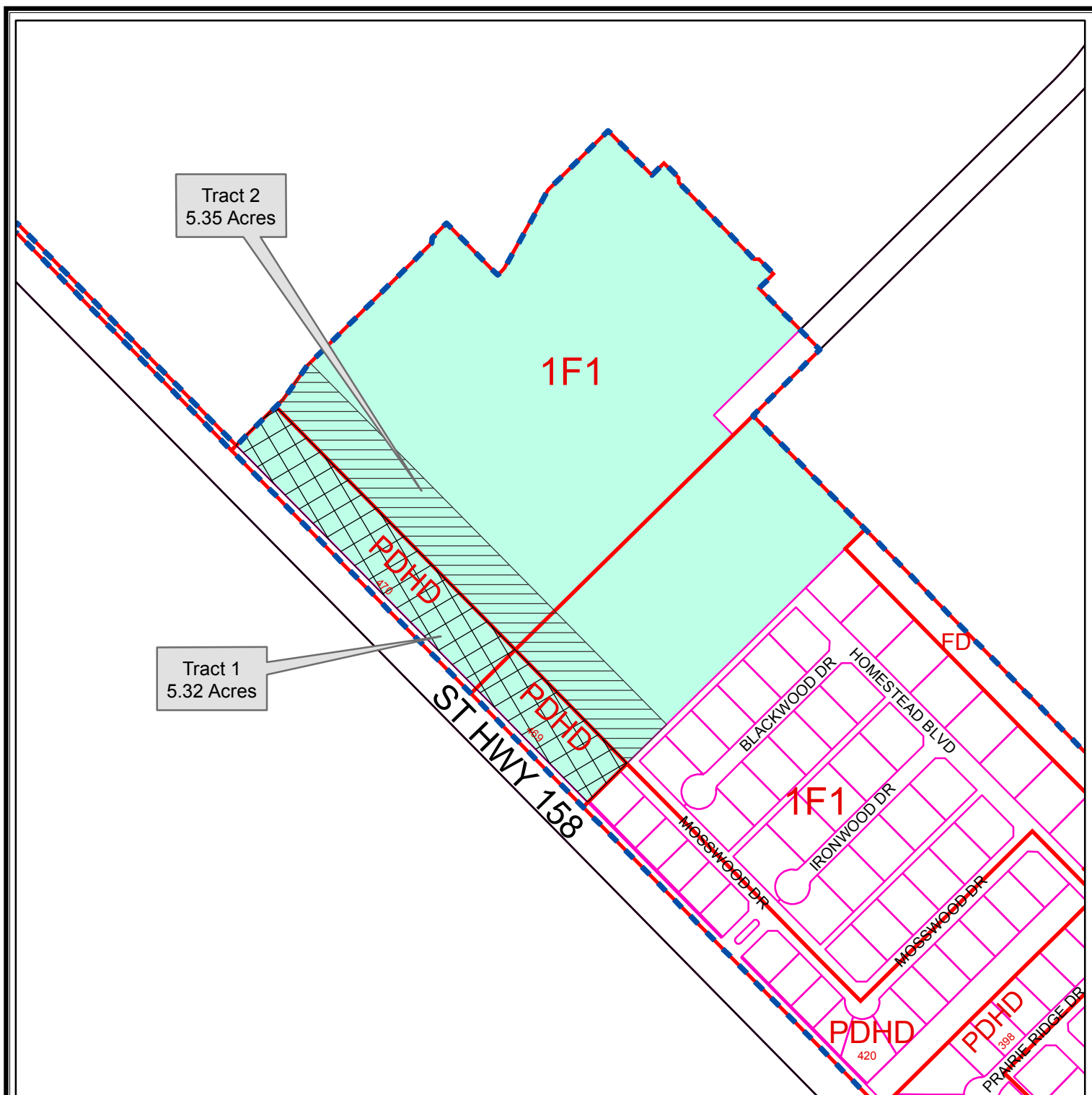
Subscribed and sworn to before me, this 7 day of May, 20 13, to certify which witness my hand and seal of office.

Johnny Ray Poindexter
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
Rec'd By: <u>J C</u>	Date: <u>5-7-13</u>
Assigned: <u>M K</u>	
For: <u>P & Z</u>	On: <u>6-17</u>



****Application will not be considered for scheduling until reviewed by a planner.****



ZONING MAP

Z - 13 - 019

Scale: 1" = 400'

Consider a request for a zone change from PD, Planned District for a Housing Development to an Amended Planned District for a Housing Development on a 5.32-acre tract of land (Tract 1) and from 1F-1, One-Family Dwelling District to 1F-2, One-Family Dwelling District on a 5.35-acre tract of land (Tract 2), all out of Section 35, Block 40, T-1-S, T & P RR Co. Survey, City and County of Midland, Texas.

LEGEND

ZONING

CITY LIMITS

CITY PARCELS

COUNTY PARCELS

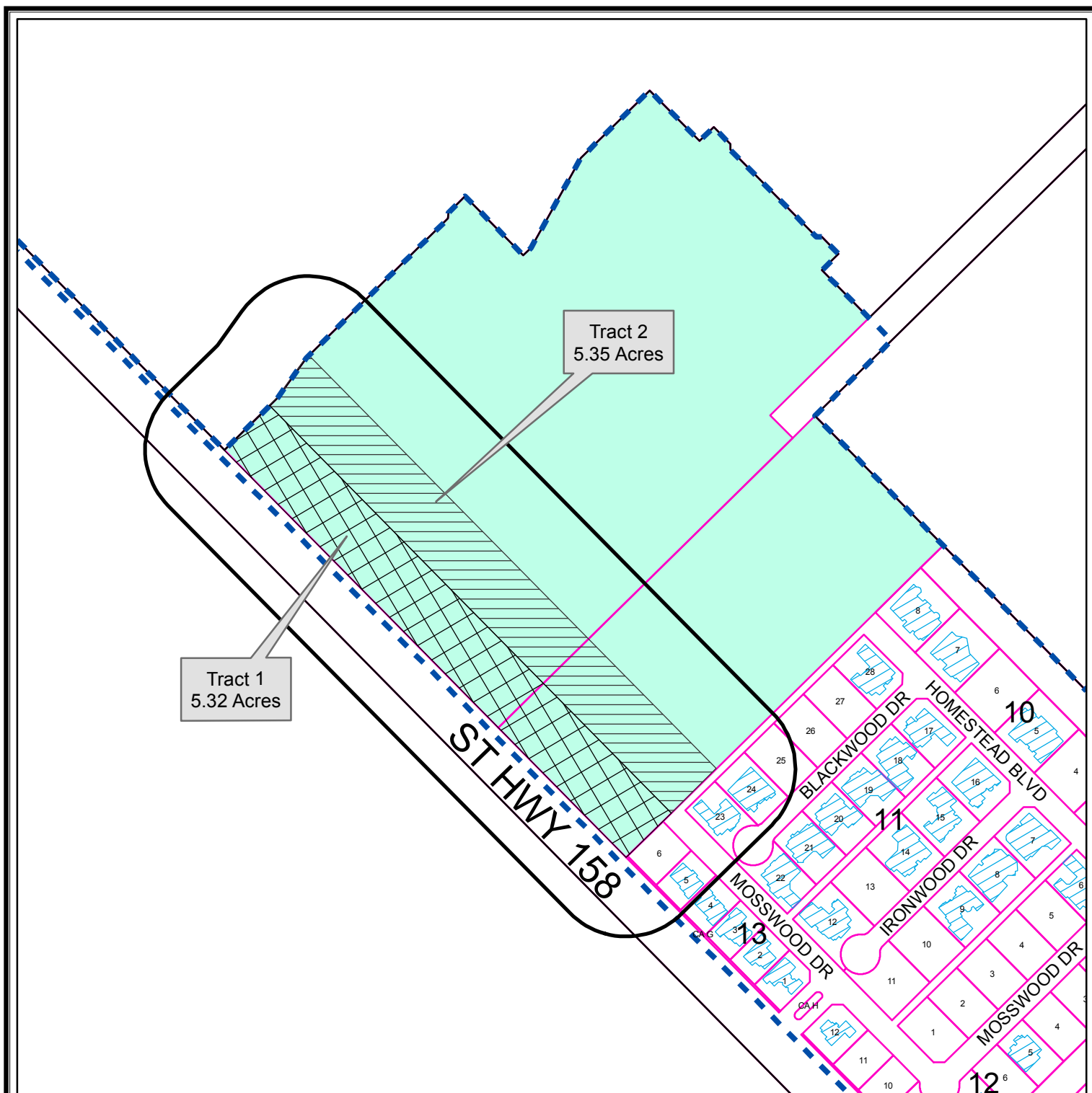
ZONING DISTRICTS:

FD FUTURE DEVELOPMENT
PD PLANNED DISTRICT
AE AGRICULTURE ESTATE
CE COUNTRY ESTATE
1F1, 1F2, 1F3 ONE-FAMILY DWELLING
MH MOBILE HOME DWELLING
TH TOWNHOUSE DWELLING
2F TWO-FAMILY DWELLING
MF1, MF2 MULTIPLE FAMILY DWELLING

BP BUSINESS PARK
P PARKING
01, 02 OFFICE
NS NEIGHBORHOOD SERVICE
LR1, LR2, LR3 LOCAL RETAIL
C1, C2, C3 COMMERCIAL
IP, IP1, IP2, IP3 INDUSTRIAL PARK
LI LIGHT INDUSTRY
HI HEAVY INDUSTRY

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PROPERTY OWNER NOTIFICATION MAP

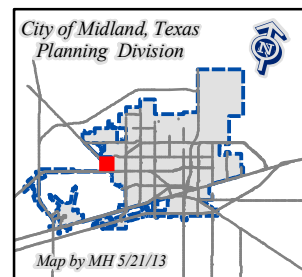
Z - 13 - 019

Scale: 1" = 350'

Consider a request for a zone change from PD, Planned District for a Housing Development to an Amended Planned District for a Housing Development on a 5.32-acre tract of land (Tract 1) and from 1F-1, One-Family Dwelling District to 1F-2, One-Family Dwelling District on a 5.35-acre tract of land (Tract 2), all out of Section 35, Block 40, T-1-S, T & P RR Co. Survey, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- 200 FT. LEGAL NOTICE LIMIT
- CITY PARCEL
- COUNTY PARCEL
- PRIVATE BLDGS



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City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: July 23, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Ken Van Dyne, Acting Planning Division Manager

SUBJECT: Consider an ordinance on second reading on a request by Innovative Land Development, Inc. for a zone change from 1F-3, One-Family Dwelling District to TH, Townhouse Dwelling District. (Generally located at the east side of N. Lamesa Road, approximately 1/2 mile north of E. Loop 250 North.)

Purpose:

Consider an ordinance on second reading on a request by Innovative Land Development, Inc. for a zone change from 1F-3, One-Family Dwelling District to TH, Townhouse Dwelling District. City Council has approved this ordinance on first reading on July 9, 2013, and no changes have been made since that date.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

No City funds are required to process this request.

Discussion:

The applicant's property is located on the east side of Lamesa Road, adjacent to Granger Road, and about a half mile north of Loop 250 North. A 78-acre area was initially rezoned from AE, Agricultural-Estate District, to 5 tracts of land zoned 1F-3, One-Family Dwelling District, TH, Townhouse Dwelling District, O-1, Office District, and LR-2, Local Retail District in 2008. Within a majority of the land in the 1F-3 District, a 16-acre Stonebridge Addition (Phase 1) Final Plat was approved in 2011. The applicant wishes to rezone the remaining 10.32 acres of the 1F-3 District to a TH, Townhouse Dwelling District, allowing for 3,500 square foot lots yielding about 8 units per acre. Rezoning to the Townhouse District will change the area to medium-density residential, only slightly varying from the recommendation in the "Future Land Use Plan" of the

Midland Master Plan 2005 which calls for single-family (low) residential, and only slightly modifies the initial mixed-use development plan, which had already planned for a small 1-acre Townhouse District on the east.

ORDINANCE NO. _____

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 10.32-ACRE TRACT OF LAND OUT OF SECTION 1, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED 1F-3, ONE-FAMILY DWELLING DISTRICT, TO BE USED AS A TH, TOWNHOUSE DWELLING DISTRICT (GENERALLY LOCATED AT THE EAST SIDE OF NORTH LAMESA ROAD, APPROXIMATELY ½ MILE NORTH OF EAST LOOP 250 NORTH); 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 TH, Townhouse Dwelling 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 1F-3, One-Family Dwelling District, and it shall be used as a TH, Townhouse Dwelling District, said property being described as follows:

A 10.32-acre tract of land out of Section 1, Block "X", H.P. Hilliard 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.

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., 2013; 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., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

ZONE CHANGE FROM IF-3 TO TH

LEGAL DESCRIPTION OF A 10.32 ACRE TRACT LOCATED IN THE WEST PART OF THE SOUTH HALF OF SECTION 1, BLOCK X, H.P. HILLIARD SURVEY, CITY OF MIDLAND, MIDLAND COUNTY, TEXAS

RECEIVED

MAY 17 2013

CITY OF MIDLAND
PLANNING DIVISION OFFICE

Boundary being further described by metes and bounds as follows:

BEGINNING at (N= 10,713,494.85', E= 1,755,824.81') a "+" cut in concrete at the most Easterly Southeast corner of Lot 13, Block 4, Stonebridge Addition as recorded in Cabinet "I", Page 80, Plat Records of Midland County and the Southwest corner of this tract, from whence the Southwest corner of said Section 1, bears S75°43'32"W, a distance of 768.89 feet and S14°16'28"E, a distance of 1422.56 feet;

THENCE N14°22'16"W with an East line of said Lot 13, at 105.00 feet pass its Northeast corner continuing for a total distance of 135.00 feet to an interior corner of this tract;

THENCE S75°37'44"W with the centerline of Milltown Road, a distance of 20.24 feet to an exterior corner of this tract;

THENCE N14°25'46"W with the centerline of Granger Road, a distance of 540.02 feet to an exterior corner of this tract;

THENCE N75°34'14"E with the centerline of Porterfield Road, a distance of 47.52 feet to an interior corner of this tract;

THENCE N14°25'46"W with an East line of said Stonebridge Addition, a distance of 135.00 feet to a 1/2" iron rod with a plastic cap marked "PLS 1974" found at the Northeast corner of Lot 14, Block 1 of said Stonebridge Addition and the Northwest corner of this tract;

THENCE N75°34'33"E with a North line of a 69.26 Acre Tract previously surveyed on February 19, 2008, at 313.25 feet pass a 1/2" iron rod found at the Southeast corner of a 5.909 Acre Tract as described in Volume 1234, Page 333, Official Records continuing for a total distance of 536.97 feet to the Northeast corner of this tract;

THENCE S14°22'54"E with a West line of Tract II as described in Partition Deed recorded in Volume 952, Page 655, Deed Records of Midland County, a distance of 448.28 feet to a 1/2" iron rod with a plastic cap marked "PLS 1974" found at a fence corner being an exterior corner of this tract and an exterior corner of said Tract II;

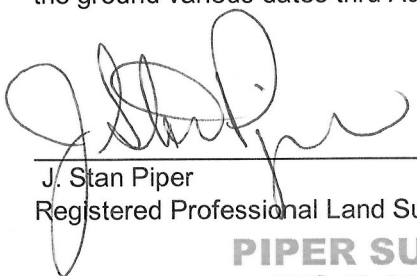
THENCE S75°34'43"W, a distance of 40.00 feet to an interior corner of this tract;

THENCE S14°22'16"E, a distance of 362.25 feet to the Southeast corner of this tract;

THENCE S75°37'44"W, a distance of 523.65 feet to the **PLACE OF BEGINNING**. Tract consists of 10.32 acres of land.

Bearings, distances, and coordinates are relative to the Texas State Plane Coordinate System, NAD 1983/86 Central Zone, with a combined grid factor of 0.99991858, and a theta angle equal to -0°54'07.92" at NGS Benchmark "N-1126" with values of N= 10,717,633.15 and E= 1,753,899.27 in U.S. Survey Feet based on City of Midland GPS Control Survey. To obtain horizontal surface distances multiply the grid distance above by 1.00008143.

I, J. Stan Piper, Professional Land Surveyor, do hereby certify that this 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 belief as surveyed on the ground various dates thru August 10, 2012.


J. Stan Piper
Registered Professional Land Surveyor #1974

Prepared for:
Parkhill, Smith & Cooper Inc.
Attn.: Eric West, P.E.
1700 W. Wall, Suite 100
Midland, Texas 79701

PIPER SURVEYING BOX 60432, MIDLAND, TX 79711, 432-550-7810

EXHIBIT A

CASE NO. 2-13-021

PLANNING AND ZONING COMMISSION

June 17, 2013

CASE: Z-13-021.

REQUEST: Hold a public hearing and consider a request for a zone change from 1F-3, One Family Dwelling District to TH, Townhouse Dwelling District.

APPLICANT: Innovative Land Development, Inc.

OWNER: Mark Payne.

REPRESENTATIVE: Parkhill, Smith & Cooper, Inc.

LEGAL DESCRIPTION: On a 10.32-acre tract of land out of Section 1, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas.

LOCATION: Generally located at the east side of N. Lamesa Road, approximately ½ mile north of E. Loop 250 North.

CURRENT ZONING: 1F-3, One-Family Dwelling District.

DETAILS OF REQUEST:

1. The zoning of the approximately 78-acre piece of land on the northeast corner of the intersection of N. Lamesa Road and E. Loop 250 North, initially zoned AE, Agriculture-Estate District, was rezoned to 5 tracts of land zoned: 1F-3, One-Family Dwelling District, TH, Townhouse District, O-1, Office District, and LR-2, Local Retail District at the property owner's request, and approved by the City Council on May 2008. In March 2011, a 16-acre Stonebridge Addition (Phase 1) final plat was approved with the majority of the land in the 24.8-acre 1F-3 District. In this zone change request, the applicant wishes to change the remaining vacant 10.32 acres of the 1F-3, One-Family Dwelling District to a TH, Townhouse Dwelling District. The present undeveloped area will continue to be used as a residential subdivision, with only a slight modification to the initial plan of development.

SURROUNDING ZONING AND LAND USE:

2. This applicant's property is north of Loop 250 North, east of Lamesa Road, and adjacent to Granger Road. To the north of this proposed Townhouse District is a PDID, Planned District for a Business and Industrial Park (primarily consisting of storage and warehouse buildings), and an O-1, Office District. To the west is a 1F-3, One Family Dwelling District. An O-1 District abuts the south, with an active oil well

nearby. This existing well may affect any proposed lotting pattern due to its proximity of less than 500'. The applicant will need the mineral operator's approval prior to any final plat. Finally, to the east is an approximately 1-acre Townhouse District as well as a large AE, Agriculture-Estate District.

ANALYSIS:

3. During the initial zoning of the property, one of the five tracts the developer had requested was a 24.8-acre piece of land zoned 1F-3. This single-family district includes lots with a minimum lot size of 5,500 square feet with a density of around 4 units per acre. The zone change to an approximate 10-acre Townhouse District will allow for one-family attached homes on 3,500 square-foot lots, and will increase the density to about 8 units per acre. The area will only slightly change from single-family (low) residential, which is the recommendation according to the "Future Land Use Plan" in the Midland Master Plan 2025, to medium-density residential. The mixed-use intention of the subdivision will remain. The rezoning will also only slightly modify the original zoning, which already includes a 1.08-acre Townhouse District to the east. For these reasons, we find the zone change request to be reasonable.

STAFF RECOMMENDATION:

Staff recommends approval of this request for a zone change from a 1F-3, One Family Dwelling District to TH, Townhouse Dwelling District.



Ken Van Dyne
Acting Planning Division Manager
Department of Development Services



Madhuri Kulkarni, City Planner
Department of Development Services

Attachments:

Application
Maps

Case Number: 2-13-021

CITY OF MIDLAND
Planning Division

APPLICATION TO CHANGE ZONING CLASSIFICATION

Innovative Land Development, Inc.

(432) 520-0000

Applicant Name

(Phone/e-mail)

1603 Idlewilde, Midland, Texas

79073

Address

Zip Code

Mark Payne

(432) 520-0000

Property Owner Name

(Phone/e-mail)

1603 Idlewilde, Midland, Texas

79073

Address

Zip Code

Parkhill, Smith & Cooper, Inc.,

(432) 697-1447

Representative Name

(Phone/e-mail)

1700 W. Wall, Suite 100, Midland, TX 79701

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. See attached Metes and Bounds.

PRESENT ZONE: 1F-3

REQUESTED ZONE: TH

(List by tracts if more than one district is requested)

Reason for Zone Change Request: This area is presently undeveloped. TH zoning is consistent with current development plans.

Present Use of Property: Pasture or Range Land

Proposed Use of Property: Residential Subdivision

How will zone change affect the public health, safety and welfare? It will not affect the public health, safety, and welfare.

Describe how conditions affecting the property have changed since present zoning designation: Change is only a slight modification to existing plan to develop subdivision.

Is a Specific Use Permit with Term for alcoholic beverages sales needed? Yes X 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: _____

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

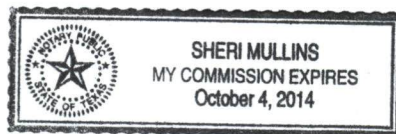
Jared Squyres who, being by me duly sworn, upon oath says: That (s)he is authorized by Innovative Land Development, Inc., the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

Jared A. Squyres
Authorized Agent (signature)

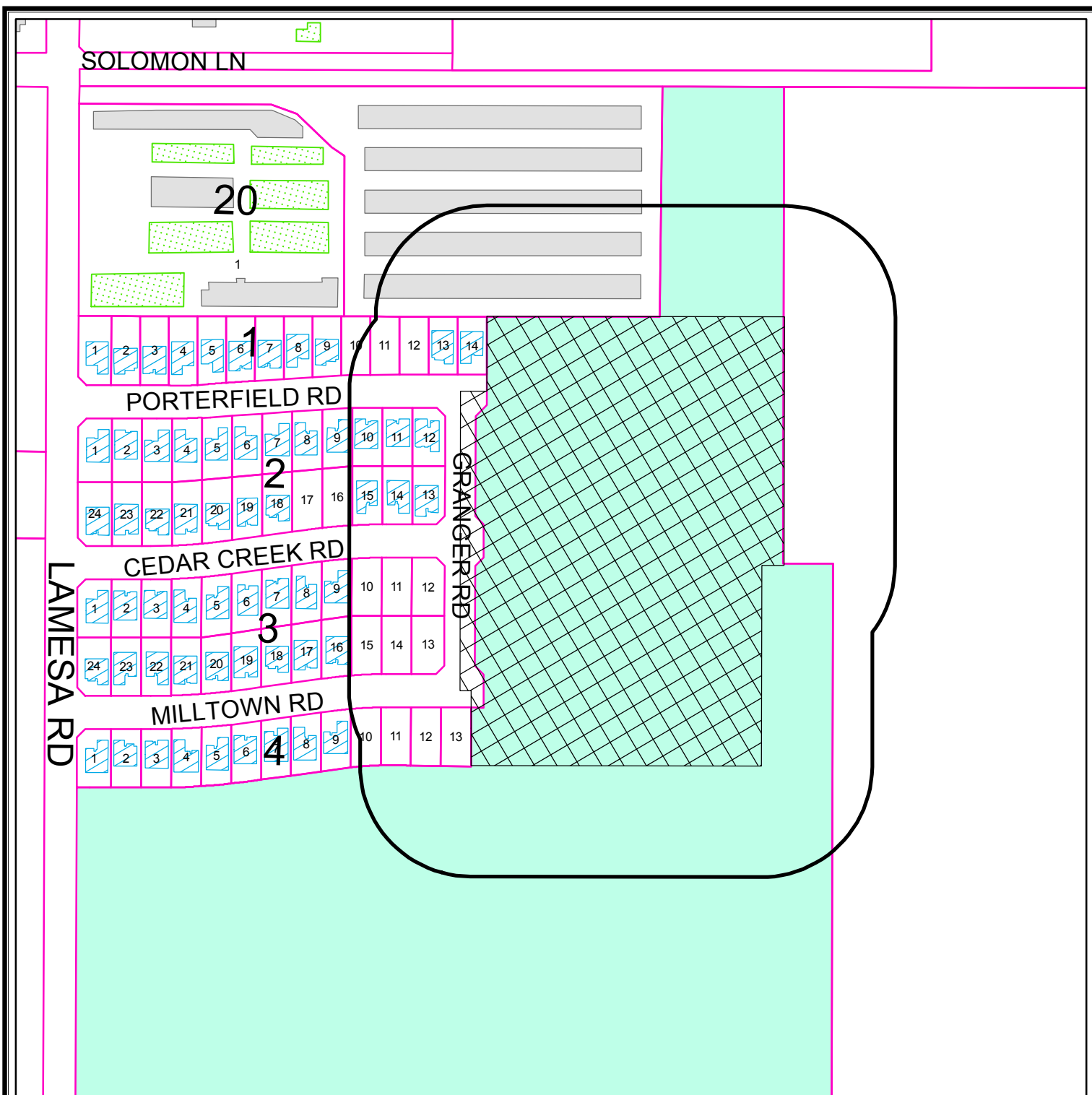
Subscribed and sworn to before me, this 13 day of May, 2013, to certify which witness my hand and seal of office.

Sheri Mullins
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
Rec'd By: <u>PS</u>	Date: <u>5/17</u>
Assigned: <u>MK</u>	
For: <u>P+2</u>	On: <u>6/17/13</u>



****Application will not be considered for scheduling until reviewed by a planner.****



PROPERTY OWNER NOTIFICATION MAP

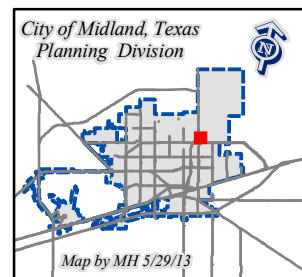
Z - 13 - 021

Scale: 1" = 250'

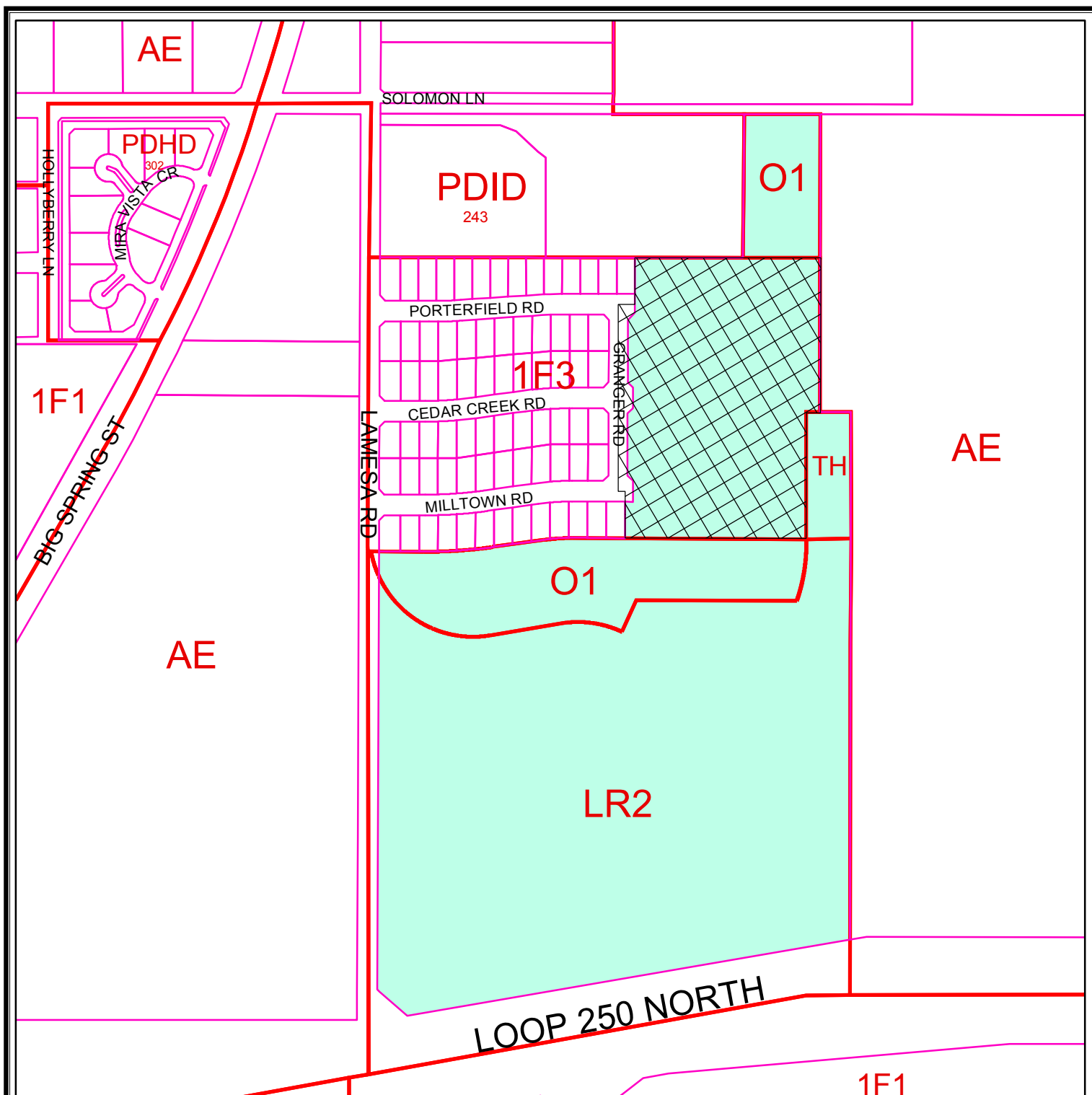
Consider a request for a zone change from 1F-3, One Family Dwelling District to TH, Townhouse Dwelling District on a 10.32-acre tract of land out of Section 1, Block "X", H. P. Hilliard Survey, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- 200 FT. LEGAL NOTICE LIMIT
- PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS



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ZONING MAP

Z - 13 - 021

Scale: 1" = 400'

Consider a request for a zone change from 1F-3, One Family Dwelling District to TH, Townhouse Dwelling District on a 10.32-acre tract of land out of Section 1, Block "X", H. P. Hilliard Survey, City and County of Midland, Texas.

LEGEND

ZONING PARCELS

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	O1, O2	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: 7/23/2013

TO: City Council / City Manager

FROM: Ken VanDyne, Acting Planning Division Manager

SUBJECT: Consider an ordinance on second reading on a request by City of Midland for a zone change from PD, Planned District for a Mixed Use District to a PD, Planned District for a Housing Development. (Generally located on the south side of Sinclair Avenue, approximately 380 feet west of N. Midland Drive.)

Purpose:

Consider an ordinance on second reading on a request by City of Midland for a zone change from PD, Planned District for a Mixed Use District to a PD, Planned District for a Housing Development.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

There is no cost to the City associated with approving this request.

Discussion:

The City of Midland approved a zone change from PD, Planned District for a Mixed Use District to PD, Planned District for a Housing Development for the future development of a fire station at the July 9th Council meeting. The fire station will front onto Sinclair Avenue, and will have two driveways for fire trucks to enter and exit the station. The zone change was presented with two exhibits illustrating masonry construction materials within the renderings. A final plat of the property is waiting to be recorded upon the approval of this second reading, and upon recordation of the final plat the City of Midland will be eligible to pull a building permit.

ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 2.50-ACRE PORTION OF LOT 1, BLOCK 3, WALLACE HEIGHTS ADDITION, SECTION 4, CITY AND COUNTY OF MIDLAND, TEXAS, AND MORE SPECIFICALLY DESCRIBED IN SECTION ONE HEREOF, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A MIXED USE DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE SOUTH SIDE OF SINCLAIR AVENUE, APPROXIMATELY 380 FEET WEST OF 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

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 “Planned 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 PD, Planned District for a Housing Development, set out hereinafter and subject to the conditions and restrictions 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 PD, Planned District for a Mixed Use District, and it shall be used as a PD, Planned District for a Housing Development, subject to the special conditions and restrictions hereinafter set out, said

property being described as follows:

A 2.50-acre portion of Lot 1, Block 3, Wallace Heights Addition, Section 4, City and County of Midland, Texas, said tract being more specifically described by metes and bounds in Exhibit “C”, which is attached hereto and incorporated herein.

SECTION TWO. That said property shall be subject to the following special conditions and restrictions:

1. That the use and development of this property shall conform to the regulations of the 1F-1, One-Family Dwelling District.
2. That the development of a fire station shall be permitted, and that any other use of the property shall require the submittal of a site plan in the same manner as a zone change.
3. That the building shall significantly conform to the elevations and materials shown on Exhibits “A” and “B”, which are attached hereto and incorporated herein.
4. That the maximum height of the building shall be set at 35 feet.
5. That all driveways shall comply with the Midland City Code.
6. That landscaping shall comply with the Midland City Code.
7. That the building shall comply with all requirements of the Building Official.
8. That the building shall comply with all requirements of the Fire Marshal’s Office.
9. That City of Midland Ordinance No. 6251 is amended by this ordinance.

SECTION THREE. 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 FOUR. 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 FIVE. 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 SIX. 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 SEVEN. 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., 2013; 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., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS ____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

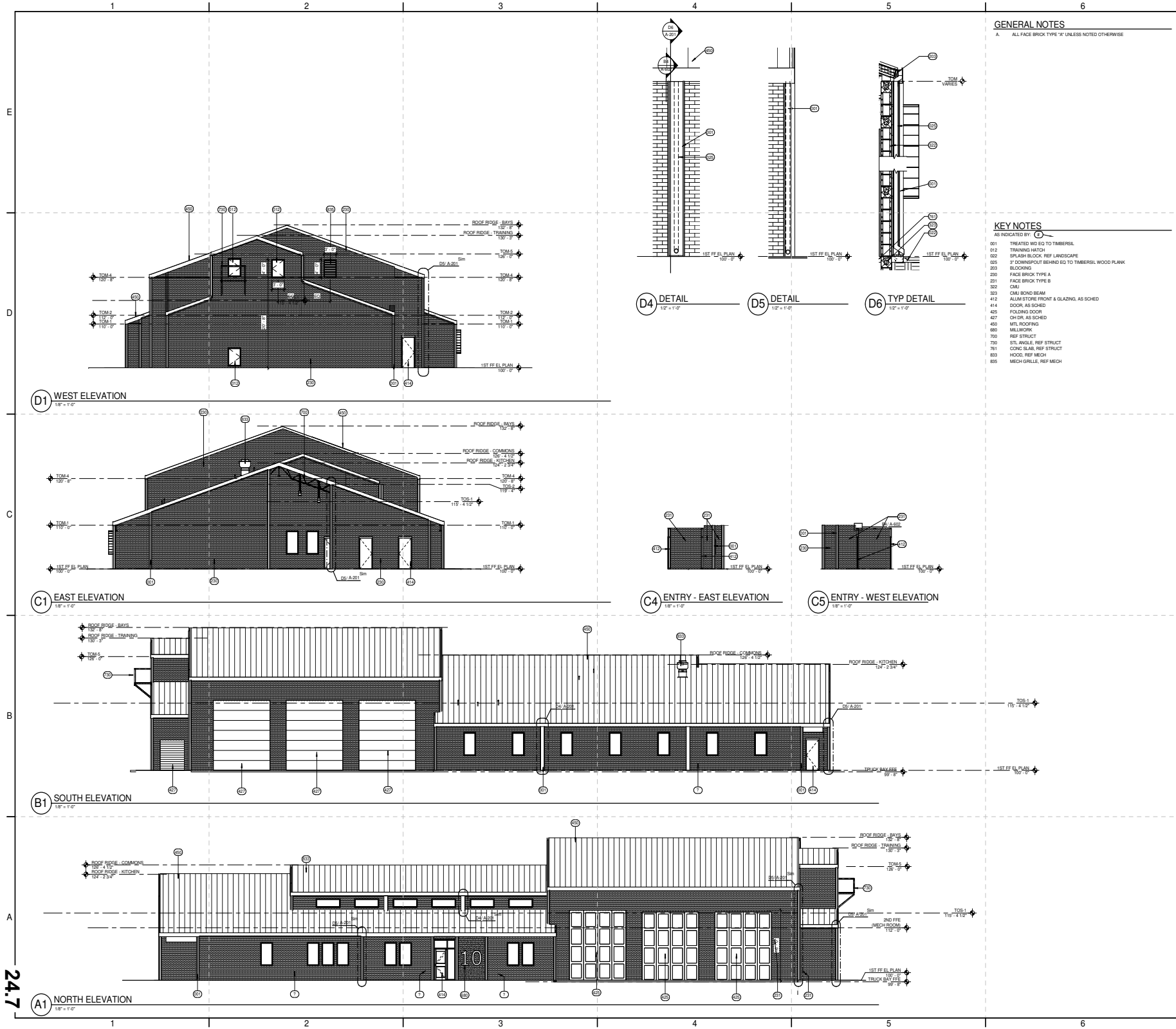
James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



4/16/2013 10:28:00 AM



GENERAL NOTES
A. ALL FACE BRICK TYPE "X" UNLESS NOTED OTHERWISE

- KEY NOTES
AS INDICATED BY:
- 001 TREATED WOOD TO TIMBERSL
 - 012 TRAINING HATCH
 - 022 SPLASH BLOCK, REF LANDSCAPE
 - 025 3" DOWNPOUT BEHIND EO TO TIMBERSL WOOD PLANK
 - 203 BLOOMING
 - 250 FACE BRICK TYPE A
 - 251 FACE BRICK TYPE B
 - 302 CMU
 - 303 CMU BOND BEAM
 - 412 ALUM STONE FRONT & GLAZING, AS SCHED
 - 414 DOOR, AS SCHED
 - 425 FOLDING DOOR
 - 427 CH DR, AS SCHED
 - 450 MTL ROOFING
 - 689 MILLWORK
 - 700 REF STRUCT
 - 730 STL ANGLE, REF STRUCT
 - 791 CONC SLAB, REF STRUCT
 - 833 HOOD, REF MECH
 - 855 MECH GRILLE, REF MECH

FIRE STATION 10

100% CONSTRUCTION DOCUMENTS

4501 SINCLAIR
MIDLAND, TEXAS
79707
KEY PLAN

NO.	DATE	REVISION

EXTERIOR ELEVATIONS

HGS SURVEYING COMPANY

Texas Registered Surveying Firm No. 100862-00
10 Quail Run, Midland, Texas 79707
432-689-7941

LEGAL DESCRIPTION OF A 2.50 ACRE TRACT OF LAND
LOCATED IN SECTION 19, BLOCK 39; T. 1 S., T. & P. RR. COMPANY
SURVEY, MIDLAND COUNTY, TEXAS AND BEING A PORTION OF
LOT 1, BLOCK 3, WALLACE HEIGHTS SECTION 4,
CITY OF MIDLAND, MIDLAND COUNTY, TEXAS

BEGINNING at a point at the Northeast corner of Lot 1, Block 3, Wallace Heights Section 4, according to the plat thereof recorded in Cabinet C-174 Plat Records of Midland County, Texas, from which a spike-nail found at the Northwest corner of Block 1, Nottingham Square Addition, according to the plat thereof recorded in Cabinet B-208 of said Plat Records, bears N 75°00' E, a distance of 30.00 feet;

THENCE S 15°00' E with the fenced East line of said Lot 1, Block 3, a distance of 418.85 feet to a point at the Southeast corner of this tract;

THENCE S 75°00' W, a distance of 260.00 feet to a point at the Southwest corner of this tract;

THENCE N 15°00' W, a distance of 418.85 feet to a point in the North line of said Lot 1, at the Northwest corner of this tract;

THENCE N 75°00' E with the North line of said Lot 1 and South right of way line of Sinclair Avenue, a distance of 260.00 feet to the Place of Beginning.

