

CITY OF MIDLAND, TEXAS
BRIEFING SESSION AGENDA
October 23, 2012 - 9:00 AM
City Hall 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 a presentation from the Charlene Romero McBride of the Hispanic Cultural Center of Midland, regarding program updates and capital projects.
2. Receive an update regarding the Tradewinds Boulevard Status. (Cameron Walker)

AGENDA FOR CITY COUNCIL MEETING

October 23, 2012 – 10:00 AM

Council Chamber - City Hall

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

OPENING ITEMS

1. Invocation - Pastor Curtis Benninghoff, First United Pentecostal Church
2. Pledge of Allegiance

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:

PUBLIC COMMENT

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

CONSENT AGENDA

5. Consider a motion approving the following minutes:
 - a. Regular Meeting of October 9, 2012.
 - b. Special Meeting of October 16, 2012.
6. Consider a resolution awarding a contract for the construction of the commons area fence at the Scharbauer Sports Complex to WR Construction, Incorporated, of Lubbock, Texas, at a total cost of \$194,000.00; and allocating funds. (GENERAL SERVICES) (2012 - 344)

7. Consider a resolution awarding a contract to provide and install seating at the Scharbauer Sports Complex to American Seating Company at a total cost of \$960,902.00. (GENERAL SERVICES) (2012 - 345)
8. Consider a resolution authorizing the execution of an agreement for the purchase of fertilizer of assorted types and in assorted volumes for operations at the Spraberry Farm, from Helena Chemical Company of Stanton, Texas, at an estimated total cost of \$114,750.00. (GENERAL SERVICES) (2012 - 346)
9. Consider a resolution authorizing the purchase of an annual supply of aluminum sulfate for purifying City of Midland drinking water from the low bidder, Chameleon Industries, Incorporated, for a total price of \$505,000.00. (GENERAL SERVICES) (2012 - 347)
10. Consider a resolution establishing the dates of the regular City Council meetings to be held during the calendar year 2013; and changing the regular City Council meeting of December 11, 2012 to December 18, 2012. (CITY MANAGER'S OFFICE) (2012 - 348)
11. Consider a resolution appropriating funds from the General Liability Self-Insurance Fund to the Atmos rate review mechanism project (8923) in the amount of \$200,000.00; said funds represent reimbursement from Atmos for consulting/legal fees associated with the Steering Committee's analysis of their rate review mechanism costs; there is no impact to the General Fund. (CITY MANAGER'S OFFICE) (2012 - 349)
12. Consider a resolution authorizing the execution of an addendum to the agreement with Midland Sports, Incorporated for baseball park and office space at the Scharbauer Sports Complex. (COMMUNITY SERVICES) (2012 - 350)
13. Consider a motion on a request by Bradshaw and Associates, Inc. for Country Sky Addition (Section 16), to approve items requested for deferral in the amount of 18,745.00, and to waive the associated public improvement guarantee. (ENGINEERING SERVICES)
14. Consider a motion to create a one year blanket deferral for wastewater collection and paving improvements within the Country Sky Addition, and to waive the associated public improvement guarantee. (ENGINEERING SERVICES)
15. Consider a resolution authorizing the City Manager to advertise a request for qualifications for professional services for paving, utility and drainage improvements associated with the extension of Tradewinds Boulevard from Thomason Drive to the Gateway Plaza Addition; authorizing the City Manager to negotiate a professional services agreement for said services; and providing that said agreement shall not become effective until approved by the City Council. (ENGINEERING SERVICES) (2012 - 351)

16. Consider a resolution authorizing the City Manager to advertise a request for qualifications for professional services for the development of a drainage study for Midland Draw from "A" Street to Loop 349; authorizing the City Manager to negotiate a professional services agreement for said services; and providing that said agreement shall not become effective until approved by the City Council. (ENGINEERING SERVICES) (2012 - 352)
17. Consider a resolution authorizing the City Manager to advertise a request for qualifications for professional services for the development of a drainage study for Jal Draw from C.J. Kelly Park to Loop 349; authorizing the City Manager to negotiate a professional services agreement for said services; and providing that said agreement shall not become effective until approved by the City Council. (ENGINEERING SERVICES) (2012 - 353)
18. Consider a resolution of the City Council of the City of Midland, Texas, approving certain amendments to the General Orders of the Midland Police Department; and providing that the City Council is the policymaking authority of the City of Midland. (POLICE) (2012 - 354)
19. Consider a resolution appropriating \$78,000.00 to the re-evaluation of T-Bar and Paul Davis Well Fields Project and appropriating \$65,900.00 to the Spraberry Groundwater Project. (UTILITIES) (2012 - 355)

PUBLIC HEARINGS

20. 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 Lot 4A, Block 3, Westridge Park Addition, Section 15, City and County of Midland, Texas, which is presently zoned PD, Planned District for a Shopping Center, to be used as an amended Planned District (Generally located on the west side of Tradewinds Boulevard, approximately 630 feet south of Andrews Highway); 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) (9074)
21. At approximately 10:33 A.M. hold a public hearing and consider resolution authorizing the temporary use of land for an outdoor amusement function on Lots 9 and 10, Block 2, Highland Addition, City and County of Midland, Texas (Generally located on the east side of North Big Spring Street, approximately 130 feet north of West Cuthbert Avenue); and making said permit subject to certain special conditions and restrictions contained herein. (DEVELOPMENT SERVICES) (2012 - 356)

MISCELLANEOUS

22. Consider an ordinance vacating and abandoning a 0.032-acre portion of West Ohio Street right-of-way adjacent to Lot 12, Block 26, Original Town Addition, City and County of Midland, Texas (Generally located on the southeast corner of the intersection of West Ohio Street and North Colorado Street); adopting the appraisal by the City Manager of \$2,100.00; and ordering recordation by the City Secretary. (DEVELOPMENT SERVICES) (9075)
23. Consider a motion deferring consideration of the issuance of permits to RSP Permian, LLC to drill five (5) Oil and Gas Wells (#2603D, #2611D, #2612D, #2613D and #2614D) within the City limits, all located within Section 26, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas; and deferring consideration of the associated Road Repair Agreement and Right-of-Way License (Generally located on the south side of Briarwood Avenue, approximately 560 feet west of Roadrunner Trail). (DEVELOPMENT SERVICES)
24. Consider a motion making appointments to various Boards and Commissions.

EXECUTIVE SESSION

25. 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, Deliberation Regarding Economic Development Negotiations
 - a.1. Discuss business prospects that the City of Midland and/or the Midland Development Corporation seeks to have locate, stay, or expand in or near the City of Midland, Texas, and discuss possible incentives.

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
October 09, 2012**

BRIEFING SESSION

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at 9:00 a.m. on October 09, 2012.

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

Council Members absent: Council Member Scott Dufford (At-Large).

Staff members present: City Manager Courtney Sharp, City Attorney Keith Stretcher, Deputy City Manager Tommy Hudson, City Secretary Amy Turner, Community Services Director Tina Jauz, Downtown Development Director Genora Young, Solid Waste Director Morris Williams, Acting Engineering Director David Beard, Assistant Code Administration Manager Ron Jenkins, Planning Division Manager Cameron Walker, Building Official Steve Thorpe, Transportation Manager Gary Saunders, and Multimedia Developer Ryan Stout.

1. Receive a presentation from Kelly Cook on the City's Parks & Recreation Master Plan.

Kelly Cook of KDC Associates noted the purpose of a Master Plan was to point out strengths and weaknesses and explained that without a plan on file, the City would not be eligible to receive certain grants. He reviewed the 2006 plan and reported what the City had accomplished since that time and reviewed the 2012-2017 project priorities. A final draft will be presented to the City Council in November or December.

2. Receive update from Keep Midland Beautiful.

Doreen Womack of Keep Midland Beautiful reviewed their mission and history and shared their accomplishments noting that for every \$1 spent by the City of Midland \$44 goes back to the community. She reviewed their funding for the last three years and explained their partnerships with other entities noting that in the last Fiscal Year, the private sector gave as much to the organization as the City gave.

3. Receive update from Danny Holeva regarding Celebration of the Arts.

Danny Holeva of the Arts Council of Midland gave a brief overview of the Celebration of the Arts Program noting it was their main fundraiser. He explained they would be making changes to the program in the coming year and had moved the dates to the first weekend in April hoping for better involvement from the local schools. He also addressed planned changes to the Arts in the Park Program at Windlands Park and shared a model of a proposed new project.

The foregoing agenda items were discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 10:05 a.m.

REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:08 a.m., October 09, 2012.

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

Council Members absent: Council Member Scott Dufford (At-Large).

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, 9, 10, 11, 12, 8, 13, 14, 15, 16, 17, 18, 19, 20, 23, 21, 24b, 22, 24a.

OPENING ITEMS

1. Invocation – Pastor Tony Conner, Faith Country
2. Pledge of Allegiance

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:

Mayor Perry and City Manager Sharp recognized and thanked the Utilities Department for catching an overbilling error that saved the city \$53,000.

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.

Savannah Minor, 3621 Sinclair, recently moved to Midland. She expressed concern about a dangerous 4-way stop sign intersection at McDonald and Andrews Highway and asked the Council to address her concern. Mayor Perry noted her concerns would be forwarded to the Traffic Manager.

CONSENT AGENDA

Council Member Morales moved to approve Consent Agenda items 5 - 12 excluding 8;

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

5. Approved a motion approving the following minutes:
 - a. Regular meeting of September 25, 2012.
6. Approved a resolution approving a contract with the single proposer Action Wrecker, Inc. of Midland, Texas for wrecker and impound service for the City of Midland. (GENERAL SERVICES)

RESOLUTION NO. 2012 - 334

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH ACTION WRECKER, INCORPORATED, FOR WRECKER AND IMPOUND SERVICES FOR THE CITY OF MIDLAND

7. Approved a resolution approving plans and specifications and authorizing advertisement for bids to sandblast/power wash, prime and paint the steel structures at Grande Communications Stadium and Citibank Ballpark, including the stairs in the stairwells, and both structures that support the video boards at the Scharbauer Sports Complex. (GENERAL SERVICES)

RESOLUTION NO. 2012 - 335

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS TO SANDBLAST/POWERWASH, PRIME AND PAINT THE STEEL STRUCTURES AT GRANDE COMMUNICATIONS STADIUM AND CITIBANK BALLPARK

9. Approved a resolution accepting and executing the Interlocal Cooperation Contract for the employment of a Downtown Development Coordinator ("Coordinator"). (DOWNTOWN DEVELOPMENT)

RESOLUTION NO. 2012 - 337

RESOLUTION AUTHORIZING THE EXECUTION OF AN INTERLOCAL COOPERATION CONTRACT BETWEEN THE CITY OF MIDLAND, THE MIDLAND DEVELOPMENT COOPERATION ("MDC"), THE DOWNTOWN MIDLAND MANAGEMENT DISTRICT ("DMMD") AND THE MIDLAND TAX INCREMENT INVESTMENT ZONE NUMBER ONE ("TIRZ") REGARDING THE CITY OF MIDLAND'S EMPLOYMENT OF A DOWNTOWN DEVELOPMENT COORDINATOR; AS AUTHORIZED BY CHAPTER 791 OF THE TEXAS LOCAL GOVERNMENT CODE

10. Approved a resolution accepting the Texas J-RAC (trauma funding) for EMS Programs. (FIRE)

RESOLUTION NO. 2012 - 338

RESOLUTION ACCEPTING A GRANT AWARD FROM THE TEXAS "J" REGIONAL ADVISORY COUNCIL IN THE AMOUNT OF \$9,563.00, FOR FUNDS TO BE USED BY THE MIDLAND FIRE DEPARTMENT FOR TRAINING EQUIPMENT AND SUPPLIES

11. Approved a resolution accepting a Fire Safety Trailer for Fire Prevention from the Midland Citizen's Fire Academy Alumni Association. (FIRE)

RESOLUTION NO. 2012 - 339

RESOLUTION AUTHORIZING THE ACCEPTANCE OF A DONATION FROM THE MIDLAND CITIZENS FIRE ACADEMY ALUMNI ASSOCIATION FOR A FIRE SAFETY TRAILER IN ORDER TO TEACH FIRE PREVENTION PROGRAMS

12. Approved a resolution authorizing the execution of an interlocal agreement with the City of Big Spring for the purchase and sale of City owned property. (UTILITIES)

RESOLUTION NO. 2012 - 340

RESOLUTION AUTHORIZING THE EXECUTION OF AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF MIDLAND AND THE CITY OF BIG SPRING, WITH A CORRESPONDING BILL OF SALE, REGARDING THE SALE TO BIG SPRING OF FOUR (4) USED FLYGT PUMPS

The following item was pulled from Consent Agenda and considered individually.

8. Consider a resolution authorizing the appropriation of funds for the HOME Investment Partnerships Program Reservation System Participant Program (\$41,600.00 for homebuyer assistance). (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 336

RESOLUTION AUTHORIZING THE APPROPRIATION OF FUNDS FOR THE HOME INVESTMENT PARTNERSHIP PROGRAM RESERVATION SYSTEM PARTICIPANT PROGRAM FOR HOME BUYER ASSISTANCE

Community Development Manager Sylvester Cantu explained that the program would make money available for homebuyer assistance for qualified low income residents.

Council Member James moved to adopt Resolution No. 2012 - 336; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

SECOND READINGS

13. 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 14.05-acres out of Section 19, Block 39, T-1-S, T&P RR Co. Survey, 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. 9062

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 14.05-ACRE TRACT OF LAND OUT OF SECTION 19, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, AND MORE SPECIFICALLY DESCRIBED IN SECTION ONE HEREOF, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR HOUSING DEVELOPMENT, TO BE USED AS AN AMENDED PLANNED DISTRICT (GENERALLY LOCATED AT THE SOUTH SIDE OF WEST WADLEY AVENUE, APPROXIMATELY 450 FEET 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

Planning Division Manager Walker noted that previously a request was made for a sight line study. He reported the study had been completed and was included in the packet. Staff recommended adopting the ordinance on its second reading.

Council Member Trost asked if the garage blocked the line of sight to the private property. Mr. Walker clarified that was what the study showed.