Notes:

This tract is subject to Public Utility Easements according to the plat of record of Wallace Heights Section 4.

Bearings are referenced to the plat of record. Distances are U.S. Survey Feet.



H. Gene Smith 07/12/2012
H. Gene Smith, TX RPLS No 4931



CASE NO. 2-13-025

PLANNING AND ZONING COMMISSION

June 17, 2013

CASE: Z-13-025

REQUEST: Hold a public hearing and consider a request for a zone change from PD, Planned District for a Mixed Use District to a PD, Planned District for a Housing Development.

APPLICANT/OWNER: City of Midland.

LEGAL DESCRIPTION: 2.50-acre portion of Lot 1, Block 3, Wallace Heights Addition, Section 4, City and County of Midland Texas.

LOCATION: Generally located on the south side of Sinclair Avenue, approximately 380 feet west of N. Midland Drive.

CURRENT ZONING: PD, Planned District for a Mixed Use District.

DETAILS OF REQUEST:

1. This property is presently zoned PD, Planned District for a Mixed Use District. The City of Midland has submitted plans to develop a new fire station off of Sinclair Avenue, and is requesting to rezone a portion of the PD, Planned District for a Mixed Use District that was approved by City Council for the development of office and apartments in 1982. The property has remained vacant since this time and the City has identified this location as an ideal location for the new station. The underlying zoning district for this property shall be 1F-1, Single Family Dwelling District. The purpose of this application is to rezone the portion of the existing Planned District for the use of a fire station for this property.

SURROUNDING ZONING AND LAND USE:

2. The property is located just west of N. Midland Drive and south of Sinclair Avenue. Immediately north and east of this property is a medium sized MF-1, Multi-Family Dwelling District along with some small Local Retail Districts. To the west and south is a large 1F-1, Single Family Dwelling District.

ANALYSIS:

3. Fire stations are a permitted use in this district, and this would be located on a 2.5-acre site with a maximum building height of 35 feet. The proposed amount of setback from Sinclair Avenue is approximately 50 feet. Staff agrees that this provides an adequate amount of setback given the height of the building and surrounding land uses. Staff has no objection to the proposed building height.

SITE PLAN:

4. Exhibit A is a plan view of the fire station site. Two driveways are located off of Sinclair Avenue for egress and ingress. The western most driveway will allow for fire trucks to exit the site, while the eastern most driveway will allow the fire trucks to enter the site and park in the rear bay entrance. The 30 foot wide aisle provides sufficient access for the trucks to enter the bay area from the rear of the building. The alternate building designated on the southwest corner will be part of a phased development and shall be addressed at the appropriate date. Staff is recommending that the site plan for this project be addressed administratively to allow the Fire Department to expediently serve the public health, safety, and welfare of the citizens of Midland. Landscaping will comply with the City of Midland Landscape ordinance.
5. Exhibits B and C represent the elevation view of the fire station. The exterior of the building is shown as masonry for the façade and metal for the roof. We believe the conditions shown on Exhibits B and C will result in an attractive building compatible with existing development in the area.

PARKING:

6. The fire station will provide 25 parking spaces which meets the city's parking requirements. One parking space is owed per 1,000 square feet of storage, and then one parking space for each 400 square feet of office or general space.

STAFF RECOMMENDATION:

- A. That the use and development of this property shall conform to the regulations of the 1F-1, Single Family Dwelling District.
- B. That the development of a fire station shall be permitted, and that any other use of the property shall require the submittal of a site plan in the same manner as a zone change.
- C. That the elevations of the building shall significantly conform to the materials depicted in Exhibits B and C.

- D. That all driveways are in compliance with Midland City Code.
- E. That landscaping shall comply with the Midland City Code.
- F. That the building complies with all requirements from the Building Official's Office.
- G. That the building complies with all requirements per the Fire Marshall's Office.



Ken VanDyne
Acting Planning Division Manager
Department of Development Services



Martin Siwek, City Planner
Department of Development Services

Attachments:

Application
Maps
Exhibits A, B, and C

Case Number: 2-13-025

CITY OF MIDLAND
Planning Division

APPLICATION TO CHANGE ZONING CLASSIFICATION

City of Midland 432.685.7400 ms; wekamidlandtxas.gov
Applicant Name (Phone/e-mail)
300 N. Lorraine 79701
Address Zip Code
City of Midland 432.685.7400
Property Owner Name (Phone/e-mail)
Same
Address Zip Code
N/A
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. see attached field notes

PRESENT ZONE: PDMX REQUESTED ZONE: PDHD
(List by tracts if more than one district is requested)

Reason for Zone Change Request: to better serve public safety, health, & welfare with a fire station

Present Use of Property: vacant

Proposed Use of Property: fire station

How will zone change affect the public health, safety and welfare? It will improve it.

Describe how conditions affecting the property have changed since present zoning designation:
Remained vacant

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: _____

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.

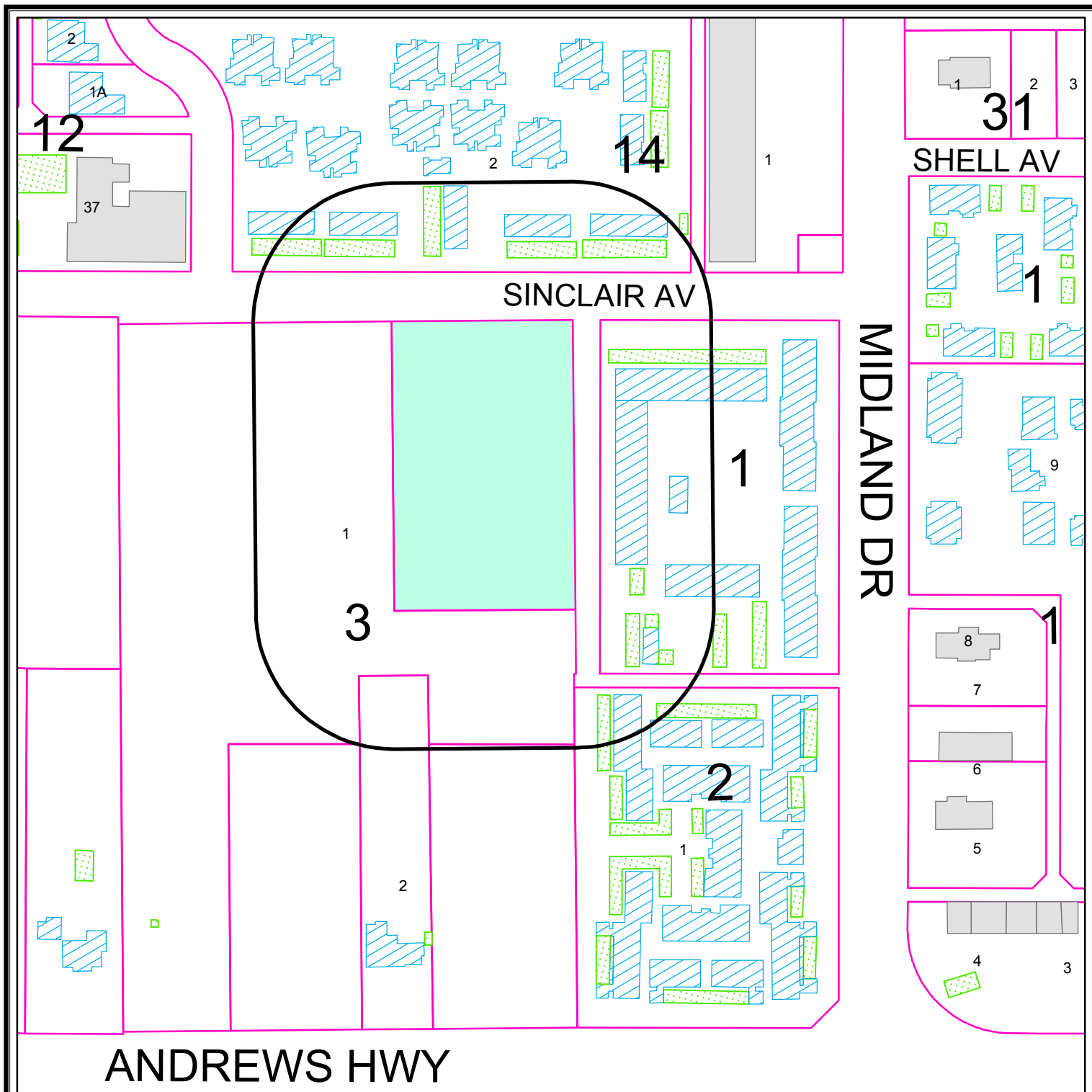
Authorized Agent (signature)

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>CS</u>	Date: <u>5/30</u>
Assigned: <u>MS</u>	
For: <u>P+2</u>	On: <u>6/17/13</u>

****Application will not be considered for scheduling until reviewed by a planner.****



PROPERTY OWNER NOTIFICATION MAP

Z - 13 - 025

Scale: 1" = 200'

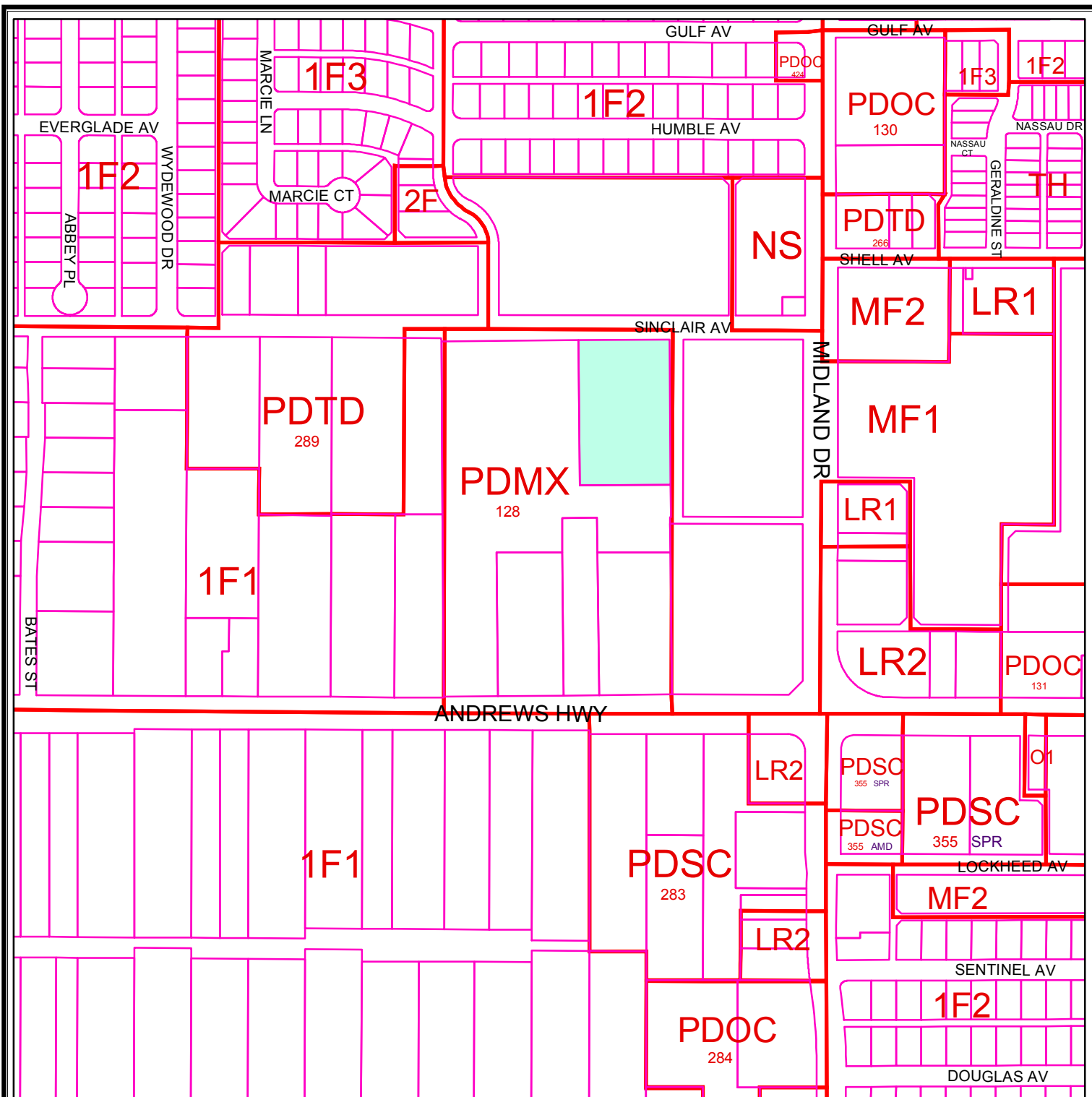
Consider a request for a zone change from PD, Planned District for a Mixed Use District, to PD, Planned District for Housing Development on a 2.50-acre portion of Lot 1, Block 3, Wallace Heights Addition, Section 4, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- 200 FT. LEGAL NOTICE LIMIT
- CITY PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS



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ZONING MAP

Z - 13 - 025

Scale: 1" = 400'

Consider a request for a zone change from PD, Planned District for a Mixed Use District, to PD, Planned District for Housing Development on a 2.50-acre portion of Lot 1, Block 3, Wallace Heights Addition, Section 4, City and County of Midland, Texas.

LEGEND

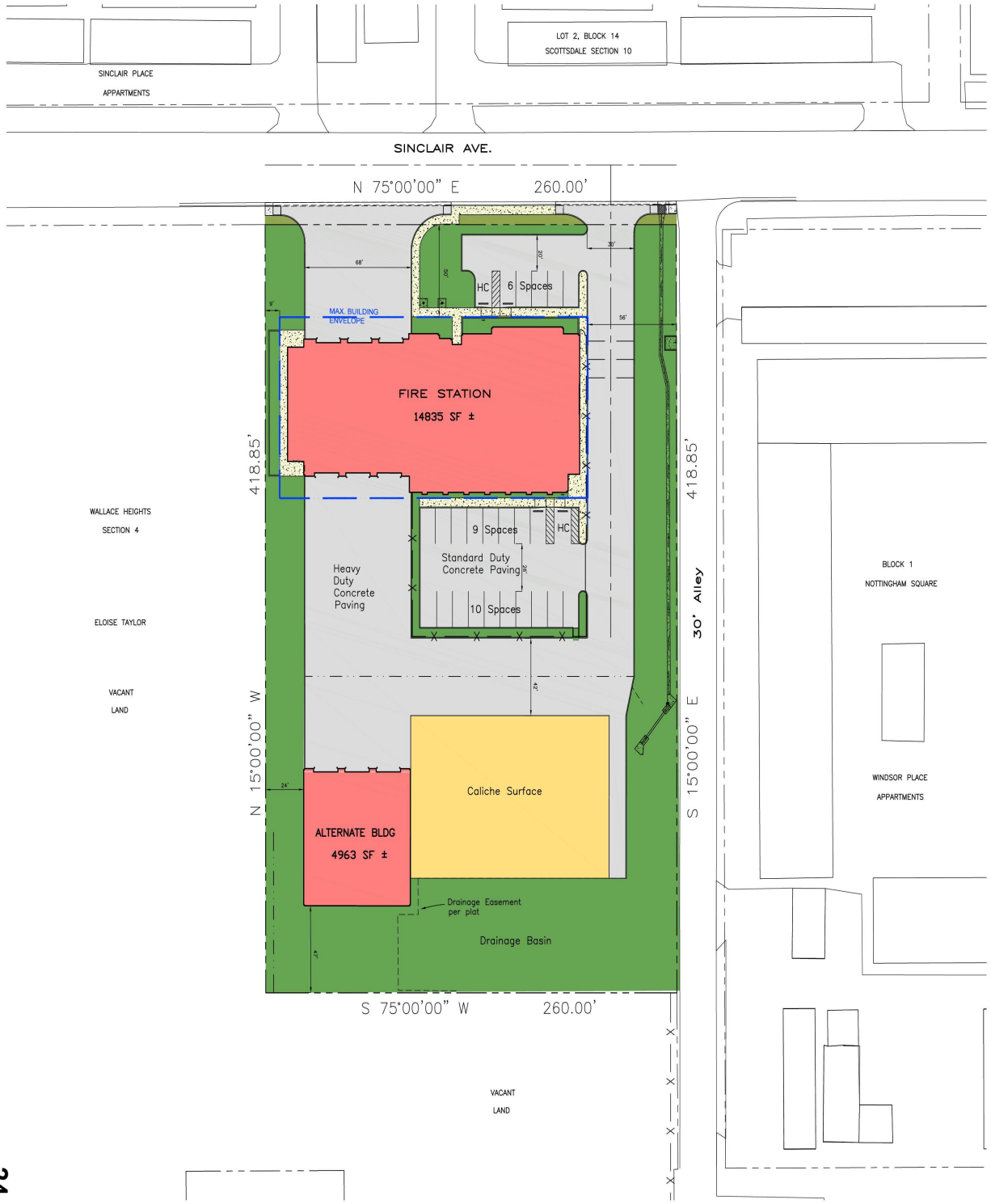
ZONING PARCELS

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
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CE	COUNTRY ESTATE	NS	NEIGHBORHOOD SERVICE
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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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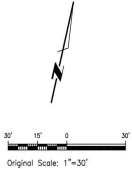




PLANNED DISTRICT SITE PLAN

**WALLACE HEIGHTS ADDITION
SECTION 7**

Lot 6, Block 3



NOTES:

- BUILDING FOOTPRINT, PARKING AND LANDSCAPING SHOWN ARE FOR ILLUSTRATIVE PURPOSES ONLY. FINAL SITE DESIGNS TO BE REVIEWED BY THE CITY OF MIDLAND PRIOR TO ISSUING BUILDING PERMITS.
- SHADED AREAS DENOTED BY [Pattern] TO BE PAVED OR OTHER DRIVING SURFACE.
- SHADED AREAS DENOTED BY [Pattern] TO BE CONCRETE SIDEWALK.
- SHADED AREAS DENOTED BY [Pattern] TO BE IRRIGATED & LANDSCAPED INCLUDING TREES, GRASS OR SHRUBS - WHICH MAY BE ENHANCED BY OTHER LANDSCAPE MATERIALS.
- SHADED AREAS DENOTED BY [Pattern] TO BE IRRIGATED GRASS AND GROUND COVER.
- SHADED AREAS DENOTED BY [Pattern] ARE PROPOSED BUILDINGS.
- SHADED AREA DENOTED BY [Pattern] IS CALICHE.
- EXTERIOR BUILDING MATERIALS SHALL BE DECORATIVE OR PAINTED CMU, FACE BRICK, PRECAST CONCRETE, TILT-WALL, ALUMINUM STORE FRONT, GLAZING OR SIMILAR CONSTRUCTION.
- ROOF MATERIALS MAY INCLUDE COMPOSITE, BUILT-UP OR STANDING SEAM METAL ROOF.
- ALL SIGNS SHALL BE IN CONFORMANCE WITH SECTION 11-7a OF THE MIDLAND CITY CODE.
- ALL EXTERIOR LIGHTING SHALL ADHERE TO THE STANDARDS OUTLINED IN SECTION 11-10 OF THE MIDLAND CITY CODE.

SITE DATA	
SITE AREA	108,900 SF
BUILDING AREA (Foot Print)	19,798 SF ±
PARKING SPACES PROVIDED	25
HC SPACES REQUIRED	1
HC SPACES PROVIDED	2
LANDSCAPING REQUIRED	8,910 SF
LANDSCAPING SHOWN	37,014 SF ±



City of Midland
Office Memorandum

DATE: 7/23/2013

TO: The Honorable Mayor and City Council Members

FROM: Amy Turner, City Secretary

SUBJECT: Consider an Ordinance amending the Fiscal Year 2012-2013 Budget to provide additional funds to the Sports and Entertainment Association of Midland (SEAM) in the amount of \$50,000.

The Sports and Entertainment Association of Midland (SEAM) has requested additional funds to promote tourism in Midland. SEAM is a subgranting board under the direction of the Midland Chamber of Commerce and they oversee the subgranting of sports and entertainment requests for use of Hotel/Motel tax funds.

During the FY 2012-2013 budget process, the City Council approved funding for SEAM in the amount of \$210,000. The previous four years the group had been allocated \$135,000 but in FY 2010-11 and FY 2011-12 the group requested and was allocated an additional \$95,000 due to an increase of qualified applications for funding.

SEAM anticipates additional requests this fiscal year totaling an additional \$38,000. Any monies not spent by SEAM will go back to Hotel/Motel Fund at the end of the fiscal year.

Fiscal Impact:

Appropriate \$50,000 from the Hotel / Motel Fund (090) Unappropriated Fund Balance (5650) to Hotel / Motel Fund (090) Administration (005) Hotel / Motel (0690) CVB – Chamber of Commerce (6180) budget account.

ORDINANCE NO.

AN ORDINANCE AMENDING THE OFFICIAL MUNICIPAL BUDGET FOR FISCAL YEAR 2012-2013 IN ORDER TO PROVIDE ADDITIONAL FUNDS TO THE SPORTS AND ENTERTAINMENT ASSOCIATION OF MIDLAND; THE ADDITIONAL FUNDING PROVIDED TO THE SPORTS AND ENTERTAINMENT ASSOCIATION OF MIDLAND WILL BE USED FOR UPCOMING EVENTS; THE ADDITIONAL FUNDS WILL ALLOW FOR THE PROMOTION OF TOURISM IN THE CITY OF MIDLAND; AND ORDERING RECORDATION; AND APPROPRIATING FUNDS

WHEREAS, the City Council approved funding for the Sports and Entertainment Association of Midland (SEAM) during FY 2012-2013 budget process in the amount of \$210,000.00, and due to more organizations becoming aware of SEAM and how they can assist, SEAM has seen an increase in qualified applicants for funding, and anticipates additional requests this fiscal year totaling an additional \$50,000.00; and

WHEREAS, the additional funding provided which is not spent by SEAM, will revert back to the Hotel/Motel Fund at the end of this fiscal year; and

WHEREAS, the Council finds it to be in the public interest to amend the official municipal budget Fiscal Year 2012-2013 in order to provide additional funding to SEAM necessary to meet unforeseen conditions which could not by reasonably diligent thought and attention have been included in the original budget for the 2012-2013 fiscal year;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS;

SECTION ONE. That in accordance with Texas Local Government Code Section 102.009, the official municipal budget for the fiscal year 2012-2013 as approved by Ordinance 9052 is hereby amended by appropriating \$50,000.00 from the Hotel/Motel (090) Unappropriated Fund Balance (5650) to Hotel/Motel Fund (090) Administration (005) Hotel/Motel (0690) CVB-Chamber of Commerce (6180) budget account.

SECTION TWO. That the City Treasurer is hereby authorized and directed to pay Project expenses out of funds available in said budget account upon receipt of proper invoice or statement therefor approved by the City Manager.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2013; 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., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



June 12, 2013

City of Midland
City Secretary's Office
300 N. Lorraine
Midland, Texas 79701

Dear Ms. Turner;

The Midland Chamber's Convention & Visitors Bureau's Sports and Entertainment Association of Midland (SEAM) is requesting additional funding from the Hotel/Motel Tax Fund to continue working with grant applicants for the remainder of fiscal year 2012-2013. With the criterion that has been put in place, this Board has allocated all the available funds that were received for this fiscal year. A projected amount of \$38,000 in additional grants are anticipated before the end of this fiscal year. SEAM would like to request \$50,000.00 from the Hotel/Motel Tax Fund.

In October 2012, the City Council allocated SEAM \$210,000.00 to work with event right holders to enhance their events and for some, provide additional funds for hotel assistance and help offset the cost of Midland's rising hotel rates. Attached you will find detailed information on how this funding has been disbursed (Attachment A).

The criterion that the SEAM Board uses is as follows:

Number of Overnight visitors x number of nights of event x \$175 = DVS

If you have day visitors (sports) add the previous & the following sums together.

Day visitors x number of days of event x \$40 = DVS

Total DVS: DVS day + DVS overnight = Total DVS*

**One person cannot be counted as day & night, only one or the other.*

ONV x N x 175 = DVS night

DV x N x 40 = DVS day



The procedures that have been in place for grant applications are as follows:

- Request for Grant Application received from Event Right Holders
- Meeting with CVB staff if requested by event right holder to go through process
- Grant Application received and reviewed by CVB staff to research history of the event and create a snap shot of event prior to SEAM Board review
- SEAM Board reviews and either approves or denies, based on Hotel/Motel Tax Laws set by the State of Texas
- Post Event Report is filed within 45 days of closure of event and reviewed by CVB staff
- SEAM Board reviews Post Event Reports and either approves or denies payment

SEAM has worked diligently to be good stewards of the Hotel/Motel Tax money which the City Council has entrusted to this organization with since 2004, and looks forward to closing 2012-2013 with great success. As the information regarding availability of grant money continues to reach into the sports and entertainment community, we feel our efforts will continue to be of great value for Midland.

Thank you for your consideration of the additional funding to the Sports and Entertainment Association of Midland. If there are any questions, please feel free to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Robt. E. Burns". The signature is stylized with large, sweeping loops and a long horizontal stroke extending to the left.

Robt. E. Burns
President & CEO
Midland Chamber of Commerce
109 N. Main Street
Midland, Texas 79701
(432)683-3381

Enclosed: Attachment A

Attachement A

SPORTS AND ENTERTAINMENT ASSOCIATION OF MIDLAND

Draft Financials as of May 21, 2013

Grant Approval	Funding Approval	Grant	Amount Requested			Hotel Ass. Requested	Amount		Balance
			Previous FY	Requested	Requested		Requested	Granted (-)	
10/01/12	10/01/12	Beginning Balance							\$ 210,000.00
08/21/12	11/13/12	Mixed Martial Arts Tournament	N/A	\$	-	\$	3,000.00	\$ 1,252.00	\$ 208,748.00
09/11/12	12/10/12	UIL Football Playoffs	N/A	\$	12,500.00	\$	10,000.00	\$ 22,500.00	\$ 186,248.00
09/11/12	11/13/12	TAM National Regional Tennis Tournament	\$	1,500.00	\$	-	\$ 4,000.00	\$ 4,000.00	\$ 182,248.00
09/11/12	11/13/12	TAM Major Zone Tennis Tournament	\$	500.00	\$	-	\$ 3,000.00	\$ 3,000.00	\$ 179,248.00
09/11/12	01/15/12	Midland College Fall Sports Tournaments	N/A	\$	-	\$	12,000.00	\$ 12,000.00	\$ 167,248.00
09/11/12	12/10/12	UIL Trophies	\$	10,000.00	\$	-	\$ 10,000.00	\$ 10,000.00	\$ 157,248.00
10/16/12	12/10/12	PAFRA	\$	3,000.00	\$	4,000.00	\$ 7,000.00	\$ 11,000.00	\$ 146,248.00
10/16/12	02/19/13	Midtown Soldiers Boxing Club	N/A	\$	-	\$	6,000.00	\$ -	\$ 146,248.00
10/16/12	02/19/13	Tall City Oilman's Tournament	\$	10,000.00	\$	2,500.00	\$ 5,500.00	\$ 8,000.00	\$ 138,248.00
11/13/12	02/19/13	Byron Johnston Tournament	\$	11,000.00	\$	6,000.00	\$ 12,000.00	\$ 18,000.00	\$ 120,248.00
11/13/12	04/16/13	COM Aquatics Winter Invitational	N/A	\$	-	\$	2,500.00	\$ 2,500.00	\$ 117,748.00
11/13/12	02/19/13	UCR NYE Roping Event	N/A	\$	-	\$	3,000.00	\$ 625.00	\$ 117,123.00
12/10/12	02/19/13	Tex-Mex Barrel Racing Association	\$	1,600.00	\$	-	\$ 2,000.00	\$ 1,159.00	\$ 115,964.00
12/10/12	03/19/13	Presidents Cup Soccer Tournament	N/A	\$	2,000.00	\$	8,000.00	\$ 10,000.00	\$ 105,964.00
12/10/12	03/13/13	TAM Zone Advancement Tournament	\$	500.00	\$	-	\$ 1,000.00	\$ 1,000.00	\$ 104,964.00
12/10/12	04/16/13	UIL 5A & 4A Soccer Playoffs	N/A	\$	-	\$	10,000.00	\$ 10,000.00	\$ 94,964.00
12/10/12	04/16/13	West Texas Kennel Club	\$	4,000.00	\$	-	\$ 4,000.00	\$ 4,000.00	\$ 90,964.00
01/15/12	04/16/13	LHS & MHS Tournament of Champions	\$	14,000.00	\$	-	\$ 18,000.00	\$ 18,000.00	\$ 72,964.00
01/15/12	04/16/13	Greenwood HS West Texas Classic	N/A	\$	-	\$	4,000.00	\$ 4,000.00	\$ 68,964.00
01/15/12	-	Com Aquatics LCS Championship	\$	-	\$	-	\$ 2,000.00	\$ -	\$ 68,964.00
01/15/12	02/19/13	Tall City Relays	\$	7,500.00	\$	-	\$ 12,000.00	\$ 12,000.00	\$ 56,964.00
02/19/13	-	RockHounds/Sockers Season	N/A	\$	-	\$	12,000.00	\$ -	\$ 56,964.00
02/19/13	-	Trinity District Tennis Tournament	N/A	\$	-	\$	1,100.00	\$ 1,100.00	\$ 55,864.00

Attachement A

02/19/13	03/19/13	LHS- MHS Softball - West Texas Classic	\$ 5,000.00	\$ -	\$ 5,000.00	\$ 5,000.00	\$ 50,864.00
02/19/13	-	Midland College JUCO- Softball Spring Classic	\$ 8,500.00	\$ 3,050.00	\$ 8,950.00	\$ -	\$ 50,864.00
02/19/13	-	24/7 MMA Event	N/A	\$ -	\$ 4,000.00	\$ -	\$ 50,864.00
03/19/13		MUGS- Mother's Day Tournament	N/A		\$ 1,500.00	\$ 1,500.00	\$ 49,364.00
03/19/13		MUGS- ASA Dist. 26 Qualifier	N/A		\$ 500.00	\$ 500.00	\$ 48,864.00
03/19/13		COM Aquatics- USA Diving	N/A		\$ 8,000.00	\$ 8,000.00	\$ 40,864.00
03/19/13		RockHounds- An American Celebration (July 4th festivities)	\$ 8,000.00		\$ 12,000.00	\$ 10,000.00	\$ 30,864.00
03/19/13		TAM- Nat'l Open Tennis Tournament	\$ 1,250.00		\$ 2,500.00	\$ 2,500.00	\$ 28,364.00
04/16/203	-	24/7 Entertainment-State of Emergency	N/A		\$ 2,000.00	\$ 1,000.00	\$ 27,364.00
04/16/203		MUGS- 8 Game Guarantee	\$ 8,902.00		\$ 10,000.00	\$ 10,000.00	\$ 17,364.00
04/16/203		RockHounds- Country Concert	\$ 2,000.00		\$ 3,000.00	\$ 3,000.00	\$ 14,364.00
05/21/11		Little League Regional Championship		\$ 13,500.00		\$ 13,500.00	\$ 864.00
05/21/11		Tex-Mex Barrel Racing Association	\$ 2,000.00		\$ 3,000.00		\$ 864.00

**INDICATED THAT THE GRANT DATE AND AMOUNT ARE NOT FINAL AS NO POST EVENT REPORT HAS BEEN SUBMITTED
AND A FINAL GRANT AMOUNT HAS NOT BEEN AWARDED.**



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: July 23 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Ken Van Dyne, Acting Planning Division Manager

SUBJECT: Consider an ordinance on second reading on a request by Lance Friday Homes to vacate 5,992 square-foot portion of Spruce Avenue (Generally located at the intersection of Spruce Avenue and Carver Street).

Purpose:

Consider an ordinance on a request by Lance Friday Homes to vacate a 5,992 square-foot portion of Spruce Avenue.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

Approval will net the City \$599.20.

Discussion:

Lance Friday Homes has submitted a preliminary plat named Sun Garden Village, Third Section. This plat proposes to change the existing street alignments, which will require the vacation of three portions of unimproved street right-of-way. This application is for the portion of Spruce Avenue located west of Carver Street. We contacted the Midland Central Appraisal District, who indicates that the value of this land is \$599.20 (0.10/sq. ft.). On July 9th, the City Council approved this request, conditioned upon the submittal of this amount. We have since received payment, and this ordinance is now ready for consideration on second reading and final approval.

ORDINANCE NO.

AN ORDINANCE VACATING AND ABANDONING A 0.138-ACRE PORTION OF EAST SPRUCE AVENUE RIGHT-OF-WAY ADJACENT TO LOTS 23 AND 24, BLOCK 6, AND TO LOTS 1 AND 2, BLOCK 5, SUN GARDEN VILLAGE, SECOND SECTION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF NORTH CARVER STREET, APPROXIMATELY 270 FEET SOUTH OF DORMARD AVENUE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$599.20; AND ORDERING RECORDATION BY THE CITY SECRETARY

WHEREAS, it has been determined by the Midland City Council that a 0.138-acre portion of East Spruce Avenue right-of-way adjacent to Lots 23 and 24, Block 6, and to Lots 1 and 2, Block 5, Sun Garden Village, Second Section, City and County of Midland, Texas, is no longer needed for public use; and

WHEREAS, Section 272.001 of the Texas Local Government Code provides that a political subdivision may not convey, sell, or exchange its interest in land without observing notice and bid requirements, unless the conveyance is to one or more abutting property owners; and

WHEREAS, an application for vacating the right-of-way has been received by the City from the abutting property owner; and

WHEREAS, the City Manager has appraised the value of the City's property interest in the right-of-way at \$599.20, as shown in Exhibit "B" attached hereto and incorporated herein by reference; and

WHEREAS, the Council finds it to be in the public interest to abandon and vacate the right-of-way described herein;

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

SECTION ONE. That the 0.138-acre portion of East Spruce Avenue right-of-way adjacent to Lots 23 and 24, Block 6, and to Lots 1 and 2, Block 5, Sun Garden Village, Second Section, City and County of Midland, Texas, as described in Exhibit "A" attached

hereto and made a part hereof for all legal purposes, is hereby vacated and abandoned for all public purposes. Provided, however, that the City is hereby only abandoning the public interest in said property and this ordinance in no way affects any private easement or access easement which abutting property owners may have in said right-of-way.

SECTION TWO. That this Ordinance shall not be effective until the City of Midland has received from the property owner(s) the sum of \$599.20.

That this Ordinance shall not be effective until a final plat, entitled Sun Garden Village, Third Section, is submitted to the City of Midland in proper form for approval.

SECTION THREE. That upon the City's receipt of the sum set forth in Section Two hereof, the City Secretary is hereby authorized and directed to file a certified copy of this Ordinance with the County Clerk of Midland County, Texas, for purposes of recording in the Official Records of Midland County, Texas.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2013; 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., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

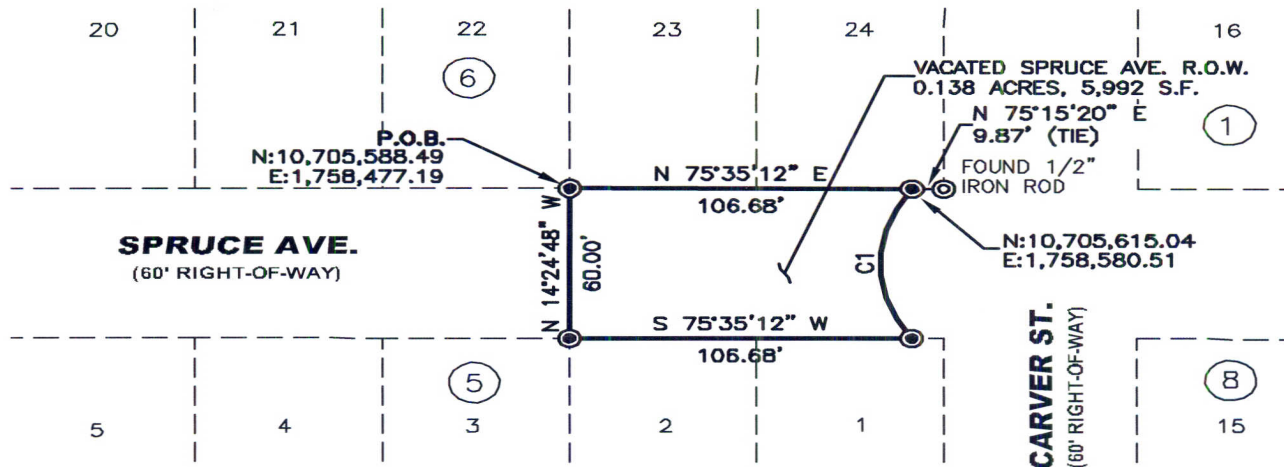
APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

ABANDONED RIGHT OF WAY EXHIBIT SPRUCE AVENUE



LEGAL DESCRIPTION of a 0.138 acre tract of Spruce Avenue Right-of-Way out Sun Garden Village, Second Section, an Addition to the City of Midland Texas as recorded in Volume 130, Page 133 of the Deed Records of Midland County, Texas, and being located in Section 24, Block 39, T-1-S, T&P RR Co. Survey, Midland County, Texas, Subject Tract being more particularly described by metes and bounds as follows:

BEGINNING at (N: 10,705,588.49, E: 1,758,477.19) a 1/2 inch Iron Rod with red plastic cap marked "West Co Midland" set in the North line of said Spruce Avenue, a 60 foot public road, at the Southwest corner of Lot 23, Block 6, Sun Garden Village, Second Section, for the Northwest corner of this tract;

THENCE N 75°35'12" E with the South lines of said Lot 23 and Lot 24, Block 6 and with the North line of said Spruce Avenue a distance of 106.68 feet to (N: 10,705,615.04, E: 1,758,580.51) a 1/2 inch Iron Rod with red plastic cap marked "West Co Midland" set in the South line of said Lot 24 for the point of curvature of a curve to the Left, from which a 1/2" Iron Rod found for the Southeast corner of said Lot 24 bears N 75°15'20" E a distance of 9.87 feet, for the Northeast corner of this tract

THENCE Southerly in and across said Spruce Avenue with said curve through a Chord length of 60.00 feet, a Chord Bearing of S 14°24'48" E, a delta angle of 73°44'23", an Arc Length of 64.35 feet, and a Radius of 50.00 feet to a 1/2 inch Iron Rod with red plastic cap marked "West Co Midland" set at the point of tangency of said curve in the North line of Lot 1, Block 5, Sun Garden Village Second Section, for the Southeast corner of this tract;

THENCE S 75°35'12" W with the South line of said Spruce Avenue and with the North lines of said Lot 1 and Lot 2, Block 5 a distance of 106.68 feet to (N: 10,705,530.37, E: 1,758,492.13) a 1/2 inch Iron Rod with red plastic cap marked "West Co Midland" set at the Northwest corner of said Lot 2 for the Southwest corner of this tract;

THENCE N 14°24'48" W in and across said Spruce Avenue a distance of 60.00 feet to the POINT OF BEGINNING;

Subject tract containing a total of 0.138 acres (5,992 s.f.) of land.

NOTE: Coordinates, Bearings, Distances, and Areas shown hereon are Lambert Grid and conform to the "Texas Coordinate System", Texas Central Zone, North American Datum of 1983.

I Hereby Certify That This Plat Was Made From Notes Taken in the Field in a Bona Fide Survey Made Under my Supervision.

MARCUS L. HOSTAS TEXAS R.P.L.S. No. 5643
DATE SURVEYED APRIL 4, 2012

CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	64.35'	50.00'	73°44'23"	S 14°24'48" E	60.00'

LEGEND



DENOTES SET 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"
DENOTES BOUNDARY LINE
DENOTES ADJACENT TRACT



WEST COMPANY



OF MIDLAND, INC.

ENGINEERS - PLANNERS - SURVEYORS
REGISTRATION: FIRM 2184
110 W. LOUISIANA AVE., SUITE 110
MIDLAND, TEXAS 79701
(432) 687-0865 - FAX (432) 687-0868



July 1, 2013

Midland City Council
City of Midland, Texas

RE: Request for vacation of a 0.138-acre portion of East Spruce Avenue right-of-way adjacent to Lots 23 and 24, Block 6, and to Lots 1 and 2, Block 5, Sun Garden Village, Second Section, City and County of Midland, Texas

Dear Members of the City Council:

The above-referenced property has been appraised in accordance with Chapter 272 of the Texas Local Government Code. The fair market value of the property is \$599.20. The property can be vacated and recorded in the Midland County Clerk's office when the City of Midland has received this amount from the adjoining property owner(s).

Very truly yours,

A handwritten signature in blue ink that reads "Courtney Sharp". The signature is stylized, with the first letters of the first and last names being large and prominent.

Courtney Sharp
City Manager

Exhibit "B"

L:\Ordinances\Planning\Vacate & Abandon\2013\Spruce Avenue, Blks 5 & 6, Sun Garden Village Addition Appraisal Letter.wpd

CITY OF MIDLAND
Planning Division

APPLICATION TO VACATE RIGHT-OF-WAY

I. Application is hereby made to the City Council to vacate the following public right-of-way or easement:
0.138 Acres of Apruce Ave, to the west of Carver St.

II. Reason for Request: To allow for proposed Sun Garden Village, Third Section

III. Reasons, in applicant's opinion, why the requested vacation will not adversely affect the public welfare or will contribute to it in a positive way:
Street dead ends into Midland Draw just west of the proposed tract.
Currently improved. All tracts which would lose road access are owned
by City of Midland and are a part of Midland Draw.

IV. REQUIRED ITEMS:

1. Applicant(s) Information: (Attach extra sheets as necessary.)

Name: Lance Friday

Address: 4305 N. Garfield, Suite 222

Phone: 682-7827

Midland
City

Tex.
State

79705

Zip Code

2. Metes and bounds description of property to be vacated.
3. Map showing property to be vacated and its relationship to the applicant's property.
4. Letter(s) of Concurrence signed by adjacent property owner(s). (See attached)
5. Application Fee: **\$300.00**

Required items Attached? Date Received: 1. _____ 2. _____ 3. _____ 4. _____ 5. _____

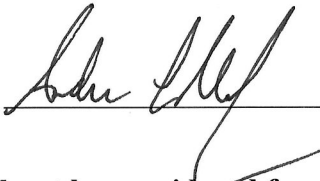
V. Clearance is needed from the following utility companies: City of Midland / Atmos Energy

Caprock Energy / TXU Electric / AT&T / Suddenlink Cable TV Co. / Grande Communications

The City will route the request to these companies, but it is the applicant's responsibility to ensure clearance has been obtained and to work out any issues that may arise.

VI. Policies:

1. If the vacation request involves only a portion of a section right-of-way, such that approval would not affect the public's ability to travel along said right-of-way, then the request will be scheduled for consideration by the City Council. No public hearing will be needed.
2. If the vacation request involves an entire section of right-of-way, such that approval would cause the public to lose all rights to use it, then the following procedures apply:
 - a. Nearby land owners who have a reasonable expectation to use said right-of-way, as determined by the Planning Division, must first agree to the proposed vacation. It is the applicant's responsibility to obtain a letter of concurrence signed by the affected land owners.
 - b. If all letters are received indicating that the affected land owners agree to the request, then a public hearing before the City Council will be scheduled. Public notice of the hearing will be mailed by the Planning Division to land owners within 1,000 feet of the affected right-of-way.
 - c. If a request is approved, the right-of-way shall be divided into two equal parts, with each half becoming the property of the respective abutting owner. If the applicant desires to own the entire width, he or she must negotiate with the opposite land owner.

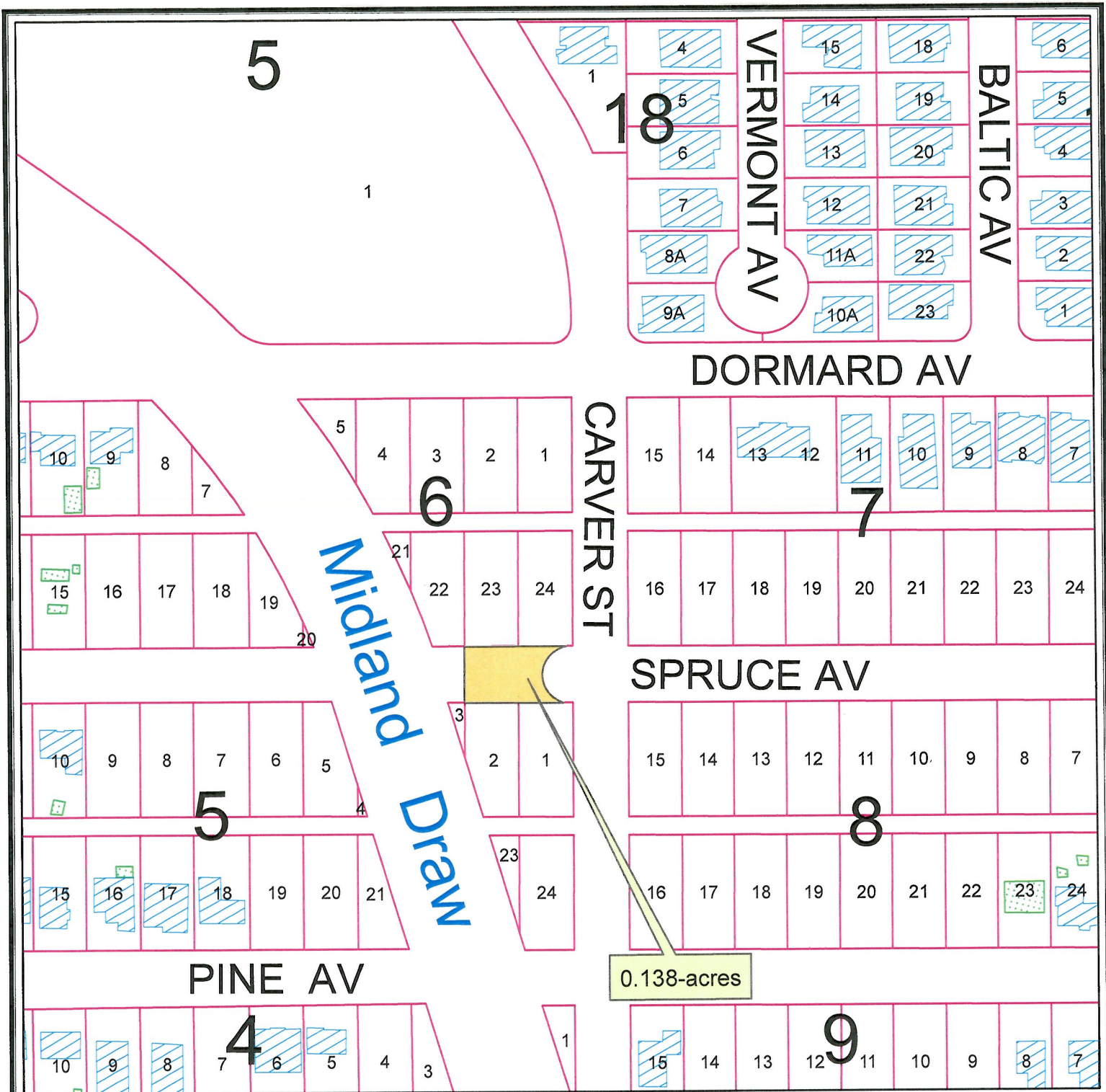
Signature of applicant:  Date: 1-24-13

****Application will not be considered for scheduling until reviewed by a planner.****

To be completed by City of Midland staff:

According to the policy guidelines outlined above, a public hearing will ____ will not ____ be required.

FOR OFFICE USE ONLY	
Rec'd. By: <u></u>	Date: <u>1/24/13</u>
Assigned: _____	
For: _____	On: _____



LOCATION MAP

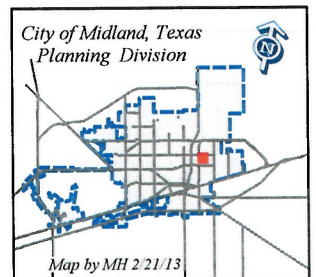
V - 13 - 003

Scale: 1" = 150'

Consider a request for the vacation of a 0.138-acre portion of the right-of-way of E. Spruce Avenue adjacent to Lots 23 and 24, Block 6, and to Lots 1 and 2, Block 5, Sun Garden Village, Second Section, City and County of Midland, Texas.

LEGEND

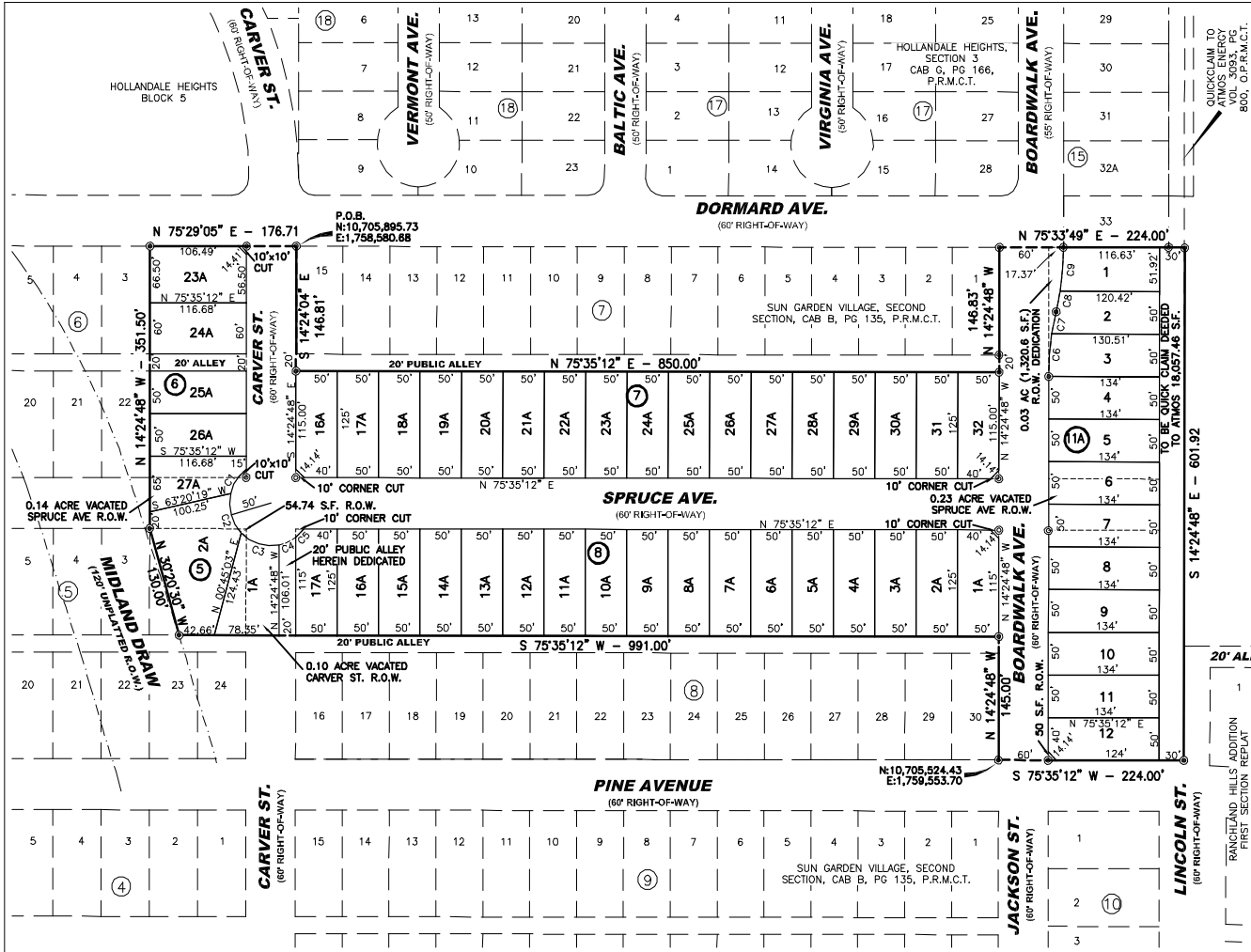
- CITY LIMITS
- PARCEL
- PRIVATE BLDGS
- ACCESSORY BLDGS



©THE CITY OF MIDLAND - 2013
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, SITING, OR OTHER DECISION SOLELY ON THE INFORMATION CONTAINED HEREIN.

2012 WEST COMPANY OF MIDLAND

26.10



PRELIM PLAT SUN GARDEN VILLAGE, SECTION 3

BEING A REPLAT OF LOTS 1-2, BLOCK 5, LOTS 1-2, & 23-24 BLOCK 6, LOTS 16-30, BLOCK 7, LOTS 1-15, BLOCK 8, ALL OF BLOCKS 11 AND 12, SUN GARDEN VILLAGE, SECOND SECTION, AS RECORDED IN CABINET "B", PAGE 135, PLAT RECORDS OF MIDLAND COUNTY

OWNER'S CERTIFICATE

THE STATE OF TEXAS
COUNTY OF MIDLAND

WHEREAS, I, LANCE FRIDAY, as the record owner of a tract of land situated in Section 24, Block 39, T-1-S, T&P RR. Co. Survey, County of Midland, and more particularly described hereon.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That, I, LANCE FRIDAY, being the owner of the land shown on this plat designated as SUN GARDEN VILLAGE, SECTION 3, on Addition to the City of Midland, Midland County, Texas and whose name is subscribed hereto, do hereby dedicate to the public use forever the streets, alleys, and easements shown thereon; and do hereby give an easement of ingress and egress to the City of Midland for garbage and trash collection, and location and maintenance of trash containers and access thereto and condition said that no construction shall commence on said lot or lots until the exact location of said containers therewith have been selected and approved by the Director of Utilities. WITNESS my hand at Midland, Texas, this

the _____ day of _____, 2012.

By: Lance Friday
Vice President
GPS HOLDINGS, LTD

ACKNOWLEDGEMENT

THE STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Lance Friday, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act as owner, and that he executed the same as the act 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 IN AND FOR THE STATE OF TEXAS

CERTIFICATE OF APPROVAL

This is to certify that the above and foregoing plat of "SUN GARDEN VILLAGE, SECTION 3", was approved by the proper action of the Director of Development Services of the City of Midland, Texas on this the _____ day of _____, 2012.

BECKY FERGUSON, CHAIRMAN

CAMERON WALKER, SECRETARY

GPS HOLDINGS, LTD
LANCE FRIDAY, VICE PRESIDENT
4305 N GARFIELD ST., STE 222
MIDLAND, TEX. 79705
(432) 682-7827

WEST COMPANY
OF MIDLAND, INC.
ENGINEERS - PLANNERS - SURVEYORS
REGISTRATION: FRM 2184
110 W. LOUISIANA AVE., SUITE 110
MIDLAND, TEXAS 79701
(432) 687-0865 • FAX (432) 687-0868
JUNE 2012

**SUN GARDEN VILLAGE,
SECTION 3**

SURVEYOR'S CERTIFICATE

KNOW ALL MEN BY THESE PRESENTS:

That I, Marcus L. Ferguson, being a duly Licensed Professional Surveyor in the State of Texas, do hereby certify that this plat was prepared from an actual and correct survey of the land and improvements shown thereon were properly located under my personal supervision and in accordance with the provisions of the Regulations of the City of Midland, Texas.

Marcus L. Ferguson, P.R.L.S.
Registration No. 5612

UTILITY COMPANY'S CERTIFICATE

This plat has been checked for accessibility of utilities.

ATMOS ENERGY

Print Name:

ONCOR ELECTRIC DELIVERY

Print Name:

SUDDENLINK

Print Name:

GRANDE COMMUNICATIONS

Print Name:

AT&T-TEXAS

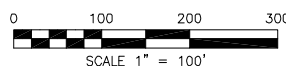
Print Name:

SHARYLAND UTILITIES

Print Name:

LEGEND

- DENOTES SET 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"
- ⊙ DENOTES FOUND MONUMENT AS NOTED
- DENOTES OFFICIAL PUBLIC RECORDS, MIDLAND COUNTY, TX
- DENOTES DEED RECORDS, MIDLAND CO., TX
- DENOTES PLAT RECORDS, MIDLAND CO., TX
- DENOTES EASEMENT LINE
- DENOTES BOUNDARY LINE



NOTES:

- SELLING A PORTION OF THIS ADDITION BY METES AND BOUNDS MAY BE A VIOLATION OF CITY ORDINANCE AND STATE LAW AND SUBJECT TO FINES AND WITHHOLDING OF UTILITIES AND BUILDING PERMITS.
- APPROVAL OF A SITE PLAN BY THE CITY OF MIDLAND MAY BE REQUIRED BEFORE THE DEVELOPMENT OF ANY LOT AND BEFORE A BUILDING PERMIT MAY BE OBTAINED.
- BEARINGS, DISTANCES AND COORDINATES ARE RELATIVE TO THE TEXAS STATE PLANE COORDINATE SYSTEM, TEXAS NORTH CENTRAL ZONE, NORTH AMERICAN DATUM OF 1983.

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	50.00'	35.00'	34.29'	N 18°39'48" E	40°06'25"
C2	50.00'	50.00'	47.94'	N 30°02'18" W	57°17'45"
C3	50.00'	49.97'	47.92'	N 87°19'06" W	57°15'51"
C4	50.00'	22.11'	21.93'	S 51°23'00" W	25°19'59"
C5	50.00'	14.19'	14.14'	N 30°35'12" E	18°15'37"
C6	300.00'	50.18'	50.12'	N 10°24'56" W	09°35'02"
C7	300.00'	26.45'	26.44'	N 03°05'52" W	05°03'06"
C8	300.00'	24.57'	24.56'	N 02°55'06" W	04°41'34"
C9	320.58'	52.06'	52.01'	N 10°04'37" W	09°18'18"

T:\CIVIL DRAWINGS\2012-0453\Sketch Plat\2012-0453 Sketch Plat.DWG



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: July 23, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Ken Van Dyne, Acting Planning Division Manager

SUBJECT: Consider an ordinance on second reading on a request by Lance Friday Homes to vacate 4,249 square-foot portion of Carver Street (Generally located south of Spruce Avenue).

Purpose:

Consider an ordinance on a request by Lance Friday Homes to vacate a 4,249 square-foot portion of Carver Street.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

Approval will net the City \$424.90.

Discussion:

Lance Friday Homes has submitted a preliminary plat named Sun Garden Village, Third Section. This plat proposes to change the existing street alignments, which will require the vacation of three portions of unimproved rights-of-way. This application is for the portion of Carver Street located south of Spruce Avenue. Midland Central Appraisal District indicates that the value of this land is \$424.90 (0.10/sq. ft.). On July 9th the City Council approved this request, conditioned upon the submittal of this amount. We have since received this payment. This ordinance is now ready for consideration on second and final reading.

ORDINANCE NO.

AN ORDINANCE VACATING AND ABANDONING A 0.098-ACRE PORTION OF NORTH CARVER STREET RIGHT-OF-WAY ADJACENT TO LOT 1, BLOCK 5, SUN GARDEN VILLAGE, SECOND SECTION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON SOUTH SIDE OF EAST SPRUCE AVENUE, APPROXIMATELY 150 FEET NORTH OF EAST PINE AVENUE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$424.90; AND ORDERING RECORDATION BY THE CITY SECRETARY

WHEREAS, it has been determined by the Midland City Council that a 0.098-acre portion of North Carver Street right-of-way adjacent to Lot 1, Block 5, Sun Garden Village, Second Section, City and County of Midland, Texas, is no longer needed for public use; and

WHEREAS, Section 272.001 of the Texas Local Government Code provides that a political subdivision may not convey, sell, or exchange its interest in land without observing notice and bid requirements, unless the conveyance is to one or more abutting property owners; and

WHEREAS, an application for vacating the right-of-way has been received by the City from the abutting property owner; and

WHEREAS, the City Manager has appraised the value of the City's property interest in the right-of-way at \$424.90, as shown in Exhibit "B" attached hereto and incorporated herein by reference; and

WHEREAS, the Council finds it to be in the public interest to abandon and vacate the right-of-way described herein;

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

SECTION ONE. That the 0.098-acre portion of North Carver Street right-of-way adjacent to Lot 1, Block 5, Sun Garden Village, Second Section, City and County of Midland, Texas, as described in Exhibit "A" attached hereto and made a part hereof for all legal purposes, is hereby vacated and abandoned for all public purposes. Provided, however, that the City is hereby only abandoning the public interest in said property and this ordinance

in no way affects any private easement or access easement which abutting property owners may have in said right-of-way.

SECTION TWO. That this Ordinance shall not be effective until the City of Midland has received from the property owner(s) the sum of \$424.90.

That this Ordinance shall not be effective until a final plat, entitled Sun Garden Village, Third Section, is submitted to the City of Midland in proper form for approval.

SECTION THREE. That upon the City's receipt of the sum set forth in Section Two hereof, the City Secretary is hereby authorized and directed to file a certified copy of this Ordinance with the County Clerk of Midland County, Texas, for purposes of recording in the Official Records of Midland County, Texas.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2013; 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., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

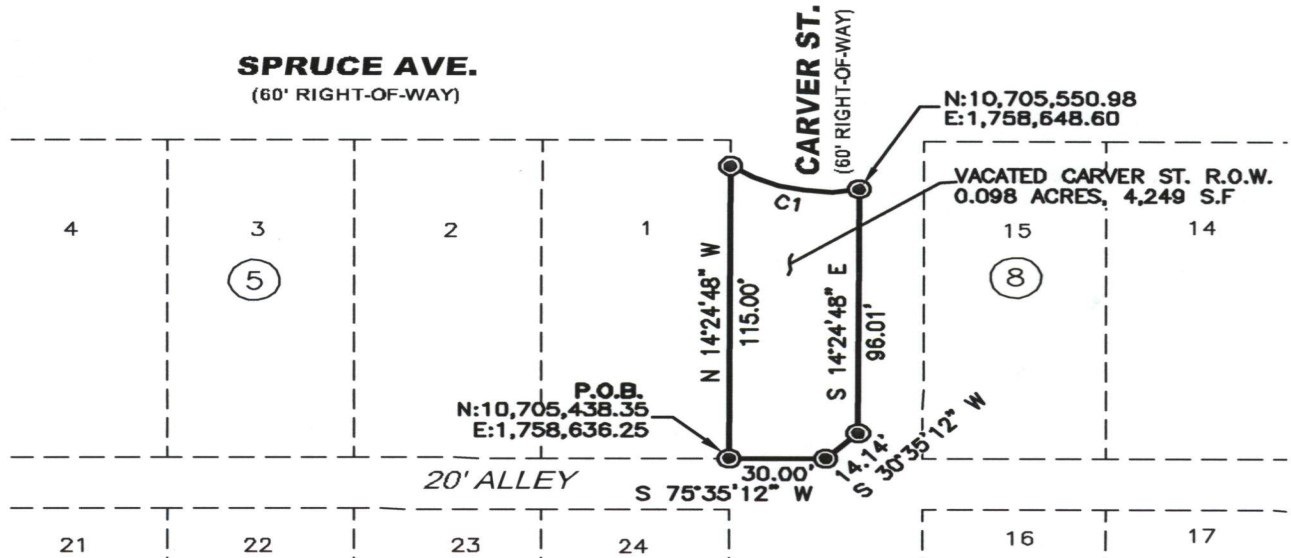
APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

ABANDONED RIGHT OF WAY EXHIBIT CARVER STREET



LEGAL DESCRIPTION of a 0.098 acre tract out of Carver Street Right-of-Way out of Sun Garden Village, Second Section, an Addition to the City of Midland Texas as recorded in Volume 130, Page 133 of the Deed Records of Midland County, Texas, and being located in Section 24, Block 39, T-1-S, T&P RR Co. Survey, Midland County, Texas, Subject Tract being more particularly described by metes and bounds as follows:

BEGINNING at (N: 10,705,438.35, E: 1,758,636.25) a 1/2 inch Iron Rod with red plastic cap marked "West Co Midland" set in the West line of said Carver Street, a 60 foot public road, at the Southeast corner of Lot 1, Block 5, Sun Garden Village, Second Section, for the Southwest corner of this tract;

THENCE N 14°24'48" W with the East line of said Lot 1 and the West line of said Carver Street a distance of 115.00 feet to a 1/2 inch Iron Rod with red plastic cap marked "West Co Midland" set for the Northwest Corner of this tract;

THENCE Easterly in and across Carver Street with a curve a Chord Length of 41.00 feet, a Chord bearing of N 88°15'11" E, a Delta Angle of 48°24'25", an Arc Length of 42.24 feet, and a Radius of 50.00 feet to (N: 10,705,550.98, E: 1,758,648.60) a 1/2 inch Iron Rod with red plastic cap marked "West Co Midland" set for the Northeast corner of this tract;

THENCE S 14°24'48" E in and across said Carver Street a distance of 96.01 feet to a 1/2 inch Iron Rod with red plastic cap marked "West Co Midland" set for the most Easterly Southeast corner of this tract;

THENCE S 30°35'12" W in and across said Carver Street a distance of 14.14 feet to a 1/2 inch Iron Rod with red plastic cap marked "West Co Midland" set for the most Southerly Southeast corner of this tract;

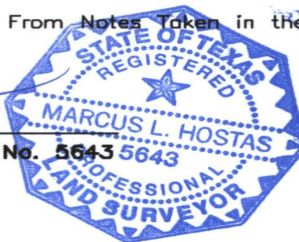
THENCE S 75°35'12" W in and across said Carver Street a distance of 30.00 feet to the POINT OF BEGINNING;

Subject Tract containing a total of 0.098 Acres (4,249 square feet) of land.

NOTE: Coordinates, Bearings, Distances, and Areas shown hereon are Lambert Grid and conform to the "Texas Coordinate System", Texas Central Zone, North American Datum of 1983.

I Hereby Certify That This Plat Was Made From Notes Taken in the Field in a Bona Fide Survey Made Under my Supervision.

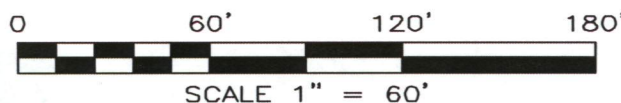
MARCUS L. HOSTAS TEXAS R.P.L.S. No. 5643
DATE SURVEYED APRIL 4, 2012



CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	42.24'	50.00'	48°24'25"	N 88°15'11" E	41.00'

LEGEND

DENOTES SET 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"
 DENOTES BOUNDARY LINE



WEST COMPANY



OF MIDLAND, INC.
 ENGINEERS - PLANNERS - SURVEYORS
 REGISTRATION: FIRM 2184
 110 W. LOUISIANA AVE., SUITE 110
 MIDLAND, TEXAS 79701
 (432) 687-0865 - FAX (432) 687-0868



July 1, 2013

Midland City Council
City of Midland, Texas

RE: Request for vacation of a 0.098-acre portion of North Carver Street right-of-way adjacent to Lot 1, Block 5, Sun Garden Village, Second Section, City and County of Midland, Texas

Dear Members of the City Council:

The above-referenced property has been appraised in accordance with Chapter 272 of the Texas Local Government Code. The fair market value of the property is \$424.90. The property can be vacated and recorded in the Midland County Clerk's office when the City of Midland has received this amount from the adjoining property owner(s).

Very truly yours,

A handwritten signature in black ink that reads "Courtney Sharp". The signature is stylized, with the first letters of the first and last names being large and prominent.

Courtney Sharp
City Manager

Exhibit "B"

L:\Ordinances\Planning\Vacate & Abandon\2013\Carver Street, Blk 5, Sun Garden Village Addition Appraisal Letter.wpd

Case Number: V-13-004

CITY OF MIDLAND
Planning Division

APPLICATION TO VACATE RIGHT-OF-WAY

- I.** Application is hereby made to the City Council to vacate the following public right-of-way or easement:
0.098 Acres of Carver Street, to the south of Spruce Ave.
- II.** Reason for Request: To allow for proposed Sun Garden Village, Third Section
- III.** Reasons, in applicant's opinion, why the requested vacation will not adversely affect the public welfare or will contribute to it in a positive way:
Carver Street dead ends into Midland Draw just south of the proposed tract, and is not currently improved

IV. REQUIRED ITEMS:

1. Applicant(s) Information: (Attach extra sheets as necessary.)

Name: Lance Friday

Address: 4305 N. Garfield, Suite 222 Phone: 682-7827

<u>Street</u>	<u>Tex.</u>	<u>79705</u>
<u>Midland</u>	<u>State</u>	<u>Zip Code</u>
<u>City</u>		

2. Metes and bounds description of property to be vacated.
3. Map showing property to be vacated and its relationship to the applicant's property.
4. Letter(s) of Concurrence signed by adjacent property owner(s). (See attached)
5. Application Fee: **\$300.00**

Required items Attached? Date Received: 1. _____ 2. _____ 3. _____ 4. _____ 5. _____

- V.** Clearance is needed from the following utility companies: City of Midland / Atmos Energy
Caprock Energy / TXU Electric / AT&T / Suddenlink Cable TV Co. / Grande Communications

The City will route the request to these companies, but it is the applicant's responsibility to ensure clearance has been obtained and to work out any issues that may arise.

VI. Policies:

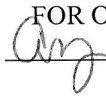
1. If the vacation request involves only a portion of a section right-of-way, such that approval would not affect the public's ability to travel along said right-of-way, then the request will be scheduled for consideration by the City Council. No public hearing will be needed.
2. If the vacation request involves an entire section of right-of-way, such that approval would cause the public to lose all rights to use it, then the following procedures apply:
 - a. Nearby land owners who have a reasonable expectation to use said right-of-way, as determined by the Planning Division, must first agree to the proposed vacation. It is the applicant's responsibility to obtain a letter of concurrence signed by the affected land owners.
 - b. If all letters are received indicating that the affected land owners agree to the request, then a public hearing before the City Council will be scheduled. Public notice of the hearing will be mailed by the Planning Division to land owners within 1,000 feet of the affected right-of-way.
 - c. If a request is approved, the right-of-way shall be divided into two equal parts, with each half becoming the property of the respective abutting owner. If the applicant desires to own the entire width, he or she must negotiate with the opposite land owner.

Signature of applicant:  Date: 1-24-13

****Application will not be considered for scheduling until reviewed by a planner.****

To be completed by City of Midland staff:

According to the policy guidelines outlined above, a public hearing will ____ will not ____ be required.

FOR OFFICE USE ONLY	
Rec'd. By: <u></u>	Date: <u>1/24/13</u>
Assigned: _____	
For: _____	On: _____

PRELIM PLAT SUN GARDEN VILLAGE, SECTION 3

BEING A REPLAT OF LOTS 1-2, BLOCK 5, LOTS 1-2, & 23-24 BLOCK 6, LOTS 16-30, BLOCK 7, LOTS 1-15, BLOCK 8, ALL OF BLOCKS 11 AND 12, SUN GARDEN VILLAGE, SECOND SECTION, AS RECORDED IN CABINET "B", PAGE 135, PLAT RECORDS OF MIDLAND COUNTY

OWNER'S CERTIFICATE

THE STATE OF TEXAS
COUNTY OF MIDLAND

WHEREAS, I, LANCE FRIDAY, as the record owner of a tract of land situated in Section 24, Block 39, T-1-S, T&P RR. Co. Survey, County of Midland, and more particularly described hereon.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That, I, LANCE FRIDAY, being the owner of the land shown on this plat designated as SUN GARDEN VILLAGE, SECTION 3, on Addition to the City of Midland, Midland County, Texas and whose name is subscribed hereto, do hereby dedicate to the public use forever the streets, alleys, and easements shown thereon; and do hereby give an easement of ingress and egress to the City of Midland for garbage and trash collection, and location and maintenance of trash containers and access thereto and condition said that no construction shall commence on said lot or lots until the exact location of said containers therewith have been selected and approved by the Director of Utilities. WITNESS my hand at Midland, Texas, this

the _____ day of _____, 2012.