Deputy City Secretary Reyes read the caption of Ordinance No. 9062.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 9062 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

14. Consider an ordinance on second reading on a request by Insignia Hospitality Group for a zone change from LR-2, Local Retail District to PD, Planned District for a Shopping Center on a 1.99-acre tract of land out of Section 3, Block 39, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the north of Crump Street, approximately 300 feet west of Rankin Highway.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9072

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 1.99-ACRE TRACT OF LAND OUT OF SECTION 3, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, AND MORE SPECIFICALLY DESCRIBED IN SECTION ONE HEREOF, WHICH IS PRESENTLY ZONED LR-2, LOCAL RETAIL DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A SHOPPING CENTER (GENERALLY LOCATED ON THE NORTH SIDE OF CRUMP STREET, APPROXIMATELY 300 FEET WEST OF RANKIN HIGHWAY); 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. 9072.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 9072 in accordance with the Charter of the City of Midland; seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

PUBLIC HEARINGS

15. At approximately 10:30 A.M. hold a public hearing and consider a request by Bluestem

Energy Holdings, LLC (Evans F 1) for a Permit to Drill an Oil & Gas Well within the City Limits, located 2314 feet from north line and 2340 feet from west line, Section 8, Block X, H.P. Hilliard Survey, Midland County, Texas. (Generally located on the east side of the North Midland Drive, approximately ½ mile north of Mockingbird Lane.) (DEVELOPMENT SERVICES)

Oil & Gas Compliance Officer Ron Jenkins gave an overview of the item noting that no letters of objection had been received and that the Oil & Gas Advisory Committee had reviewed the item. Bluestem Energy requested a landscape variance of no more than two years and the Committee concurred.

Mayor Perry opened the public hearing at 10:32 a.m. There being no one present wishing to speak, the public hearing was immediately closed. No further action was taken on this item.

16. At approximately 10:33 A.M. hold a public hearing and consider on a request by Rust Oil Corporation (Smith-Hughes "9" No. 1) for a Permit to Drill an Oil & Gas Well within the City Limits, located 2173 feet from south line and 1651 feet from east line of Section 9, Section X, H.P. Hilliard Survey, Midland County, Texas. (Generally located on the west side of the extension of North Garfield Street, approximately ½ mile north of Mockingbird Lane.) (DEVELOPMENT SERVICES)

Mayor Perry noted that his property was near this well and left the Council Chamber.

Oil & Gas Compliance Officer Ron Jenkins reported that no letters of objection had been received for this location and that the Oil & Gas Advisory Commission made recommendations that were completed by Rust Oil. The applicant requested a landscaping variance and the Committee recommended granting the variance for no more than two years. He reported there were no sound walls included in this project and there were no houses or commercial structures within 500 feet of the location and the Midland Bible Church was being constructed 760 feet to the west of the location.

When asked if any landscape variances had met their two years, Mr. Jenkins reported none had been two years yet but he had them in a tickler file by the due date.

Mayor Pro Tem Morales opened the public hearing at 10:35 a.m.

Chris Mc Intosh, 2701 Savoy Place, noted that he lived near the proposed well site and stated his objections because it was a newly developing area. He was opposed to a well being so close to town and did not want a well in his area.

There being no one else present wishing to speak, the public hearing was closed at 10:37 a.m. No further action was taken on this item. Mayor Perry returned to the Council Chamber.

17. At approximately 10:36 A.M. hold a public hearing and consider a request for the annexation of a 286.79-acre tract of land out of Sections 11 and 12, Block 40, T-2-S, T&P RR Co., Survey, Midland County, Texas. (Generally located on the northeast corner of the intersection of West Interstate 20 and South County Road 1250.) (DEVELOPMENT SERVICES)

Planning Division Manager Walker provided an overview of the item noting there were four proposed annexations that would be heard this morning and that this was the opportunity for public comment. There would be a second public hearing for all four items on October 16 beginning at 8:15 a.m. He noted this was a voluntary annexation request by Schlumberger, the Midland Development Corporation and the City of Midland. He noted that following the public hearing a proposed plan for the annexation and zoning would be brought to the City Council for consideration.

Mayor Perry opened the public hearing at 10:39 a.m. There being no one present wishing to speak, the public hearing was immediately closed. No further action was taken on this item.

18. At approximately 10:39 A.M. hold a public hearing and consider a request for the annexation of a 75.90-acre tract of land out of Sections 37 and 38, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the southwest corner of the intersection of Tradewinds Boulevard and Deauville Boulevard.) (DEVELOPMENT SERVICES)

Planning Division Manager Walker reported that this property was located near the Sports Complex and included the area where the new Chevron building would be located.

Mayor Perry opened the public hearing at 10:40 a.m. There being no one present wishing to speak, the public hearing was immediately closed. No further action was taken on this item.

19. At approximately 10:42 A.M. hold a public hearing and consider a request for the annexation of a 30.98-acre tract of land out of Section 35, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the east side of State Highway 158, approximately ½ mile northwest of State Highway 191.) (DEVELOPMENT SERVICES)

Planning Division Manager Walker reported this property would be used for a proposed extension of Grasslands Estates West and that the plat had already been submitted to Planning for review. He reported that a request for the vacation of a portion of a right-of-way that contains a sewer line had been submitted.

Mayor Perry opened the public hearing at 10:43 a.m. There being no one present wishing to speak, the public hearing was immediately closed. No further action was taken on this item.

20. At approximately 10:45 A.M. hold a public hearing and consider a request for the annexation of a 193.29-acre tract of land out of Sections 11 and 12, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the south side of East Interstate Highway 20, south of South Loop 250 West.) (DEVELOPMENT SERVICES)

Planning Division Manager Walker reported the location was near where Loop 250 crosses I-20. Staff had already received a proposal for platting and was under staff review. This was for a proposed mixed land use development and was a voluntary annexation.

Mayor Perry opened the public hearing at 10:45 a.m. There being no one present wishing to speak, the public hearing was immediately closed. No further action was taken on this item.

21. At approximately 10:51 A.M. hold a public hearing and consider a resolution on a request by Robert Ahola for a Temporary Land Use Permit for a Tent Sale 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.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 341

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR AN OUTDOOR TENT SALE 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

Planning Division Manager Walker provided an overview of the item noting the request was for a Temporary Land Use Permit on the eastern portion of Midland Park Mall near Midkiff Road for a tent structure from November 2 through November 21 with operating hours of 10 a.m. to 9 p.m. daily for the sale of rugs and artwork. He reported no letters of objection had been received. He noted that on the site plan there was a request for a travel trailer to be placed near the tent for security purposes.

Mayor Perry opened the public hearing at 11:01 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Hailey moved to adopt Resolution No. 2012 - 341; seconded by Council Member Trost.

Discussion ensued regarding the trailer. Planning Division Manager Walker noted it was consistent with previous approvals of the same type.

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

EXECUTIVE SESSION

24. 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:
 - b. Section 551.087 Deliberation Regarding Economic Development Negotiations
 - b.1. Discuss business prospects that the City of Midland and/or the Midland Development Corporation seeks to have locate, stay, or expand in or near the City of Midland, Texas, and discuss possible incentives.

Mayor Perry recessed the meeting to Executive Session at 11:02 a.m. to consider Item 24 b. The Council reconvened in Regular Session at 11:26 a.m.

MISCELLANEOUS

22. Consider a resolution approving an Economic Development Agreement between the Midland Development Corporation and Agri-Empresa LLC. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2012 - 342

RESOLUTION APPROVING AN ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND AGRI-EMPRESA, LLC FOR THE CONSTRUCTION OF AN INTERMODAL RAIL FACILITY ON AN 81.04-ACRE TRACT OF LAND LOCATED IN SECTION 11, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AS AUTHORIZED BY CHAPTER 501 OF THE TEXAS LOCAL GOVERNMENT CODE; AND AUTHORIZING PAYMENT THEREFOR

Council Member Sparks expressed concern that MDC funding would be given to a business that was not located within the City limits and wondered if it could be made part of the agreement.

Steve Gory (Agri-Empresa) and Gary Douglas (MDC) addressed the Council noting they understood the importance of annexation. Mr. Douglas felt because there was no infrastructure needed and it would not receive City services, it wasn't necessary and explained how the construction of the rail spur would benefit the City. Mr. Gory explained that he had a recent agreement with the City to not annex any of his properties, including this location, for seven years. City Manager Sharp, after reviewing the contract confirmed that the agreement included the property in question.

Council Member Hailey moved to adopt Resolution No. 2012 - 342; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

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

Council Member James moved to confirm the appointment of Elvin Brownlee (Andrews) and Luis Elguezabel (San Angelo) to the Permian Basin Airport Board and to confirm the appointment of Pete Hulder, appoint Ken Burgess to replace Dan Rush, and to reappoint John Kennedy to the Tax Increment Reinvestment Zone Board; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

EXECUTIVE SESSION

24. 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 551.072 Deliberation Regarding Real Property.

- a.1. Deliberate the purchase, exchange and value of real property described as Lots 1 through 6, Block 38, Original Town Addition, an addition to the City of Midland, Texas.
- a.2. Deliberate the sale, exchange and value of real property consisting of all of Block 50, Original Town Addition, an addition to the City of Midland, Midland County, Texas.
- a.3. Deliberate the purchase, exchange and value of real property in Block 39, Original Town Addition, an addition to the City of Midland, Midland County, Texas.
- a.4. Deliberate the purchase, exchange and value of real property being all of Block 55, Original Town Addition, an addition to the City of Midland, Midland County, Texas.
- a.5. Deliberate the sale, exchange and value of real property described as Lots 1, 2, 3, 4, 5, and 6, Block 41, Original Town Addition, an addition to the City of Midland, Midland County, Texas.

Mayor Perry recessed the meeting to Executive Session at 11:50 a.m. The Council met in executive session until 12:40 p.m.

All of the business at hand having been completed, the meeting adjourned at 12:40 p.m.

PASSED AND APPROVED the 23rd day of October, 2012.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

**MIDLAND CITY COUNCIL
MINUTES
October 16, 2012**

The City Council convened in a Special Session in the Council Chamber, City Hall, Midland, Texas, at 8:15 a.m. on October 16, 2012.

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

Staff Members at Annex Table: City Manager Courtney Sharp, City Attorney Keith Stretcher, and Assistant City Manager Jim Nichols.

PUBLIC HEARINGS

1. At approximately 8:15 A.M. hold a public hearing and consider a request for the annexation of a 286.79-acre tract of land out of Sections 11 and 12, Block 40, T-2-S, T&P RR Co., Survey, Midland County, Texas. (Generally located on the northeast corner of the intersection of West Interstate 20 and South County Road 1250.) (DEVELOPMENT SERVICES)

Mayor Perry opened the public hearing at 8:15 a.m. There being no one present wishing to speak, the public hearing was immediately closed. No further action was taken on this item.

2. At approximately 8:16 A.M. hold a public hearing and consider a request for the annexation of a 75.90-acre tract of land out of Sections 37 and 38, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the southwest corner of the intersection of Tradewinds Boulevard and Deauville Boulevard.) (DEVELOPMENT SERVICES)

Mayor Perry opened the public hearing at 8:16 a.m. There being no one present wishing to speak, the public hearing was immediately closed. No further action was taken on this item.

3. At approximately 8:17 A.M. hold a public hearing and consider a request for the annexation of a 30.98-acre tract of land out of Section 35, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the east side of State Highway 158, approximately ½ mile northwest of State Highway 191.) (DEVELOPMENT SERVICES)

Mayor Perry opened the public hearing at 8:17 a.m. There being no one present wishing to speak, the public hearing was immediately closed. No further action was taken on this item.

4. At approximately 8:18 A.M. hold a public hearing and consider a request for the annexation of a 193.29-acre tract of land out of Sections 11 and 12, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the south side of

East Interstate Highway 20, south of South Loop 250 West.) (DEVELOPMENT SERVICES)

Mayor Perry opened the public hearing at 8:18 a.m. There being no one present wishing to speak, the public hearing was immediately closed. No further action was taken on this item.

All of the business at hand having been completed, the meeting adjourned at 8:18 a.m.

PASSED AND APPROVED the 23rd day of October, 2012.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, Interim City Secretary



City Council Agenda

Approved for Agenda:
THudson
City Manager's Office

MEETING DATE: 10/23/2012

TO: City Council / City Manager

FROM: Regina Stephenson, Purchasing Manager

SUBJECT: Consider a resolution approving a contract with WR Construction, Inc. of Lubbock, Texas for the construction of the commons area fence at the Scharbauer Sports Complex for the Community Services Department. 5247-12

Purpose:

Approval of a resolution awarding a contract for the construction of the commons area fence at the Scharbauer Sports Complex.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

\$194,000.00 Scharbauer Sports Complex Fund

Discussion:

Three bids were received for the construction of the commons area fence at the Scharbauer Sports Complex. We recommend awarding the contract to the low bidder, W.R. Construction, Inc. of Lubbock, Texas.

Therefore, please consider approval of a resolution awarding a contract for the construction of the commons area fence at the Scharbauer Sports Complex to W.R. Construction, Inc. of Lubbock, Texas for a total cost of \$194,000.00.

RESOLUTION NO.

**RESOLUTION AWARDING A CONTRACT FOR THE
CONSTRUCTION OF THE COMMONS AREA FENCE
AT THE SCHARBAUER SPORTS COMPLEX TO WR
CONSTRUCTION, INCORPORATED, OF LUBBOCK,
TEXAS, AT A TOTAL COST OF \$194,000.00; AND
ALLOCATING FUNDS**

WHEREAS, the City Manager advertised the construction of a fence around the commons area at the Scharbauer Sports Complex for competitive bids; and

WHEREAS, Bid No. 5247-12 was opened on October 3, 2012, with the lowest and most responsible bid being submitted from WR Construction, Inc., of Lubbock, Texas, at \$194,000.00 as shown on the bid tabulation attached hereto as Exhibit "A" and incorporated herein for all legal purposes; and

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

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 contract with WR Construction, Inc., for said project at a cost not to exceed \$194,000.00, said contract being on file in the office of the City Secretary, referenced by the date and number of this Resolution.

SECTION TWO. That the sum of \$14,016.00 is hereby allocated from the Scharbauer Sports Complex Fund (620) Sports Complex (620) Interfund Transfer (0629) Scharbauer Sports Complex Construction Fund (6398) account to the Commons Area Fence Project (8932).

SECTION THREE. That the City Treasurer is hereby authorized and directed to pay WR Construction, Inc., pursuant to the terms of said contract from funds available in the Commons Area Fence Project (8932) budget account upon receipt of proper invoices or statements approved by the City Manager.

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

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Robert Patrick, General Services Director

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

City of Midland - Bid Tabulation

BID # 5247-12 Commons Area Fence Re-Bid OPENED October 3, 2012 Est. Cost: \$165,000.00			WR Construction 5836 CR 6300 Lubbock, TX 79416 Wayne (806) 687-1915		Mid-Tex of Midland 5206 West Wadley Midland, TX 79707 Alan White		Cooper Construction Co PO Box 3827 Odessa, TX 79760 John W. Copper IV	
ITEM	QTY	DESCRIPTION	COST EA.	TOTAL	COST EA.	TOTAL	COST EA.	TOTAL
1	1	Materials for Common Area Fence	116,400.0000	\$116,400.00	\$91,600.00	\$91,600.00	\$149,700.00	\$149,700.00
2	1	Labor for Common Area Fence	77,600.0000	\$77,600.00	\$137,400.00	\$137,400.00	\$100,000.00	\$100,000.00
		Work Completed	90 Calendar Days		90 Calendar days of on-site construction time		75 Calendar Days	
TOTALS:				\$194,000.00		\$229,000.00		\$249,700.00

Bidding Summary:

11 Bid requests were issued.

3 Bids listed above

0 NO BIDS were received.

8 Bidders did not respond.

Fence Co, G&O Fence, JC Roberts, Odessa Fence, Pando Const, Premier Fence, RRC Construction
Pharr & Co

CITY OF MIDLAND
Community Services Department
Interoffice Memorandum

Date: October 11, 2012
To: Tommy Hudson, Deputy City Manager
From: Tina Jauz, Community Services Director
Subject: Construction of Commons Area Fence - SSC

During the last 4B Board meeting on October 3, 2012, members recommended to approve a contract with WR Construction for construction of a fence around the commons area at the Scharbauer Sports Complex.

The 8 foot high wrought iron fence with brick columns would be located on the east and west end of the Commons Area. The purpose of the fencing project is twofold:

1. Eliminate the use of temporary fencing for events.
2. Create a new rentable space, which will increase the revenue generation on site.

The area will have four pairs of pedestrian gates along with two pairs of gates for 18 wheelers. In addition, both ends of the commons area fence will have a 30 foot wide opening for entry and exit.

The project has approved funding in the amount of \$185,000 as a 2011 capital project. The remainder of the bid would be funded through maintenance in the SSC operating budget. Funds are available in the Fiscal Year 2012 – 2013 Scharbauer Sports Complex (620) Sports Complex (620) NonDepartmental (0625) Stadiums (7820) budget account.

The RockHounds have secured a sponsor for the naming rights of the commons area. Cimerex Energy has signed a two year contract providing \$20,000 each year with an option to renew for 2 additional years.



THE CITY OF MIDLAND

CONTRACT

Contract No.5247-12

THIS CONTRACT, effective the 24th day of October, 2012, by and between the City of Midland, hereinafter referred to as the "Owner", and W.R. Construction, Inc., hereinafter referred to as the "Contractor", is made for the following considerations:

1. **Cost:** Total Proposal: \$ 194,000.00 DOLLARS

2. **Scope of Work:** The Contractor shall perform all work described for labor, material, equipment and supervision necessary to construct a Fence throughout the commons area of the Scharbauer Sports Complex in accordance with the project manual, drawings and addenda and in the following documents, attached hereto and incorporated herein by reference for all legal purposes.

EXHIBIT A..... Specifications, Proposal or Cost Summary

EXHIBIT B..... Intentionally Omitted

EXHIBIT C..... Bonding instructions for Public Works Contract of \$50,000 and more

EXHIBIT D..... Wage Scale

3. **Owner:** The words "Owner's Representative" or "representative" shall mean Tina Jauz or her designee under whose supervision these contract documents, including the plans and specifications, were prepared, or who may inspect work performed under this Contract; or such other representative, supervisor, or inspector as may be authorized by the Owner to act in any particular capacity under this Contract.

4. **The Owner's Representative** may make periodic visits to the site to observe the progress and quality of the executed work and to determine, in general, if the work is proceeding in accordance with the contract documents. Owner's representative will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the work, nor will such representative be responsible for the construction means, methods, techniques, sequences or procedures, or the safety precautions incident thereto. Owner's representative will not be responsible for the Contractor's failure to perform the work in accordance with the contract.

5. **Contractor:** Unless otherwise stipulated, the Contractor shall provide and pay for all materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and all water, light, power, fuel, transportation and all other facilities necessary for the execution and completion of the work covered by the contract documents. Unless otherwise specified, all materials shall be new, and both workmanship and materials shall be of a good quality. The Contractor shall, if required, furnish satisfactory evidence as to the kind and quality of materials.

5.1. The Contractor shall, at its expense, obtain all permits and licenses necessary for the performance of this contract and pay all fees and taxes required by law, and comply with all laws, ordinances, rules and regulations governing the Contractor's performance of the contract, including all environmental laws and regulations, whether state or federal.

5.2. All work shall be done and all materials furnished in strict conformity with the contract and specifications.

6. **Minor Work Not Mentioned:** All minor detail of the work not specifically mentioned in the Specifications but obviously necessary for the proper completion of the work, such as the proper connection of new work to old, shall be considered as incidental to and a part of the work for which the prices are named in the contract. The Contractor will not be entitled to any additional compensation therefor unless specifically stated otherwise. Otherwise the term "extra work" as used in this contract shall mean and include all work that may be required by Owner to be done by the Contractor to accomplish any alteration or addition to the work as shown on the Specifications.

6.1. Contractor shall perform all extra work under the direction of the Owner's Representative when presented with a written work order signed by the Owner's Representative, subject, however, to the right of the Contractor to require written confirmation of such extra work order by the Owner. Payment for extra work shall be as agreed in the work order.

7. **Safety:** The Contractor shall at all times exercise reasonable precaution for the safety of employees and others on or near the work and shall comply with all applicable provisions of federal, state and municipal laws. All machinery and equipment and other physical hazards shall be guarded in accordance with federal, state or municipal laws or regulations.

8. **INDEMNITY: THE CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND THE OWNER AND ALL OF THE OWNER'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER,**

INCLUDING 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 THE CONTRACTOR, THEIR AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS CONTRACT, AND CONTRACTOR WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST THE OWNER OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

8.1. THE CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND THE OWNER AND ALL OF THE OWNER'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATH, PROPERTY DAMAGE, LOSSES, AND EXPENSES OF ANY CHARACTER WHATSOEVER INCLUDING 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 THE OWNER, THE OWNER'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 THE CONTRACTOR OR THE CONTRACTOR'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 CONTRACT, AND CONTRACTOR WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST THE OWNER OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

8.2. THE CONTRACTOR AGREES THAT HE WILL INDEMNIFY AND SAVE THE OWNER HARMLESS FROM ALL CLAIMS GROWING OUT OF ANY DEMANDS OF SUBCONTRACTORS, LABORERS, WORKMEN, MECHANICS, MATERIALMEN, AND FURNISHERS OF MACHINERY AND PARTS THEREOF, EQUIPMENT, POWER TOOLS, ALL SUPPLIES, INCLUDING COMMISSARY INCURRED IN THE FURTHERANCE OF THE PERFORMANCE OF THIS CONTRACT. WHEN OWNER SO DESIRES, THE CONTRACTOR SHALL FURNISH SATISFACTORY EVIDENCE THAT ALL OBLIGATIONS

OF THE NATURE HEREINABOVE DESIGNATED HAVE BEEN PAID, DISCHARGED OR WAIVED. THE CONTRACTOR, ITS SURETIES AND INSURANCE CARRIERS SHALL DEFEND, INDEMNIFY AND SAVE HARMLESS THE OWNER AND ALL OF ITS OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, OR CLAIMS OF ANY CHARACTER WHATSOEVER, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ARISING FROM ANY ACT OF THE CONTRACTOR OR ANY SUBCONTRACTOR, THEIR AGENTS OR EMPLOYEES, IN THE EXECUTION AND SUPERVISION OF THIS CONTRACT, AND WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST THE OWNER OR ANY OF ITS OFFICERS, AGENTS, OR EMPLOYEES INCLUDING ATTORNEY'S FEES.

9. **Start of Work:** The Contractor shall commence work no later than ten (10) days after receipt of the execution of this document or other written release to proceed and shall complete such work no later than 90 calendar days after release to proceed.

If the Contractor should fail or refuse to complete the work within the time herein specified, or any proper extension thereof granted by the Owner, then the Contractor does hereby agree as part of the consideration for the awarding of this contract, the Owner may withhold permanently from Contractor's total compensation, the sum of N/A Dollars (\$), not as a penalty but as liquidated damages for the breach of the contract as herein set forth for each calendar day that the Contractor shall be in default after the time stipulated for completing the work.

9.1. **TIME IS OF THE ESSENCE IN THIS CONTRACT.**

10. **Clean Up:** Contractor shall promptly remove from Owner's premises all materials condemned by the Owner's Representative on account of failure to conform to the contract, whether actually incorporated in the work or not, and Contractor shall at its own expense promptly replace such condemned materials with other materials conforming to the requirements of the contract. Contractor shall also bear the expense of restoring all work of other contractors damaged by any such removal or replacement. If Contractor does not remove and replace any such condemned materials within a reasonable time after a written notice by the Owner, Owner may remove and replace such at Contractor's expense.

11. **Warranty:** Neither the final payment nor any provision in this contract shall relieve the Contractor of responsibility for faulty materials or workmanship, and he shall remedy any defects due

thereto and pay for any damage to other work resulting therefrom, which shall appear within a period of one (1) year from the date of substantial completion. The Owner shall give notice of observed defects with reasonable promptness.

12. **Remedy:** The Owner may, on account of subsequently discovered evidence, withhold whole or part of any payment to such extent as may be necessary to protect itself from loss on account of:

12.1. Defective work not remedied; or

12.2. Claims filed or reasonable evidence indicating possible filing of claims; or

12.3. Failure of the Contractor to make payments promptly to subcontractors or for material or labor which the Owner may pay as an agent for the Contractor; or

12.4. Damages to another contractor or subcontractor.

When the above grounds to withhold payment are removed, or the Contractor provides a surety bond satisfactory to the Owner, which will protect the Owner in the amount withheld, payment shall be released.

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

14. **Wage Scale:** The Contractor agrees to pay all workmen in his employ no less than the generally prevailing wage rate for employees of similar category in the Permian Basin Area, as is depicted in the wage rate scale attached hereto as EXHIBIT D, and incorporated herein by reference for all legal purposes.

14.1. 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 Contract, and all terms and requirements under said laws, by such incorporation, are made terms and requirements of this Contract, to which the parties to this Contract have agreed to be bound.

15. **Payment:** After all work is completed by the Contractor, and the Owner has inspected and approved that work, the Owner shall within thirty-one (31) days thereafter issue payment to the Contractor in the amount of the contract and subsequent verified Change Orders. The Owner shall be the final judge of when work is completed by the Contractor. For contracts exceeding \$25,000 and

construction time exceeds ninety days, requests for progress payments may be made to the extent of the materials and labor completed at the end of each month. Upon approval by the Owner's Representative the request and invoice shall be forwarded for payment less 5% retainage. The total of these payments shall not exceed 95% of the total contract amount.

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

17. **WAIVER OF ATTORNEY FEES:** BY EXECUTING THIS CONTRACT, CONTRACTOR AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST THE OWNER, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THE CONTRACT, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THE CONTRACT. THE CONTRACTOR SPECIFICALLY AGREES THAT IF THE CONTRACTOR BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS CONTRACT, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS CONTRACT, 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 CONTRACTOR AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH CONTRACTOR MIGHT OTHERWISE BE ENTITLED.

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

THE CONTRACTOR AND OWNER ARE RELYING ON THEIR OWN JUDGMENT. EACH PARTY HAD THE OPPORTUNITY TO DISCUSS THIS CONTRACT WITH COMPETENT LEGAL COUNSEL PRIOR TO ITS EXECUTION.

18. **Sovereign Immunity:** By executing this contract the Owner is not waiving its right of sovereign immunity. The Owner is retaining its immunity from suit. The Owner is not granting consent to be sued by legislative resolution or action.

THERE IS NO WAIVER OF SOVEREIGN IMMUNITY.

19. **Insurance**

Contractor shall at all times during the term of this Contract 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 Contractor 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 Contract.

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

All insurance required pursuant to this Contract shall provide for a waiver of subrogation in favor of the City. All insurance required pursuant to this Contract, 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 Contractor's insurance provider not later than thirty (30) days prior to any reduction or termination of such coverage.

Contractor shall contractually require all contractors, subcontractors, and sub-subcontractors that work on any portion of the work that is the subject of this Contract 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 Contract, Contractor 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 Contract.

The Contractor 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.

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

21. **RELEASE: NOTWITHSTANDING ANY OTHER PROVISIONS, CONTRACTOR HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES OWNER, OWNER'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES, OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH CONTRACTOR 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 OWNER'S NEGLIGENCE.**

22. **Governing Law and Venue:** This Contract shall be governed by the laws of the State of Texas. All performance and payment made pursuant to this Contract 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 Contract or the performance of this Contract shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this Contract shall be deemed to have

occurred in Midland County, Texas.

23. **Independent Contractor:** It is expressly understood and agreed that Contractor shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of the Owner; that Contractor 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 Owner and Contractor, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between Owner and Contractor. No person performing any of the work and services described hereunder by Contractor shall be considered an officer, agent, servant or employee of the Owner. Further, it is specifically understood and agreed that nothing in this Contract 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. Contractor shall be an independent contractor under this Contract and shall assume all of the rights, obligations and liabilities, applicable to it as such independent contractor hereunder. The Owner does not have the power to direct the order in which the work is done. The Owner shall not have the right to control the means, methods or details of the Contractor's work. Contractor shall assume exclusive responsibility for the work. Contractor is entirely free to do the work in its own way.

24. **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 Contract, Contractor or his legal representative, shall give the City Manager, or any other reasonable official of the Owner, notice in writing (consisting of one original and seven copies of notice attached to a copy of this Contract) 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 Contractor will settle, the physical and mailing addresses of Contractor at the time and date the claim was presented and the physical and mailing addresses of Contractor for the six months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom the Contractor 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 Owner from any liability whatsoever. The Owner is under no obligation to provide notice to Contractor that Contractor's notice is insufficient. Owner 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, Contractor's failure to comply with the requirements herein shall perpetually bar Contractor's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless if Owner has actual or constructive notice or knowledge of said claim or alleged damages. Contractor agrees that the requirements of this entire Contract are reasonable.

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

Contract No: 5247-12

OWNER, City of Midland

CONTRACTOR

Courtney B. Sharp, City Manager

APPROVED AS TO FORM

Keith Stretcher, City Attorney

ATTEST

Amy M. Turner, City Secretary

Contractor Corporate Acknowledgment: Contract No.5247-12

STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

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

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the ____ day of _____, 2012.

Notary Public, State of Texas



**Proposal for Scharbauer Sports
Complex Stadium Fence**

Submitted To:

***The Honorable Mayor and City Council,
City of Midland***

Submitted By:

WR CONSTRUCTION, INC.