By: Lance Friday
Vice President
GPS HOLDINGS, LTD

ACKNOWLEDGEMENT

THE STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Lance Friday, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act as owner, and that he executed the same as the act 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 IN AND FOR THE STATE OF TEXAS

CERTIFICATE OF APPROVAL

This is to certify that the above and foregoing plat of "SUN GARDEN VILLAGE, SECTION 3", was approved by the proper action of the Director of Development Services of the City of Midland, Texas on this the

_____ day of _____, 2012.

BECKY FERGUSON, CHAIRMAN

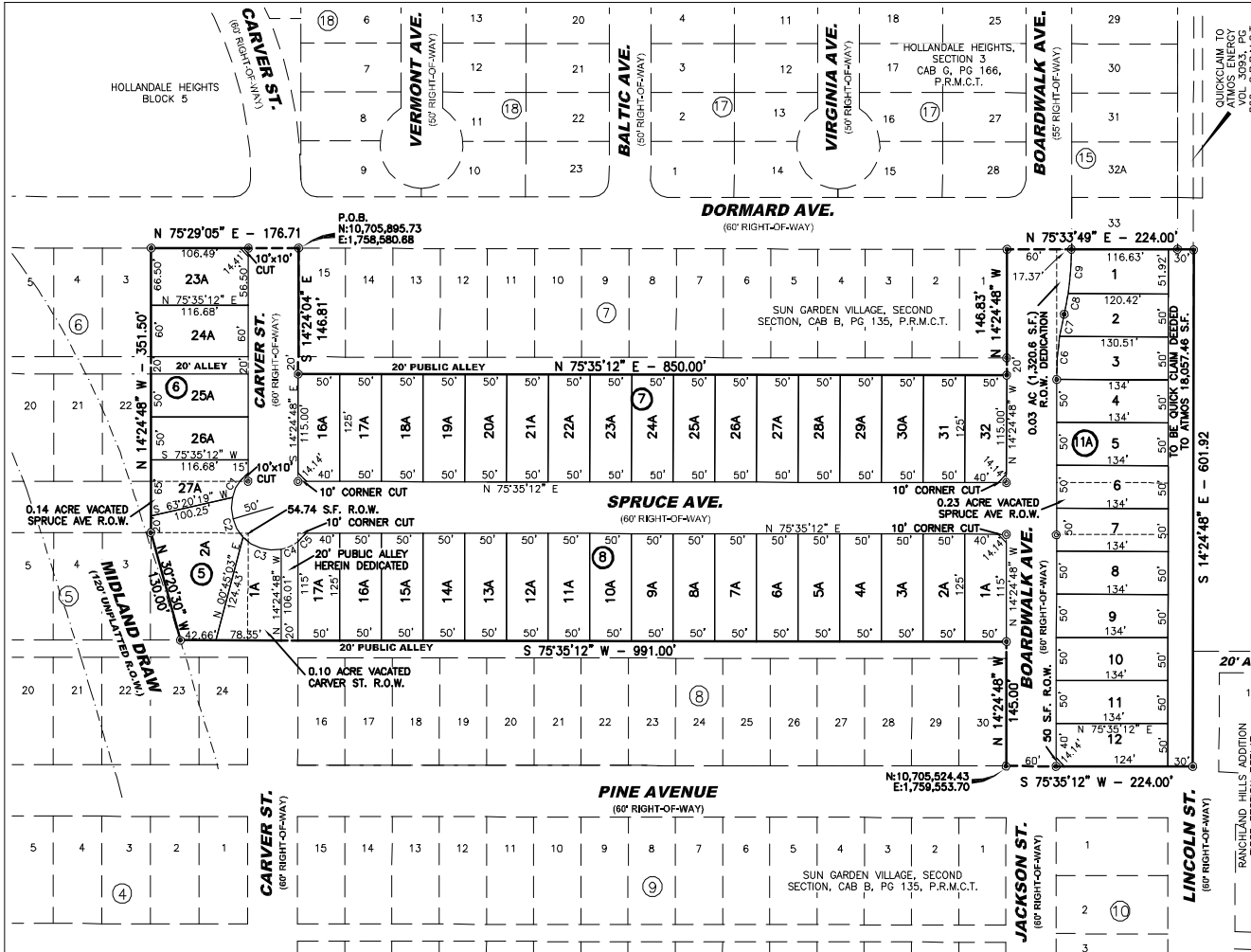
CAMERON WALKER, SECRETARY

GPS HOLDINGS, LTD
LANCE FRIDAY, VICE PRESIDENT
4305 N GARFIELD ST., STE 222
MIDLAND, TEX. 79705
(432) 682-7827

WEST COMPANY

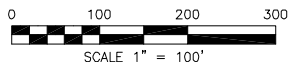
OF MIDLAND, INC.
ENGINEERS - PLANNERS - SURVEYORS
REGISTRATION: FRM 2184
110 W. LOUISIANA AVE., SUITE 110
MIDLAND, TEXAS 79701
(432) 687-0865 • FAX (432) 687-0868
JUNE 2012

SUN GARDEN VILLAGE,
SECTION 3



LEGEND

- DENOTES SET 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"
- ⊙ DENOTES FOUND MONUMENT AS NOTED DENOTES OFFICIAL PUBLIC RECORDS, MIDLAND COUNTY, TX
- D.R.M.C.T. DENOTES DEED RECORDS, MIDLAND CO., TX
- P.R.M.C.T. DENOTES PLAT RECORDS, MIDLAND CO., TX
- DENOTES EASEMENT LINE
- DENOTES BOUNDARY LINE



NOTES:

- SELLING A PORTION OF THIS ADDITION BY METES AND BOUNDS MAY BE A VIOLATION OF CITY ORDINANCE AND STATE LAW AND SUBJECT TO FINES AND WITHHOLDING OF UTILITIES AND BUILDING PERMITS.
- APPROVAL OF A SITE PLAN BY THE CITY OF MIDLAND MAY BE REQUIRED BEFORE THE DEVELOPMENT OF ANY LOT AND BEFORE A BUILDING PERMIT MAY BE OBTAINED.
- BEARINGS, DISTANCES AND COORDINATES ARE RELATIVE TO THE TEXAS STATE PLANE COORDINATE SYSTEM, TEXAS NORTH CENTRAL ZONE, NORTH AMERICAN DATUM OF 1983.

SURVEYOR'S CERTIFICATE

KNOW ALL MEN BY THESE PRESENTS:

That I, Marcus L. Heston, being duly sworn, do hereby certify that this plat was prepared from a correct and true survey of the land and easements shown thereon were properly made under my personal supervision and in accordance with the regulations of the City of Midland, Texas.

Marcus L. Heston, P.E.L.S.
Registration No. 56

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	50.00'	35.00'	34.29'	N 18°39'48" E	40°06'25"
C2	50.00'	50.00'	47.94'	N 30°02'18" W	57°17'45"
C3	50.00'	49.97'	47.92'	N 87°19'06" W	57°15'51"
C4	50.00'	22.11'	21.93'	S 51°23'00" W	25°19'59"
C5	50.00'	14.19'	14.14'	N 30°35'12" E	18°15'37"
C6	300.00'	50.18'	50.12'	N 10°24'56" W	09°35'02"
C7	300.00'	26.45'	26.44'	N 03°05'52" W	05°03'06"
C8	300.00'	24.57'	24.56'	N 02°55'06" W	04°41'34"
C9	320.58'	52.06'	52.01'	N 10°04'37" W	09°18'18"

UTILITY COMPANY'S CERTIFICATE

This plat has been checked for accessibility of utilities.

ATMOS ENERGY

Print Name:

ONCOR ELECTRIC DELIVERY

Print Name:

SUDDENLINK

Print Name:

GRANDE COMMUNICATIONS

Print Name:

AT&T-TEXAS

Print Name:

SHARYLAND UTILITIES

Print Name:



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: July 23 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Ken Van Dyne, Acting Planning Division Manager

SUBJECT: Consider an ordinance on second reading on a request by Lance Friday Homes to vacate 8,040 square-foot portion of Spruce Avenue (Generally located at the intersection of Spruce Avenue and Jackson Street).

Purpose:

Consider an ordinance on a request by Lance Friday Homes to vacate an 8,040 square-foot portion of Spruce Avenue.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

Approval will net the City \$804.

Discussion:

Lance Friday Homes has submitted a preliminary plat named Sun Garden Village, Third Section. This plat proposes to change the existing street alignments, which will require the vacation of three portions of unimproved street rights-of-way. This application is for the portion of Spruce Avenue located east of Jackson Street. The Midland Central Appraisal District indicates that the value of this land is \$804 (0.10/sq. ft.). On July 9th, the City Council approved this request, conditioned upon the submittal of this amount. We have since received this payment. This ordinance is now ready for consideration on second and final reading.

ORDINANCE NO.

AN ORDINANCE VACATING AND ABANDONING A 0.185-ACRE PORTION OF EAST SPRUCE AVENUE RIGHT-OF-WAY ADJACENT TO LOT 4, BLOCK 12, AND TO LOT 1, BLOCK 11, SUN GARDEN VILLAGE, SECOND SECTION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF NORTH JACKSON STREET, APPROXIMATELY 270 FEET SOUTH OF DORMARD AVENUE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$804.00; AND ORDERING RECORDATION BY THE CITY SECRETARY

WHEREAS, it has been determined by the Midland City Council that a 0.185-acre portion of East Spruce Avenue right-of-way adjacent to Lot 4, Block 12, and to Lot 1, Block 11, Sun Garden Village, Second Section, City and County of Midland, Texas, is no longer needed for public use; and

WHEREAS, Section 272.001 of the Texas Local Government Code provides that a political subdivision may not convey, sell, or exchange its interest in land without observing notice and bid requirements, unless the conveyance is to one or more abutting property owners; and

WHEREAS, an application for vacating the right-of-way has been received by the City from the abutting property owner; and

WHEREAS, the City Manager has appraised the value of the City's property interest in the right-of-way at \$804.00, as shown in Exhibit "B" attached hereto and incorporated herein by reference; and

WHEREAS, the Council finds it to be in the public interest to abandon and vacate the right-of-way described herein;

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

SECTION ONE. That the 0.185-acre portion of East Spruce Avenue right-of-way adjacent to Lot 4, Block 12, and to Lot 1, Block 11, Sun Garden Village, Second Section, City and County of Midland, Texas, as described in Exhibit "A" attached hereto and made

a part hereof for all legal purposes, is hereby vacated and abandoned for all public purposes. Provided, however, that the City is hereby only abandoning the public interest in said property and this ordinance in no way affects any private easement or access easement which abutting property owners may have in said right-of-way.

SECTION TWO. That this Ordinance shall not be effective until the City of Midland has received from the property owner(s) the sum of \$804.00.

That this Ordinance shall not be effective until a final plat, entitled Sun Garden Village, Third Section, is submitted to the City of Midland in proper form for approval.

SECTION THREE. That upon the City's receipt of the sum set forth in Section Two hereof, the City Secretary is hereby authorized and directed to file a certified copy of this Ordinance with the County Clerk of Midland County, Texas, for purposes of recording in the Official Records of Midland County, Texas.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2013; 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., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

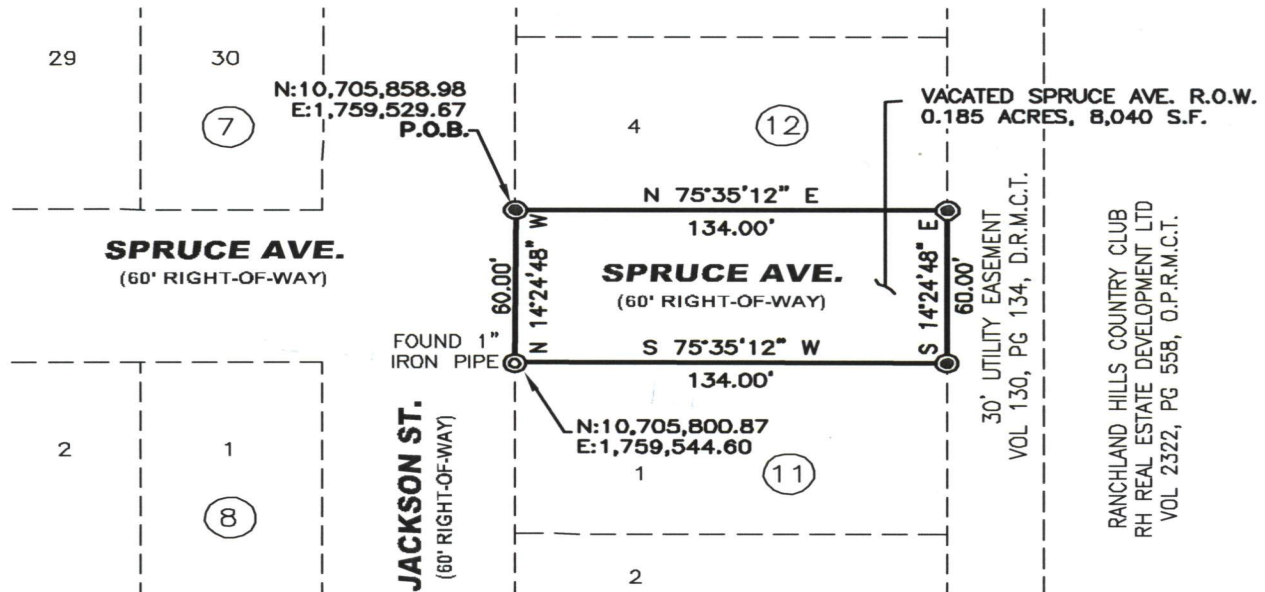
APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

ABANDONED RIGHT OF WAY EXHIBIT SPRUCE AVENUE



I Hereby Certify That This Plat Was Made From Notes Taken in the Field in a Bona Fide Survey Made Under my Supervision.

MARCUS L. HOSTAS
DATE SURVEYED APRIL 4, 2012

TEXAS R.P.L.S. No. 5643



LEGEND

- DENOTES SET 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"
- DENOTES BOUNDARY LINE
- - - - - DENOTES ADJACENT TRACT



WEST COMPANY

OF MIDLAND, INC.
ENGINEERS - PLANNERS - SURVEYORS
REGISTRATION: FIRM 2184
110 W. LOUISIANA AVE., SUITE 110
MIDLAND, TEXAS 79701
(432) 687-0865 - FAX (432) 687-0868



July 1, 2013

Midland City Council
City of Midland, Texas

RE: Request for vacation of a 0.185-acre portion of East Spruce Avenue right-of-way adjacent to Lot 4, Block 12, and to Lot 1, Block 11, Sun Garden Village, Second Section, City and County of Midland, Texas

Dear Members of the City Council:

The above-referenced property has been appraised in accordance with Chapter 272 of the Texas Local Government Code. The fair market value of the property is \$804.00. The property can be vacated and recorded in the Midland County Clerk's office when the City of Midland has received this amount from the adjoining property owner(s).

Very truly yours,

A handwritten signature in black ink that reads "Courtney Sharp". The signature is stylized with a large, looped "C" and a long, sweeping "S" for "Sharp".

Courtney Sharp
City Manager

Exhibit "B"

L:\Ordinances\Planning\Vacate & Abandon\2013\Spruce Avenue, Blks 11 & 12, Sun Garden Village Addition Appraisal Letter.wpd

PRELIM PLAT SUN GARDEN VILLAGE, SECTION 3

BEING A REPLAT OF LOTS 1-2, BLOCK 5, LOTS 1-2, & 23-24 BLOCK 6, LOTS 16-30, BLOCK 7, LOTS 1-15, BLOCK 8, ALL OF BLOCKS 11 AND 12, SUN GARDEN VILLAGE, SECOND SECTION, AS RECORDED IN CABINET "B", PAGE 135, PLAT RECORDS OF MIDLAND COUNTY

OWNER'S CERTIFICATE

THE STATE OF TEXAS
COUNTY OF MIDLAND

WHEREAS, I, LANCE FRIDAY, as the record owner of a tract of land situated in Section 24, Block 39, T-1-S, T&P RR. Co. Survey, County of Midland, and more particularly described hereon.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That, I, LANCE FRIDAY, being the owner of the land shown on this plat designated as SUN GARDEN VILLAGE, SECTION 3, on Addition to the City of Midland, Midland County, Texas and whose name is subscribed hereto, do hereby dedicate to the public use forever the streets, alleys, and easements shown thereon; and do hereby give an easement of ingress and egress to the City of Midland for garbage and trash collection, and location and maintenance of trash containers and access thereto and condition said that no construction shall commence on said lot or lots until the exact location of said containers therewith have been selected and approved by the Director of Utilities. WITNESS my hand at Midland, Texas, this

the _____ day of _____, 2012.

By: Lance Friday
Vice President
GPS HOLDINGS, LTD

ACKNOWLEDGEMENT

THE STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Lance Friday, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act as owner, and that he executed the same as the act 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 IN AND FOR THE STATE OF TEXAS

CERTIFICATE OF APPROVAL

This is to certify that the above and foregoing plat of "SUN GARDEN VILLAGE, SECTION 3", was approved by the proper action of the Director of Development Services of the City of Midland, Texas on this the

_____ day of _____, 2012.

BECKY FERGUSON, CHAIRMAN

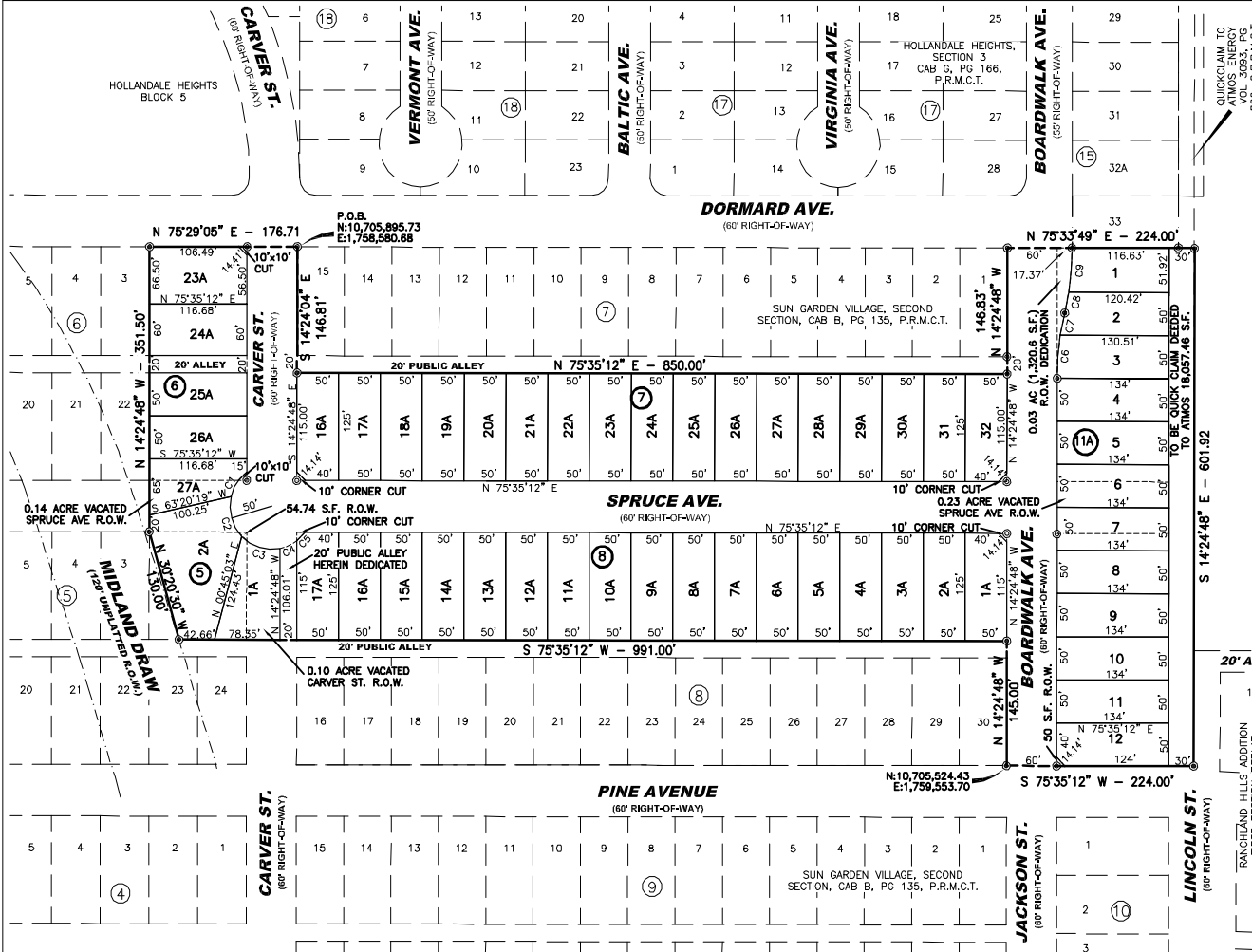
CAMERON WALKER, SECRETARY

GPS HOLDINGS, LTD
LANCE FRIDAY, VICE PRESIDENT
4305 N GARFIELD ST., STE 222
MIDLAND, TEX. 79705
(432) 682-7827

WEST COMPANY

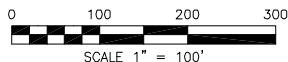
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(432) 687-0865 • FAX (432) 687-0868
JUNE 2012

SUN GARDEN VILLAGE,
SECTION 3



LEGEND

- DENOTES SET 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"
- ⊙ DENOTES FOUND MONUMENT AS NOTED
- DENOTES OFFICIAL PUBLIC RECORDS, MIDLAND COUNTY, TX
- DENOTES DEED RECORDS, MIDLAND CO., TX
- DENOTES PLAT RECORDS, MIDLAND CO., TX
- DENOTES EASEMENT LINE
- DENOTES BOUNDARY LINE



NOTES:

- SELLING A PORTION OF THIS ADDITION BY METES AND BOUNDS MAY BE A VIOLATION OF CITY ORDINANCE AND STATE LAW AND SUBJECT TO FINES AND WITHHOLDING OF UTILITIES AND BUILDING PERMITS.
- APPROVAL OF A SITE PLAN BY THE CITY OF MIDLAND MAY BE REQUIRED BEFORE THE DEVELOPMENT OF ANY LOT AND BEFORE A BUILDING PERMIT MAY BE OBTAINED.
- BEARINGS, DISTANCES AND COORDINATES ARE RELATIVE TO THE TEXAS STATE PLANE COORDINATE SYSTEM, TEXAS NORTH CENTRAL ZONE, NORTH AMERICAN DATUM OF 1983.

SURVEYOR'S CERTIFICATE

KNOW ALL MEN BY THESE PRESENTS:

That I, Marcus L. Heston, being duly sworn, do hereby certify that this plat was prepared from a correct and true survey of the land and improvements shown thereon were properly located under my personal supervision and in accordance with the regulations of the City of Midland, Texas.

Marcus L. Heston, P.E.L.S.
Registration No. 56

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	50.00'	35.00'	34.29'	N 18°39'48" E	40°06'25"
C2	50.00'	50.00'	47.94'	N 30°02'18" W	57°17'45"
C3	50.00'	49.97'	47.92'	N 87°19'06" W	57°15'51"
C4	50.00'	22.11'	21.93'	S 51°23'00" W	25°19'59"
C5	50.00'	14.19'	14.14'	N 30°35'12" E	18°15'37"
C6	300.00'	50.18'	50.12'	N 10°24'56" W	09°35'02"
C7	300.00'	26.45'	26.44'	N 03°05'52" W	05°03'06"
C8	300.00'	24.57'	24.56'	N 02°55'06" W	04°41'34"
C9	320.58'	52.06'	52.01'	N 10°04'37" W	09°18'18"

UTILITY COMPANY'S CERTIFICATE

This plat has been checked for accessibility of utilities.

ATMOS ENERGY

Print Name:

ONCOR ELECTRIC DELIVERY

Print Name:

SUDDENLINK

Print Name:

GRANDE COMMUNICATIONS

Print Name:

AT&T-TEXAS

Print Name:

SHARYLAND UTILITIES

Print Name:

CITY OF MIDLAND
Planning Division

APPLICATION TO VACATE RIGHT-OF-WAY

- I.** Application is hereby made to the City Council to vacate the following public right-of-way or easement:
0.185 Acres of Spruce Avenue, to the east of Jackson St.
- II.** Reason for Request: To allow for proposed Sun Garden Village, Third Section
- III.** Reasons, in applicant's opinion, why the requested vacation will not adversely affect the public welfare or will contribute to it in a positive way:
Spruce Ave. dead ends into a utility easement and then a golf course
The road is presently not developed.

IV. REQUIRED ITEMS:

1. Applicant(s) Information: (Attach extra sheets as necessary.)

Name: Lance Friday

Address: 4305 N. Garfield, Suite 222 Phone: 682-7827

Street	Tex.	79705
<u>Midland</u>	<u></u>	<u></u>
City	State	Zip Code

2. Metes and bounds description of property to be vacated.
3. Map showing property to be vacated and its relationship to the applicant's property.
4. Letter(s) of Concurrence signed by adjacent property owner(s). (See attached)
5. Application Fee: **\$300.00**

Required items Attached? Date Received: 1. 2. 3. 4. 5.

- V.** Clearance is needed from the following utility companies: City of Midland / Atmos Energy
Caprock Energy / TXU Electric / AT&T / Suddenlink Cable TV Co. / Grande Communications

The City will route the request to these companies, but it is the applicant's responsibility to ensure clearance has been obtained and to work out any issues that may arise.

VI. Policies:

1. If the vacation request involves only a portion of a section right-of-way, such that approval would not affect the public's ability to travel along said right-of-way, then the request will be scheduled for consideration by the City Council. No public hearing will be needed.
2. If the vacation request involves an entire section of right-of-way, such that approval would cause the public to lose all rights to use it, then the following procedures apply:
 - a. Nearby land owners who have a reasonable expectation to use said right-of-way, as determined by the Planning Division, must first agree to the proposed vacation. It is the applicant's responsibility to obtain a letter of concurrence signed by the affected land owners.
 - b. If all letters are received indicating that the affected land owners agree to the request, then a public hearing before the City Council will be scheduled. Public notice of the hearing will be mailed by the Planning Division to land owners within 1,000 feet of the affected right-of-way.
 - c. If a request is approved, the right-of-way shall be divided into two equal parts, with each half becoming the property of the respective abutting owner. If the applicant desires to own the entire width, he or she must negotiate with the opposite land owner.

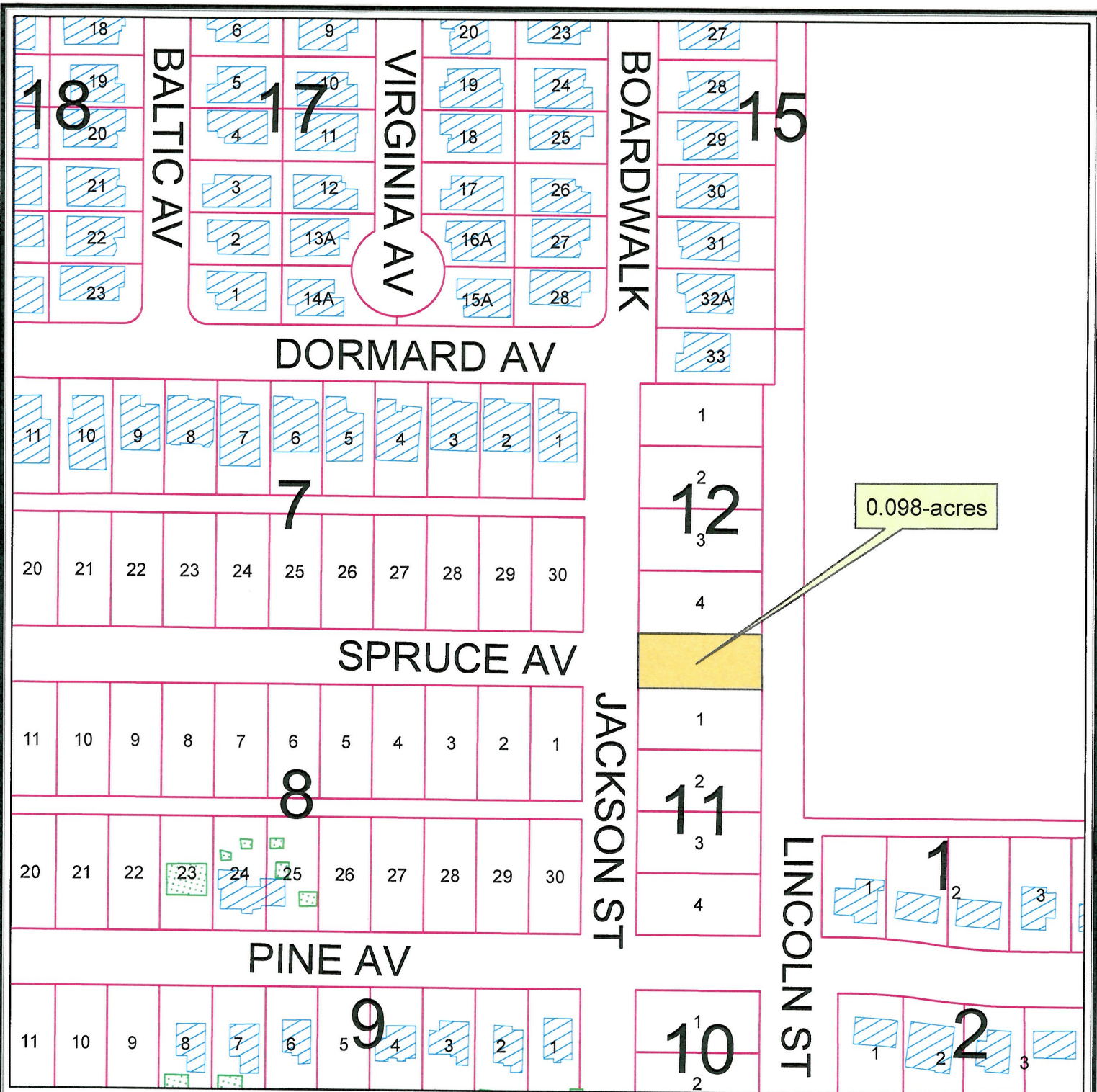
Signature of applicant: Andrew J. Melf Date: 1-24-13

****Application will not be considered for scheduling until reviewed by a planner.****

To be completed by City of Midland staff:

According to the policy guidelines outlined above, a public hearing will ____ will not ____ be required.

FOR OFFICE USE ONLY	
Rec'd. By: <u>Ang</u>	Date: <u>1/24/13</u>
Assigned: _____	
For: _____	On: _____



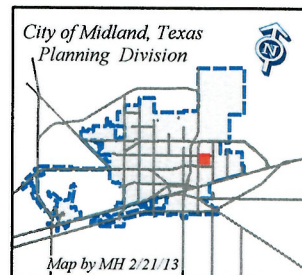
V - 13 - 005

Scale: 1" = 150'

Consider a request for the vacation of a 0.185-acre portion of the right-of-way of E. Spruce Avenue adjacent to Lot 4, Block 12, and to Lot 1, Block 11, Sun Garden Village, Second Section, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS
- ACCESSORY BLDGS



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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, SITING, OR OTHER DECISION SOLELY ON THE INFORMATION CONTAINED HEREIN.



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: 7/23/2013

TO: City Council / City Manager

FROM: Gary Saunders, Transportation Manager

SUBJECT: Consider an ordinance on second reading establishing intersection stops at various locations within the City of Midland, Texas; requiring and authorizing the posting of appropriate signs at intersections; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two hundred dollars (\$200.00); and ordering publication.

Purpose:

Consider an ordinance on second reading establishing intersection stops at various locations within the City of Midland, Texas; requiring and authorizing the posting of appropriate signs at intersections; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two hundred dollars (\$200.00); and ordering publication.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

Approximately \$750.00 for installation cost of signs including materials, equipment and labor.

Discussion:

The Legal Department has prepared an ordinance to be considered on second reading authorizing the installation of stop signs at various intersections within the City of Midland.

This ordinance has been requested to assign right-of-way for the motorist at each intersection in compliance with the Texas Manual on Uniform Traffic Control Devices. The proposed intersections for installation of stop signs are as follows:

On Blackwood Drive at Homestead Boulevard

On Ironwood Drive at Homestead Boulevard

On Ironwood Drive at Mosswood Drive

On Liberty Drive at Starboard Drive

On Mosswood Drive at Homestead Boulevard

On Starboard Drive at Tradewinds Boulevard

Staff recommends approval of this ordinance.

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING INTERSECTION STOPS AT VARIOUS LOCATIONS WITHIN THE CITY OF MIDLAND, TEXAS; REQUIRING AND AUTHORIZING THE POSTING OF APPROPRIATE SIGNS AT INTERSECTIONS; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO HUNDRED DOLLARS (\$200.00); AND ORDERING PUBLICATION

WHEREAS, the Council finds that the unusual character and volume of traffic on various intersecting streets within the City require that operators of motor vehicles traveling along said streets to stop before entering said intersections; and

WHEREAS, the Council finds it to be in the public interest to authorize and require the establishment of stop signs at said intersections;

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

SECTION ONE. In addition to all other stop signs, stop signs at the intersections enumerated in the following list are hereby ordered to be erected and are hereby validated and fully authorized, whether the same have already been placed and are existing upon said intersections, or shall be placed there hereafter, and all persons operating vehicles upon or over the streets of the City of Midland shall obey such stop signs. All streets located in the column under the word “On” are the streets on which stop signs are hereby ordered and authorized at their intersection with the streets listed on the same line and in the column immediately to the right headed by the word “At”.

ON

Blackwood Dr.
Ironwood Dr.
Ironwood Dr.
Liberty Dr.
Mosswood Dr.
Starboard Dr.

AT

Homestead Blvd.
Homestead Blvd.
Mosswood Dr.
Starboard Dr.
Homestead Blvd.
Tradewinds Blvd.

SECTION TWO. That the Traffic Engineer is hereby authorized and directed to erect and install appropriate signs and markings at the designated locations in conformance

with the State Highway Department's Manual and Specifications, indicating and carrying out the provisions of this ordinance.

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 that are directly inconsistent with or in direct conflict with any of the provisions of this ordinance are hereby expressly repealed but only 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 hundred dollars (\$200.00).

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., 2013; 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., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

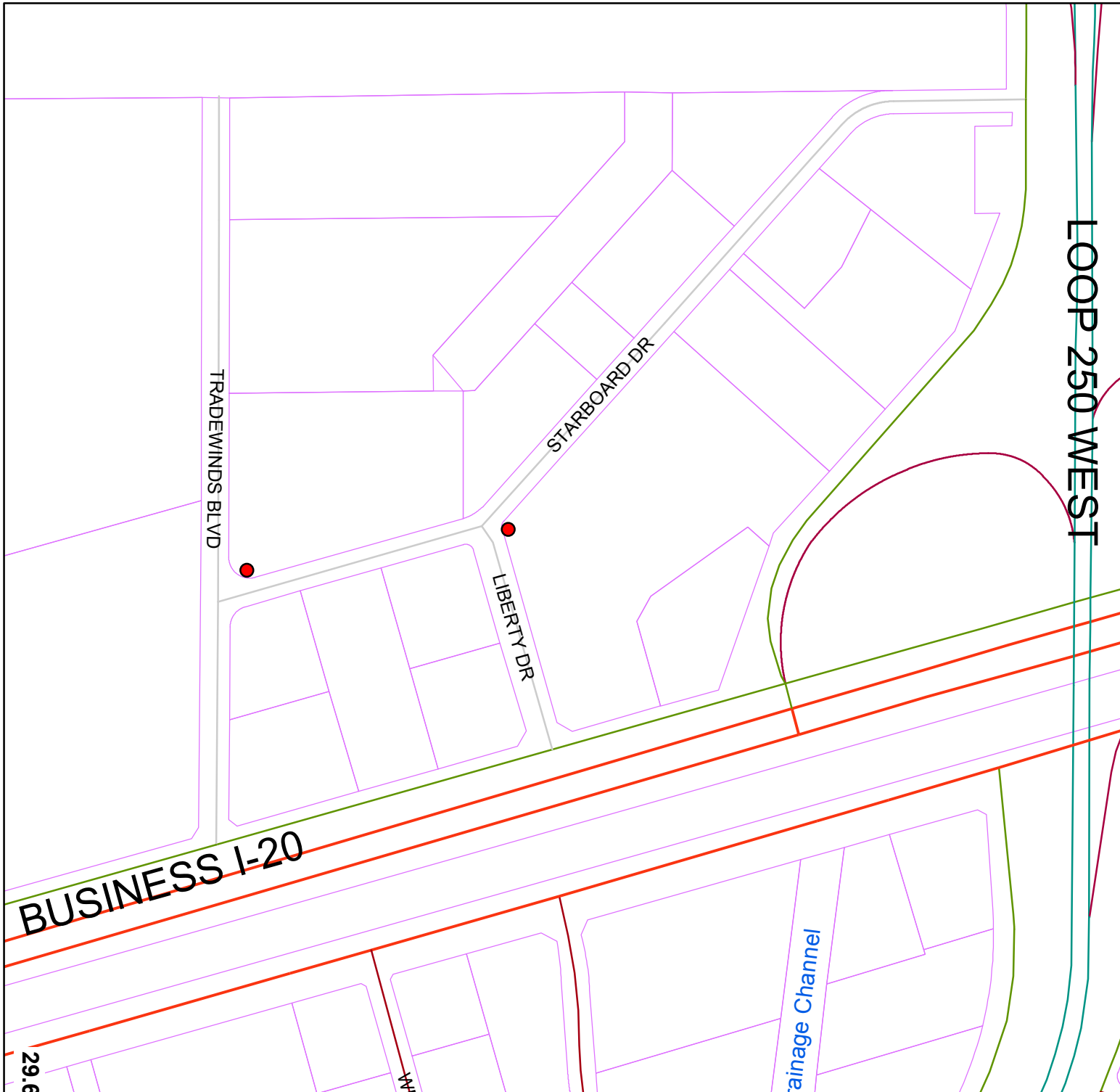
Gary Saunders, Transportation Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

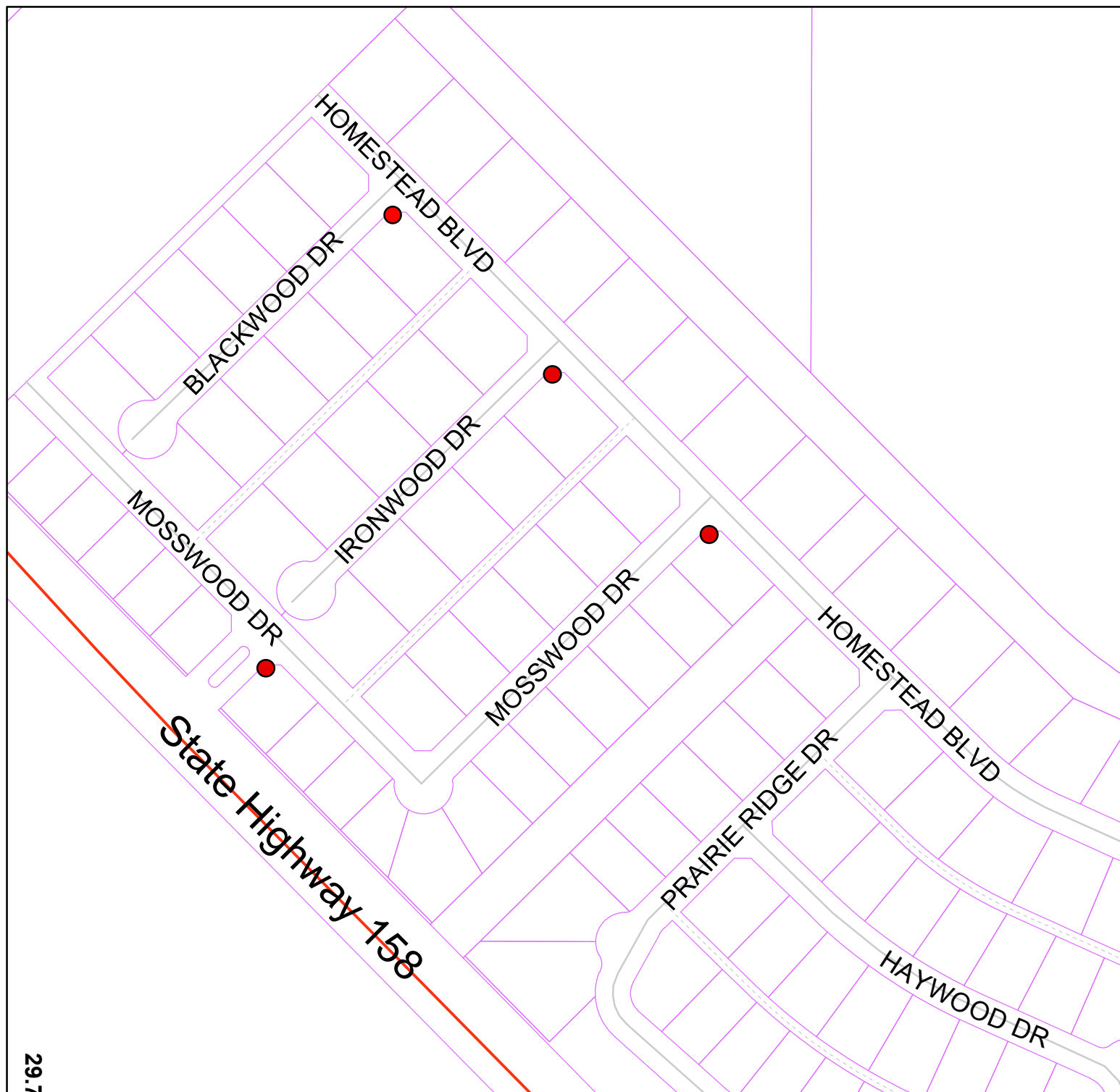
Transportation Division

● Proposed stop sign
Installation



Transportation Division

● Proposed stop sign
installation





City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: July 23, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Ken VanDyne, Acting Planning Division Manager

SUBJECT: Hold a public hearing at approximately 10:30 a.m. and consider an ordinance on a request by Kenneth Huseman for a zone change from FD, Future Development to LR-2, Local Retail District on a 6.08-acre tract of land (Tract 1), to LI, Light Industrial District on a 40.90-acre tract of land (Tract 2), to PD, Planned District for a Housing Development on a 37.72-acre tract of land (Tract 6) and to 1F-3, One-Family Dwelling District on a 55.83-acre tract of land (Tract 10), from PD, Planned District for a Shopping Center, to LR-2, Local Retail District on a 13.70-acre tract of land (Tract 3), to PD, Planned District of a Housing Development on a 16.61-acre tract of land (Tract 4), to BP, Business Park District on a 21.82-acre tract of land (Tract 7), from BP, Business Park District to PD, Planned District for a Housing Development on a 34.39-acre tract of land (Tract 5), to 1F-3, One-Family Dwelling District on a 2.77-acre tract of land (Tract 9), and from LR-2, Local Retail District to BP, Business Park District on a 0.74-acre tract of land (Tract 8) all out of Section 12, Block 40, T-2-S, T & P RR Co. Survey, City and County of Midland, Texas. (Generally located on the south side of W. Interstate Hwy 20, south of S. Loop 250 West).

Purpose: Hold a public hearing at approximately 10:30 a.m. and consider an ordinance on a request by Kenneth Huseman for a zone change from FD, Future Development to LR-2, Local Retail District on a 6.08-acre tract of land (Tract 1), to LI, Light Industrial District on a 40.90-acre tract of land (Tract 2), to PD, Planned District for a Housing Development on a 37.72-acre tract of land (Tract 6) and to 1F-3, One-Family Dwelling District on a 55.83-acre tract of land (Tract 10), from PD, Planned District for a Shopping Center, to LR-2, Local Retail District on a 13.70-acre tract of land (Tract 3), to PD, Planned District of a Housing Development on a 16.61-acre tract of land (Tract 4), to BP, Business Park District on a 21.82-acre tract of land (Tract 7), from BP, Business Park District to PD, Planned District for a Housing Development on a 34.39-acre tract of land (Tract 5), to 1F-3, One-Family Dwelling District on a 2.77-acre tract of land (Tract 9), and

from LR-2, Local Retail District to BP, Business Park District on a 0.74-acre tract of land (Tract 8) all out of Section 12, Block 40, T-2-S, T & P RR Co. Survey, City and County of Midland, Texas.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process this request.

Discussion:

The above described property was annexed into the city in three successive stages in 1966, 2005, and November of 2012. Initial zoning was established as each of these tracts of land was brought into the city limits. The applicant is bringing forward a request to rezone all of the above described property.

All of the applicant's property is currently vacant, and will have a related preliminary plat for consideration by the Council pending approval of the zoning request. The applicant is requesting to establish new zoned districts for the property that is currently zoned FD, Future Development District, as well as rezone all other districts to bring them in alignment with a comprehensive approach for the proposed development for the area.

Additionally, the applicant submitted a traffic study with the zoning and preliminary plat applications for the above described property. The study indicated that the all major intersections would sustain F level service with its current development plan. Staff is recommending that traffic concerns be addressed with each successive phased development and brought up to a minimum of a C level of service as each final plat is brought in for approval. This is a condition which will be included with the approval of the preliminary plat.

Attachments: Proposed Zoning Ordinance and Zoning Map.

ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 6.08-ACRE TRACT OF LAND (“TRACT 1”) WHICH IS PRESENTLY ZONED FD, FUTURE DEVELOPMENT DISTRICT, TO BE USED AS AN LR-2, LOCAL RETAIL DISTRICT; BY PERMITTING A 40.90-ACRE TRACT OF LAND (“TRACT 2”) WHICH IS PRESENTLY ZONED FD, FUTURE DEVELOPMENT DISTRICT, TO BE USED AS AN LI, LIGHT INDUSTRIAL DISTRICT; BY PERMITTING A 13.70-ACRE TRACT OF LAND (“TRACT 3”) WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS AN LR-2, LOCAL RETAIL DISTRICT; BY PERMITTING A 16.61-ACRE TRACT OF LAND (“TRACT 4”) WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT; BY PERMITTING A 34.39-ACRE TRACT OF LAND (“TRACT 5”) WHICH IS PRESENTLY ZONED BP, BUSINESS PARK DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT; BY PERMITTING A 37.72-ACRE TRACT OF LAND (“TRACT 6”) WHICH IS PRESENTLY ZONED FD, FUTURE DEVELOPMENT DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT; BY PERMITTING A 21.82-ACRE TRACT OF LAND (“TRACT 7”) WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS A BP, BUSINESS PARK DISTRICT; BY PERMITTING A 0.74-ACRE TRACT OF LAND (“TRACT 8”) WHICH IS PRESENTLY ZONED LR-2, LOCAL RETAIL DISTRICT, TO BE USED AS A BP, BUSINESS PARK DISTRICT; BY PERMITTING A 2.77-ACRE TRACT OF LAND (“TRACT 9”) WHICH IS PRESENTLY ZONED BP, BUSINESS PARK DISTRICT, TO BE USED AS A 1F-3, ONE-FAMILY DWELLING DISTRICT; BY PERMITTING A 55.83-ACRE TRACT OF LAND (“TRACT 10”) WHICH IS PRESENTLY ZONED FD, FUTURE DEVELOPMENT DISTRICT, TO BE USED AS A 1F-3, ONE-FAMILY DWELLING DISTRICT; ALL OF SAID TRACTS BEING OUT OF SECTION 12, BLOCK 40, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS; ALL OF SAID TRACTS BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS MADE A PART HEREOF; SAID TRACTS ARE GENERALLY LOCATED ON THE SOUTH SIDE OF WEST INTERSTATE HIGHWAY 20, SOUTH OF LOOP 250; 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**

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 an LI, Light Industrial District, two LR-2, Local Retail Districts, two 1F-3, One-Family Dwelling Districts, two BP, Business Park Districts, and three PD, Planned Districts for Housing Developments, 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 FD, Future Development District, and it shall be used as an LR-2, Local Retail District, subject to the special conditions and restrictions hereinafter set out, said property being described as follows:

A 6.08-acre tract of land ("Tract 1"), being out of Section 12, Block 40, T-2-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.

SECTION TWO. 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 FD, Future

Development District, and it shall be used as an LI, Light Industrial District, subject to the special conditions and restrictions hereinafter set out, said property being described as follows:

A 40.90-acre tract of land ("Tract 2"), being out of Section 12, Block 40, T-2-S, T&P RR Co. Survey, City and County of Midland, Texas, said tract being more specifically described by metes and bounds in Exhibit "B", which is attached hereto and incorporated herein.

SECTION THREE. 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 PD, Planned District for a Shopping Center, and it shall be used as an LR-2, Local Retail District, subject to the special conditions and restrictions hereinafter set out, said property being described as follows:

A 13.70-acre tract of land ("Tract 3"), being out of Section 12, Block 40, T-2-S, T&P RR Co. Survey, City and County of Midland, Texas, said tract being more specifically described by metes and bounds in Exhibit "C", which is attached hereto and incorporated herein.

SECTION FOUR. 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 PD, Planned District for a Shopping Center, and it shall be used as a PD, Planned District for a Housing Development, subject to the special conditions and restrictions hereinafter set out, said property being described as follows:

A 16.61-acre tract of land ("Tract 4"), being out of Section 12, Block 40, T-2-S, T&P RR Co. Survey, City and County of Midland, Texas, said tract being more specifically described by metes and bounds in Exhibit "D", which is attached hereto and incorporated herein.

Special Conditions and Restrictions:

1. That this planned district shall conform to the regulations of the MF-1, Multiple-Family Dwelling District.
2. That this planned district shall be subject to future site plan review in the same manner as a zone change.

SECTION FIVE. 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 BP, Business Park District, and it shall be used as a PD, Planned District for a Housing Development, subject to the special conditions and restrictions hereinafter set out, said property being described as follows:

A 34.39-acre tract of land (“Tract 5”), being out of Section 12, Block 40, T-2-S, T&P RR Co. Survey, City and County of Midland, Texas, said tract being more specifically described by metes and bounds in Exhibit “E”, which is attached hereto and incorporated herein.

Special Conditions and Restrictions:

1. That this planned district shall conform to the regulations of the MF-1, Multiple-Family Dwelling District.
2. That this planned district shall be subject to future site plan review in the same manner as a zone change.

SECTION SIX. 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 FD, Future Development District, and it shall be used as a PD, Planned District for a Housing Development, subject to the special conditions and restrictions hereinafter set out, said property being described as follows:

A 37.72-acre tract of land (“Tract 6”), being out of Section 12, Block 40, T-2-S, T&P RR Co. Survey, City and County of Midland, Texas, said tract being more specifically described by metes and bounds in Exhibit “F”, which is attached hereto and incorporated herein.

Special Conditions and Restrictions:

1. That this planned district shall conform to the regulations of the MF-1, Multiple-Family Dwelling District.
2. That this planned district shall be subject to future site plan review in the same manner as a zone change.

SECTION SEVEN. 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 PD, Planned District for a Shopping Center, and it shall be used as a BP, Business Park District, subject to the special conditions and restrictions hereinafter set out, said property being described as follows:

A 21.82-acre tract of land ("Tract 7"), being out of Section 12, Block 40, T-2-S, T&P RR Co. Survey, City and County of Midland, Texas, said tract being more specifically described by metes and bounds in Exhibit "G", which is attached hereto and incorporated herein.

SECTION EIGHT. 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 LR-2, Local Retail District, and it shall be used as a BP, Business Park District, subject to the special conditions and restrictions hereinafter set out, said property being described as follows:

A 0.74-acre tract of land ("Tract 8"), being out of Section 12, Block 40, T-2-S, T&P RR Co. Survey, City and County of Midland, Texas, said tract being more specifically described by metes and bounds in Exhibit "H", which is attached hereto and incorporated herein.

SECTION NINE. 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 BP, Business Park District, and it shall be used as a 1F-3, One-Family Dwelling District, subject to the special conditions and restrictions hereinafter set out, said property being described as follows:

A 2.77-acre tract of land ("Tract 9"), being out of Section 12, Block 40, T-2-S, T&P RR Co. Survey, City and County of Midland, Texas, said tract being more specifically described by metes and bounds in Exhibit "I", which is attached hereto and incorporated herein.

SECTION TEN. 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 FD, Future Development District, and it shall be used as a 1F-3, One-Family Dwelling District, subject

to the special conditions and restrictions hereinafter set out, said property being described as follows:

A 55.83-acre tract of land (“Tract 10”), being out of Section 12, Block 40, T-2-S, T&P RR Co. Survey, City and County of Midland, Texas, said tract being more specifically described by metes and bounds in Exhibit “J”, which is attached hereto and incorporated herein.

SECTION ELEVEN. That City of Midland Ordinance No. 8391 is hereby repealed.

SECTION TWELVE. 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 THIRTEEN. 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 FOURTEEN. 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 FIFTEEN. 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 SIXTEEN. 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., 2013; 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., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



ENVIRONMENTAL • CIVIL ENGINEERING • LAND SURVEYING

FIRM # 001363

**521 NORTH TEXAS • ODESSA, TEXAS 79761
(432) 332-5058 or 580-8812 • FAX (432) 332-8812**

Legal Description
For a 6.08 Acre Tract of Land Located in
Section 12, Block 40, T-2-S, T&P RR Company Survey,
Midland County, Texas

PROPOSED FD to LR 2 ZONING FOR A 6.08 ACRE TRACT

Boundary Being More Fully Described By Metes and Bounds As Follows:

BEGINNING at (y=10,676,656.64' and X= 1,736,703.06') the most southeast corner of this tract, whence the southeast corner of said Section 12 bears South 14°17'45" East, a distance of 2,314.60, AND North 75°08'41" East a distance of 300.01 feet;

THENCE South 59°22'48" West a distance of 1,136.37 feet the southwest corner of this tract;

THENCE North 30°16'41" West a distance of 231.28 feet to the northernmost southwest corner of this tract;

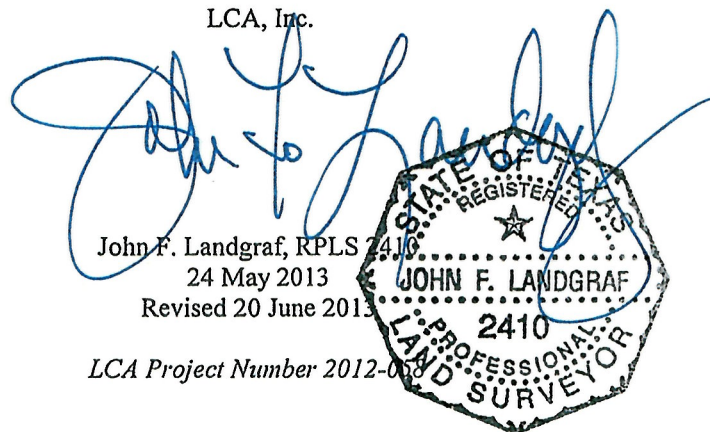
THENCE North 59°49'06" East, a distance of 1,200.07 feet to the northeast corner of this tract;

THENCE South 14°17'45" East a distance of 231.42 feet to the Point of Beginning, containing 6.08 surface acres of land.

Bearings and distances are relative to the Texas Coordinate System, 1983 NAD, Central Zone, with a combined grid factor of 0.999884655. Acreage stated is average surface.

This document was prepared under 22 TAC 663.21, and is not to be used to convey or establish interest in real property except those rights and interest implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

LCA, Inc.



LCA Project Number 2012-008



ENVIRONMENTAL • CIVIL ENGINEERING • LAND SURVEYING

FIRM # 001363

**521 NORTH TEXAS • ODESSA, TEXAS 79761
(432) 332-5058 or 580-8812 • FAX (432) 332-8812**

Legal Description
For a 13.70 Acre Tract of Land Located in
Section 12, Block 40, T-2-S, T&P RR Company Survey,
Midland County, Texas

PROPOSED PDSC to LR 2 ZONING FOR A 13.70 ACRE TRACT

Boundary Being More Fully Described By Metes and Bounds As Follows:

BEGINNING at (Y= 10,676,077.84' and X= 1,735,725.15') the southeast corner of this tract, whence the southeast corner of said Section 12 bears South 14°51'18" East, a distance of 2005.83 feet and North 75°08'42" East, a distance of 1371.03 feet;

THENCE South 59°22'48" West a distance of 857.89 feet to the southwest corner of this tract;

THENCE North 30°16'41" West a distance of 796.63 feet to the northwest corner of this tract;

THENCE North 82°06'06" East a distance of 310.27 feet to a TxDOT concrete monument for a point of deflection in the north line of this tract;

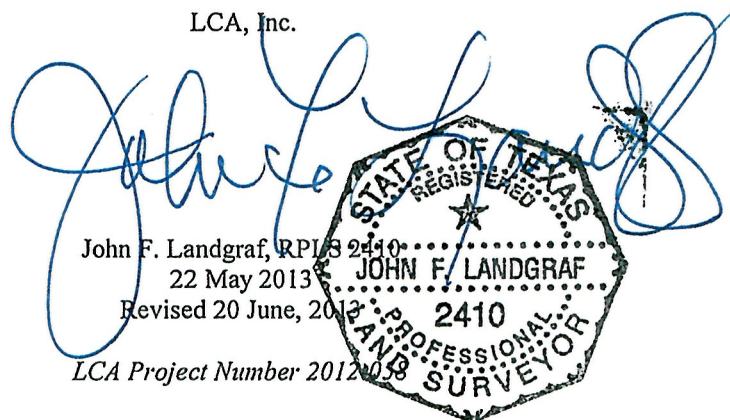
THENCE North 59°43'32" East with the south right of way line of Interstate Highway 20, a distance of 570.97 feet to the northeast corner of this tract;

THENCE South 30°16'41" East a distance of 673.34 feet to the Point of Beginning, containing 13.70 acres of land.

Bearings and distances are relative to the Texas Coordinate System, 1983 NAD, Central Zone, with a combined grid factor of 0.999884655. Acreage stated is average surface.

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LCA, Inc.



LCA Project Number 2012058



ENVIRONMENTAL • CIVIL ENGINEERING • LAND SURVEYING

FIRM # 001363

**521 NORTH TEXAS • ODESSA, TEXAS 79761
(432) 332-5058 or 580-8812 • FAX (432) 332-8812**

Legal Description
For a 55.83 Acre Tract of Land Located in
Section 12, Block 40, T-2-S, T&P RR Company Survey,
Midland County, Texas

PROPOSED FD to 1F-3 ZONING FOR A 55.83 ACRE TRACT

Boundary Being More Fully Described By Metes and Bounds As Follows:

BEGINNING at (Y=10,673,135.54' and X=1,732,456.00') the northeast corner of Section 13, whence the southwest corner of said Section 12 bears South 75°08'42" West a distance of 194.13;

THENCE North 14°25'48" West a distance of 7.20 feet to the Point of Curvature of a curve to the left;

THENCE along a curve to the left in a northwesterly direction, said curve having a radius length of 970.00 feet, an arc length of 428.03 feet, a delta angle of 25°16'27" and a chord length of 424.56 feet bearing North 27°04'16" West to a point of reverse curvature;

THENCE along a curve to the right in a northwesterly direction, said curve having a radius length of 1,030 feet, an arc length of 457.78 feet, a delta angle of 25°27'33" and a chord length of 454.02 feet bearing North 26°58'49" West to the Point of Tangency;

THENCE North 14°14'52" West a distance of 32.98 feet to the northwest corner of this tract;

THENCE North 59°43'34" East a distance of 1,945.47 feet to the most northerly northeast corner of this tract;

THENCE South 30°16'41" East a distance of 1,049.42 feet to an ell corner of this tract;

THENCE North 59°43'34" East a distance of 119.68 feet to an ell corner of this tract;

THENCE South 30°16'41" East a distance of 452.79 feet to the southeast corner of this tract;

THENCE South 75°08'42" West with the south line of said Section 12, a distance of 2,205.59 feet to the Point of Beginning, containing 55.83 surface acres of land.

Bearings and distances are relative to the Texas Coordinate System, 1983 NAD, Central Zone, with a combined grid factor of 0.999884655. Acreage stated is average surface.

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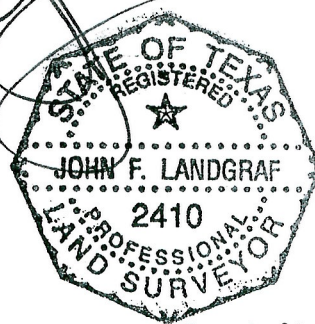
LCA, Inc.

John F. Landgraf, R.P.L.S. 2410

22 May 2013

Revised 20 June 2013

LCA Project Number 2012-058



CASE NO. Z-12-049



ENVIRONMENTAL • CIVIL ENGINEERING • LAND SURVEYING

FIRM # 001363

**521 NORTH TEXAS • ODESSA, TEXAS 79761
(432) 332-5058 or 580-8812 • FAX (432) 332-8812**

Legal Description
For a 40.90 Acre Tract of Land Located in
Section 12, Block 40, T-2-S, T&P RR Company Survey,
Midland County, Texas

PROPOSED FD to LI ZONING FOR A 40.90 ACRE TRACT

Boundary Being More Fully Described By Metes and Bounds As Follows:

BEGINNING at (Y=10,674,413.71' and X=1,737,274.60') the southeast corner of this tract, whence the southeast corner of Section 12 bears North 75°08'41" East, a distance of 300.01 feet;

THENCE South 75°08'42" West with the south line of said Section 12, a distance of 517.70 to the southwest corner of this tract;

THENCE North 30°16'41" West a distance of 2,080.76 feet to the northwest corner of this tract;

THENCE North 59°22'48" East a distance of 1,136.37 feet to the northeast corner of this tract;

THENCE South 14°17'45" East a distance of 2,314.68 feet to the Point of Beginning, containing 40.90 surface acres of land.

Bearings and distances are relative to the Texas Coordinate System, 1983 NAD, Central Zone, with a combined grid factor of 0.999884655. Acreage stated is average surface.

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LCA, Inc.

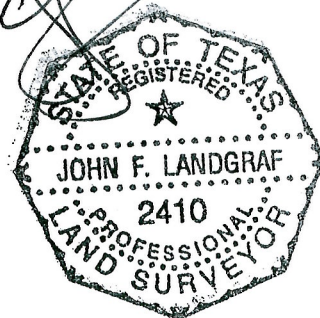
John F. Landgraf

John F. Landgraf, RPLS 2410

22 May 2013

Revised 20 June 2013

LCA Project Number 2012-058



CASE NO. 2-12-049



ENVIRONMENTAL • CIVIL ENGINEERING • LAND SURVEYING

FIRM # 001363

**521 NORTH TEXAS • ODESSA, TEXAS 79761
(432) 332-5058 or 580-8812 • FAX (432) 332-8812**

Legal Description

For a 37.72 Acre Tract of Land Located in
Section 12, Block 40, T-2-S, T&P RR Company Survey,
Midland County, Texas

PROPOSED FD to PDHD ZONING FOR A 37.72 ACRE TRACT

Boundary Being More Fully Described By Metes and Bounds As Follows:

BEGINNING at (Y= 10,674,280.92' and X=1,736,774.26') the southeast corner of this tract, whence the southeast corner of said Section 12 bears North 75°08'42" East, a distance of 817.67 feet;

THENCE South 75°08'42" West a distance of 2,261.97 feet to the most southwest corner of this tract;

THENCE North 30°17'16" West a distance of 452.75 feet to the northwest corner of this tract;

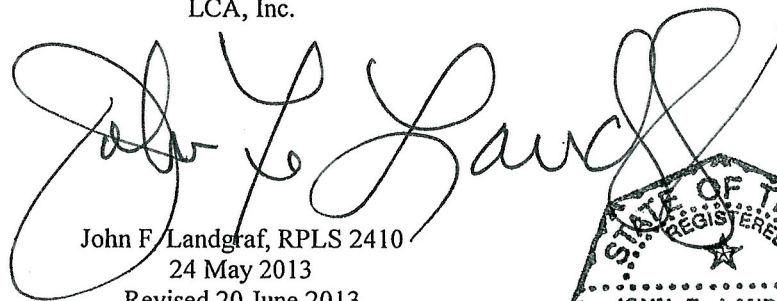
THENCE North 59°43'19" East a distance of 2,180.61 feet to the northeast corner of this tract;

THENCE South 30°16'41" East a distance 1,054.34 feet to the Point of Beginning, containing 37.72 surface acres of land.

Bearings and distances are relative to the Texas Coordinate System, 1983 NAD, Central Zone, with a combined grid factor of 0.999884655. Acreage stated is average surface.

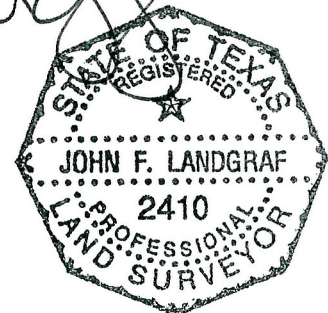
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LCA, Inc.



John F. Landgraf, RPLS 2410
24 May 2013

Revised 20 June 2013
LCA Project Number 2012-058



CASE NO. Z-12-049



ENVIRONMENTAL • CIVIL ENGINEERING • LAND SURVEYING

FIRM # 001363

**521 NORTH TEXAS • ODESSA, TEXAS 79761
(432) 332-5058 or 580-8812 • FAX (432) 332-8812**

Legal Description

For a 34.39 Acre Tract of Land Located in
Section 12, Block 40, T-2-S, T&P RR Company Survey,
Midland County, Texas

PROPOSED FD to PDHD ZONING FOR 34.39 ACRES TRACT

Boundary Being More Fully Described By Metes and Bounds As Follows:

BEGINNING at (Y=10,675,191.44' and X=1,736,242.66') the southeast corner of this tract, whence the southeast corner of said Section 12 bears South 14°51'18" East, a distance of 1,016.32 feet and North 75°08'42" East, a distance of 1,098.13 feet;

THENCE South 59°43'34" West a distance of 2,180.61 feet to the southwest corner of this tract;

THENCE North 30°17'16" West a distance of 1,009.41 feet to the northwest corner of this tract;

THENCE North 59°43'34" East a distance of 447.05 feet to a point of deflection of this tract;

THENCE North 55°33'00" East a distance of 100.20 feet to a point of deflection of this tract;

THENCE North 59°22'48" East a distance of 42.56 feet to the northeast corner of this tract;

THENCE South 30°16'27" East a distance of 449.92 feet to an interior ell corner of this tract;

THENCE North 59°43'34" East a distance of 1,591.25 feet to the northeast corner of this tract;

THENCE South 30°16'41" East a distance of 567.00 feet to the Point of Beginning, containing 34.39 surface acres of land.

Bearings and distances are relative to the Texas Coordinate System, 1983 NAD, Central Zone, with a combined grid factor of 0.999884655. Acreage stated is average surface.

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LCA, Inc.
John F. Landgraf
John F. Landgraf, RPLS 2410
24 May 2013
Revised 6 June 2013
LCA Project Number 2012-058



CASE NO. Z-12-049



ENVIRONMENTAL • CIVIL ENGINEERING • LAND SURVEYING

FIRM # 001363

**521 NORTH TEXAS • ODESSA, TEXAS 79761
(432) 332-5058 or 580-8812 • FAX (432) 332-8812**

Legal Description
For a 21.82 Acre Tract of Land Located in
Section 12, Block 40, T-2-S, T&P RR Company Survey,
Midland County, Texas

PROPOSED PDSC to BP ZONING FOR A 21.82 ACRE TRACT

Boundary Being More Fully Described By Metes and Bounds As Follows:

BEGINNING at (Y=10,675,640.99' and X=1,734,986.88') southeast corner of this tract, whence the southeast corner of said Section 12 bears South 14°51'18" East, a distance of 1,772.76 feet and North 75°08'41" East, a distance of 2,196.66 feet;

THENCE South 59°22'48" West a distance of 733.37 feet to the southwest corner of this tract;

THENCE North 30°16'41" West a distance of 573.08 feet to an ell corner of this tract;

THENCE South 59°43'19" West a distance of 589.69 feet;

THENCE North 30°17'16" West a distance of 459.78 feet;

THENCE North 59°43'34" East with the south right-of-way of said Interstate Highway 20, a distance of 429.61 feet to a point of deflection of this tract;

THENCE North 67°40'24" East with the south right-of-way of said Interstate Highway 20, a distance of 505.00 feet to a point of deflection of this tract;

THENCE North 82°06'06" East with the south right-of-way of said Interstate Highway 20, a distance of 425.37 feet to a point of deflection of this tract;

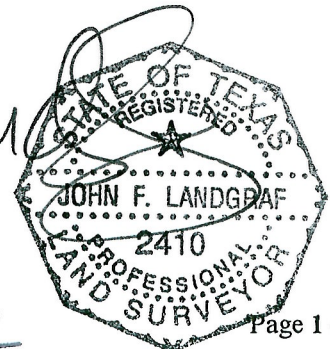
THENCE South 30°16'41" East a distance of 796.63 feet to the Point of Beginning, containing 21.82 surface acres of land.

Bearings and distances are relative to the Texas Coordinate System, 1983 NAD, Central Zone, with a combined grid factor of 0.999884655. Acreage stated is average surface.

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LCA, Inc.
John F. Landgraf
John F. Landgraf, RPLS 2410
24 May 2013
Revised 7 June, 2013
LCA Project Number 2012-058



CASE NO. 2-12-049



ENVIRONMENTAL • CIVIL ENGINEERING • LAND SURVEYING

FIRM # 001363

**521 NORTH TEXAS • ODESSA, TEXAS 79761
(432) 332-5058 or 580-8812 • FAX (432) 332-8812**

Legal Description

**For a 16.61 Acre Tract of Land Located in
Section 12, Block 40, T-2-S, T&P RR Company Survey,
Midland County, Texas**

PROPOSED PDSC to PDHD ZONING FOR A 16.61 ACRE TRACT

Boundary Being More Fully Described By Metes and Bounds As Follows:

BEGINNING at (Y=10,675,681.09' and X=1,735,956.78') the southeast corner of this tract, whence the southeast corner of said Section 12 bears South 14°51'18" East, a distance of 1,562.89 feet and North 75°08'42" East, a distance of 1,248.82 feet;

THENCE South 59°43'34" West a distance of 1,591.25 feet to the southwest corner of this tract;

THENCE North 30°16'41" West a distance of 449.92 feet to the northwest corner of this tract;

THENCE North 59°22'48" East a distance of 1,591.25 feet to the northeast corner of this tract;

THENCE South 30°16'41" East a distance of 459.42 feet to the Point of Beginning containing 16.61 surface acres of land.

Bearings and distances are relative to the Texas Coordinate System, 1983 NAD, Central Zone, with a combined grid factor of 0.999884655. Acreage stated is average surface.

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LCA, Inc.



CASE NO. 2-12-049

John F. Landgraf, RPLS 2410
24 May 2013

Revised 20 June 2013

LCA Project Number 2012-058





ENVIRONMENTAL • CIVIL ENGINEERING • LAND SURVEYING

FIRM # 001363

**521 NORTH TEXAS • ODESSA, TEXAS 79761
(432) 332-5058 or 580-8812 • FAX (432) 332-8812**

Legal Description
For a 6.20 Acre Tract of Land Located in
Section 12, Block 40, T-2-S, T&P RR Company Survey,
Midland County, Texas

PROPOSED FD to LR 2 ZONING FOR A 6.20 ACRE TRACT

Boundary Being More Fully Described By Metes and Bounds As Follows:

BEGINNING at (y=10,676,656.64' and X= 1,736,703.06') the most southeast corner of this tract, whence the southeast corner of said Section 12 bears South 14°17'45" East, a distance of 2,314.60, AND North 75°08'41" East a distance of 300.01 feet;

THENCE South 59°22'48" West a distance of 1,136.37 feet the southwest corner of this tract;

THENCE North 30°16'41" West a distance of 231.28 feet to the northernmost southwest corner of this tract;

THENCE North 59°49'06" East, a distance of 1,200.07 feet to the northeast corner of this tract;

THENCE South 14°17'45" East a distance of 231.42 feet to the Point of Beginning, containing 6.20 surface acres of land.

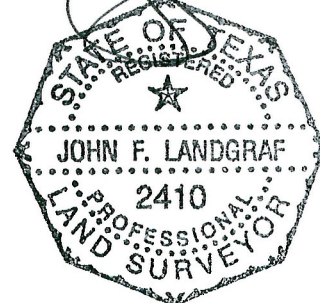
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LCA, Inc.

John F. Landgraf, RPLS 2410
24 May 2013
Revised 20 June 2013

LCA Project Number 2012-058



CASE NO. 2-12-049



ENVIRONMENTAL • CIVIL ENGINEERING • LAND SURVEYING

FIRM # 001363

521 NORTH TEXAS • ODESSA, TEXAS 79761

(432) 332-5058 or 580-8812 • FAX (432) 332-8812

Legal Description
For a 2.77 Acre Tract of Land Located in
Section 12, Block 40, T-2-S, T&P RR Company Survey,
Midland County, Texas

PROPOSED BP TO 1F-3 ZONING FOR A 2.77 ACRE TRACT

Boundary Being More Fully Described By Metes and Bounds As Follows:

BEGINNING at (Y= 10,674,091.98' and X=1,734,359.51') the southeast corner of this tract, whence the southeast corner of said Section 12 bears South 14°51'22" East, a distance of 436.46 feet and North 75°08'42" East, a distance of 3,200.16 feet;

THENCE South 59°43'19" West a distance of 119.68 feet to the southwest corner of this tract;

THENCE North 30°16'41" West a distance of 1,009.42 feet to the northwest corner of this tract;

THENCE North 59°43'19" East a distance of 119.68 feet to the northeast corner of this tract;

THENCE South 30°17'16" East a distance of 1,009.42 feet to the Point of Beginning, containing 2.77 surface acres of land.

Bearings and distances are relative to the Texas Coordinate System, 1983 NAD, Central Zone, with a combined grid factor of 0.999884655. Acreage stated is average surface.

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LCA, Inc.

John F. Landgraf, RPLS 2410
24 May 2013
Revised 20 June, 2013

LCA Project Number 2012-058



CASE NO. 2-12-049



ENVIRONMENTAL • CIVIL ENGINEERING • LAND SURVEYING

FIRM # 001363

**521 NORTH TEXAS • ODESSA, TEXAS 79761
(432) 332-5058 or 580-8812 • FAX (432) 332-8812**

Legal Description
For a 0.74 Acre Tract of Land Located in
Section 12, Block 40, T-2-S, T&P RR Company Survey,
Midland County, Texas

PROPOSED LR2 to BP ZONING FOR A 0.74 ACRE TRACT

Boundary Being More Fully Described By Metes and Bounds As Follows:

BEGINNING at (Y=10,675,474.95' and X=1,734,235.75') the most southerly southeast corner of this tract, whence the southeast corner of said Section 12 bears South 14°51'22" East, a distance of 1,803.01 feet and North 75°08'42" East, a distance of 2,965.74 feet;

THENCE South 59°43'34" West a distance of 96.00 feet to the southwest corner of this tract;

THENCE North 30°16'41" West a distance of 335.00 feet to the northwest corner of this tract;

THENCE North 59°43'34" East a distance of 96.00 feet to the westernmost northeast corner of this tract;

THENCE South 30°17'16" East a distance of 335.00 feet to the Point of Beginning, containing 0.74 surface acres of land.

Bearings and distances are relative to the Texas Coordinate System, 1983 NAD, Central Zone, with a combined grid factor of 0.999884655. Acreage stated is average surface.

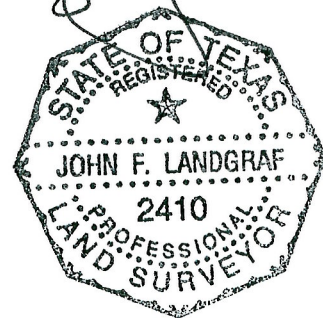
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LCA, Inc.



John F. Landgraf
John F. Landgraf, RPLS 2410
24 May 2013
Revised 20 June 2013

LCA Project Number 2012-058



CASE NO. 2-12-049

PLANNING AND ZONING COMMISSION

July 1, 2013

CASE: Z-12-049

REQUEST: Hold a public hearing and consider a request for a zone change from FD, Future Development District, PD, Planned District for a Shopping Center, BP, Business Park District and LR-2, Local Retail District to LR-2, Local Retail District, LI, Light Industrial District, PD, Planned District for a Housing Development, 1F-3, One-Family Dwelling District and BP, Business Park District.

APPLICANT/OWNER: Kenneth Huseman

LEGAL DESCRIPTION: A 6.08-acre tract of land (Tract 1), a 40.90 acre tract of land (Tract 2), a 37.72-acre tract of land (Tract 6) a 55.83-acre tract of land (Tract 10), a 13.70-acre tract of land (Tract 3), a 16.61-acre tract of land (Tract 4), a 21.82-acre tract of land (Tract 7), a 34.39-acre tract of land (Tract 5), a 2.77-acre tract of land (Tract 9), a 0.74-acre tract of land (Tract 8) all out of Section 12, Block 40, T-2-S, T & P RR Co. Survey City and County of Midland, Texas.

LOCATION: Generally located on the south side of W. Interstate Hwy 20, south of S. Loop 250 West.

CURRENT ZONING: FD, Future Development District, PD, Planned District for a Shopping Center, BP, Business Park District, and LR-2, Local Retail District.

RELATED CASES: P-12-073

DETAILS OF REQUEST:

1. The above described property was annexed into the city in three successive stages. The first being a 165-acre tract that was annexed on the February 25th, 1966 Council meeting, followed by a 132-acre tract at the November 4th, 2005 Council meeting, and then most recently a 193.29-acre tract that was annexed in at the November 27th, 2012 Council meeting.

Initial zoning was established on the 165-acre piece, and has since been zoned as LR-2, Local Retail District, and PD, Planned District for a Shopping Center also with an underlying zoning of LR-2, Local Retail District. The 132 acre tract was established with a BP, Business Park District, and a small LR-2 Local Retail District, and lastly the most recently annexed land of 193.29 acres was established with FD, Future Development District.

All of the applicant's property is currently vacant, and is bringing forward this request with a related preliminary plat that is more of a comprehensive approach to developing the property. The applicant is requesting to establish new zoned districts for the property that is currently zoned FD, Future Development District, as well as rezone other districts to bring them in alignment with the proposed development plan.

SURROUNDING ZONING AND LAND USE:

2. This property is now the southern-most boundary of the city limits for the City of Midland. The property immediately surrounding the southern, western, and eastern borders are part of the City's Extra Territorial Jurisdiction. The nearest zoned property is on the north side of W. Interstate Highway 20 which includes a large BP, Business Park District, a LI, Light Industrial District, and another BP, Business Park District which extends eastward along W. Interstate Highway 20.