5836 CR 6300

LUBBOCK, TX 79416

806-687-1915

806-687-1925 (FAX)

BID DOCUMENTS ENCLOSED

Exhibit "A"

PROPOSAL

TO: The Mayor and City Council
City of Midland
Midland, Texas

Gentlemen:

Pursuant to the foregoing Request for Proposal, the undersigned Proposer hereby proposes to do all work and furnish all necessary superintendence, labor, machinery, equipment, tools, and materials, and whatever else may be necessary to complete all work upon which he bids, as provided by the attached specifications and shown on the plans, and binds himself on acceptance of this proposal to execute a Contract and Bonds according to the accompanying forms, for performing and completing the said work within the time stated, and furnishing all required guarantees, for the following sum:

SCHARBAUER SPORTS COMPLEX
STADIUM FENCE

A. BASE PROPOSAL, Lump Sum: One hundred ninety four
thousand Dollars (\$ 194,000)

If awarded the contract, the undersigned agrees to commence work under this contract with 10 days of a date to be specified in Written Notice to Proceed and to substantially complete the project within 90 calendar days (Bidder to fill in days) from said date, unless modified by change order.

(Note: All amounts shall be shown in both written and figure form. In case of discrepancy between the written amount and the figure, the written amount will govern. For alternates, check whether it is an add, deduct or no change.)

The Proposer is required to separate the cost of materials to be incorporated into this project. Such material costs are separated from the other costs so that the Proposer is a seller of such materials to the City. The Proposer shall be required to issue a resale certificate on such materials in lieu of paying the sales tax on such materials at the time of purchase. The City will provide the successful Bidder with a sales tax exemption certificate for such materials. The labor and materials charge shall be separated as follows:

MATERIALS	\$ <u>116,400</u>
LABOR	\$ <u>77,600</u>
TOTAL BASE PROPOSAL	\$ <u>194,000.00</u>

The undersigned Proposar hereby declares that he has visited the site of the work and has carefully examined the Plans, Specifications and Contract Documents pertaining to the work covered by the above bid, and that the prices bid herein are based on the minimum wage rates included in the specifications.

The bidder certifies, by submission of this proposal or acceptance of this contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. It further agrees that by submitting this proposal that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts. Where the bidder or any lower tier participant is unable to certify to this statement, it shall attach an explanation to this proposal.

The contractor or subcontractor, by submission of an offer and/or execution of a contract, certifies that it:

- a. is not owned or controlled by one or more citizens or nationals of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR);
- b. has not knowingly entered into any contract or subcontract for this project with a contractor that is a citizen or national of a foreign country on said list, or is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list.
- c. has not procured any product nor subcontracted for the supply of any product for use on the project that is produced in a foreign country on said list.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to a contractor or subcontractor who is unable to certify to the above. If the contractor knowingly procures or subcontracts for the supply of any product or service of a foreign country on said list for use on the project,

Further, the contractor agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in each contract and in all lower tier subcontracts. The contractor may rely upon the certification of a prospective subcontractor unless it has knowledge that the certification is erroneous.

The contractor shall provide immediate written notice to the sponsor if the contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The subcontractor agrees to provide immediate written notice to the contractor, if at any time it learns that its certification was erroneous by reason of changed circumstances.

This certification is a material representation of fact upon which reliance was placed when making the award. If it is later determined that the contractor or subcontractor knowingly rendered an erroneous certification.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

The Proposer hereby agrees to commence work under this contract within 10 days of a date to be specified in written "Notice to Proceed" and to complete the work within the consecutive calendar day framework noted in the Contract. Proposer further agrees to pay as liquidated damages the sum of \$750.00 for

each consecutive calendar day beyond each phase of the days allowed; as hereinafter provided in Paragraph 32 of the General Conditions.

Proposer acknowledges receipt of the following addendum: #1 - 9/14

#2 - 9/20 #3 9/25 #4 - 9/27

Enclosed with this Proposal is a Cashier's or Certified Check for _____ Dollars (\$ _____)

or, a Proposal Bond in the sum of 5% of Greatest Amount Bid Dollars (\$ 5% of Greatest Bid), which it is agreed shall be collected and retained by the Owner as liquidated damages in the event the Proposal is accepted by the Owner within ninety (90) days after the date advertised for the reception of bids and the undersigned fails to execute the contract or required bonds with the Owner, under the conditions hereof, within ten (10) days after the date said proposal is accepted; otherwise, said check or bond shall be returned to the undersigned upon demand.

(Seal if Bidder is
Corporation)



WR Construction, Inc.
Contractor

By Wayne Kalusa

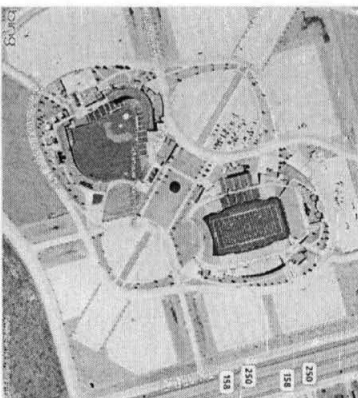
5836 CR 6300 Lubbock, TX
Address

5514 Champions Dr · Midland, Texas

PARKHILL SMITH & COOPER

1700 W. Wall Street
Suite 100
Midland, Texas 79703
432.697.1447

PSG



GENERAL

Q-001	COVER SHEET / CODE INFORMATION
-------	--------------------------------

ARCHITECTURAL

**SITE PLAN
ENLARGED PLANS
ELEVATIONS AND DETAILS**

VICINITY MAP

LOCATION MAP

REGULATORY INFORMATION

PROJECT TYPE	FENCING ADDITION
PROJECT DESCRIPTION	ADDITION OF PERIMETER FENCE OF THE COMMON GREEN AREA BETWEEN CITIBANK BUILDING AND GRANDD. THIS INCLUDES VERTICAL ALUMINUM ACCESS GATES AND PEDESTRIAN ACCESS GATES. TWO MAIN ACCESS GATES WITH ALUMINUM AND STEEL GRATE ENTRIES THAT MATCH EXISTING AT GRANDD WILL BE CENTERED ON THE GREEN SPACE AT EACH END.

[illegible]

COMMONS FENCE

6514 CHAMPIONS DRIVE
MIDLAND, TX 79706

138



**SCHARBAUER
SPORTS COMPLEX**



PARKHILL SMITH & COOPER



6.21

G-001



**SCHARBAUER
SPORTS COMPLEX**

**COMMONS
FENCE**

8814 CHAMPIONS DRIVE
MIDLAND, TX 79708

07/24/22

DATE	DESCRIPTION	PROJECT NO.	SHEET NO.
07/24/22	REVISION	8814	11

SITE PLAN

A-101

ELECTRICAL SPECIFICATIONS

1. ALL WORK SHALL BE IN ACCORDANCE WITH THE NATIONAL, STATE AND LOCAL CODES AND ACCEPTED GOOD PRACTICE.
2. ALL WORK SHALL BE PERFORMED BY LICENSED AND QUALIFIED PERSONNEL.
3. THE CONTRACTOR SHALL FIELD VERIFY ALL EXISTING CONDITIONS PRIOR TO SUBMITTING FOR SUBMITTING AND CONTRACTING. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF MIDLAND.
4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF MIDLAND.
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KEY NOTES

1. ALL WORK SHALL BE IN ACCORDANCE WITH THE NATIONAL, STATE AND LOCAL CODES AND ACCEPTED GOOD PRACTICE.
2. ALL WORK SHALL BE PERFORMED BY LICENSED AND QUALIFIED PERSONNEL.
3. THE CONTRACTOR SHALL FIELD VERIFY ALL EXISTING CONDITIONS PRIOR TO SUBMITTING FOR SUBMITTING AND CONTRACTING. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF MIDLAND.
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10. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF MIDLAND.

A1 SITE PLAN





**COMMONS
FENCE**

KEY PLAN

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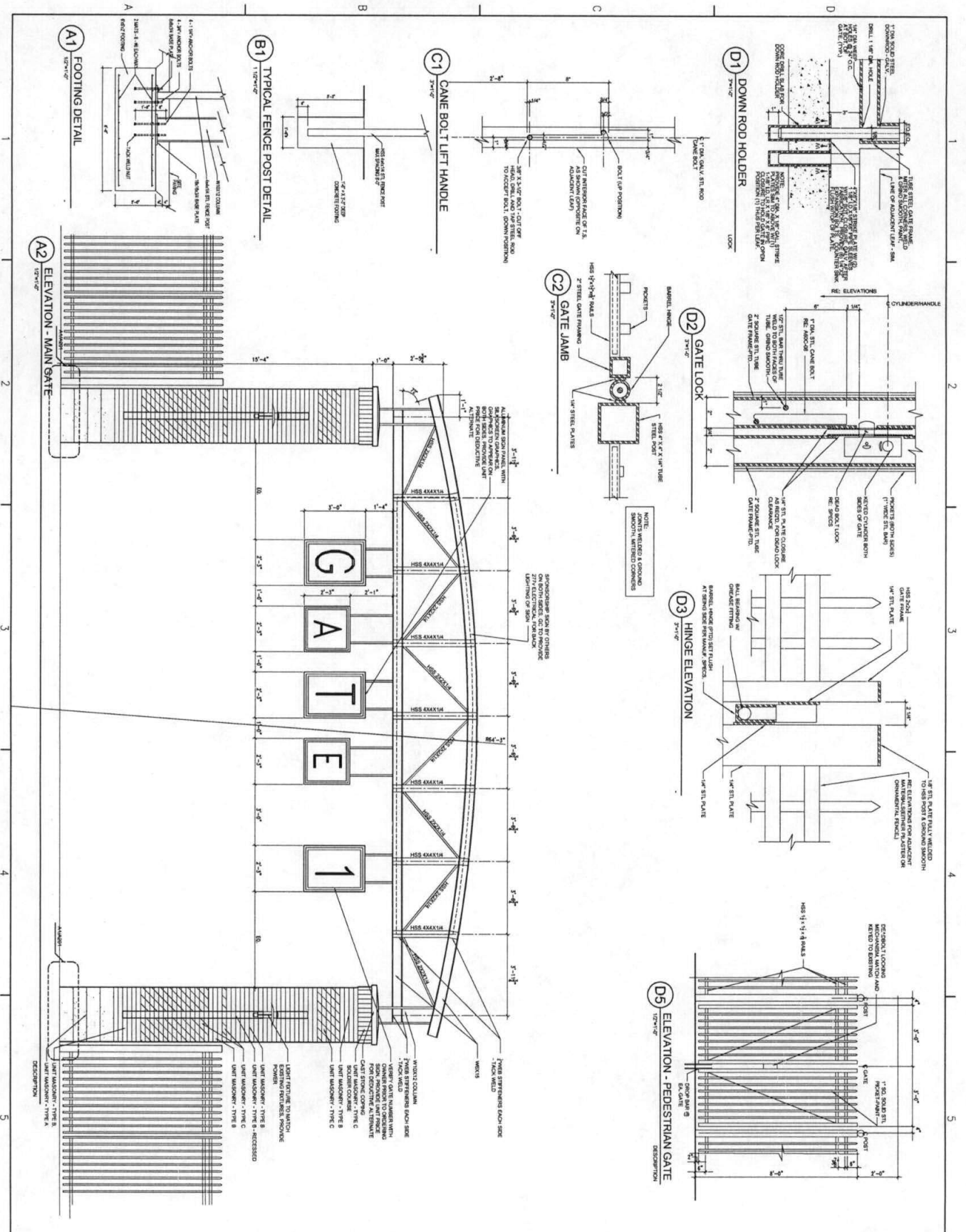
ENLARGED FENCE PLAN

A-102



KEYED NOTES

1. AS INDICATED BY: (1)
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4. DRESSING FENCE
5. NEW WASHDOWN COLLAR
6. NEW STEEL FENCE TO MATCH DRESSING
7. DRESSING FENCE TO REMAIN
8. DRESSING FENCE TO BE REWORKED AND REBUILT
9. NEW 4" X 6" WOOD POSTS TO BE SET TO MATCH EXISTING
10. NEW 4" X 6" WOOD RAILS ACCESS GATE SPILL TO MATCH EXISTING
11. ALUM
12. DRESSING ROLLERS TO REMAIN
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100. DRESSING ROLLERS TO BE REWORKED





PARKHILL SMITH & COOPER



SCHARBAUER
SPORTS COMPLEX

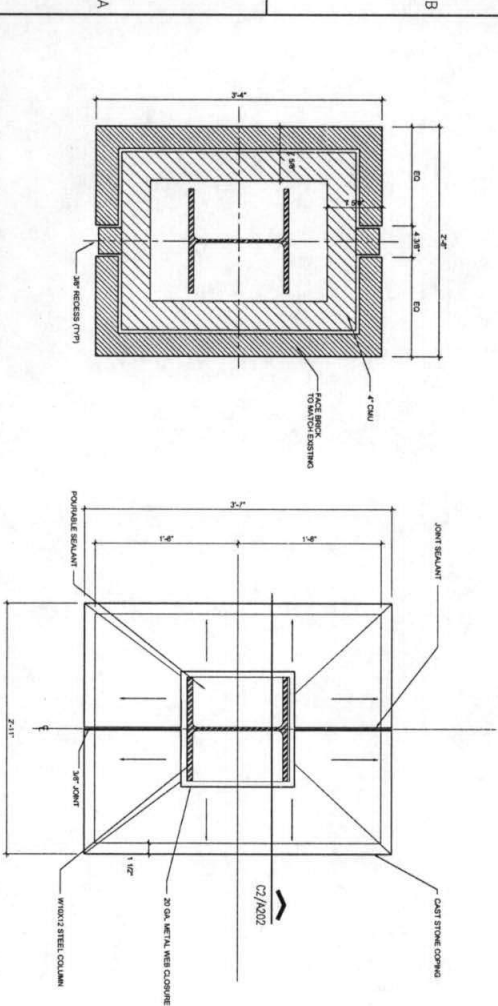
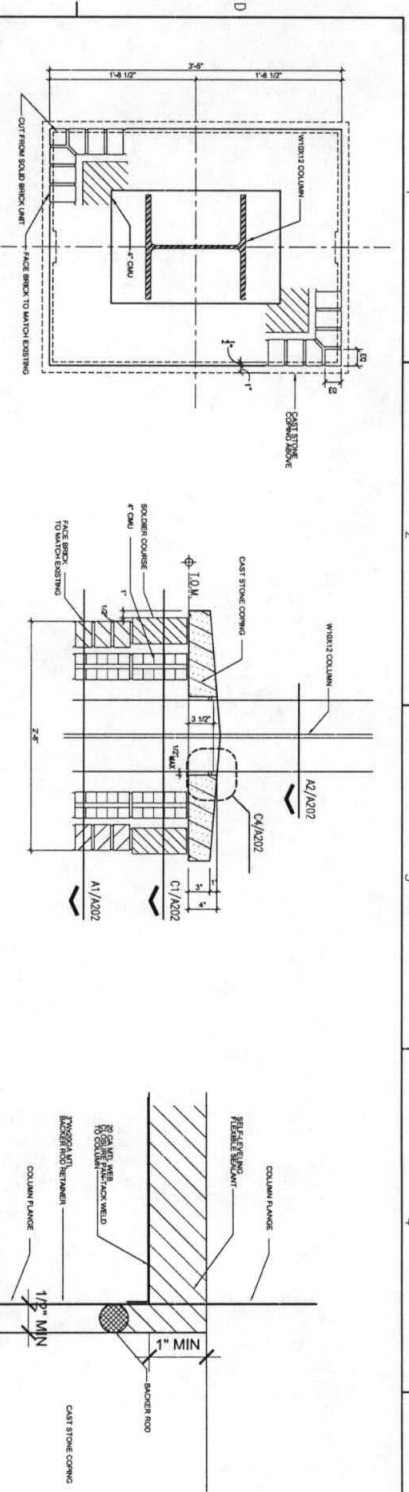
COMMONS
FENCE

5514 CHAMPIONS DRIVE
MIDLAND, TX 79708

037 PLAN

NO.	DATE	DESCRIPTION	PROJECT NO.
1	01/11/11	ISSUED FOR PERMIT	100000000000000000

A-202





Previous and Current Projects of Significance and Similar Size

Project: New District Headquarters, Bryan District

Texas Department of Transportation, Jim Tate

Architect: Texas Department of Transportation, John Wirrick

Contract w/: Texas Department of transportation

Contract Amount: \$ 6,713,496.00

Percent Complete: (Month/Year): 99.7% Complete

Scope of Work: Three New Metal Buildings of different sizes to accommodate TXDOT with a new administration building, warehouse and lab building.

Project: Security Fencing Improvements at Water Utility Facilities

Architect: Park Hill Smith & Cooper, Leonard Nail

Contract w/: City of Lubbock Water Utility

Contract Amount: \$548,054.00

Date Completed: (Month/Year) 06/2012

Scope of Work: Security Fencing Improvements.

Project: Lubbock County Courthouse Family Court Renovations

Architect: Parkhill Smith & Cooper

Contract w/: Lubbock County Purchasing Department

Contract Amount: \$981,079

Date Completed: (Month/Year) 07/2010

Scope of Work: Renovation of two courtrooms and two restrooms on the third floor of the Lubbock County Courthouse.

Project: Southwest Little League Baseball Complex, City of Lubbock

Architect: Chapman Harvey Architects, Marc Chapman

Contract w/: City of Lubbock

Contract Amount: \$ 2,022,169.00

Date Completed: (Month/Year) 06/2008

Scope of Work: New Metal Buildings and Outdoor Baseball Fields.

Project: Platinum Bank 2nd - 4th floor renovations

Architect: Studio West Interior Design Group

Contract w/: Platinum Bank

Contract Amount: \$ 395, 579

Date Completed: (Month/Year) 07/2010

Scope of Work: Renovations of corridors and restrooms on the 2nd, 3rd and 4th floors. Work included new finishes, wood doors & frames, new plumbing, electrical and mechanical rework.

Project: Southwest Cardiovascular Surgical Associates

Architect: Chapman Harvey Architects

Contract w/: Sosa Medical Plaza, LP

Contract Amount: \$723,880

Date Completed: (Month/Year) 09/2006

Scope of Work: Construction of a new medical office. Work included site work, concrete, masonry, steel, metal roofing, aluminum storefronts, doors & frames, finishes, specialties, mechanical and electrical.

Project: Lorenzo Farm Housing Renovations

Architect: Jones Rownetree Architects

Contract w/: Lorenzo Farm Housing Association

Contract Amount: \$1,365,351.00

Date Completed: (Month/Year) 08/2009

Scope of Work: Renovations of 35 dwelling units, office and community center. Works included concrete, masonry, new doors & frames, windows, finishes, electrical and add central heat and air to all units.

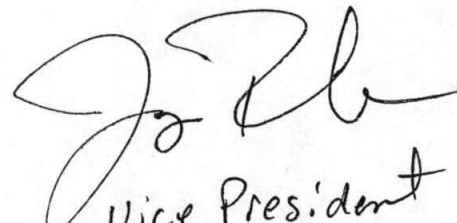

Vice President

EXHIBIT C

Bonding Requirements

The successful bidder shall be required to furnish a Performance & Payment Bond* for bids in excess of \$50,000.00, in an amount equal to one hundred percent (100%) of the total contract price, such bond to be executed in five (5) original counterparts by a Corporate Surety authorized to do business in the State of Texas and acceptable to the City of Midland. All bonds must be executed on forms contained in these contract documents. The form of agreement which the successful bidder, as contractor, will be required to execute is also included herewith. The form of agreement and the form of the bonds should be carefully examined by the bidder.

A certified check, cashier's check, bank money order, issued by a bank satisfactory to the Owner, or a bidder's bond on the form provided, in the amount of five percent (5%) of the largest possible lump sum bid submitted, payable without recourse to the owner, must accompany the bidder's proposal, as a guaranty that the bidder will enter a contract and execute the required payment bond and guaranty in the forms provided within fifteen (15) days after notice of award of contract to him. Bids or proposals without the required bid guaranty will not be considered. All bid sureties and payment bonds shall name the City of Midland as Obligee.

*A cash security such as a cashier's check for 100 % of the contract amount may be supplied in lieu of the Performance and Payment Bonds. The check will be returned un-cashed upon satisfactory completion of the work and evidence of payment of all obligations due for the contract.

PAYMENT BOND

STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

SURETY'S NO. _____

KNOW ALL MEN BY THESE PRESENTS, THAT _____,

_____ of the City of _____ County of _____,
and State of _____ as Principal, and _____

_____ (hereinafter called the Surety(s)), as Surety(s), are held and firmly bound unto the City of Midland, Texas, a home rule municipal corporation of Midland County, Texas, (hereinafter called the Oblige), in the amount of _____ DOLLARS, (\$ _____), for the payment whereof the said Principal and Surety bind themselves and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written contract with the Oblige, dated the _____ day of _____, 20____, to _____, which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

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

PROVIDED further that if any legal action be filed upon this Bond venue shall lie in Midland County, State of Texas.

PROVIDED further that this Payment Bond is submitted in compliance with Chapter 2253 of the Texas Government Code.

Surety, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract, or to the work performed thereunder, or the plans, specifications or drawings accompanying the same, or any assignment of the contract as may be provided for in the instructions to bidders, shall in anywise affect its obligation on this

Bond, and it does waive notice of any such change, extension of time, alteration or addition to the terms of this contract, assignment thereof, or to the work to be performed thereunder.

IN WITNESS WHEREOF the said Principal and Surety have signed and sealed this instrument, this _____ day of _____, 20____.

Principal

Surety

By _____

By _____

Address _____

Address _____

APPROVED AS TO FORM:

City Attorney

NOTE: ATTACH POWER OF ATTORNEY

PERFORMANCE BOND

STATE OF TEXAS

§

SURETY'S NO. _____

§

COUNTY OF MIDLAND

§

KNOW ALL MEN BY THESE PRESENTS, THAT _____

(hereinafter called the principal(s)), as principal(s), and _____

_____,
(hereinafter called the Surety(s)), as Surety(s), are held and firmly bound unto the City of Midland, Texas a home rule municipal corporation of Midland County, Texas, (hereinafter called the Oblige), the amount of _____ DOLLARS, (\$ _____) for the payment whereof the said Principal and Surety bind themselves and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written contract with the Oblige, dated the _____ day of _____, 20____, to furnish and deliver the following equipment:

SPECIFICALLY including in the scope of this work and bond, the additional maintenance guaranty provisions set forth in the contract conditions, which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein, as well as the Principals primary obligation to perform according to plans and specifications.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall faithfully perform the work in accordance with the plans, specifications,

instructions to bidders, general and special conditions and other contract documents, including any addendums thereto, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED further that if any legal action be filed upon this Bond venue shall lie in Midland County, State of Texas.

PROVIDED further that this Performance Bond is submitted in compliance with Chapter 2253 of the Texas Government Code.

Surety, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract, or to the work performed thereunder, or the plans, specifications or drawings accompanying the same, or any assignment of the contract as may be provided for in the instructions to bidders, shall in anywise effect its obligation on this Bond, and it does waive notice of any such change, extension of time, alteration or addition to the terms of this contract, assignment thereof, or to the work to be performed thereunder.

IN WITNESS WHEREOF the said Principal and Surety have signed and sealed this instrument, this _____ day of _____, 20____.

Principal

Surety

By _____

By _____

Address _____

Address _____

APPROVED AS TO FORM:

City Attorney

NOTE: ATTACH POWER OF ATTORNEY

EXHIBIT "D"

PREVAILING WAGE RATE SCHEDULE BUILDING CONSTRUCTION TRADES as of July 24, 2009 Attorney General, General Decision TX20080297

<u>Classification</u>	<u>Rate/hr</u>	<u>Fringes</u>
Acoustical Installers	\$ 11.18	
Boilermaker	\$ 26.02	\$ 13.66
Bricklayers	\$ 18.00	
Carpenters (Including Metal Stud Installation and Drywall Hanging)	\$ 15.17	
Cement Mason/ Concrete Finisher	\$ 13.89	
Drywall Hangers	\$ 11.08	
Electrician	\$ 13.63	\$ 1.25
Elevator Mechanics	\$ 32.66	18.285+a
Forklift Operator	\$ 22.70	\$ 9.35
HVAC mechanic (set unit only)	\$ 10.00	
Ironworkers (reinforcing)	\$ 20.90	\$ 4.60
Ironworkers (structural)	\$ 10.84	
Laborers, Common or General	\$ 8.67	
Laborer, Mason Tender - Brick	\$ 9.13	
Operator, Backhoe/ Excavator	\$ 13.81	
Operator, Blade/ Grader	\$ 12.97	
Operator, Front End Loader	\$ 12.23	
Painter (Including Drywall Finishing)	\$ 15.81	\$ 4.56
Plasterer	\$ 14.00	
Plumber (Including HVAC Work)	\$ 19.20	\$ 6.55
Roofer	\$ 12.06	
Sheet Metal Worker (Including HVAC Work)	\$ 10.00	
Sprinkler Fitters	\$ 12.00	
Tile Setter	\$ 8.50	
Truck Driver	\$ 10.15	
Welders	*	

*Welders receive the rate prescribed for the craft performing the operation to which welding is incidental.

a under 5 years employment, 6% of BHR, over 5 years employment, 8%BHR.

Paid Holidays - New Year's Day, Memorial Day, Independence Day, Labor Day, Labor Day, Thanksgiving Day, The Friday after thanksgiving and Christmas Day.

Unlisted classifications needed for the work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(v)).



City Council Agenda

Approved for Agenda:
THudson
City Manager's Office

MEETING DATE: 10/23/2012

TO: City Council / City Manager

FROM: Regina Stephenson, Purchasing Manager

SUBJECT: Consider a resolution approving a contract with American Seating Company of Grand Rapids, Michigan to provide and install seating at the Scharbauer Sports Complex for the Community Services Department. 5458-13

Purpose:

Approval of a contract to provide and install seating at the Scharbauer Sports Complex.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

\$960,902.00 Scharbauer Sports Complex Fund

Discussion:

A bid request was issued requesting bids for seating at Grande Stadium and at Citibank Ballpark. After reviewing the bids, 4B Board members recommended the low bidder, American Seating Company. Please see the memo from Tina Jauz, Community Services Director, for further discussion.

Therefore, please consider a resolution approving the purchase of seating for the Scharbauer Sports Complex from American Seating Company of Grand Rapids, Michigan for a total cost of \$960,902.00.

RESOLUTION NO.

**RESOLUTION AWARDING A CONTRACT TO
PROVIDE AND INSTALL SEATING AT THE
SCHARBAUER SPORTS COMPLEX TO AMERICAN
SEATING COMPANY AT A TOTAL COST OF
\$960,902.00**

WHEREAS, the City Manager advertised plans and specifications to provide and install new seating at the Scharbauer Sports Complex for competitive bids; and

WHEREAS, Bid No. 5458-13 was opened on October 1, 2012, with the lowest and most responsible bid being submitted from American Seating Company, at \$960,902.00 as shown on the bid tabulation attached hereto as Exhibit "A" and incorporated herein for all legal purposes; and

WHEREAS, the City Council finds it to be in the public interest to execute a contract with American Seating Company for said project;

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 contract with American Seating Company for said project at a cost not to exceed \$960,902.00, said contract being on file in the office of the City Secretary, referenced by the date and number of this Resolution.

SECTION TWO. That the City Treasurer is hereby authorized and directed to pay American Seating Company pursuant to the terms of said contract from funds available in the Fiscal Year 2012 – 2013 Scharbauer Sports Complex (620) Sports Complex (620) Non-Departmental (0625) Stadiums (7820) budget account upon receipt of proper invoices or statements approved by the City Manager.

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

the following vote:

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Robert Patrick, General Services Director

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

City of Midland - Bid Tabulation

BID # 5458-13 Seating at the Scharbauer Sports Complex OPENED October 1, 2012 Est. Cost: \$1,053,568.00			American Seating Company 401 American Seating Center Grand Rapids, MI 49504 Nelson Wilfore (616) 732-6511		Irwin Seating Company PO Box 2429 Grand Rapids, Michigan 49501 John Goudzwaarc (616) 574-7303		Specialty Supply & Installation PO Box 1047 Conroe, TX 77305 Spencer Normar (936) 890-8997	
ITEM	QTY	DESCRIPTION	COST EA.	TOTAL	COST EA.	TOTAL	COST EA.	TOTAL
1	1	Materials Portion Incorporated into Project	719,375.0000	\$719,375.00	\$810,755.78	\$810,755.78	\$1,054,957.00	\$1,054,957.00
2	1	Labor Portion Incorporated Into Project	227,342.0000	\$227,342.00	\$215,251.41	\$215,251.41	\$218,000.00	\$218,000.00
3	1	Other Costs No Incorporated Into Project	14,185.0000	\$14,185.00	N/A	N/A	N/A	N/A
			*Remove/Dispose existing seating included CHT and Patch Anchors					
		Delivery Can be Made	20 Weeks ARO		140 Days ARO		20 Weeks Approx.	
		Work Complete	84 Calendar Days		180 Calendar Days		230 Calendar Days	
PROPOSAL TOTALS:				\$960,902.00		\$1,026,007.19		\$1,272,957.00

Bidding Summary:

7 Bid requests were issued.

3 Bids listed above

0 NO BIDS were received.

4 Bidders did not respond.

Camatic Seating, Hussey Seating, Lone Star Furnishings, Isa

CITY OF MIDLAND
Community Services Department
Interoffice Memorandum

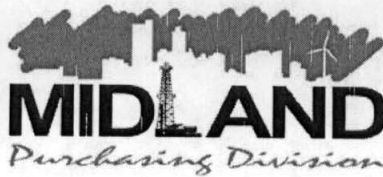
Date: October 11, 2012
To: Tommy Hudson, Deputy City Manager
From: Tina Jauz, Community Services Director
Subject: Purchase and Installation of New Stadium Seats - SSC

During the last 4B Board meeting on October 3, 2012, members recommended to approve a contract with American Seating Company for the purchase of new stadium seats at the Scharbauer Sports Complex.