ANALYSIS:

3. The applicant provided zoning along the W. Interstate Highway 20 corridor that is in line with the City of Midland's comprehensive plan with Local Retail and Business Park Districts. These districts are recommended to be located at arterial or higher class thoroughfares. Furthermore, the applicant is providing approximately 75-acres of PD, Planned District for a Housing Development. These districts will have underlying zoning of MF-1, Multi-Family Dwelling Districts and will be subject to future site plan review. The discrepancy from the acreage in the legal description and the amount denoted in this report is due to the large amounts of R.O.W. to be dedicated to the city with the subsequent approval of the preliminary plat. The applicant is also providing 40.90-acres of LI, Light Industrial District on the eastern most property boundary. Lastly, the applicant is providing for approximately 58.6 acres of 1F-3, Single Family Dwelling District zoning. The applicant is proposing to develop these zoned districts in a phased manner and will not be final platting all of the property simultaneously.

Additionally, the applicant submitted a traffic study with the zoning and preliminary plat applications for the above described property. The study indicated that the all major intersections would sustain F level service with its current development plan. Staff is recommending that traffic concerns be addressed with each successive phased development is brought in for final platting.

STAFF RECOMMENDATION:

Staff recommends approval of this request for a zone change from FD, Future Development District, PD, Planned District for a Shopping Center, BP, Business Park District and LR-2, Local Retail District to LR-2, Local Retail District, LI, Light Industrial District, PD, Planned District for a Housing Development, 1F-3, One-Family Dwelling District and BP, Business Park District subject to the below conditions.

- A. That all above described PD, Planned District for Housing Developments are subject to future site plan review in the same manner as a zone change.



Ken VanDyne
Acting Planning Division Manager
Department of Development Services

Martin Siwek, City Planner
Department of Development Services

Attachments:

Application
Maps

Case Number: 2:12-044

CITY OF MIDLAND
Planning Division

APPLICATION TO CHANGE ZONING CLASSIFICATION

<u>LCA</u> Applicant Name	<u>432-332-5058</u> (Phone/e-mail)
<u>521 N. Texas</u> Address	<u>Odessa, Texas 79761</u> Zip Code
<u>Kenneth V. Huseman</u>	<u>432-699-4789</u>
<u>Property Owner Name</u> <u>3900 Baybrook Court</u>	<u>(Phone/e-mail)</u> <u>Midland, TX 79707</u>
<u>Address</u>	<u>Zip Code</u>
<u>LCA</u> Representative Name	<u>432-332-5058</u> (Phone/e-mail)
<u>521 N. Texas</u> Address	<u>Odessa, Texas 79761</u> Zip Code

Street address and Legal Description of property (complete Lot, Block, and Subdivision Name description below, or, if not in a recorded plat, attach a Metes and Bounds Description. Describe by tracts if more than one zoning district is requested):

The property is 260.74 acres located in Section 12, Block 40, T-2S, T&P RR Co. Survey, Midland, Midland County Texas.

Reason for requesting a zone change: Better use of the property

PRESENT ZONE: SEE ATTACHED REQUESTED ZONE: SEE ATTACHED SUMMARY
(List by tracts if more than one zoning district is requested)

Present Use of Property: Vacant

Proposed Use of Property: Mixed Uses

How will zone change affect the public health, safety and welfare? This Zone Change will not affect the public health, safety and welfare.

Describe how conditions affecting the property have changed since it was designated its present zone: The growth of the area has dictated more housing and retail space

Will a Specific Use Permit with Term for alcoholic beverages sales be needed: ___ Yes X No

APPLICATION FEES:

- Single, standard zone change: **\$400**. Multiple, standard zone change: add **\$100** per district.
- Single PD, Planned District zone change: **\$550**. Multiple PD proposal: add **\$100** per district.
80% of fee will be refunded if no P&Z public hearing is called; if no City Council public hearing is called, then 30% of fee will be refunded.
- If a Traffic Impact Analysis is required, a fee of up to \$500.00 will be assessed.

SITE PLAN SUBMITTALS (if applicable):

16 copies of the PD site plan: _____

Site plan on CD in .pdf and .jpg format: _____

SIGNATURE (by property owner only - authorized agent must sign affidavit below)

Property Owner (signature): _____ Date: _____

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 George E. Thornley who, being by me duly sworn, upon oath says: That (S)he is authorized by Kenneth V. Huseman, LLC, the owner of the above described property, to fully represent him/her in this application and that (S)he has the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

George E. Thornley
Authorized Agent (signature)

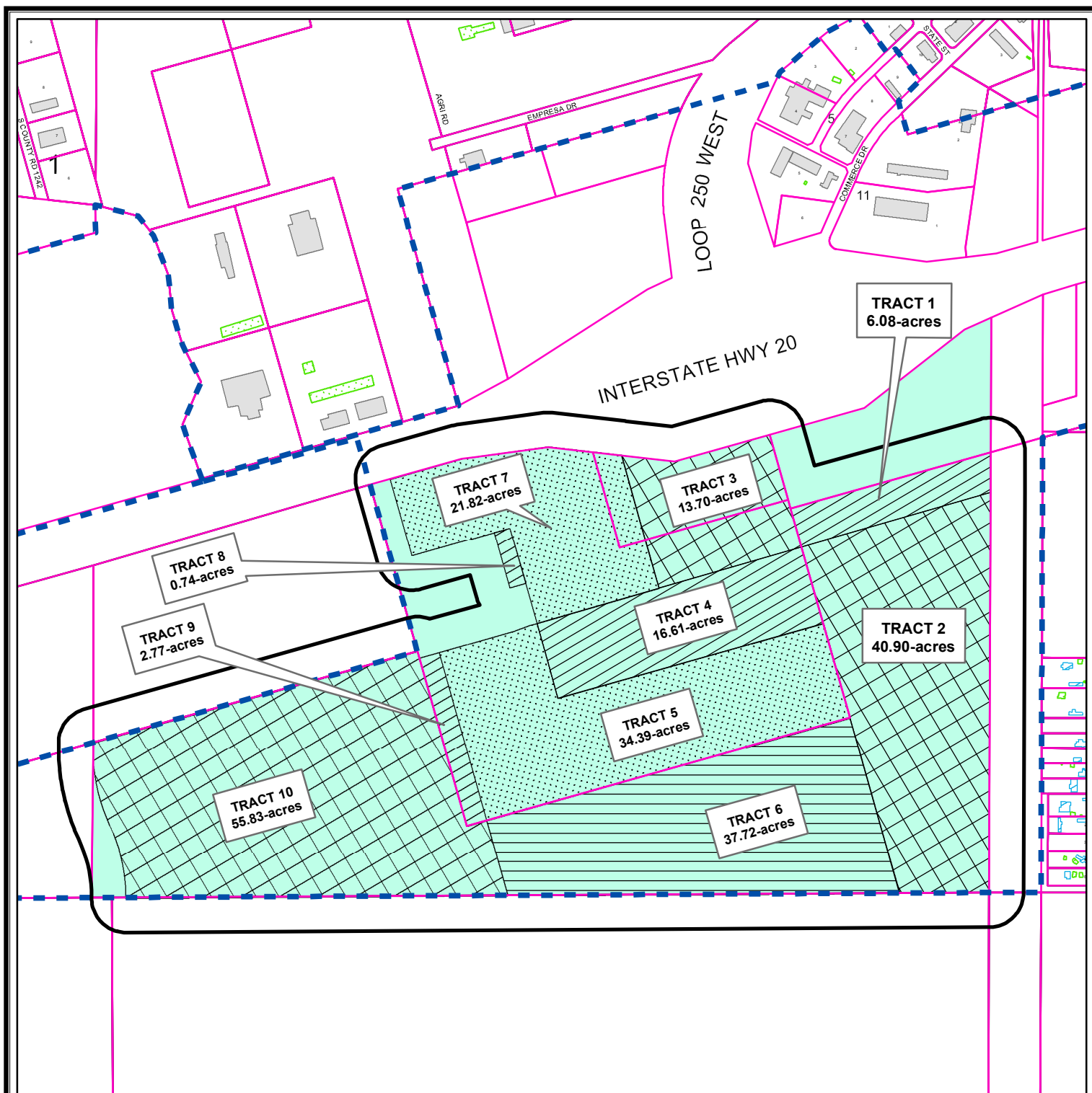
Subscribed and sworn to before me, by the said George Thornley, this 24th day of May, 2013, to certify which witness my hand and seal of office.

Shani Dawson
Notary Public, Midland County, Texas

FOR OFFICE USE ONLY	
Rec'd By: <u>PS</u>	Date: <u>5/28</u>
Assigned: <u>MS</u>	
For: <u>P+Z</u>	On: <u>7/1/13</u>



****Application will not be considered for scheduling until reviewed by a planner.****



Consider a request for a zone change from FD, Future Development to LR-2, Local Retail District on a 6.08-acre tract of land (Tract 1), to LI, Light Industrial District on a 40.90-acre tract of land (Tract 2), to PD, Planned District for a Housing Development on a 37.72-acre tract of land (Tract 6) and to 1F-3, One-Family Dwelling District on a 55.83-acre tract of land (Tract 10), from PD, Planned District for a Shopping Center, to LR-2, Local Retail District on a 13.70-acre tract of land (Tract 3), to PD, Planned District of a Housing Development on a 16.61-acre tract of land (Tract 4), to BP, Business Park District on a 21.82-acre tract of land (Tract 7), from BP, Business Park District to PD, Planned District for a Housing Development on a 34.39-acre tract of land (Tract 5), to 1F-3, One-Family Dwelling District on a 2.77-acre tract of land (Tract 9), and from LR-2, Local Retail District to BP, Business Park District on a 0.74-acre tract of land (Tract 8) all out of Section 12, Block 40, T-2-S, T & P RR Co. Survey, City and County of Midland, Texas.

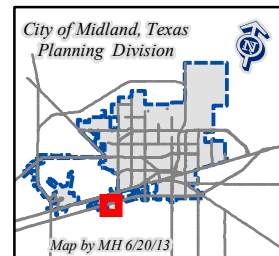
NOTIFICATION MAP

Scale: 1" = 800'

Z - 12 - 049

LEGEND

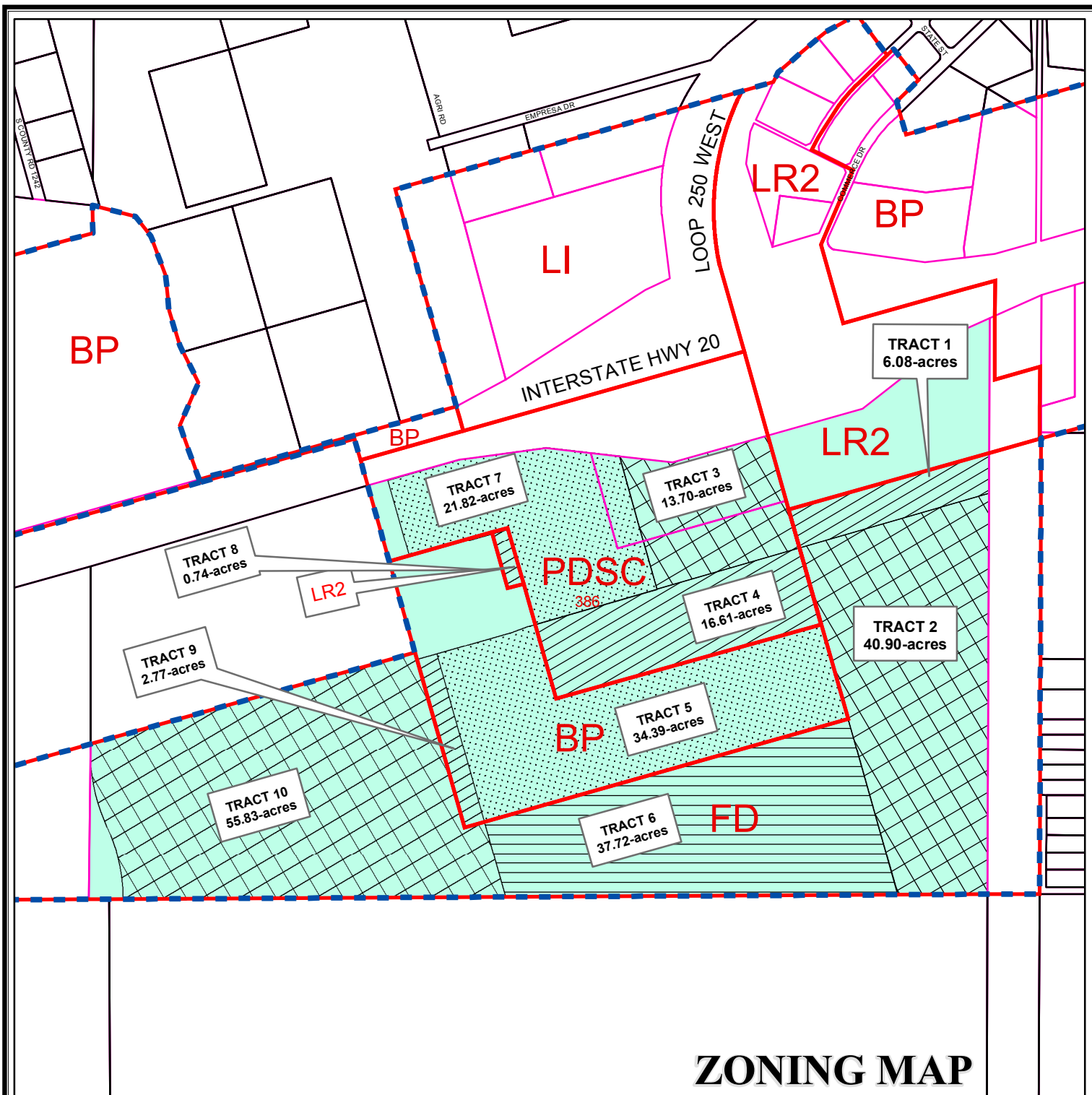
- CITY LIMITS
- 200 FT. LEGAL NOTICE LIMIT
- CITY PARCEL
- COUNTY PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS



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(OWNER NOTIFICATION WITHIN CITY LIMITS ONLY)

30.27



ZONING MAP

Consider a request for a zone change from FD, Future Development to LR-2, Local Retail District on a 6.08-acre tract of land (Tract 1), to LI, Light Industrial District on a 40.90-acre tract of land (Tract 2), to PD, Planned District for a Housing Development on a 37.72-acre tract of land (Tract 6) and to 1F-3, One-Family Dwelling District on a 55.83-acre tract of land (Tract 10), from PD, Planned District for a Shopping Center, to LR-2, Local Retail District on a 13.70-acre tract of land (Tract 3), to PD, Planned District of a Housing Development on a 16.61-acre tract of land (Tract 4), to BP, Business Park District on a 21.82-acre tract of land (Tract 7), from BP, Business Park District to PD, Planned District for a Housing Development on a 34.39-acre tract of land (Tract 5), to 1F-3, One-Family Dwelling District on a 2.77-acre tract of land (Tract 9), and from LR-2, Local Retail District to BP, Business Park District on a 0.74-acre tract of land (Tract 8) all out of Section 12, Block 40, T-2-S, T & P RR Co. Survey, City and County of Midland, Texas.

Z - 12 - 049

Scale: 1" = 800'

LEGEND

 ZONING	 CITY PARCELS
 CITY LIMITS	 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, 1P1, 1P2, 1P3	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: July 23, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Ken VanDyne, Acting Planning Division Manager

SUBJECT: Hold a public hearing at approximately 10:33 a.m. and consider an ordinance on a request by Redneck's Drafthouse for an Amended Specific Use Permit with Term for on-premise consumption of alcoholic beverages in a lounge on a 5,000 square foot portion of Lot 1, Block 1, Mesa Verde Addition, City and County of Midland, Texas. (Generally located on the southwest corner of the intersection of N. Midland Drive and Neely Avenue.)

Purpose: Hold a public hearing at approximately 10:33 a.m. and consider an ordinance on a request by Redneck's Drafthouse for an Amended Specific Use Permit with Term for on-premise consumption of alcoholic beverages in a lounge on a 5,000 square foot portion of Lot 1, Block 1, Mesa Verde Addition, City and County of Midland, Texas.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process this request.

Discussion:

The applicant is currently operating a lounge at Redneck's Drafthouse under a Specific User Permit that was approved in October of 2009. The applicant, Mr. Roumell, would like to change the maximum number of seats allowed in the lounge and maintain current beverage service hours. The previous SUP permitted a maximum of 140 seats, and since then the business has expanded into the neighboring suite. Mr. Roumell is requesting a maximum occupancy of 220 seats, and has alcoholic beverage service hours from 3:00 p.m. until 2:00 a.m. The Building Official calculated the number of seats to be served at 255 seats based on square footage of the suites and restroom facilities. Staff is recommending approval of the applicant's request at 255 seats. This will allow the

applicant to provide additional seating if desired without having to come back for an amended permit.

Attachments: Exhibit A

ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS A 5,000 SQUARE FOOT PORTION OF LOT 1, BLOCK 1, MESA VERDE ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF NORTH MIDLAND DRIVE AND NEELY AVENUE), WHICH IS PRESENTLY ZONED LR-2, LOCAL RETAIL DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A LOUNGE FOR ON-PREMISES CONSUMPTION; 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

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, Texas, in compliance with the City Charter and the State law with reference to the granting of specific use permits under the zoning ordinance regulations and zoning map, have given the requisite notices by United States mail, publication and otherwise; and after holding due hearings affording 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 of the City of Midland finds that the public convenience will be best served by the granting of a Specific Use Permit With Term, set out hereinafter, on the property described in Section One hereof;

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

SECTION ONE. That the zoning use classification of the following described property, which is presently zoned LR-2, Local Retail District, to-wit:

A 5,000 square foot portion of Lot 1, Block 1, Mesa Verde Addition, City and County of Midland, Texas;

is hereby changed to permit said property to be used under a Specific Use Permit With Term for the sale of all alcoholic beverages for on-premises consumption in a lounge, together with

the uses permitted in the present LR-2, Local Retail District.

SECTION TWO. That said property shall be subject to the following conditions and restrictions:

- A. That the lounge shall be limited to 5,000 contiguous square feet.
- B. That the lounge shall be limited to 255 seats.
- C. That the days and hours of alcoholic beverage sales and consumption shall be limited to the following: Monday through Sunday from 3:00 p.m. until 2:00 a.m. of the following day, unless otherwise prohibited by state law.
- D. That the sale and on-premise consumption of alcoholic beverages shall conform to all applicable laws established by the City of Midland and the State of Texas.

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., 2013; 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., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

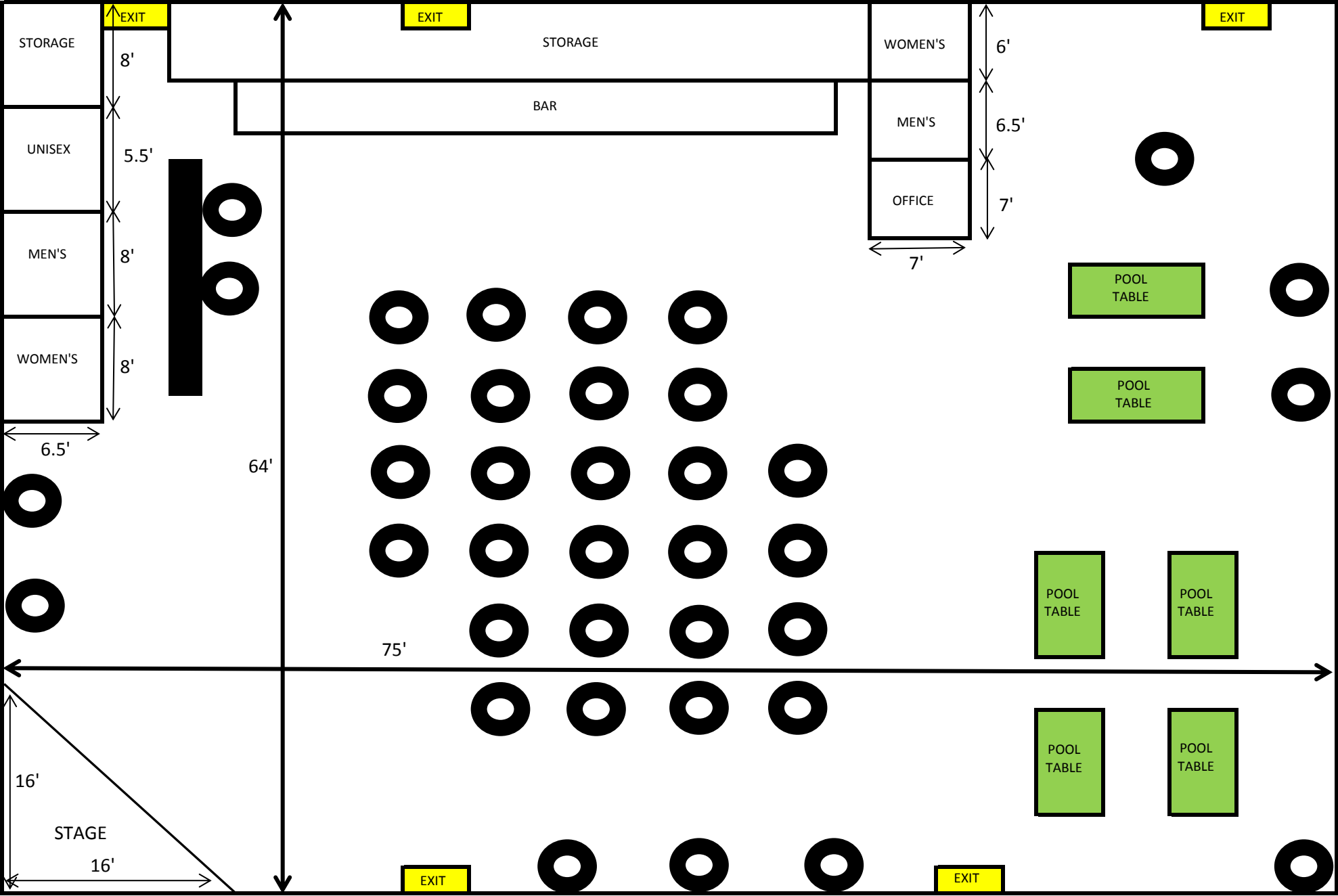
APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

REDNECK'S DRAFTHOUSE INTERIOR LAYOUT



PLANNING AND ZONING COMMISSION

July 1, 2013

CASE: S-13-006

REQUEST: Hold a public hearing and consider a request for an Amended Specific Use Permit with Term for on-premise consumption of alcoholic beverages in a lounge.

APPLICANT: Redneck's Draffhouse.

OWNER: William Gene Roumell.

LEGAL DESCRIPTION: A 5,000 square foot portion of Lot 1, Block 1, Mesa Verde Addition, City and County of Midland, Texas.

LOCATION: Generally located on the southwest corner of the intersection of N. Midland Drive and Neely Avenue.

CURRENT ZONING: LR-2, Local Retail District

DETAILS OF REQUEST:

1. The applicant is currently doing business as Redneck's Draffhouse under a Specific User Permit approved in October of 2009. Mr. Roumell would like to change the maximum number of seats allowed in the lounge and maintain current beverage service hours. The previous SUP permitted a maximum of 140 seats, and since then the business has expanded into the neighboring suite. Mr. Roumell is requesting a maximum occupancy of 220 seats, and has alcoholic beverage service hours from 3:00 p.m. until 2:00 a.m.

SURROUNDING ZONING AND LAND USE:

2. The lounge is located in a LR-2, Local Retail District, and is currently one of four Specific Use Permits with Term located within its current shopping center for the sale of on-premise consumption of alcoholic beverages. Immediately north of this property is a medium sized MF-1, Multi-Family Dwelling District, and west and south of this property is a large 1F-2, Single Family Dwelling District. Immediately east of this property is a small MF-1, Multi-Family Dwelling District.

ANALYSIS:

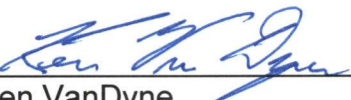
3. Redneck's Draffhouse will have a maximum floor area of 4,800 square feet. The Building Official has determined that seating capacity will be set at 255 seats based on the square footage available for serving patrons. Staff has no objections to the requested hours of service Monday thru Sunday 3:00 p.m. until 2:00 a.m.

STAFF RECOMMENDATION:

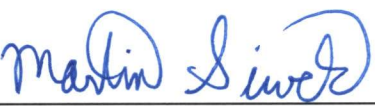
We recommend approval of the request for a Specific Use Permit with Term for on-premise consumption of alcoholic beverages in a Restaurant, together with the uses permitted in the LR-2, Local Retail District, subject to the following conditions:

- A. That the lounge shall be limited to 4,800 square feet in contiguous area.
- B. Occupancy shall be limited to 255 seats.
- C. That alcoholic beverages may be sold only during the hours specified as follows:

Monday thru Sunday 3:00 p.m. until 2:00 a.m.
- D. That the sale of alcoholic beverages for on-premise consumption shall comply with state and local laws.



Ken VanDyne
Acting Planning Division Manager
Department of Development Services



Martin Siwek, City Planner
Department of Development Services

Attachments:

Application
Maps
Exhibit A

Case Number:

513-006

CITY OF MIDLAND

Planning Division

SPECIFIC USE PERMIT APPLICATION

William Gene Roumell (432) 352-9335
 Applicant Name Contact Phone #s
4805 BRIARWOODS #C205 MIDLAND, TX 79707
 Address Zip Code
 E-Mail address: gene.roumell@yahoo.com
MESA VERDE MIDLAND LP (432) 686-2800
 Property Owner Name Contact Phone #s
2215 N MIDLAND DR SUITE 2A MIDLAND, TX 79707
 Address Zip Code
 E-Mail address: NA
 Operator (if different from Applicant or Property Owner) Contact Phone #s

Address Zip Code
 Type of Permit: SPECIAL USE PERMIT ALCOHOL SALES SUP with Term: ☒ Yes ☐ No
 (For Office Use)

Street address and Legal Description of property on which SUP is desired (complete Lot, Block, and Subdivision, or if unplatted, attach a Metes and Bounds description with surveyor's seal.)

2215 N MIDLAND DR, SUITE 2A & 2B, MIDLAND, TX 79707
LOT 1, BLOCK 1, MESA VERDE ADDITION

Current Zoning: LR-2

Maximum Floor Area: 5,000 sq. ft Max. Occupancy: 220

Proposed hours and days of use or operation: 3pm - 2am MON - SUN

Reason for request: AMENDMENT FROM 3,000 sq. ft TO 5,000 sq. ft

Applicant's opinion as to why the request will not adversely affect the public safety, health, morals, general welfare, and convenience: CURRENTLY IN BUSINESS, SIMPLY AMENDING THE CURRENT SUP

REQUIRED SUBMITTALS

1. Application fee: \$300. (80% of fee will be refunded if no P&Z public hearing is called; if no City Council public hearing is called, then 30% of fee will be refunded.)
2. Site plan - 16 copies (FOLDED)
3. On a CD in .pdf and .jpg format.

SIGNATURES:

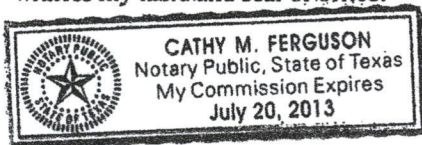
Applicant: [Signature] Date: 3-18-13
Property Owner: [Signature] Date: 3/19/13

If an Agent is authorized by the property owner to me 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 Mano Houn who, being by me duly sworn, upon oath says: That (s)he is authorized by Mesa Verde Midland LP, 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.

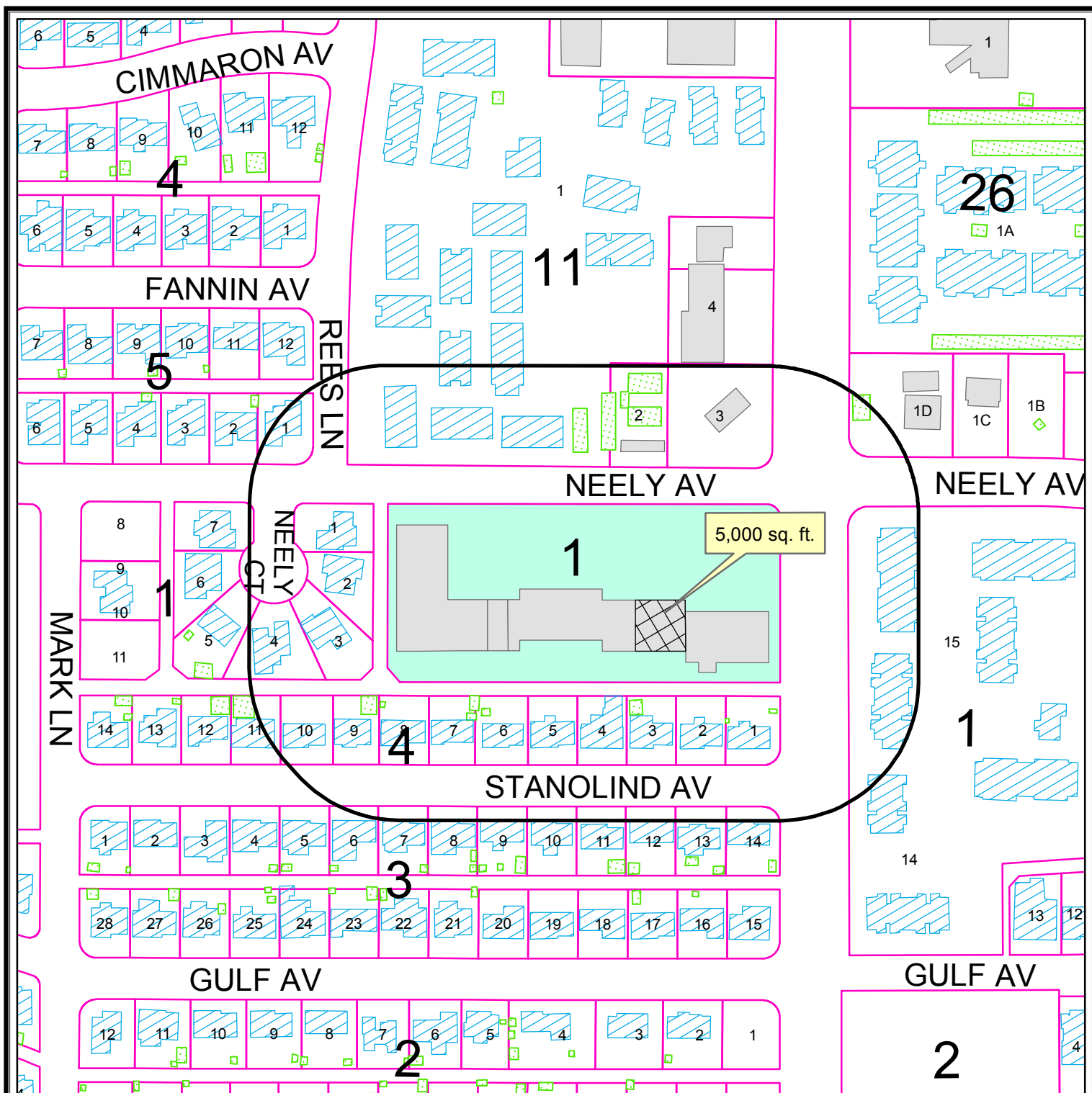
Subscribed and sworn to before me, this 19th day of March, 20 13, to certify which witness my hand and seal of office.



Cathy M. Ferguson
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
Rec'd By: <u>[Signature]</u>	Date: <u>4/2/13</u>
Assigned: <u>MS</u>	
For: <u>P&Z</u>	On: <u>7/1/13</u>

****Application will not be considered for scheduling until reviewed by a planner.****



PROPERTY OWNER NOTIFICATION MAP

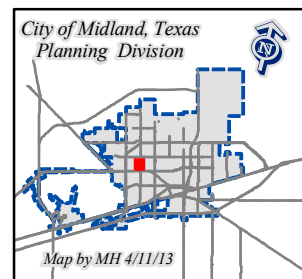
S - 13 - 006

Scale: 1" = 200'

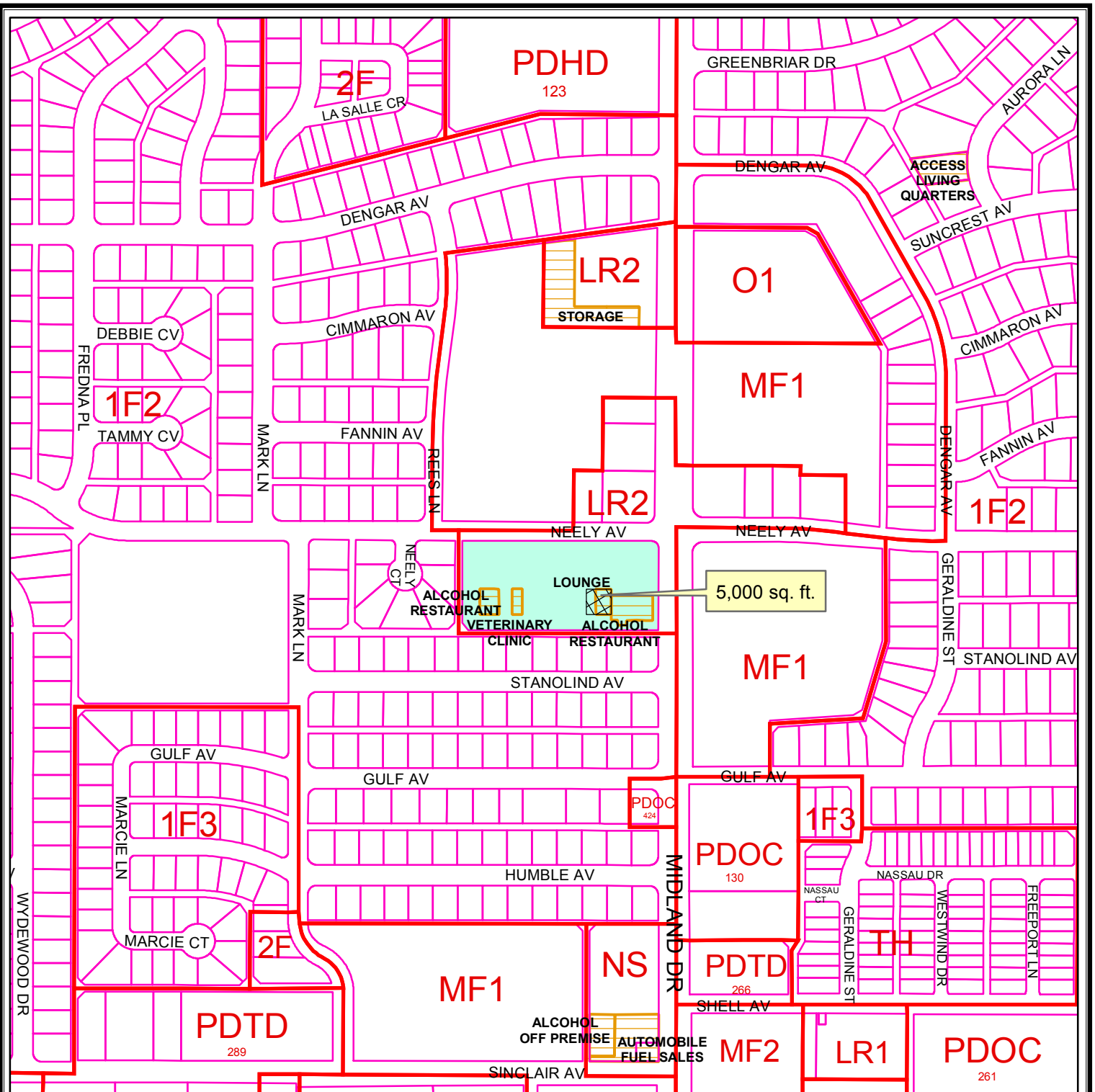
Consider a request for an Amended Specific Use Permit With Term for the sale of all alcoholic beverages, for on-premises consumption, in a lounge, on a 5,000 square foot portion of Lot 1, Block 1, Mesa Verde Addition, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- 200 FT. LEGAL NOTICE LIMIT
- PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS



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ZONING MAP

S - 13 - 006

Scale: 1" = 400'

Consider a request for an Amended Specific Use Permit With Term for the sale of all alcoholic beverages, for on-premises consumption, in a lounge, on a 5,000 square foot portion of Lot 1, Block 1, Mesa Verde Addition, City and County of Midland, Texas.

LEGEND

ZONING PARCELS

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	O1, O2	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: July 23, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Ken Van Dyne, Acting Planning Division Manager

SUBJECT: Hold a public hearing at approximately 10:36 a.m. and consider a resolution on a request by Heart of America (Butch Corey) for approval of a Temporary Land Use Permit for a Carnival. (Generally located on the southwest corner of the intersection of W. Loop 250 North and N. Midkiff Road.)

Purpose:

Hold a public hearing at approximately 10:36 a.m. and consider a resolution on a request by Heart of America (Butch Corey) for approval of a Temporary Land Use Permit for a Carnival.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

No City funds are required to process this request.

Discussion:

The applicant is proposing to hold a carnival in the north parking lot of Midland Park Mall from Friday August 16, 2013 through Sunday August 25, 2013. Requested hours of operation are:

Monday – Friday from 5:00 p.m. to 11:00 p.m.

Saturday and Sunday from 2:00 p.m. to 12:00 a.m. (midnight)

Carnival-type music is planned for all operating hours. The Council has previously required that the music volume be reduced after 10:00 p.m. daily. No alcoholic beverages will be sold, and six (6) portable restrooms will be provided. A minimum of

two (2) certified peace officers will be present between 2:00 p.m. and 6:00 p.m. and a minimum of four (4) certified peace officers will be present after 6:00 p.m. until closing. An operator's license from the Police Department is also required.

Attachments: Application, Maps, Proposed Resolution, and Exhibit A (Site Plan)

RESOLUTION NO.

**RESOLUTION AUTHORIZING THE TEMPORARY USE
OF LAND FOR A CARNIVAL ON LOT 1, BLOCK 17,
SKYLINE TERRACE, UNIT 2, CITY AND COUNTY OF
MIDLAND, TEXAS (GENERALLY LOCATED ON THE
SOUTHWEST CORNER OF THE INTERSECTION OF
WEST LOOP 250 NORTH AND NORTH MIDKIFF
ROAD); AND MAKING SAID PERMIT SUBJECT TO
CERTAIN SPECIAL CONDITIONS AND
RESTRICTIONS CONTAINED HEREIN; AND
PROVIDING THAT THE CHIEF OF POLICE SHALL
ENSURE THAT ALL PARTICIPANTS ARE LICENSED
PURSUANT TO TITLE V, CHAPTER 9 OF THE
MIDLAND CITY CODE**

WHEREAS, pursuant to Section 11-1-6(D) of the City Code of Midland, Texas, Heart of America has applied for authorization to temporarily use land for a carnival on Lot 1, Block 17, Skyline Terrace, Unit 2, City and County of Midland, Texas; and

WHEREAS, the Council finds and determines that such temporary use shall be allowed;

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

SECTION ONE. That Heart of America is hereby authorized by the City Council to have a carnival on the following described land:

Lot 1, Block 17, Skyline Terrace, Unit 2, City and County of Midland, Texas.

SECTION TWO. That said temporary use shall be allowed within the area designated herein, subject to the following conditions and restrictions:

- A. That the days of operation shall be limited to Friday, August 16, 2013 through Sunday, August 25, 2013.
- B. That the hours of operation shall be limited to the following, with the music volume reduced after 10:00 p.m. each day:

Monday through Friday:	5:00 p.m. to 11:00 p.m.
Saturday and Sunday:	2:00 p.m. to 12:00 a.m. (midnight)
- C. That game booths, mechanical rides, carnival music, and food and beverage concessions shall be allowed.
- D. That alcoholic beverage sales and on-premise consumption shall be prohibited.

- E. That the operation of the carnival shall conform to the site plan attached hereto as Exhibit "A" and incorporated herein for all purposes.
- F. That a minimum of two (2) certified peace officers shall be provided as security guards between 2:00 p.m. and 6:00 p.m. and a minimum of four (4) certified peace officers shall be provided after 6:00 p.m. until closing for all days of operation.
- G. That a minimum of six (6) portable toilets shall be provided.
- H. That the event shall comply with all requirements of the Fire Code; the applicant must call for an inspection by the Fire Marshal prior to commencing operations.
- I. That the applicant shall obtain approval from the Utilities Department for a refuse collection and clean-up plan prior to the event.
- J. That the applicant shall ensure that all individuals have obtained the appropriate license(s) from the Midland Police Department prior to commencing operations.
- K. That the Code Administration Division shall be notified no later than 48 hours preceding the event.
- L. That Butch Corey, or a representative of Heart of America, shall be responsible for ensuring that the conditions of this permit are observed.
- M. That the Chief of Police shall ensure that the operator(s) of the carnival and each employee working at the carnival is properly licensed in accordance with Title V, Chapter 9 of the Midland City Code.

SECTION THREE. The City Council reserves at all times the full right and power to revoke said temporary use for violation of any of its terms or any misrepresentations contained in the application, after a hearing of which the holder of said temporary use has been given at least one (1) day notice.

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., 2013, 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:

James R. Nichols, Assistant City Manager

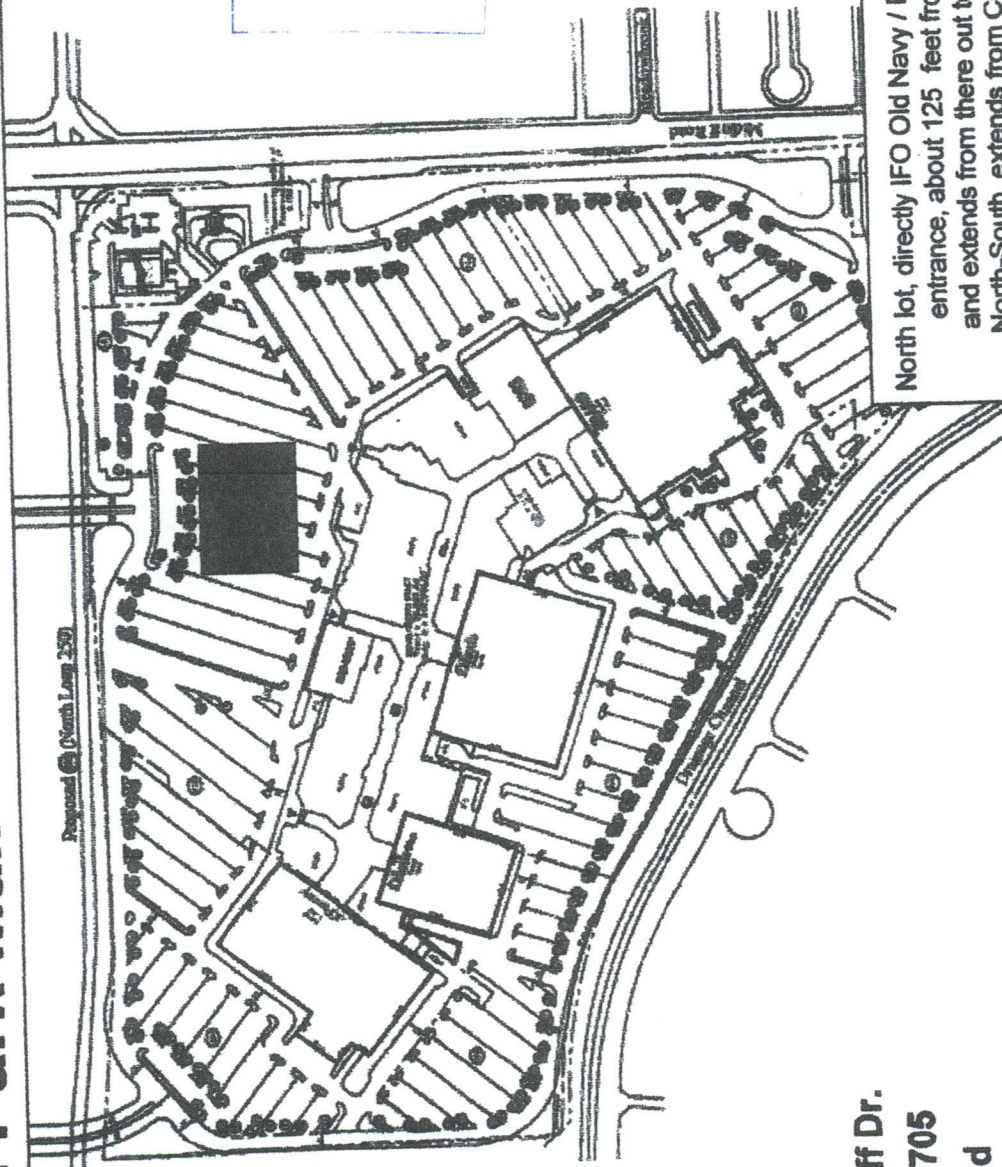
APPROVED AS TO CONTENT
AND COMPLETENESS:

Price Robinson, Chief of Police

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

Midland Park Mall



4511 No. Midkiff Dr.

Midland, TX 79705

Market: Midland

Available Sq Ft: 70,000

Location: Front of Mall

RECEIVED

JUN 6 2013

CITY OF MIDLAND
PLANNING DIVISION OFFICE

North lot, directly IFO Old Navy / Dillard's Center Court Mall entrance, about 125 feet from the building curb and extends from there out to the outer ring road North-South, extends from Center Court entrance over to Food Court entrance East-West.

Permit Required

SINION

SINION

SITE PLAN

EXHIBIT A

CASE NO. M-13-012

Case No.: M-13-012

CITY OF MIDLAND, TEXAS Planning Division

TEMPORARY LAND USE PERMIT APPLICATION

Submission Requirements: Application shall be submitted to the Planning Division not less than twenty-eight (28) days prior to the City Council meeting at which action is desired.

Application is hereby made to the City Council for a Temporary Land Use Permit:

Name of Applicant: Butch Corey - Heart of America Phone: 713-446-7461
E-mail: linda@camivalbooking.com

Applicant's Address: 2315 South 25th St. Harlingen TX 78550

Property Owner: Midland Park Mall Phone: 432-694-1664
E-mail: LKeese@simon.com

Owner's Address: 4511 N Midkiff Rd Midland, TX 79705

Other required information:

1. Street address and legal description of property: Midland Park Mall, 4511 N. Midkiff Rd. Midland TX 79705
2. Zoning District: _____
3. Type of temporary use requested: Carnival
4. Duration of temporary use: 10 days
If more than One (1) day and is located within any residential district or is located within 1000 feet of any residential district, then a public hearing is required.
5. Proposed days and hours: 8/16/13 - 8/25/13
M-F 5:00 pm - 11 pm Sat + Sun 2:00 pm - midnight
6. Will alcoholic beverages be sold? _____ Yes ☒ No
7. A detailed Site Plan is required (16 copies needed (FOLDED), plus digital - .jpg and .pdf). Show existing buildings, parking, access arrangements, surrounding streets, activity areas, areas of alcoholic beverage sales, proposed street closures, etc.
Site Plan received: ☒ Yes _____ No

8. Are you requesting the temporary closure of any streets? _____ Yes X No

If yes, you must:

A. Obtain and complete the "Special Event and Street Closure Application", available in the Transportation Division office (5th Floor, City Hall).

B. Provide the City with a **general liability insurance certificate**, naming the City as an **Additional Insured**, in the amount of one million dollars (\$1,000,000) for the term of the closure.

9. Other information: Number of security guards provided: As requested

Number of restrooms provided: 6

Type of music (carnival, live, etc.): Carnival

Showmobile requested 0 Days and hours N/A

10. A **\$500.00 Clean-up Deposit** and a **\$500.00 Damage Deposit** are required for all events. Checks need to be dated day of event. Inspection of site after the event for trash and damage is a City responsibility. The deposits, or a portion thereof, may be refunded following inspection.

Clean-up Deposit received: ☒ (Y) ☐ (N) **Clean-up Deposit refunded:** ☐ (Y) ☐ (%) ☐ (N)

Damage Deposit received: ☒ (Y) ☐ (N) **Damage Deposit refunded:** ☐ (Y) ☐ (%) ☐ (N)

11. A **\$200 Application Review fee** is required. **Fee received:** ☒ Yes ☐ No
\$25.00 for each additional event date.

Owner or Operator (if other than Applicant) responsible for ensuring that the conditions of this permit will be observed:

Butch Corey 2315 South 25th St. Harlingen TX 713-46-7461
Printed Name of Owner/Operator Address Zip 75550 Phone

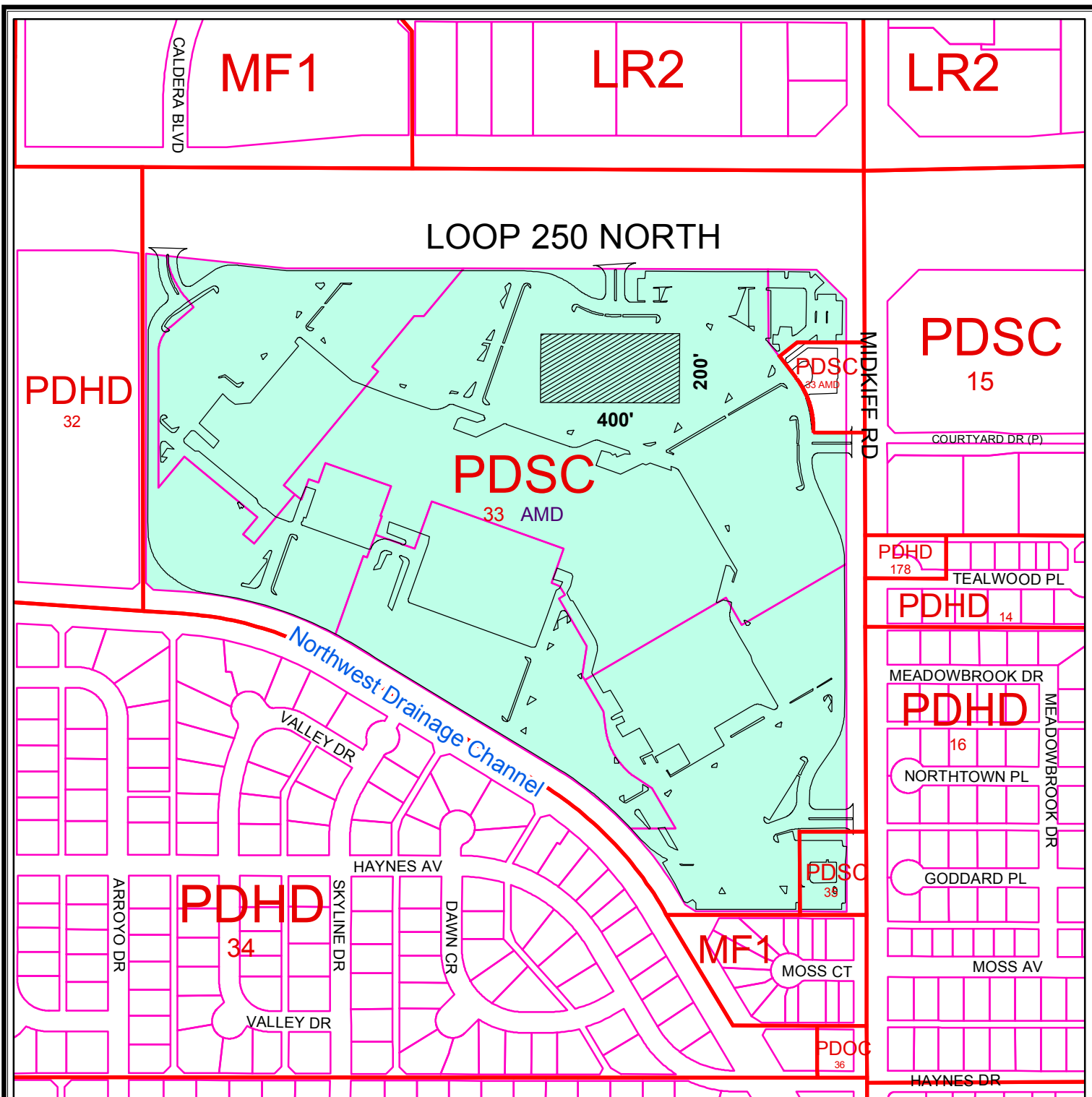
Butch Corey by Linda Wade 6-3-13
Signature of Owner/Operator Legal Agent Date

Linda Wade 6-3-13
Signature of Applicant Date

Signature of Property Owner, if other than Applicant Date

****Application will not be considered for scheduling until reviewed by a planner.****

FOR OFFICE USE ONLY	
Received By: <u>MS</u>	Date: <u>6/5/13</u>
Assigned: <u>MK</u>	
For: <u>CC</u>	On: <u>7/23/13</u>



ZONING MAP

M - 13 - 012

Scale: 1" = 400'

Consider a request for a Temporary Land Use Permit for a Carnival on Lot 1, Block 17, Skyline Terrace, Unit 2, City and County of Midland, Texas.

LEGEND

ZONING 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, JP1, 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:
CSharp
City Manager's Office

MEETING DATE: 7/23/2013

TO: City Council / City Manager

FROM: Price Robinson, Police Chief

SUBJECT: At approximately 10:39 a.m. hold a public hearing and consider a resolution expressing the intent of the Midland City Council to continue in effect Title VI, "Police Regulations", Chapter 9, "Curfew Hours for Minors", of the Midland City Code pursuant to Texas Local Government Code Section 370.002.

Purpose:

At approximately 10:39 a.m. hold a public hearing and consider a resolution expressing the intent of the Midland City Council to continue in effect Title VI, "Police Regulations", Chapter 9, "Curfew Hours for Minors", of the Midland City Code pursuant to Texas Local Government Code Section 370.002.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

None

Discussion:

An increasing trend in juvenile crime and gang activity in Midland prompted the 1993 Midland County Special Grand Jury to issue a report calling on the Midland City Council to enact a curfew ordinance for persons under 17 years of age. Since the curfew was enacted in 1995, the Midland Police Department has issued over 2,300 citations. Also, during the 18 years that the curfew has been in effect, the Midland Police Department has instituted a Gang Suppression Unit, received a 3-year state grant for Enforcing Underage Drinking Laws, and has a full-time juvenile detective. This curfew ordinance gives the Midland Police Department another tool in our comprehensive approach to dealing with juvenile crime and violence.

The curfew hours are from 12:01 a.m. until 6:00 a.m. seven days a week. A minor (a person under 17 years of age) commits an offense if he remains in any public place or on the premises of any establishment within the City during curfew hours.

RESOLUTION NO.

**RESOLUTION EXPRESSING THE INTENT OF THE
MIDLAND CITY COUNCIL TO CONTINUE IN EFFECT
TITLE VI, "POLICE REGULATIONS", CHAPTER 9,
"CURFEW HOURS FOR MINORS", OF THE MIDLAND
CITY CODE PURSUANT TO TEXAS LOCAL
GOVERNMENT CODE SECTION 370.002**

WHEREAS, the January 1993 report of the Special Grand Jury, Midland County, Texas, called on the Midland City Council to enact a curfew ordinance for people under 17 years of age; and

WHEREAS, the City Council of the City of Midland, Texas, has determined that review of the curfew ordinance should be issued under and pursuant to the provisions of V.T.C.A., Local Government Code §370.002, for the purpose of enforcing the curfew ordinance; and

WHEREAS, the City has a compelling interest in protecting the young people of Midland and reducing juvenile crime; and

WHEREAS, the Council has reviewed the effect of Title VI, Chapter 9, of the Midland City Code on the community and on problems Title VI, Chapter 9, of the Midland City Code was intended to remedy; and

WHEREAS, on July 23, 2013, a public hearing was conducted on the need to continue Title VI, Chapter 9, of the Midland City Code; and

WHEREAS, the Council finds it to be in the public interest to continue in effect Title VI, Chapter 9, of the Midland City Code;

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

SECTION ONE. That the preambles stated above are true and correct and are adopted by the Midland City Council.

SECTION TWO. That Title VI , "Police Regulations", Chapter 9, "Curfew Hours for Minors", of the Midland City Code shall remain in full force and effect and shall continue

for all legal 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., 2013, 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:

Price Robinson, Police Chief

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: July 23, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Ken VanDyne, Acting Planning Division Manager

SUBJECT: Consider a motion approving a proposed preliminary plat of Southwest Crossing on a request by Kenneth Huseman being a 254.33-acre tract of land out of Section 12, Block 40, T-2-S, T & P RR Co. Survey, City and County of Midland, Texas. (Generally located on the south side of W. Interstate Hwy 20, south of S. Loop 250 West).

Purpose: Consider a motion approving a proposed preliminary plat of Southwest Crossing on a request by Kenneth Huseman being a 254.33-acre tract of land out of Section 12, Block 40, T-2-S, T & P RR Co. Survey, City and County of Midland, Texas.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process this request.

Discussion:

This proposed 254.33-acre preliminary plat was recently annexed into the city limits at the November 27th, 2012 City Council meeting. The preliminary plat provides for 400 feet of right-of-way dedication for Antelope Trail immediately south of W. Interstate Hwy 20, and then narrows to 300 feet of right-of-way dedication to the southeastern corner of the plat. Cholla Road is running south of W. Interstate Hwy 20 in an east/west direction, and may serve as a backage road to the Interstate Highway in the future. The plat is broken into five blocks to provide for the future development of apartments, single family, retail, and light industrial uses.

A traffic study that was provided by the applicant indicated an F level of service at all major intersections. This level of service is a measure of average traffic flow disruption that can be anticipated given the roadway design and surrounding land uses (traffic generators) feeding into that right-of-way. It is recommended that the level of service for each intersection analyzed by the study will be brought up to at least a C level of

service as this project is phased into final plats or site plans for future developments.

Conditions of final plat approval include that all public improvements of sewer, water, paving, and fire hydrants are adequately addressed and adhere to City standards; that an approved drainage study is provided, and that each intersection designated as an F level of service per the traffic study submitted with this report be brought up to a service level of C. These costs shall be borne by the developer without option for deferral unless reduced intensity of development, increase right-of-way width, or traffic control devices (or any combination thereof) is subsequently shown to enhance traffic flow as required with evidence shown to the City by an independent T.I.A.

This preliminary plat requires approval by City Council prior to any final plat due to 11-2-3 (D) of the City of Midland Subdivision Code, which states where a proposed preliminary plat “is ten hectares (25 acres) or more in area and is located in any survey section (approximately one square mile) which does not contain a publicly owned site or sites intended for both a public school and park, or public site reservation”. Additionally, the code further states a proposed preliminary plat will also require Council approval if it “includes any potentially significant problem, in its form as approved by the commission, that the City manager determines, upon the recommendation of any department head of the City, should be considered by the Council.” A potential significant problem related to this proposed preliminary plat would include the projected F level of service for traffic in the area as noted by the traffic study provided by the applicant.

Attachment: Preliminary Plat.

PLANNING AND ZONING COMMISSION

July 1, 2013

CASE: P-12-073

STATUS: Proposed Preliminary Plat, Southwest Crossing

APPLICANT/OWNER: Kenneth Huseman

REPRESENTATIVE: LCA

LEGAL DESCRIPTION: Being a 254.33-acre tract of land out of Section 12, Block 40, T-2-S, T & P RR co. Survey, City and County of Midland, Texas.

LOCATION: Generally located on the south side of W. Interstate Hwy 20, south of S. Loop 250 West

CURRENT ZONING: PD, Planned District for a Shopping Center, LR – 2, Local Retail District, BP, Business Park District, and FD, Future Development District.

ASSOCIATED CASE: Z-12-049

DETAILS OF REQUEST:

1. This proposed 254.33-acre preliminary plat was recently annexed into the city limits at the November 27th, 2012 City Council meeting. The preliminary plat provides for 400 feet of right-of-way dedication for Antelope Trail immediately south of W. Interstate Hwy 20, and then narrows to 300 feet of right-of-way dedication to the southeastern corner of the plat. Cholla Road is running south of W. Interstate Hwy 20 in an east/west direction, and may serve as a backage road to the Interstate Highway in the future. The plat is broken into five blocks to provide for the future development of apartments, single family, retail, and light industrial uses.

DRAINAGE:

2. A drainage study will be required as a condition of final plat approval.

PUBLIC IMPROVEMENTS:

3. Public improvements that need to be addressed before final plat include extension of sewer, water, fire hydrants, and paving all to City standards.

ANALYSIS:

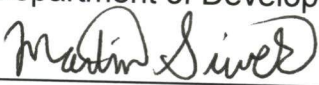
4. The traffic study provided by the applicant indicated an F level of service at all major intersections. This level of service is a measure of average traffic flow disruption that can be anticipated given the roadway design and surrounding land uses (traffic generators) feeding into that right-of-way. It is recommended that the level of service for each intersection analyzed by the study will be brought up to at least a C level of service as this project is phased into final plats or site plans for future developments.

STAFF RECOMMENDATION:

We recommend approval of the proposed preliminary plat of Southwest Crossing subject to the following conditions:

- A. That an approved drainage study is required as a condition of final plat approval.
- B. That public improvements are adequately addressed as a condition of final plat approval, either through a security or by building the improvements.
- C. That each intersection designated as an F level of service per the traffic study submitted with this report be brought up to a service level of C as a condition of final plat approval. These costs shall be borne by the developer without option for deferral unless reduced intensity of development, increase right-of-way width, or traffic control devices (or any combination thereof) are subsequently shown to enhance traffic flow as required with evidence shown to the City by an independent T.I.A.


Ken VanDyne
Acting Planning Division Manager
Department of Development Services


Martin Siwek, City Planner
Department of Development Services

Attachments:

Preliminary Plat Application
Maps
Proposed Preliminary Plat

CITY OF MIDLAND

Planning Division

PRELIMINARY PLAT APPLICATION

I. APPLICATION

Proposed Title of Final Plat: SOUTHWEST CROSSING

Legal Description of Plat (or see attached metes and bounds)

260.74 ACRES LOCATED IN SECTION 12, BLOCK 40, T-2-S, T&P RR Co. SURVEY, MIDLAND COUNTY, TEXAS

Owner Information:

Kenneth V. Huseman

(Name)

432-699-4789

(Phone)

3900 Baybrook Court

(Address)

Midland, Texas 79707

(City, State, Zip)

Developer Information *(if different from Owner)*

(Name)

(Phone)

(Address)

(City, State, Zip)

Representative Information *(if acting as Agent, see Note on page2):*

(Name)

(Phone)

(Address)

(City, State, Zip)

II. FEES

Standard Plat or Residential Replat

For plats up to 50 acres:

\$250.00

For plats over 50 acres, \$1.00 for each additional acre, up to \$500.00

TOTAL

\$ 460.74

III. SUBMITTAL INFORMATION

Submittal Date: Minimum of 12 days (21 days for plats requiring a public hearing) prior to the Planning and Zoning Commission meeting at which consideration is desired. The Planning and Zoning Commission generally meets the first and third Monday of each month.

Check items if submitted with this application form

1. Application Fee: X
2. Copies:(FOLDED)(16 prints) X
3. Digital file: (.jpg format) X
4. Drainage plan: (submitted to Engineering Dept.)

For Office Use Only	
Rec'd By/	Date
<u>RS</u>	<u>5/28</u>
<u>RS</u>	<u>5/28</u>
<u>RS</u>	<u>5/28</u>

The Preliminary Plat shall be considered officially received in the Planning office only when it is in compliance with the provisions of the City of Midland Subdivision Code and when items 1 - 4 above are received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

IV. REQUEST FOR A VARIANCE

The following variances are requested: (attach additional sheets if necessary)

1. Sidewalk waiver: If property is located within the City Limits and is currently undeveloped, do you intend to seek a waiver from the Building Code requirement to construct public sidewalks?
YES ___ NO X

2. Street/Alley alignment, width or length: _____

3. Other: _____

V. REQUEST FOR A DEVELOPMENT AGREEMENT

Do you expect to request a development agreement with the City? YES X NO ___

VI. PROVISIONS

The Planning and Zoning Commission may approve, disapprove, or conditionally approve a preliminary plat. Conditional approval is subject to conformity with prescribed conditions and is considered disapproval of the plat until said conditions are met. Approval of a preliminary plat shall be considered to be approval of the general arrangement of lots, streets and alleys and the width of streets and alleys, but is not considered to be final acceptance of the subdivision plat. In some cases, a preliminary plat must be considered by the City Council, and any approval by the Planning and Zoning Commission shall be considered a recommendation to the City Council.

VII. SIGNATURE (by property owner only - authorized agent must sign affidavit below)

Property Owner (signature): _____ Date: _____

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 George E. Thornley who, being by me duly sworn, upon oath says: That (s) he is authorized by Kenneth V. Huseman, 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.

George E. Thornley
Authorized Agent (signature)

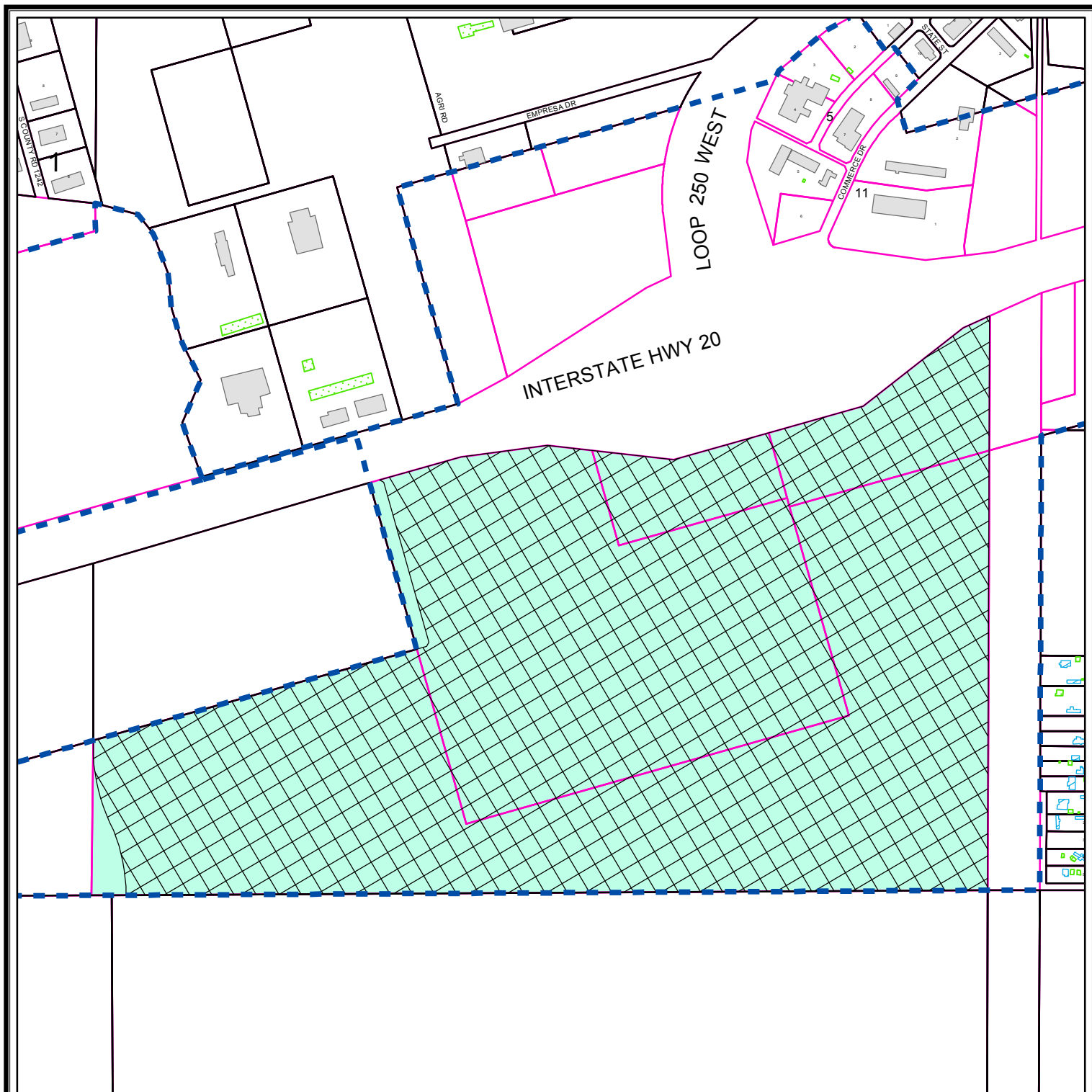
Subscribed and sworn to before me, this 24th day of May, 20 13, to certify which witness my hand and seal of office.

FOR OFFICE USE ONLY	
Rec'd BY: <u>DS</u>	DATE: <u>5/28</u>
RES REPLAT: YES ___ NO ___	
ASSIGNED: _____	
FOR: _____	ON: _____
Council Action Required: Y N	

Shani Dawson
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS



****Application will not be scheduled for hearing until reviewed by a planner****



LOCATION MAP

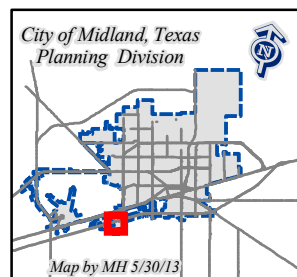
P - 12 - 073

Scale: 1" = 800'

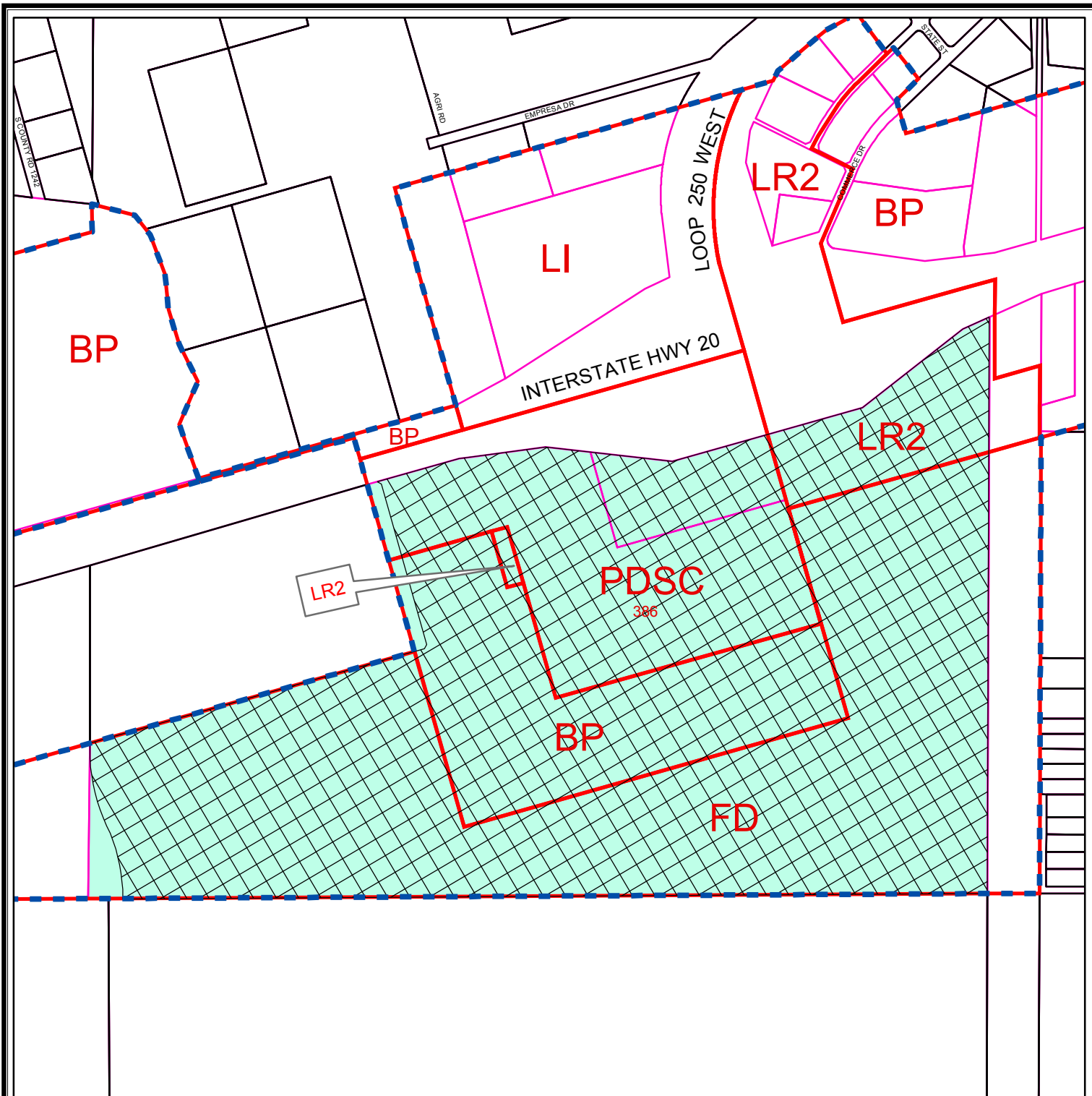
Proposed plat of Southwest Crossing, being a 254.33-acre tract of land out of Section 12, Block 40, T-2-S, T & P RR Co. Survey, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- COUNTY PARCEL
- CITY PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS



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ZONING MAP

P - 12 - 073

Scale: 1" = 800'

Proposed plat of Southwest Crossing, being a 254.33-acre tract of land out of Section 12, Block 40, T-2-S, T & P RR Co. Survey, City and County of Midland, Texas.

LEGEND

- | | |
|--|--|
| ZONING | CITY PARCELS |
| CITY LIMITS | 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
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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 of Midland
City Secretary's Office
Interoffice Memorandum

Date: July 18, 2013
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 July 23, 2013. Remaining expirations and vacancies are listed below:

AIRPORT PLANNING AND DEVELOPMENT BOARD – Two terms expired on September 30, 2012.

ANIMAL SERVICES ADVISORY COMMISSION – One vacancy which will expire on September 30, 2013.

CITY DEVELOPMENT ADVISORY COMMITTEE – One terms expired on September 30, 2012.

CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS – Two vacancies for Alternate terms expired on September 30, 2007.

HOUSING AUTHORITY COMMISSION – One vacancy as Alternate term expiring in October 2015

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, and two terms expired on January 1, 2010.

MIDLAND HOUSING FINANCE CORPORATION – One vacancy expired on September 30, 2010, two terms expired on September 30, 2011 and one term expired on September 30, 2012.

MIDLAND MUNICIPAL MANAGEMENT DISTRICT BOARD – One vacancy.

MIDLAND-ODESSA URBAN TRANSIT DISTRICT BOARD – Two terms expired on September 30, 2012.

PLANNING AND ZONING COMMISSION – One vacancy expiring on September 30, 2015.

PERMIAN BASIN AIRPORT BOARD – Two terms expired on September 30, 2010 (Carlsbad and Hobbs New Mexico), one term expired on September 30, 2011 and two terms expired on September 30, 2012.

PERMIAN BASIN COMMUNITY CENTER FOR MENTAL HEALTH AND MENTAL RETARDATION – One term expired in June 2013.

TAX INCREMENT REINVESTMENT ZONE BOARD – Four terms expired on March 20, 2010, one term expired March 20, 2011, one terms expired on March 20, 2012 and two terms expired on March 20, 2013. (Four City representatives, two Hospital representatives and two County representatives.)