The contract would allow for the purchase and installation of 8,751 seats between the two stadiums along with the removal and disposal of old seating. The seating is a similar design to the original seats. Numerous stakeholders, including the 4B Board, season ticket holders, MISD spectators, RockHounds administration, and the general public, were in favor of the original seating versus those that were purchased in 2011.

The project was approved in the FY2012-2013 budget as a capital item. The bid came in under budget at \$960,902. The project had an approved budget of \$1,053,568. Funds are available in the Fiscal Year 2012 – 2013 Scharbauer Sports Complex (620) Sports Complex (620) NonDepartmental (0625) Stadiums (7820) budget account.

Citibank seats could be installed prior to the Spring 2013 RockHounds season and in Grande prior to the 2013 Sockers and the fall MISD football season.



THE CITY OF MIDLAND

CONTRACT

Contract No.5458-13

THIS CONTRACT, effective the 24th day of October, 2012, by and between the City of Midland, hereinafter referred to as the "Owner", and American Seating Company, hereinafter referred to as the "Contractor", is made for the following considerations:

1. **Cost:** Total Proposal: \$ 960,902.00 DOLLARS

2. **Scope of Work:** The Contractor shall perform all work described for labor, material, equipment and supervision necessary to provide and install seating at the Scharbauaer Sports Complex in the following documents, attached hereto and incorporated herein by reference for all legal purposes.

EXHIBIT A..... Specifications, Proposal or Cost Summary

EXHIBIT B..... Intentionally Omitted

EXHIBIT C..... Bonding instructions for Public Works Contract of \$50,000 and more

EXHIBIT D..... Wage Scale

3. **Owner:** The words "Owner's Representative" or "representative" shall mean Tina Jauz or her designee under whose supervision these contract documents, including the plans and specifications, were prepared, or who may inspect work performed under this Contract; or such other representative, supervisor, or inspector as may be authorized by the Owner to act in any particular capacity under this Contract.

4. **The Owner's Representative** may make periodic visits to the site to observe the progress and quality of the executed work and to determine, in general, if the work is proceeding in accordance with the contract documents. Owner's representative will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the work, nor will such representative be responsible for the construction means, methods, techniques, sequences or procedures, or the safety precautions incident thereto. Owner's representative will not be responsible for the Contractor's failure to perform the work in accordance with the contract.

5. **Contractor:** Unless otherwise stipulated, the Contractor shall provide and pay for all materials,

supplies, machinery, equipment, tools, superintendence, labor, insurance, and all water, light, power, fuel, transportation and all other facilities necessary for the execution and completion of the work covered by the contract documents. Unless otherwise specified, all materials shall be new, and both workmanship and materials shall be of a good quality. The Contractor shall, if required, furnish satisfactory evidence as to the kind and quality of materials.

5.1. The Contractor shall, at its expense, obtain all permits and licenses necessary for the performance of this contract and pay all fees and taxes required by law, and comply with all laws, ordinances, rules and regulations governing the Contractor's performance of the contract, including all environmental laws and regulations, whether state or federal.

5.2. All work shall be done and all materials furnished in strict conformity with the contract and specifications.

6. **Minor Work Not Mentioned:** All minor detail of the work not specifically mentioned in the Specifications but obviously necessary for the proper completion of the work, such as the proper connection of new work to old, shall be considered as incidental to and a part of the work for which the prices are named in the contract. The Contractor will not be entitled to any additional compensation therefor unless specifically stated otherwise. Otherwise the term "extra work" as used in this contract shall mean and include all work that may be required by Owner to be done by the Contractor to accomplish any alteration or addition to the work as shown on the Specifications.

6.1. Contractor shall perform all extra work under the direction of the Owner's Representative when presented with a written work order signed by the Owner's Representative, subject, however, to the right of the Contractor to require written confirmation of such extra work order by the Owner. Payment for extra work shall be as agreed in the work order.

7. **Safety:** The Contractor shall at all times exercise reasonable precaution for the safety of employees and others on or near the work and shall comply with all applicable provisions of federal, state and municipal laws. All machinery and equipment and other physical hazards shall be guarded in accordance with federal, state or municipal laws or regulations.

8. **INDEMNITY: THE CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND THE OWNER AND ALL OF THE OWNER'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING 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 THE CONTRACTOR, THEIR AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS CONTRACT, AND CONTRACTOR WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST THE OWNER OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

8.1. THE CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND THE OWNER AND ALL OF THE OWNER'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATH, PROPERTY DAMAGE, LOSSES, AND EXPENSES OF ANY CHARACTER WHATSOEVER INCLUDING 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 THE OWNER, THE OWNER'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 THE CONTRACTOR OR THE CONTRACTOR'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 CONTRACT, AND CONTRACTOR WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST THE OWNER OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

8.2. THE CONTRACTOR AGREES THAT HE WILL INDEMNIFY AND SAVE THE OWNER HARMLESS FROM ALL CLAIMS GROWING OUT OF ANY DEMANDS OF SUBCONTRACTORS, LABORERS, WORKMEN, MECHANICS, MATERIALMEN, AND FURNISHERS OF MACHINERY AND PARTS THEREOF, EQUIPMENT, POWER TOOLS, ALL SUPPLIES, INCLUDING COMMISSARY INCURRED IN THE FURTHERANCE OF THE PERFORMANCE OF THIS CONTRACT. WHEN OWNER SO DESIRES, THE CONTRACTOR SHALL FURNISH SATISFACTORY EVIDENCE THAT ALL OBLIGATIONS OF THE NATURE HEREINABOVE DESIGNATED HAVE BEEN PAID, DISCHARGED OR

WAIVED. THE CONTRACTOR, ITS SURETIES AND INSURANCE CARRIERS SHALL DEFEND, INDEMNIFY AND SAVE HARMLESS THE OWNER AND ALL OF ITS OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, OR CLAIMS OF ANY CHARACTER WHATSOEVER, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ARISING FROM ANY ACT OF THE CONTRACTOR OR ANY SUBCONTRACTOR, THEIR AGENTS OR EMPLOYEES, IN THE EXECUTION AND SUPERVISION OF THIS CONTRACT, AND WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST THE OWNER OR ANY OF ITS OFFICERS, AGENTS, OR EMPLOYEES INCLUDING ATTORNEY'S FEES.

9. **Start of Work:** The Contractor shall commence work no later than ten (10) days after receipt of the execution of this document or other written release to proceed and shall complete such work no later than 84 calendar days after release to proceed.

If the Contractor should fail or refuse to complete the work within the time herein specified, or any proper extension thereof granted by the Owner, then the Contractor does hereby agree as part of the consideration for the awarding of this contract, the Owner may withhold permanently from Contractor's total compensation, the sum of N/A Dollars (\$), not as a penalty but as liquidated damages for the breach of the contract as herein set forth for each calendar day that the Contractor shall be in default after the time stipulated for completing the work.

9.1. **TIME IS OF THE ESSENCE IN THIS CONTRACT.**

10. **Clean Up:** Contractor shall promptly remove from Owner's premises all materials condemned by the Owner's Representative on account of failure to conform to the contract, whether actually incorporated in the work or not, and Contractor shall at its own expense promptly replace such condemned materials with other materials conforming to the requirements of the contract. Contractor shall also bear the expense of restoring all work of other contractors damaged by any such removal or replacement. If Contractor does not remove and replace any such condemned materials within a reasonable time after a written notice by the Owner, Owner may remove and replace such at Contractor's expense.

11. **Warranty:** Neither the final payment nor any provision in this contract shall relieve the Contractor of responsibility for faulty materials or workmanship, and he shall remedy any defects due thereto and pay for any damage to other work resulting therefrom, which shall appear within a period of

one (1) year from the date of substantial completion. The Owner shall give notice of observed defects with reasonable promptness.

12. **Remedy:** The Owner may, on account of subsequently discovered evidence, withhold whole or part of any payment to such extent as may be necessary to protect itself from loss on account of:

12.1. Defective work not remedied; or

12.2. Claims filed or reasonable evidence indicating possible filing of claims; or

12.3. Failure of the Contractor to make payments promptly to subcontractors or for material or labor which the Owner may pay as an agent for the Contractor; or

12.4. Damages to another contractor or subcontractor.

When the above grounds to withhold payment are removed, or the Contractor provides a surety bond satisfactory to the Owner, which will protect the Owner in the amount withheld, payment shall be released.

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

14. **Wage Scale:** The Contractor agrees to pay all workmen in his employ no less than the generally prevailing wage rate for employees of similar category in the Permian Basin Area, as is depicted in the wage rate scale attached hereto as EXHIBIT D, and incorporated herein by reference for all legal purposes.

14.1. 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 Contract, and all terms and requirements under said laws, by such incorporation, are made terms and requirements of this Contract, to which the parties to this Contract have agreed to be bound.

15. **Payment:** After all work is completed by the Contractor, and the Owner has inspected and approved that work, the Owner shall within thirty-one (31) days thereafter issue payment to the Contractor in the amount of the contract and subsequent verified Change Orders. The Owner shall be the final judge of when work is completed by the Contractor. For contracts exceeding \$25,000 and construction time exceeds ninety days, requests for progress payments may be made to the extent of the

materials and labor completed at the end of each month. Upon approval by the Owner's Representative the request and invoice shall be forwarded for payment less 5% retainage. The total of these payments shall not exceed 95% of the total contract amount.

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

17. **WAIVER OF ATTORNEY FEES:** BY EXECUTING THIS CONTRACT, CONTRACTOR AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST THE OWNER, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THE CONTRACT, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THE CONTRACT. THE CONTRACTOR SPECIFICALLY AGREES THAT IF THE CONTRACTOR BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS CONTRACT, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS CONTRACT, 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 CONTRACTOR AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH CONTRACTOR MIGHT OTHERWISE BE ENTITLED.

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

THE CONTRACTOR AND OWNER ARE RELYING ON THEIR OWN JUDGMENT. EACH PARTY HAD THE OPPORTUNITY TO DISCUSS THIS CONTRACT WITH COMPETENT LEGAL COUNSEL PRIOR TO ITS EXECUTION.

18. **Sovereign Immunity:** By executing this contract the Owner is not waiving its right of sovereign immunity. The Owner is retaining its immunity from suit. The Owner is not granting consent to be sued by legislative resolution or action.

THERE IS NO WAIVER OF SOVEREIGN IMMUNITY.

19. **Insurance**

Contractor shall at all times during the term of this Contract 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 Contractor 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 Contract.

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

All insurance required pursuant to this Contract shall provide for a waiver of subrogation in favor of the City. All insurance required pursuant to this Contract, 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 Contractor's insurance provider not later than thirty (30) days prior to any reduction or termination of such coverage.

Contractor shall contractually require all contractors, subcontractors, and sub-subcontractors that work on any portion of the work that is the subject of this Contract 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 Contract, Contractor 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 Contract.

The Contractor 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.

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

21. **RELEASE: NOTWITHSTANDING ANY OTHER PROVISIONS, CONTRACTOR HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES OWNER, OWNER'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES, OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH CONTRACTOR 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 OWNER'S NEGLIGENCE.**

22. **Governing Law and Venue:** This Contract shall be governed by the laws of the State of Texas. All performance and payment made pursuant to this Contract 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 Contract or the performance of this Contract shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this Contract shall be deemed to have

occurred in Midland County, Texas.

23. **Independent Contractor:** It is expressly understood and agreed that Contractor shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of the Owner; that Contractor 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 Owner and Contractor, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between Owner and Contractor. No person performing any of the work and services described hereunder by Contractor shall be considered an officer, agent, servant or employee of the Owner. Further, it is specifically understood and agreed that nothing in this Contract 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. Contractor shall be an independent contractor under this Contract and shall assume all of the rights, obligations and liabilities, applicable to it as such independent contractor hereunder. The Owner does not have the power to direct the order in which the work is done. The Owner shall not have the right to control the means, methods or details of the Contractor's work. Contractor shall assume exclusive responsibility for the work. Contractor is entirely free to do the work in its own way.

24. **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 Contract, Contractor or his legal representative, shall give the City Manager, or any other reasonable official of the Owner, notice in writing (consisting of one original and seven copies of notice attached to a copy of this Contract) 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 Contractor will settle, the physical and mailing addresses of Contractor at the time and date the claim was presented and the physical and mailing addresses of Contractor for the six months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom the Contractor 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 Owner from any liability whatsoever. The Owner is under no obligation to provide notice to Contractor that Contractor's notice is insufficient. Owner 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, Contractor's failure to comply with the requirements herein shall perpetually bar Contractor's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless if Owner has actual or constructive notice or knowledge of said claim or alleged damages. Contractor agrees that the requirements of this entire Contract are reasonable.

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

26. **Termination At Will:** The Owner may terminate this Contract at will for no or any reason upon giving at least one hundred eighty (180) days written notice to the Contractor. The parties to this Contract understand and agree that it is in the Owner's sole discretion to cancel the Contract during the term of the Contract without penalty to the Owner. The Contractor has no expectation and has received no guarantees that this Contract will not be terminated before the end of the Contract term. The parties have bargained for the flexibility of terminating this Contract upon tender of the requisite notice at any time during the term of the Contract. All work and services under the Contract shall be suspended upon termination of the Contract becoming effective.

Contract No: 5458-13

OWNER, City of Midland

CONTRACTOR

Courtney B. Sharp, City Manager

APPROVED AS TO FORM

Keith Stretcher, City Attorney

ATTEST

Amy M. Turner, City Secretary

Contractor Corporate Acknowledgment: Contract No.5458-13

STATE OF TEXAS §

§

COUNTY OF MIDLAND §

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

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the ____ day of _____, 2012.

Notary Public, State of Texas



CITY OF MIDLAND
PURCHASING DIVISION
BID REQUEST

DATE: 09-10-12

PAGE: 01

(THIS IS NOT AN ORDER)

BID NO: 5458-13

OPENING TIME: 11:00 AM

CLOSING DATE: 09-26-12

CITY OF MIDLAND
 300 NORTH LORAIN
 P. O. BOX 1152
 MIDLAND, TX 79702

BIDS WILL BE RECEIVED IN THE OFFICE OF THE City Secretary, Suite 330
 UNTIL 11:00 A.M. 09-26-12 FOR GOODS AND SERVICES DESCRIBED BELOW WHICH WILL BE DELIVERED
 TO: Scharbauer Sports Complex, 5514 Champion Drive, Midland, Texas

ITEM NO.	QTY	UNIT	DESCRIPTION	UNIT PRICE	AMOUNT
#507	4,709		Labor, material, equipment and supervision necessary to provide and install seating at the Scharbauer Sports Complex in accordance with the attached proposal, contract and specifications. Remove/Dispose existing seating included in UCHT and Patch anchors	\$94.80	\$446,413.20
#408	4,042			\$105.20	\$425,218.40
	7,900			\$11.30	\$89,270.00
				TOTAL	\$960,901.60

NOTICE TO BIDDERS:

- FAILURE TO RESPOND WITH EITHER A BID OR "NO BID" WILL SUBJECT YOUR FIRM TO REMOVAL FROM THE BID LIST FOR THIS TYPE OF MATERIAL, EQUIPMENT OR SUPPLY ITEM.
- BIDS SHALL BE DELIVERED TO THE CITY IN A SEALED PACKAGE (ENVELOPE, ETC) **UNLESS THE CITY STATES** THAT THE BID MAY BE FAXED OR E-MAILED. OTHERWISE, BIDS FAXED OR E-MAILED DIRECTLY TO THE CITY WILL BE REJECTED. A SEALED BID MAY BE FAXED TO A THIRD PARTY FOR SEALED DELIVERY TO THE CITY. PLEASE CALL FOR MORE INFORMATION.
- IF THIS PURCHASE REQUIRES A CONTRACT, THE ATTACHED CONTRACT AND INSURANCE REQUIREMENTS ARE **NON-NEGOTIABLE**. MODIFICATIONS BY BIDDER/CONTRACTOR OF ANY MATERIAL TERM(S) TO THE CONTRACT DOCUMENTS WILL BE DEEMED A NON-RESPONSIVE BID. NON-RESPONSIVE BIDS WILL BE REJECTED. BIDDER/CONTRACTOR MUST BE WILLING TO SIGN THE CONTRACT AS IS AND WITHOUT MODIFICATIONS, PROVIDE PROPERLY EXECUTED BONDS (IF APPLICABLE) AND PROVIDE INSURANCE SPECIFICALLY AS REQUIRED WITHIN THE CONTRACT DOCUMENTS **WITHIN 21 DAYS** OF THE DATE OF THE TRANSMITTAL LETTER.
- IF THE SELECTED BIDDER/CONTRACTOR CANNOT MEET THE REQUIREMENTS OF PARAGRAPH 3, THEN THE CITY RESERVES THE RIGHT TO AWARD THIS PURCHASE TO ANOTHER BIDDER.
- IMPORTANT NOTICE** - IF THE CONTRACT DOCUMENTS REQUIRE WORKER'S COMPENSATION INSURANCE, BIDDER/CONTRACTOR MUST CARRY WORKER'S COMPENSATION INSURANCE TO BE ELIGIBLE FOR THIS CONTRACT. IF YOU CANNOT PROVIDE WORKER'S COMPENSATION INSURANCE AS REQUIRED BY STATE OF TEXAS STATUTE WE RESPECTFULLY REQUEST THAT YOU "NO BID" THIS WORK.

FOR ADDITIONAL INFORMATION, CONTACT (432) 685-7234 OR 685-7233. FAX NO. (432) 685-0523

NOTE: EACH BIDDER IS TO INDICATE BRAND NAME PRODUCT NUMBER AND ATTACH DESCRIPTIVE LITERATURE CLEARLY MARKED TO SHOW EACH ITEM ON THIS BID.

THE UNDERSIGNED HEREBY OFFERS TO FURNISH AND DELIVER THE ARTICLES OR SERVICE AS SPECIFIED ABOVE AT THE PRICES AND TERMS HEREIN STATED AND IN STRICT ACCORDANCE WITH THE SPECIFICATIONS AND CONDITIONS OF BIDDING ALL WHICH ARE MADE A PART OF THIS OFFER. THIS OFFER IS NOT SUBJECT TO WITHDRAWAL WITHOUT PERMISSION.

COMPANY NAME: American Seating Company
 ADDRESS 401 American Seating Center
 CITY Grand Rapids ST MI ZIP 49504
 PHONE NO. 616-732-6600 FAX NO. 616-732-6401
 EMAIL: nelson.wilfore@amseco.com

CASH DISCOUNT: Net % 30 DAYS

DELIVERY CAN BE MADE 20 week ARO

AUTHORIZED SIGNATURE [Signature]

PLEASE READ CONDITIONS FOR BIDDING ON BACK BEFORE SUBMITTING

Exhibit "A"



Contractor's Name _____

PROPOSAL Bid #5458-13

To: Purchasing Agent
City of Midland
Midland, Texas

Gentlemen: The undersigned bidder, having examined the plans, specifications and contract documents, the location of the proposed work and being fully advised as to the extent and character of the work proposes to furnish all materials, equipment and to perform all labor and work necessary for the complete work described by and in accordance with the attached plans, specifications and contract for the sum of:

Materials Portion Incorporated Into Project	\$ 719,375.00	DOLLARS
Labor Portion Incorporated Into Project	\$ 227,342.00	DOLLARS
Other Costs Not Incorporated Into Project	Bonds \$ 14,185.00	DOLLARS
Total Proposal	\$ 960,902.00	DOLLARS

The undersigned bidder hereby declares that he has visited the site of the work and has carefully examined the Contract Documents pertaining to the work covered by the above bid and he further agrees to commence work within ten (10) days after the date of written notice to do so and to substantially complete same within 84 calendar days.

VENDOR CONTACT:

All potential vendors shall direct ALL questions, areas for bid clarification and specification verification to the Purchasing Agent IN WRITING, via mail or fax as follows:

The City Of Midland
Office of the Purchasing Agent
P.O. Box 1152
Midland, TX 79702

OR

FAX: (432) 685-0523
E-mail: purchasing@midlandtexas.gov

All vendors on the bid list will then be notified of the questions and presented an answer. Verbal responses shall not be considered binding.

AWARD

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.

BID WAIVERS:

A. **WAIVER OF ATTORNEY FEES:** BY SIGNING THIS PROPOSAL, BIDDER AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST THE OWNER, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THE CONTRACT, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THE CONTRACT. THE BIDDER SPECIFICALLY AGREES THAT IF THE BIDDER BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS CONTRACT, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS CONTRACT,

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 BIDDER AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH BIDDER MIGHT OTHERWISE BE ENTITLED.

BIDDER AGREES THAT THIS IS THE VOLUNTARY AND INTENTIONAL RELINQUISHMENT AND ABANDONMENT OF A PRESENTLY EXISTING KNOWN RIGHT. THE BIDDER ACKNOWLEDGES THAT IT UNDERSTANDS ALL TERMS AND CONDITIONS OF THE CONTRACT. THE BIDDER FURTHER ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN THE OWNER AND THE BIDDER.

THIS SECTION SHALL NOT BE CONSTRUED OR INTERPRETED AS A WAIVER OF SOVEREIGN IMMUNITY.

THE BIDDER AND OWNER ARE RELYING ON THEIR OWN JUDGMENT. EACH PARTY HAD THE OPPORTUNITY TO DISCUSS THIS CONTRACT WITH COMPETENT LEGAL COUNSEL PRIOR TO ITS EXECUTION.

B. WAIVER: BY SUBMITTING A BID, THE BIDDER AGREES TO WAIVE AND DOES HEREBY VOLUNTARILY AND INTENTIONALLY WAIVE, ABANDON AND RELINQUISH ANY CLAIM THE BIDDER HAS OR MAY HAVE IN THE FUTURE AGAINST THE CITY OF MIDLAND, TEXAS, AND THE CITY'S EMPLOYEES, AGENTS AND OFFICERS, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE FOLLOWING:

1. THE ADMINISTRATION, EVALUATION OR RECOMMENDATION OF ANY BID;
2. WAIVER OR DELETION OF ANY OF THE REQUIREMENTS UNDER THE BID DOCUMENTS OR THE CONTRACT DOCUMENTS;
3. ACCEPTANCE OR REJECTION OF ANY BIDS; OR
4. AWARD OF THE CONTRACT.

BY SUBMITTING A BID, THE BIDDER ACKNOWLEDGES THAT THE BIDDER UNDERSTANDS ALL OF THE TERMS OF THE BIDDING DOCUMENTS AND CONSENTS TO THE BIDDING PROCESS AND THE POSSIBILITY OF A NEGATIVE ASSESSMENT. BY SUBMITTING A BID, THE BIDDER ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN THE BIDDER AND THE CITY OF MIDLAND, TEXAS. THE BIDDER AGREES THAT THIS IS THE INTENTIONAL RELINQUISHMENT OF A PRESENTLY EXISTING KNOWN RIGHT. BY SIGNING THE REQUEST FOR BID AND/OR BELOW, YOUR COMPANY AGREES TO THE ABOVE WAIVER(S).

C. 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 Contract, Bidder or his legal representative, shall give the City Manager, or any other reasonable official of the Owner, notice in writing (consisting of one original and seven copies of notice attached to a copy of this Contract) 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 Bidder will settle, the physical and mailing addresses of Bidder at the time and date the claim was presented and the physical and mailing addresses of Bidder for the six months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom the Bidder 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 Owner from any liability whatsoever. The Owner is under no obligation to provide notice to Bidder that Bidder's notice is insufficient. Owner 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, Bidder's failure to comply with the requirements herein shall perpetually bar Bidder's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless if Owner has actual or constructive notice or knowledge of said claim or alleged damages. Bidder agrees that the requirements of this entire Contract are reasonable.

By Signing below, your company agrees to the above waiver(s). If this form is not signed and included with your bid documents your bid will be considered non-responsive and will be rejected.

SOVEREIGN IMMUNITY: By Executing this contract 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.

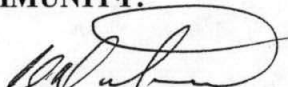
AMERICAN SEATING COMPANY

Bidder

401 AMERICAN SEATING CENTER

LEAND RAPIDS, MI 49504

Address, City and State



Authorized Signature

NELSON WILFONG

Please Print above Name

616-732-6511

Telephone

616-732-6502

Fax

Bidder's Enclosure Check List: (Bidder - Please review the following list and check to ensure that you have included the documents with your bid.)

☐ PROOF OF AUTOMOBILE, WORKER'S COMPENSATION AND GENERAL LIABILITY INSURANCE COVERAGE AS REQUIRED BY THE TERMS OF THE CONTRACT. (Upon award and prior to execution of the contract The City of Midland will have to be added to the policy as an additional insured and a certificate issued reflecting that provision) including a waiver of subrogation as stated in the contract)

☒ 5% BID BOND FOR CONTRACTS IN AMOUNTS OF \$50,000 OR MORE. (ONLY WHEN EXHIBIT "C" IS INCLUDED IN THE CONTRACT). * THE SUCCESSFUL BIDDER SHALL BE REQUIRED TO PROVIDE A PAYMENT BOND AND PERFORMANCE BOND FOR BIDS OF \$50,000 OR MORE. IF BOND FORMS WERE NOT INCLUDED, THEY MAY BE OBTAINED FROM THE OFFICE OF THE PURCHASING MANAGER. Call (432) 685-7234 for information.

PLEASE NOTE:

FAILURE TO INCLUDE ANY OF THE REQUIRED DOCUMENTS ON THE CHECK LIST, MAY CAUSE REJECTION OF YOUR BID.

*FAILURE TO PROVIDE LIABILITY OR WORKER'S COMPENSATION INSURANCE AND SUBSEQUENT CERTIFICATES; OR, PAYMENT AND/OR PERFORMANCE BONDS AS REQUIRED BY THE CONTRACT MAY CAUSE FORFEITURE OF YOUR BID BOND OR OTHER SURETY (I.E.- CASH OR CASHIERS CHECK).

CITY OF MIDLAND

ADDENDUM

BID # 5458-13

Seating at Scharbauer Sports Complex

TO ALL BIDDERS ON THE SUBJECT BID:

ADDENDUM # 1

DATE: September 20, 2012

The following questions were raised by one or more of the bidders. The answers are provided as a matter of clarification for all bidders as follows:

Bid Opening has been extended to Monday October 1st at 11:00 a.m.

Q1. Do you have a total seat count for both the Baseball Stadium and the Football Stadium?

A1. Total number of seats is 8,751.

Q2. Are there any drawings or seating layouts?

A2. Please see attached Grande seating layout.

Q3. Should we give you a price for the removal and disposal of existing chairs?

A3. Please provide a price for chairs not included on the attached Camatic count list.

Q4. I do not see any information on sales tax, should it be included?

A4. The City of Midland is a tax exempt entity.

Q5. Is there more information regarding the Logo's?

A5. Only the seats at the end of each row on the end standard will require a logo.

Q6. We may have to take exception to the 10 year warranty for color and structure, but I don't see any where that we can take exceptions.

A6. Please state your manufacturer's warranty.

Q7. Is Irwin Seating approved to bid? I will be happy to bring a sample of our chair. I left an Irwin chair with Ed Wright several months ago.

A7. Yes, Irwin seating is an approved manufacturer. Please provide another sample.

PLEASE RETURN THIS ADDENDUM WITH YOUR BID BY THE CLOSING DATE.

All other terms and conditions shall remain the same.

AMERICAN SEATING COMPANY
Company Name


Bidder Authorized Signature

NELSON WILFORD
Please Print Above Name

9/28/2012
Date

616-732-6511
Phone

AMERICAN SEATING COMPANY

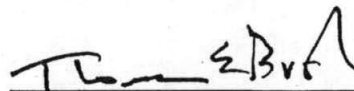
I, Thomas E. Bush, President & COO of American Seating Company do certify that the below statement was part of a Board Resolution which was approved on July 9, 2002, at a Board Meeting of the Corporation.