ZONING BOARD OF ADJUSTMENT AND AIRPORT ZONING BOARD OF ADJUSTMENT- One term expired on September 30, 2011, one term expired on September 30, 2012 and 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

July 23, 2013

AIRPORT PLANNING AND DEVELOPMENT BOARD

(Advisory)

(Membership-10; Terms - 3 Years expiring 3-3-4.)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
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 2015	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
J. Ross Lacy	09/12*	Sept 30 2014	Sept 30 2020
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)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Vacancy-Tony Carrillo	09/09	Sept 30 2013	Sept 30 2017
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
Paul O'Neill	09/09	Sept 30 2013	Sept 30 2017

BUILDING CODES REVIEW COMMITTEE

(Membership – 9; Terms – 2 Years)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
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

CITY DEVELOPMENT ADVISORY COMMITTEE

(Advisory)

(Membership - 5; Terms - 2 Years expiring 2 even & 3 odd)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Reggie Lawrence	09/10	Sept 30 2012	Sept 30 2014
Alonda Massey	11/11	Sept 30 2013	Sept 30 2015
Tim Bryson	11/11	Sept 30 2013	Sept 30 2015
W. Roger Beebe	02/13	Sept 30 2014	Sept 30 2016
Avery I. Pullins	02/13*	Sept 30 2013	Sept 30 2017

CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS

(Decision Making)

(Membership - 7; Terms - 4 Years expiring 2-2-2-1)

Position to include: 1. Registered Architectural or Builder Superintendent, 2. Registered Structural Engineer, 3. Registered Mechanical and Plumbing, 4. Registered Electrical Engineer, 5. Registered Fire Protection Engineer

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>	<u>Position</u>
Don Woodward (At Large)	11/11*	Sept 30 2016	Sept 30 2020	5
Richard D. Dunham	10/05	Sept 30 2013	Sept 30 2013	1
Greg Turner	03/11*	Sept 30 2013	Sept 30 2021	4
Chris Repman	10/07*	Sept 30 2014	Sept 30 2018	3
Jay K. Bradford	09/10	Sept 30 2014	Sept 30 2018	2

ALTERNATES:

Vacancy	Sept 30 2007	Any
Vacancy	Sept 30 2007	Any

HOTEL/MOTEL TAX ADVISORY BOARD

(Advisory)

(Membership - 7; Terms - 2 Years Staggered)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Karmen Hendrix Bryant	02/12*	Sept 30 2013	Sept 30 2017
David Baur	09/10	Sept 30 2013	Sept 30 2014
Lisa Grissom	09/09	Sept 30 2013	Sept 30 2013
Steve Jones	02/09*	Sept 30 2013	Sept 30 2013
Annabell Ramirez	09/12	Sept 30 2014	Sept 30 2016
Brian Smith	09/12	Sept 30 2014	Sept 30 2016
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.)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
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 2015
Dennis Bade	09/12	Oct 2014	Oct 2016
Norma Duran	11/08*	Oct 2014	Oct 2014

ALTERNATES:

Vacancy	Oct 2013	Oct 2015
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JOINT ECONOMIC DEVELOPMENT TASK FORCE

(Ad Hoc)

	<u>Appt. Date</u>
(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	11/02
Joel Roberts	11/00
Neil McDonald	11/00

MANAGED COMPETITION COMMITTEE

(Ad Hoc)

	<u>Appt. Date</u>
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.

MIDLAND CENTER ADVISORY BOARD

(Advisory & Decision Making)

(Membership - 9; Terms - 3 Years expiring 3-2-2.)

		<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
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
Vicky Hailey	(CC)	01/13*	Sept 30 2014	N/A
Tracy 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)

	<u>Appt Date</u>	<u>Term Expires</u>
Chad Clark	3/12*	Dec 31 2013

MIDLAND DEVELOPMENT CORPORATION

(Membership - 5; Terms -3 Years - Staggered)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Laura Roman	01/08	Jan 14 2014	Jan 14 2014
Robert Rendall, Chairman	01/09*	Jan 14 2014	Jan 14 2017
Michael Trost	02/11*	Jan 14 2016	Jan 14 2019
Cary J. Love	12/09	Jan 14 2016	Jan 14 2016
Gary Douglas	11/11*	Jan 14 2016	Jan 14 2019

MIDLAND FRESH WATER SUPPLY DISTRICT #1

(Ad Hoc)

(3 Non Voting Members)

Appt Date

Wes Perry
 Gary Harris
 Wayne Merritt

05/12
 05/12
 05/12

**MIDLAND FOOTBALL-SOCCER AND BASEBALL COMPLEX
 DEVELOPMENT CORPORATION**

(Decision Making)

Membership - 7; Terms - 2 Years)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Ken Marks, Vice President	10/07	Nov 2011	Nov 2011
James G. Smith	12/07	Nov 2011	Nov 2011
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 Expires</u>
Vacancy		Jan 1 2007	
Vacancy		Jan 1 2007	
Vacancy		Jan 1 2007	
Vacancy		Jan 1 2009	
Cathy Oestmann	11/05*	Jan 1 2010	Jan 1 2010
Steve Jones	09/08*	Jan 1 2010	Jan 1 2012
Curt Kamradt	11/05*	Jan 1 2014	Jan 1 2014

* Indicates appointment to an unexpired term.

MIDLAND HOUSING FINANCE CORPORATION

(Decision Making)

(Membership - 5; Terms - 2 Years - Staggered)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Vacancy - (Damon L. Blakeley)	07/07*	Sept 30 2010	
Adrienne Valencia	10/07	Sept 30 2011	Sept 30 2011
Melissa Wicker	10/07	Sept 30 2011	Sept 30 2011
Jerry Morales (Liaison Officer)	10/08	Sept 30 2012	Sept 30 2012
Nathan Miller	11/11*	Sept 30 2012	Sept 30 2016

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)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Willie Barber	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
Rebecca Bell	09/12	Sept 30 2014	Sept 30 2016

* Indicates appointment to an unexpired term.

OIL AND GAS ADVISORY COMMITTEE

(Advisory)

(Membership – 5; Terms – 3 Years expiring 2-2-1)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Russell Richards (Petroleum Eng.)	09/12	Sept 30 2015	Sept 30 2018
Perry Dan Taylor (Real Estate)	09/12	Sept 30 2015	Sept 30 2018
Lance Friday (Real Estate)	09/12*	Sept 30 2013	Sept 30 2019
Paul Brown (Petroleum Eng.)	11/11	Sept 30 2014	Sept 30 2017
David Rosen (Petroleum Eng.)	11/11	Sept 30 2014	Sept 30 2017

PARKS AND RECREATION COMMISSION

(Advisory)

(Membership - 9; Terms - 3 Years expiring 3-3-3.)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
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
Katey Howard	09/12*	Sept 30 2014	Sept 30 2020
Amanda McCann	11/11*	Sept 30 2015	Sept 30 2018
Edward Mayberry	09/12	Sept 30 2015	Sept 30 2021

PERMIAN BASIN AIRPORT BOARD

(Advisory)

(Membership - 30; Terms - 1 year.)

	<u>Appt. Date</u>	<u>Term Expires</u>
10 Members of the Airport Planning and Development Board		
Bob Forrest (Carlsbad, NM)	10/04	Sept 30 2010
Larry Shed (Hobbs, NM)	10/01	Sept 30 2010
Larry Gill (Abilene)	10/10	Sept 30 2011
David Hardwick (Ft. Stockton)	10/07	Sept 30 2012
Lex Hinds (Seminole)	10/08	Sept 30 2012

PERMIAN BASIN AIRPORT BOARD CON'T

	<u>Appt. Date</u>	<u>Term Expires</u>
Elvin Brownlee III (Andrews)	12/10*	Sept 30 2013
Jim Little (Big Spring)	09/03	Sept 30 2013
Frankie Rolfe (Kermit)	09/12	Sept 30 2013
Don Bethel (Lamesa)	02/91	Sept 30 2013
Willie Taylor (Odessa)	02/00	Sept 30 2013
Gloria Pena (Odessa)	03/03*	Sept 30 2013
Barbara Graff (Odessa)	06/10*	Sept 30 2013
Henry Cutbirth (Monahans)	09/05	Sept 30 2013
Isabelle Blanchard (Pecos)	10/10	Sept 30 2013
Luis E. Elguezabal (San Angelo)	10/07	Sept 30 2013
Glenn Wortham (Sweetwater)	10/07	Sept 30 2013
John Rogotzke (Snyder)	01/12	Sept 30 2013
Lance Goodrich (Artesia, NM)	09/09	Sept 30 2013
Larry Fry (Roswell, NM)	09/00	Sept 30 2013

Ex-Officio members are the City Manager and the City Attorney. The Secretary is the Director of Aviation.

**PERMIAN BASIN COMMUNITY CENTER FOR MENTAL HEALTH
AND MENTAL RETARDATION**

(Decision Making)
(Membership - 2 (City); Terms - 2 Years)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Larry Edgerton	07/10*	June 2013	June 2015
Janet R. Pritchett (City)	05/09*	June 2014	June 2014

PERSONNEL BOARD OF APPEALS

(Decision Making)
(Membership - 3; No designated terms.)

	<u>Appt. Date</u>
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)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Vacancy - Royce Watkins	02/08*	Sept 30 2015	Sept 30 2017
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
Kevin Wilton	09/08*	Sept 30 2015	Sept 30 2017
Karen York	10/10*	Sept 30 2015	Sept 30 2018
Sharla Hotchkiss	10/12	Sept 30 2015	Sept 30 2018
Warren Lvey	10/12*	Sept 30 2014	Sept 30 2020

ALTERNATES:

Tony Carrillo	11/11	Sept 30 2014	Sept 30 2017
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TAX INCREMENT REINVESTMENT ZONE BOARD

(Decision Making)
(Membership - 12; Terms - 2 Years, or 3 Years if appointed after 3/1/07)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Mark T. Wellen (City), Chairman	07/01	Mar 20 2010	Mar 20 2010
Randy Prude (County)	03/07	Mar 20 2010	Mar 20 2013
Ken Burgess (City)	10/12*	Mar 20 2013	Mar 20 2018
Judge Mike Bradford (County)	01/07*	Mar 20 2010	Mar 20 2014
Bob Lanier (City), Secretary	04/03	Mar 20 2011	Mar 20 2011
Pete Hulder (Hospital)	03/10	Mar 20 2016	Mar 20 2016
Michael Blonkvist (City)	09/12*	Mar 20 2014	Mar 20 2020
John L. Kennedy (City)	10/09*	Mar 20 2015	Mar 20 2018
Link Grimes (City)	12/12*	Mar 20 2015	Mar 20 2021
Charlene McBride (College)	12/12	Mar 20 2016	Mar 20 2019
Steve Castle (College)	04/13*	Mar 20 2015	Mar 20 2021
Russell Meyer (Hospital)	12/12	Mar 20 2016	Mar 20 2019

Ex-Officio member is President, Board of Trustees, Midland Independent School District

ZONING BOARD OF ADJUSTMENT
AND
AIRPORT ZONING BOARD OF ADJUSTMENT

(Decision Making)

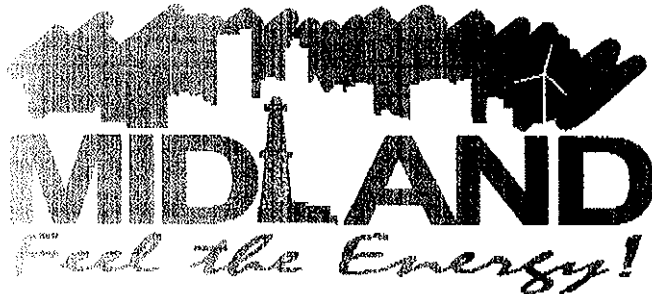
(Membership - 5; Terms - 2 Years expiring 3 odd & 2 even.)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Manny Ribera	10/07	Sept 30 2011	Sept 30 2011
Ken Morgan	01/10*	Sept 30 2012	Sept 30 2014
Carla Repman	01/10*	Sept 30 2013	Sept 30 2015
Scott Young	09/12*	Sept 30 2013	Sept 30 2017
Todd Byars	02/08*	Sept 30 2014	Sept 30 2014

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.



APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

As an applicant for a City board, commission, or committee, please be advised that all information on this application is subject to the Texas Open Records Act and will be available to the public.

PLEASE TYPE OR PRINT CLEARLY:

Name: W. Roger Beebe

Address: 902 Interstate 20 West
Midland TX 79701

(City) (State) (Zip)

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 11 years.

Professional and/or Community Activities:

Past: City of Duncan Hotel Tax Advisory Board Duncan, OK
Hotel/Motel Assoc. of Baton Rouge, Baton Rouge, LA
Bring Cowboys to Arlington, Arlington CVB, Arlington, TX

What is your personal vision for the City?

To enhance a diverse yet unique culture in
a city committed to creating a hometown
where people are unhindered from their personal and
Professional goals.

Please specify any time constraints you may have.

None

Date: Oct. 1, 2012

Phone: 817-291-0753 (Home)

432-683-1111 (Business)

Email: rbeebe@rimhospitality.co

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Hotel Manager

Please list below the Board(s) or Commission(s) on which you are interested in serving:

(You can find a complete and current list on the City's website at www.midlandtexas.gov)

(1) Name of Board/Commission:

City Development Advisory Committee

Please tell us why you are interested in serving on this board or commission.

To help city leaders create an economic plan that
will take Midland to the next level and help

make Midland an All American City.

What contribution would you most like to make?

I want to contribute my diverse perspectives and time to aide Midland leaders with a new and enthusiastic outlook.

Additional pertinent information or references:

Hotel controller for various hotels from across the country.

(2) Name of Board/Commission:

Planning and Zoning Commission

What contribution would you most like to make?

I want to assist city planners in developing a balanced town with affordable housing and profitable industries.

Additional pertinent information or references:

Applications are maintained on file in the City Secretary's office for a period of one year. Should you need additional information, please call us at 432-685-7430.

Signature of Applicant

Roger Brubaker

Applications may be submitted online via email or print in order to send by mail or fax:

City of Midland

City Secretary's Office

PO Box 1152

Midland, TX 79702

FAX: (432) 685-7433

Submit Via Email

Print Application



APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

As an applicant for a City board, commission, or committee, please be advised that all information on this application is subject to the Texas Open Records Act and will be available to the public.

PLEASE TYPE OR PRINT CLEARLY:

Name: Brad Bullock

Address: 5104 Greathouse Avenue

Midland TX 79707

(City)

(State)

(Zip)

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland ⁷ years.

Professional and/or Community Activities:

Serve as VP of finance for the Midland Odessa Symphony and Chorale; serve as a Board member of Midland Community

Development Corporation, serve on the Board of The Bank Store, Inc. (an operating arm of the Texas Bankers Association), served previously as the community liaison to the Ethics Committee of BCA Permian Basin

What is your personal vision for the City?

To further enhance the quality of life in Midland, one that is not based solely upon low unemployment or high paying jobs, but rather a community that is inclusive to both its residents as well as its corporate citizens

Please specify any time constraints you may have.

Outside of my other Board commitments, I will make myself available for all necessary meetings. I have looked over the committee descriptions on the website and the current meeting times offer no conflict to those commitments.

Please list below the Board(s) or Commission(s) on which you are interested in serving:

(You can find a complete and current list on the City's website at www.midlandtexas.gov)

(1) Name of Board/Commission:

Planning and Zoning Commission

Please tell us why you are interested in serving on this board or commission.

With the growth Midland is experiencing, it is important to create a balance between businesses and residents to add to the quality of our community. With the significant growth we are experiencing, balancing the concerns of both parties can be challenging

Date: 10/3/2012

Phone: 432.559.3761 (Home)

432.686.0044 (Business)

Email: bbullock@fcbtexas.com

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Midland President-FirstCapital Bank of Texas

but I feel I can bring an objective perspective to the decision making table.

What contribution would you most like to make?

Spending time in discussion with each party so they understand decisions from both perspectives is something I believe I offer.

Also, my objectivity in decision making is something I practice on a daily basis in my current bank compliance job responsibilities where I have to balance consumer demands with regulatory/government intervention.

Additional pertinent information or references:

Mike Canon, former Mayor

Jay Isaacs, current School Board President

Scott Dufford, current City Councilman

(2) Name of Board/Commission:

Hotel/Motel Tax Advisory Board

What contribution would you most like to make?

Evaluating requests for use of funds, specifically related to events, fits well with my experience on the Symphony Board here in Midland as well as my previous experience as a Board member of the local community theater in Roswell, NM (prior to relocating to Midland seven years ago).

Additional pertinent information or references:

Applications are maintained on file in the City Secretary's office for a period of one year. Should you need additional information, please call us at 432-685-7430.

Signature of Applicant



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City of Midland

City Secretary's Office

PO Box 1152

Midland, TX 79702

FAX: (432) 685-7433

Submit Via Email

Print Application



APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

As an applicant for a City board, commission, or committee, please be advised that all information on this application is subject to the Texas Open Records Act and will be available to the public.

PLEASE TYPE OR PRINT CLEARLY:

Name: _____

Address: _____

(City)

(State)

(Zip)

I am ____ I am not ____ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland ____ years.

Professional and/or Community Activities:

What is your personal vision for the City?

Please specify any time constraints you may have.

Please list below the Board(s) or Commission(s) on which you are interested in serving:

(You can find a complete and current list on the City's website at www.midlandtexas.gov)

(1) Name of Board/Commission:

Please tell us why you are interested in serving on this board or commission.

Date: _____

Phone: _____ (Home)

_____ (Business)

Email: _____

Are you a graduate of Midland 101? ____yes ____no

Occupation: _____

What contribution would you most like to make?

Additional pertinent information or references:

(2) Name of Board/Commission:

What contribution would you most like to make?

Additional pertinent information or references:

Applications are maintained on file in the City Secretary's office for a period of one year. Should you need additional information, please call us at 432-685-7430.

Signature of Applicant

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**City of Midland
City Secretary's Office
PO Box 1152
Midland, TX 79702
FAX: (432) 685-7433**



APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

As an applicant for a City board, commission, or committee, please be advised that all information on this application is subject to the Texas Open Records Act and will be available to the public.

PLEASE TYPE OR PRINT CLEARLY:

Name: Brandon D. McMorries

Address: P.O. Box 52687

Midland TX 79710

(City) (State) (Zip)

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 12 years.

Professional and/or Community Activities:

Past volunteer for Meals On Wheels. Member of the West Texas Writers club. Occasionally assist the Mid-Town Soldiers Boxing Club. Member of the National, State, and Local Association of Realtors. A State Certified General Real Estate Appraiser.

Date: 8/29/2012

Phone: (432) 664-8264 (Home)

(432) 618-0286 (Business)

Email: bdtarzantx@yahoo.com

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Real Estate Agent/ Real Estate Appraiser

What is your personal vision for the City?

A city that is conducive to business, open to ideas, and progressive in nature while maintaining a harmonious balance with it's residents, and addresses the needs of it's citizens. It'd also be nice to have better synchronized traffic lights, and superior downtown parking to further promote downtown revitalization.

Please specify any time constraints you may have.

My schedule is typically flexible with enough notice. Occasional out of town trips happen.

Please list below the Board(s) or Commission(s) on which you are interested in serving:

(You can find a complete and current list on the City's website at www.midlandtexas.gov)

(1) Name of Board/Commission:

Planning and Zoning Commission

Please tell us why you are interested in serving on this board or commission.

I feel the need to give back to my community, and this is an area where my expertise and real world experience can be very useful while the position would provide interesting challenges.

What contribution would you most like to make?

A common sense approach to the regulation of real estate development, and optimal utilization of vacant and improved properties for their highest and best use for the betterment of the city as a whole.

Additional pertinent information or references:

Former member of the Property Tax Consultants State Advisory Council. Part-time instructor for the real estate department of Midland College. Self-employed for 17 years.

(2) Name of Board/Commission:**What contribution would you most like to make?**

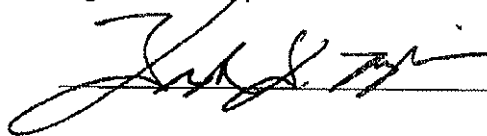
Additionally, I've been an active Realtor for about 8 years.

Additional pertinent information or references:

I have over 20 years of real estate appraisal experience ranging from complex commercial property to farm and ranch property to single family homes in locations as varied as large cities such as Dallas to mid size cities such as College Station to small towns such as Throckmorton. I was a partner in McMorries Homes, which built single family homes for about 6 years. See above paragraph.

Applications are maintained on file in the City Secretary's office for a period of one year. Should you need additional information, please call us at 432-685-7430.

Signature of Applicant



Applications may be submitted online via email or print in order to send by mail or fax:

City of Midland
City Secretary's Office
PO Box 1152
Midland, TX 79702
FAX: (432) 685-7433





APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

As an applicant for a City board, commission, or committee, please be advised that all information on this application is subject to the Texas Open Records Act and will be available to the public.

8/13/2012

PLEASE TYPE OR PRINT CLEARLY:

Eric F Nordwald Sr.

Name:

4902 Rio Grande Dr.

Address:

Midland TX 79707

(City)

(State)

(Zip)

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland³ years.

Professional and/or Community Activities:

NRA, General Contractors of America, Midland's YMCA, Our Lady of Guadalupe Catholic Church in Midland, Spartan & Tough

Mudder Races, Nuclear Contracting Opportunities & Nuclear Construction Safety

Date:

979.3249753

Phone:

(Home)

575.394.5763

(Business)

efnordwald@gmail.com

Email:

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Nuclear Operations/Construction Manager

What is your personal vision for the City?

My vision of Midland is a city that people want to move to because of leading technology, opportunity for growth, secure employment, high demand of talent and respectable town to raise a family

Please specify any time constraints you may have.

None

Please list below the Board(s) or Commission(s) on which you are interested in serving:

(You can find a complete and current list on the City's website at www.midlandtexas.gov)

(1) Name of Board/Commission:

Building Codes Review Committee

City Development Advisory Committee

Construction Board of Adjustments and Appeals

Please tell us why you are interested in serving on this board or commission.

I have 12 yrs Construction experience with residential, commercial & Industrial industries. I am interested in bettering Midland and becoming a City Council member. I have a vast knowledge w/ building codes through out many cities within the US.

What contribution would you most like to make?
First and foremost, I would like to build a youth center. I also would contribute as a spokesman.

Additional pertinent information or references:
I am going to attach my resume as additional information.

(2) Name of Board/Commission:
Planning and Zoning Commissioning

Midland Football, Soccer and Baseball Complex Development

Midland Higher Education Facilities Corporation

What contribution would you most like to make?
My contribution would be thinking and acting as a father of younger people that will grow within the community.

Additional pertinent information or references:
Attached resume.

Applications are maintained on file in the City Secretary's office for a period of one year. Should you need additional information, please call us at 432-685-7430.

Signature of Applicant



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**City of Midland
City Secretary's Office
PO Box 1152
Midland, TX 79702
FAX: (432) 685-7433**

[Submit Via Email](#)

[Print Application](#)

Eric F Nordwald Sr.
4902 Rio Grande Dr. Midland TX 79707
efnordwald@gmail.com
979-324-9753

SUMMARY OR EXPERIENCE

Over twelve years of experience on both commercial and industrial projects. In the capacity of Construction Manager, responsibilities include leading the Construction Team, providing leadership for production and recommendation of profit margin. My construction expertise extends to carry forward to final operational stages of the project, providing construction and maintenance management in both commercial and industrial fields. In the Industrial and Commercial industries, vast experiences and responsibilities were exercised in the coordination of all field activities, as well as commissioning and start up functions. All projects required continuous safety participation. Provide safety instruction and Safety presentation analysis. I have a comprehensive understanding of Plant construction techniques and procedures including use of construction tools for various projects and field safety coordination with Subcontractors and Client Representatives. I have specialized experience in new construction, construction management, large capital projects and maintenance projects. I have managed all fronts of construction starting with safety management, project controls, field execution and profit / loss responsibility.

PROJECT TYPES

Nuclear Enrichment Facilities
Commercial Structures
Formwork Tunnels
Housing Projects

ACTIVITIES

Construction Management
Construction Planning
Cost Control
Quality Assurance
Building Planning
Scheduling
Estimating
Coordination
Safety Training

TRAINING

Plant Safety
QA/QC Weld Track
Request for Information (RFI)
Field Change Order (FCO)
Subcontract Management
P3 Scheduling (Primavera Certificate 5.0)

Eric F. Nordwald Sr.

I am seeking a position in Construction Management. I have the experience, the determination, and can-do attitude that is essential to managing risk on every conceivable project. This includes the timely management of the project's cost, schedule, planning, vendors, subcontractors, technical information and other key elements. From pre-construction through project completion, I will systematically monitor work as it progresses and will manage both variances and trends for elements of scope, cost and timing.

Industry Experience:

URENCO USA Eunice, NM

February 2012 – Current

Commissioning & Acceptance Coordinator - **Project:** National Enrichment Facility

- Current holder of CAA and "L" clearance, qualified as a Construction Supervisor, Construction Engineer and Building Manager
- Commissioning structural, electrical and mechanical systems from construction and turning them over to engineering, maintenance and plant operations.
- Working directly with Operations and Construction Management on a day to day basis to establish plant requirements and provide the owner with the highest quality product(s).
- Generating, revising and performing test on mechanical systems for plant acceptance.
- Creating procedures for civil, structural and mechanical related items to insure quality guidelines during installation.
- Establishing code regulatory specifications for nuclear site building components.
- Providing plant maintenance with adequate documentation and tribal knowledge of accepted site equipment.

Baker Concrete Construction Inc. Eunice, NM

December 2009 – February 2012

Project Manager - **Project:** National Enrichment Facility (NEF) Separations Building Module Extension

- Responsible Project Manager for conducting the acceptance of a \$100M Nuclear Enrichment Building
- Managed from ground breaking through closure process for structural, mechanical & electrical portions
- Effectively communicate accurate and timely information to the Operations Manager and all project participants to bring the project to completion on time and budge.
- Performed tasks such as inspections, work plan implementation, coordinating trades, managing schedule, tracking cost, provided guidance for specification and procedure understanding along with building a strong relationship with the client respected vendors.
- Assisted in planning the tie-in process for new mechanical systems to existing working systems without interruptions.
- Directly supervised and trained nuclear-safety for 200+ site personnel.
- Provided material and equipment management for multiple site wide projects with a minimal staff experiencing tremendous savings and results

Baker Concrete Construction Inc. Eunice, NM

March 2010 – July 2010

Project Manager - Project: NEF Uranium Bi-product Cylinder Pad

- Manager of a \$2.0M Slab-on-Grade Uranium Storage Pad
- Performed project scheduling, sub and general contractor negotiations including financial responsibility for both firm fix and Time/Material budgets
- Worked directly with URENCO Engineering and provided recommendations on field related discrepancies

Baker Concrete Construction Inc. Houston, TX

January 2009 – December 2009

Project Manager - Project: MD Anderson Administrative Building

- Oversight on report processes based on Earned Value Management (EVM) concepts
- Develop, implement, reconcile and maintain valuable project control databases and reports
- Became fluent in creating and tracking schedules, proposed change orders, submittals, subcontracts, RFI's, and LEED material.

Baker Concrete Construction Inc. Houston, TX

September 2008 – February 2009

Estimator

- Estimated turn-key projects for both Commercial and Industrial work ranging from \$5M up to \$65M
- Estimated with the use of On Screen Take-off (OST) and Timberline system spread sheet.
- Worked with Field Supervisors and Project Managers to ensure understanding and accurate proposals
- Interacted with owners on potential projects for relationship purposes' and a understanding of there expectations

Dee Shoring Inc. Richmond, VA

October 2006 – September 2008

Estimator

- Bid work for turnkey projects (shoring, forming, concrete & excavation)
 - High rises (*Wachovia Bank Headquarters*, Charlotte, N.C., *Rialto Suites*, Daytona, FL.)
 - Stadiums (ASU Kidd Brewer stadium in Tennessee)
 - Hospitals, schools, apartments and condos
 - Department stores, warehouses and parking garages
- Negotiated contracts

Asst. Project Manager – Projects: VCU Health & Engineering Building, VCU Gymnasium, Center Point School

- Performed building control and jobsite managing on multiple projects
- Supervised and trained all field engineers on total Station and related computer programs
- Achieved working relationships with owners engineers while resolving RFI's and change orders
- Gained much knowledge with awarding and working with sub-contractors for scheduling and financial purposes

Yates Construction Daytona Beach, FL

April 2006 – October 2006

Project Coordinator - **Projects:** Bella Vista Apartment Complex and Palma Bella Condos, Daytona Beach, FL

- Managed general contractor's layout for high rise apartment projects
- Supervised MEP field work along with drawing review for discrepancies
- Quality control and labor foreman

Dick Pacific Construction Co. Waikola, HI

Feb 2005 – March 2006

Carpenter Superintendent / Quality Control – **Projects:** Hilton Condominiums

- Supervised framing and trim construction crews on Hilton timeshare resorts as the General Contractor which consisted of exposed timber framed building projects
- Performed quality control for the project
- Coordinated mechanical, electrical and plumbing trades
- Trained employee safety and coordinated new hire orientations

St. Louis Carpenters Union St. Louis, MO

Feb 2000 - Feb 2005

Carpenter Superintendent

- Projects ranged from residential houses to large commercial and government structures.
- Performed work for the general contractor; framing, trim, welding, concrete, mechanical, electrical, plumbing, roofing, structural steel, flooring, painting & jobsite management

Education and Training:

- Attending the University of Texas Permian Basin for a Bachelors Degree in Industrial Technology
- St. Louis Carpenters Union – Apprenticeship Program & Certification in Construction Management
- East Central Community College – General Studies
- CPR and first aid certified
- Completed Supervisory Skills, Incident and Injury Free, and Lean Construction Training
- Trained and well experienced with industrial Work Plan's, procedures and specifications
- Experienced with P3 scheduling

References upon Request

- | | | | |
|-----------------------|--------------|--|---|
| • Robin Franke | 505.975.8420 | rfranke@nefnm.com | (Company: URENCO USA) |
| • John Beaver | 713.408.6568 | jbeaver1963@yahoo.com | (Company: T-Rex Engineering & Construction, LC) |
| • David Blickenderfer | 602.885.8566 | dvblick22@hotmail.com | (Company: Baker Concrete Construction Inc.) |
| • Keith Stephenson | 505.975.0351 | kstephenson@nefnm.com | (Company: Legacy Consulting) |
| • George Kaime | 541.261.7361 | george.kaime@fdthomas.com | (Company: FD Thomas) |



APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

As an applicant for a City board, commission, or committee, please be advised that all information on this application is subject to the Texas Open Records Act and will be available to the public.

PLEASE TYPE OR PRINT CLEARLY:

Name: Robert Porter

Address: 415 Wall St.(suite 416)

Midland Texas 79701
(City) (State) (Zip)

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland ⁴² years.

Professional and/or Community Activities:

Stamp Collecting & Coin Collecting.

Date: 6/26/2012

Phone: (432)254-3516 (Home)
(Business)

Email: robertaaronporter@yahoo.com

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation:

What is your personal vision for the City?

I would personally like to see Midland Expand even more in the near future.

Please specify any time constraints you may have.

n/a

Please list below the Board(s) or Commission(s) on which you are interested in serving:

(You can find a complete and current list on the City's website at www.midlandtexas.gov)

(1) Name of Board/Commission:

Planning and Zoning Commission.

Please tell us why you are interested in serving on this board or commission.

Would like to share my opinions and make decisions regarding the future development in the community.

What contribution would you most like to make?

Additional pertinent information or references:

(2) Name of Board/Commission:

What contribution would you most like to make?

Additional pertinent information or references:

Applications are maintained on file in the City Secretary's office for a period of one year. Should you need additional information, please call us at 432-685-7430.

Signature of Applicant

Applications may be submitted online via email or print in order to send by mail or fax:

City of Midland
City Secretary's Office
PO Box 1152
Midland, TX 79702
FAX: (432) 685-7433

Submit Via Email

Print Application

2012-010



APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

As an applicant for a City board, commission, or committee, please be advised that all information on this application is subject to the Texas Open Records Act and will be available to the public.

PLEASE TYPE OR PRINT CLEARLY:

Name: Ronn Reeger

Address: 112 S Loraine Ste 440
Midland TX 79701
(City) (State) (Zip)

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 12 years.

Professional and/or Community Activities:

Have been involved, at times with numerous activities, primarily as they relate to entertainment opportunities for events, entities and institutions.

Date: 8/8/2012

Phone: 432-279-0083 (Home)
432-618-075 (Business)

Email: ronn@promisingprojects.com

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Business Owner - Promising Projects

What is your personal vision for the City?

To see Midland leverage the growth caused by the success of the oil & gas industry into opportunities in other sectors and to see the downtown area revitalized.

Please specify any time constraints you may have.

None known at this time.

Please list below the Board(s) or Commission(s) on which you are interested in serving:

(You can find a complete and current list on the City's website at www.midlandtexas.gov)

(1) Name of Board/Commission:

Planning and Zoning Board

Please tell us why you are interested in serving on this board or commission.

It is an opportunity to be more closely involved with the decisions that affect the future growth of Midland via the planning of the interaction between residential and commercial entities.

What contribution would you most like to make?

A willingness to help out our city by serving on this board.

Additional pertinent information or references:

(2) Name of Board/Commission:

Parks and Recreation Committee

What contribution would you most like to make?

A willingness to share the insights gained from my experiences that relate to parks and recreation in serving our city.

Additional pertinent information or references:

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Signature of Applicant

Ronn Reeger

Digitally signed by Ronn Reeger
DN: cn=Ronn Reeger, o=Promising Projects, ou,
email=ronn@promisingprojects.com, c=US
Date: 2012.08.08 07:47:39 -05'00'

Applications may be submitted online via email or print in order to send by mail or fax:

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City Secretary's Office

PO Box 1152

Midland, TX 79702

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APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

As an applicant for a City board, commission, or committee, please be advised that all information on this application is subject to the Texas Open Records Act and will be available to the public.

PLEASE TYPE OR PRINT CLEARLY:

Name: _____

Address: _____

(City)

(State)

(Zip)

I am ____ I am not ____ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland ____ years.

Professional and/or Community Activities:

What is your personal vision for the City?

Please specify any time constraints you may have.

Please list below the Board(s) or Commission(s) on which you are interested in serving:

(You can find a complete and current list on the City's website at www.midlandtexas.gov)

(1) Name of Board/Commission:

Please tell us why you are interested in serving on this board or commission.

Date: _____

Phone: _____ (Home)

_____ (Business)

Email: _____

Are you a graduate of Midland 101? ____yes ____no

Occupation: _____

What contribution would you most like to make?

Additional pertinent information or references:

(2) Name of Board/Commission:

What contribution would you most like to make?

Additional pertinent information or references:

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As an applicant for a City board, commission, or committee, please be advised that all information on this application is subject to the Texas Open Records Act and will be available to the public.

PLEASE TYPE OR PRINT CLEARLY:

Name: Chase Gardaphe

Address: 1320 N. Fairgrounds Rd.

Midland TX 79706

(City) (State) (Zip)

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland < 1 years.

Professional and/or Community Activities:

I am involved in the development of Stonegate Manufactured Housing Community to provide truly affordable housing to the residents of Midland. I am also involved in the Midland Polo Club.

What is your personal vision for the City?

I would like to see a shift in the city to the East to allow downtown to be the true center of the city. I would also like to help Midland become an exciting and innovative city that is able to provide housing for people in all occupations.

Please specify any time constraints you may have.

None

Please list below the Board(s) or Commission(s) on which you are interested in serving:

(You can find a complete and current list on the City's website at www.midlandtexas.gov)

(1) Name of Board/Commission:

City Development Advisory Committee

Please tell us why you are interested in serving on this board or commission.

I want to be involved with the city and encourage younger citizens to get involved in the future of Midland.

Date: 05/22/2013

Phone: (832) 766-3656 (Home)

(432) 242-1552 (Business)

Email: Chase.Stonegate@gmail.com

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Real Estate Development

What contribution would you most like to make?

Additional pertinent information or references:

(2) Name of Board/Commission:

Planning and Zoning Commission

What contribution would you most like to make?

I would like to help ensure that Midland is growing in the right direction and that the development that is approved is something the City of Midland will be proud of 10, 15 and 50 years down the road.

Additional pertinent information or references:

Applications are maintained on file in the City Secretary's office for a period of one year. Should you need additional information, please call us at 432-685-7430.

Signature of Applicant



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APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

As an applicant for a City board, commission, or committee, please be advised that all information on this application is subject to the Texas Open Records Act and will be available to the public.

PLEASE TYPE OR PRINT CLEARLY:

Name: Reggie Lawrence

Address: 4721 Timber Lane

Midland Tx 79707
(City) (State) (Zip)

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 10 years.

Professional and/or Community Activities:

City of Midland - City Development Advisory Committee; Attend Stonegate Church; Permian Basin Petroleum Association

Date: 7/16/2013

Phone: 432.770.0881 (Home)

432.580.7332 (Business)

Email: reggie@winchandwrench.com

Are you a graduate of Midland 101? ☒ yes ☐ no

Occupation: Self Employed - Oilfield Service

What is your personal vision for the City?

The city of Midland is a great place to live. Leadership is required to fulfill the goals of the city and I would like to play a part in helping the current goals to thrive and for new and innovative avenues of community development to be set in place.

Please specify any time constraints you may have.

I am typically able to adjust my time accordingly.

Please list below the Board(s) or Commission(s) on which you are interested in serving:

(You can find a complete and current list on the City's website at www.midlandtexas.gov)

(1) Name of Board/Commission:

Planning and Zoning Commission

Please tell us why you are interested in serving on this board or commission.

Owning a business has extreme challenges. I have seen and met those challenges through my own experience for many years.

Location, staffing, budgets, compliance are all obstacles that I, along with other business leaders face every day. I believe that I can

bring good experience in assisting new business meet their goals.

What contribution would you most like to make?

Becoming an available leader in our community that communicates with others, the need for vision into the next 50 years of Midland's growth. To that end, without proper planning, we have a disconnected community with staunch boundaries. It is my goal to place myself in a position to bring people together, rather than create boundaries.

Additional pertinent information or references:

(2) Name of Board/Commission:

Midland Development Corporation

What contribution would you most like to make?

For many of the same reasons as mentioned above, planning is paramount. Through this board, I can help business achieve their goals, and also promote the welfare and outlook of Midland's expansion.

Additional pertinent information or references:

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Signature of Applicant

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Permian Basin Community Centers

401 East Illinois, Suite 401, Midland TX 79701

(432) 570-3333

fax (432) 570-3346

July 6, 2013

Mayor Wes Perry
City of Midland
P O Box 10886
Midland TX 79702

Dear Mayor Perry:

Larry Edgerton's term representing the City of Midland on our Board of Trustees expired on June 30, 2013. Mr. Edgerton has been an active and valuable member of our Board and is currently serving as our Board's Treasurer. He has indicated that he would like to serve an additional two year term, and we ask that you reappoint him effective July 1, 2013.

If you have any questions regarding this re-appointment, please feel free to contact me at 570-3333.

Sincerely,

Larry Carroll
Executive Director

xc: Courtney Sharp, City Manager
Tommy Hudson, Deputy City Manager