RESOLVED, that persons now or hereafter occupying the offices of Chairman, President, Executive Vice President, Director of Contracting, Treasurer and/or Secretary of Corporation, are hereby empowered and authorized, to execute and deliver on behalf of the Corporation any and all bids, proposals, contracts, bonds or other documents for, or relating to, the sale of and/or offering for sale of any and all goods and products of the Corporation, such documents including by way of any certificate or affidavit as to non-collusion, required by Section 139-d of the State Finance Law of the State of New York. When requested, the Secretary shall certify over the Seal of the Corporation the names of those persons who, at the time of certification, hold the above described offices and who are so empowered and authorized, and those entities receiving this certification are entitled to rely thereon. Any document described herein executed and delivered by person(s) occupying any of the offices set forth herein shall be binding upon the Corporation in accordance with its terms. This resolution shall remain in full force and effect unless and until it is modified or rescinded by the Board of the Corporation.

Dated as of November 30, 2011

AMERICAN SEATING COMPANY

By:



Thomas E. Bush

Architectural Product Warranty

Effective Date: Products Shipped After April 1, 2004

American Seating provides the following warranty to the original purchaser of new American Seating products sold in North America, which products continue to be owned by the original purchaser. The warranty period begins the date of product invoice, continues for the applicable time period set forth below, and is strictly governed by and subject to the terms and conditions set forth below.

WARRANTY: In the event there is a defect in the material, in the installation (in the event installation is controlled by American Seating), and/or in the workmanship of the American Seating product (or component thereof) which causes failure of the product within the applicable time period and provided notification of this defect is given to American Seating in writing at the address set forth below prior to the expiration of the applicable time period; American Seating, in its sole discretion, will either repair or replace the defective product (or defective component thereof) with a comparable product (or component thereof), or will provide a refund of the purchase price of the defective product (or defective component thereof) prorated over the warranty period. In the event of repair or replacement, the warranty includes labor, materials, and freight for the first year of the warranty and materials and freight thereafter. All other costs are excluded. The fulfillment of the warranty (including investigation, timing of response, labor, and manner of shipment) is under the exclusive and unfettered control of American Seating.

TIME PERIODS:

10 YEARS	5 YEARS	3 YEARS	1 YEAR
Cast iron structural standards	All other structural standards Component parts of operating mechanisms and related hardware, including seat support arms and pivot castings	Plastic components and paint finishes (note conditions as to color, grain, and texture set forth below) Wood, laminate and other surface finishes (note conditions as to color, grain, and texture set forth below)	Custom design, non-catalog, and special made products Power and electrical components Seating upholstery materials including foam (note conditions as to color, grain, and texture set forth below)

EXCLUSIONS AND CONDITIONS: This warranty excludes and does not apply to:

- Conditions of other than normal wear and tear, of abuse, of neglect, of vandalism, or of misuse - all as determined by American Seating in its sole discretion
- In-transit damage
- Products altered or modified by the user
- User attached accessories
- Light bulbs, lamps, ballasts, or consumable components
- Products not installed by American Seating approved installers and/or not installed in accordance with American Seating Installation/Application Instructions
- Products not properly maintained in accordance with American Seating Operating and Maintenance Procedures
- Customers own material, leather, and non-standard material and color finishes whether purchased by the customer or American Seating
- Natural variations occurring in wood and leather and/or color fastness and/or variations in matching of colors, grains or textures of materials shall not be considered defects
- Product color fade.

In the event of repair or replacement of the defective product (or defective component thereof) there is no responsibility for the matching of color, grain, fabric, or texture except to within commercially acceptable standards, as determined by American Seating in its sole discretion. There are no other warranties than those expressly stated above, whether expressed or implied (including, but not limited to any warranty of merchantability or fitness for any particular purpose) unless specifically agreed to in writing by American Seating in the specific circumstance. American Seating is not liable for consequential or incidental damage arising from any product defect.

WARRANTY NOTICE ADDRESS:

American Seating Company
ATTN: Architectural Product Warranty/ Customer Services
401 American Seating Center
Grand Rapids, MI 49504

SECTION 12610
STADIUM SEATING

PART 1 - GENERAL

1.1 SUMMARY

- A. This section includes the following:
 - 1. Self-rising seat, blow-molded plastic stadium chairs with armrest for exterior installation of the following styles:
 - a. Contoured seat and back for Football Stadium.
 - b. True slat back and simulated slat seat for Baseball Stadium.

1.2 PERFORMANCE REQUIREMENTS

- A. General: The completed stadium chair installation shall provide the following minimum performance requirements:
 - 1. All plastic components shall be exterior grade plastics.
 - 2. All paint systems shall be suitable for outdoor exposure.
 - 3. All mechanical fastening devices shall be non-corrosive materials.
 - 4. All seat hinge assemblies shall be non-corrosive materials.
 - 5. All fasteners shall be threaded except for mounting number plates. Threaded fastener engagement shall be into threaded metal.
 - 6. Seat hinge assembly shall raise, without assistance, the seat pan to within one inch plus or minus of the end of the armrest.
 - 7. The Easy Access Chair end standard shall have a hinged armrest that allows a patron to access the chair from the side and then place the armrest in the normal seating position.
 - 8. Wheelchair Companion and Infill Chairs: Provide stadium chairs mounted to a painted steel assembly with casters. Stadium chair design shall match the adjacent fixed stadium chairs. The tubular steel beam assembly shall anchor to threaded inserts in the concrete treads or metal platforms.
 - a. Number of Chairs Per Assembly: Provide assemblies for mounting two chairs and assemblies for mounting three chairs.
 - 9. The seating envelope shall fold-up into a depth that maintains the clear aisle access way width required by NFPA, 101 "Life Safety Code", chapter titled "New Assembly Occupancies".
 - 10. At expansion joints that fall within a row of stadium chairs, the manufacturer shall accommodate for the movement of the expansion joint without any detrimental effects on the performance of the stadium chair.
 - 11. Install as many chairs as possible to fill the entire row in each seating section. As the minimum install the chair quantities defined on the Architectural Drawings.

1.3 SUBMITTALS

- A. Required with the Bid
 - 1. Base bids on chair quantities included in the Chair Summary included at the end of this Section.

-
2. Provide Unit Prices for each chair type and size, complete with all accessories, including removable stretcher mounted chairs.
 - a. Unit Prices will be used to adjust the Contract Sum for adjustments to the quantities indicated in the Chair Summary.
 - b. Future Orders: Provide the order lead time and unit price (with a yearly escalation factor) for a period of five (5) years, for any component purchased to replace the extra stock after Substantial Completion of the Project.
 3. Product Literature for each type of chair proposed, including standard specifications for exterior treatments for cast iron, cast aluminum, steel, and plastic.
 4. Anchor bolt information.
 5. Pricing for Listed Alternates: Provide separate pricing for each of the listed alternates
 6. Samples: Submit custom color samples to match the Architect's color sample for the selection of colors for plastic components and ferrous or non-ferrous metal components. Submit one assembled stadium chair, in color selected, one chair on a tubular steel assembly, and one easy access chair. Approved seating samples can be used as part of the work.
- B. Required after Award of Contract:
1. Product Data: Submit technical data, performance test data certified by an independent testing laboratory and product information describing durability and maintenance requirements as applicable for the following items:
 - a. Anchor bolts.
 - b. Chair assembly.
 - c. Plastic materials and additives.
 - d. Padding and upholstery.
 - e. Coating materials and application procedures.
 - f. Armrests and cup holders.
 2. Shop Drawings: Submit shop drawings of the complete seating bowl showing tread and riser mounting details and aisle locations. Show joints between precast treads and risers and attachments. Show low riser height mounting bracket if required. Provide drawings of end standard design with logo, seat and back design, seat assembly, and seat and row identification graphics.
 - a. Provide shop drawings for seat attachment at unique conditions such as angled corners or where chairs span across a control or expansion joint.
 - b. Show detail of end standard for "Easy-Access" hinged armrest chairs.
 - c. Show details of wheelchair companion seating assembly and mounting details. Include the layout of mounting points in the concrete.
 3. Seating Chart: Submit a seating chart that shows the total quantity of seats, seat widths, aisle widths, and mounting conditions. Each seat shall be represented by a rectangle. Following approval of the seating chart the Owner will furnish the numbering system for seat and row identification.
 4. Seating Manifest: Provide seating manifest to Owner as follows: Owner will use seating manifest to determine location and allocation of seating for marketing and distribution of tickets.
 - a. Preliminary Seating Manifest: Submit a preliminary seating manifest no more than 30 days after completion of seating bowl construction that shows the total quantity of seats, seat widths, aisle widths, and mounting conditions. This drawing shall be based on verified field measurements. Each seat shall be represented by a rectangle. Following approval of the preliminary seating manifest, the Owner will furnish the numbering system for seat and row

identification. View and scale of chart shall be coordinated with the Architect.

- b. Final Seating Manifest: 45 days after the manufacturer has received the numbering system from the Owner, provide a complete seating manifest for the stadium chairs.

1.4 QUALITY ASSURANCE

- A. Life Safety: The new seating layout and installation shall comply with the requirements of the NFPA 101 Life Safety Code; chapter titles "New Assembly Occupancies".
- B. Seat Widths: Seat widths shall be adjusted within a row so that the standards are in general alignment with one row to another, whether aisles are of constant or converging widths. Install narrower chairs at end of the rows adjacent to aisle steps, if required.
 - 1. Minimum width of chairs shall be 19 inches.
- C. "Easy Access" seating, evenly distributed throughout the seating bowl, shall be understood to mean stadium seating with an armrest design that complies with all applicable requirements of the American with Disabilities Act, and the Performance Requirements of this specification. Each such seat shall be provided with access identification.
- D. Materials (Flammability) shall satisfy applicable test, codes, standards, or requirements as follows:
 - 1. Polyethylene shall meet the Federal Motor Vehicle Standard No. 302 which specifies a burning rate of less than 4 inches per minute.
- E. Pre-Installation Conference: Prior to commencing the seating installation meet at the project site to review the installation.
- F. Single Source Responsibility: Stadium seating shall be provided by a single manufacturer.

1.5 WARRANTY

- A. General: The warranty shall be in addition to and not a limitation of other rights the Owner may have against the Contractor, Installer, or Manufacturer, under the Contract Documents.
- B. Warranty: Provide warranty signed by an officer of the seating manufacturer that provides the replacement of stadium chairs found to be defective in appearance or unusable due to defects in performance. Warrant shall provide material and installation.
 - 1. General Warranty Period: 12 months after the Date of Substantial Completion of the project.
 - 2. Special Warranties: Provide the following special warranties:
 - a. Standards: 10 year period against failure of the material, corrosion, and excessive color change as determined by the Architect.
 - b. Hinge Mechanism: 5 year period against failure of the hinge to provide for automatic rising.
 - c. Plastic Components: 3 year period against cracking, crazing, or other failure of backs and seats, and excessive color change as determined by the Architect.

1.6 SCHEDULING

- A. Coordinate Work of this Section with the construction of the seating bowl precast concrete and installation of handrails and guardrails.

-
- B. Provide detailed schedule in Critical Path Method (CPM) for fabrication and installation of seats. Include decision dates for input to manufacturer on logo design, seat and row identification numbers, and completion of supporting construction.

1.7 DELIVERY, STORAGE AND HANDLING

- A. Deliver seating components in manufacturer's unopened cartons clearly labeled with manufacturer's name and contents of cartons.
- B. Packaging and shipping methods shall prevent painted seating standards from coming in contact with each other as well as other painted metal components by utilizing protective covering over each component. Maintain the protective covering on each metal component until after metal component is installed. Coating failures resulting from improper packaging, shipping, and handling during installation shall be repaired or replaced prior to installing plastic components.
- C. Protect seating units from physical damage and abuse by other trades. Replace damaged units.

1.8 PROJECT CONDITIONS

- A. Environmental Limitations: Do not install interior suite chairs until spaces are enclosed and weatherproof, wet work in space is complete and dry; finishes, including painting, are complete; and work above ceilings is complete. Do not install seating until ambient temperature and humidity conditions are continuously maintained at the levels anticipated for final occupancy.
- B. Field Measurements: Verify seating layout by field measurements before seating fabrication and indicate measurements on Seating Manifest. Coordinate fabrication schedule with construction progress to avoid delaying the Work.

1.9 MAINTENANCE

- A. Maintenance Manuals: Provide maintenance manuals that describe procedures for the cleaning and service of the stadium chairs. Manual shall include replacement part numbers and procedures for their replacement.
- B. Extra Stock: Provide the following seating components that are manufactured from the same lot as the installed components. Prorate quantities among sizes, types and colors furnished for each stadium.
 - 1. Seats: 2 percent.
 - 2. Backs: 2 percent.
 - 3. Center Standards: 2 percent.
 - 4. End Standards: 2 percent.
 - 5. Hinge Components: 2 percent.
 - 6. Fasteners and mounting hardware: 10 percent.
 - 7. Easy access armrest: 2 percent.

PART 2 - PRODUCTS

2.1 ACCEPTABLE MANUFACTURERS

- A. Manufacturers: The following manufacturers are acceptable subject to complying with the specified requirements:
 - 1. American Seating.
 - 2. Camatic Seating.
 - 3. Hussey Seating.
 - 4. GDS Seating.
 - 5. County Roads Seating.

2.2 MATERIALS

- A. Anchor Bolts: The Seating Manufacturer shall provide stainless steel anchor bolts for floor mounted riser and tread mounted seating. The Seating Manufacturer shall provide all necessary materials for a complete seating installation.
- B. Plastic Components: Plastic seat and back components shall be double-wall construction, high density polyethylene plastic formulated with ultra-violet inhibitors to minimize chalking and fading of the finish colors.
- C. Steel Shapes and Plates: ASTM A36/A36M; coated as specified for chair standards.
- D. Standards: Provide floor mounted standards unless floor mounting is required. Provide manufacturer's "low riser" unit if required to accommodate concrete substrate anchorage.
 - 1. If required, provide steel transfer plate to accommodate concrete substrate anchorage.
 - 2. Chair Standard Design: End of row standards shall be custom for this project.
- E. Standard Finish: Manufacturer's standard polyester powder coating or high solids urethane applied over a properly prepared surface. The cure film shall meet the following performance requirements.
 - 1. Impact Resistance: 160 foot-pounds per ASTM D2794.
 - 2. Crosshatch Adhesion: No loss (Rating 5B) per ASTM D3359B.
 - 3. Salt Spray Resistance: No blistering, cracking or delamination after 1000 hours of exposure per ASTM D117.
 - 4. Humidity Resistance: No blistering, cracking or delamination after 1000 hours of exposure per ASTM D2247.
 - 5. UV Resistance: No blistering, crackling, delamination, or chalking after 1000 hours of exposure per ASTM G53.
- F. Hinge Mechanism: Provide automatic lifting of the seat to a $\frac{3}{4}$ fold position, allowing for manually lifting the seat to a full fold position regardless of stadium chair design.
 - 1. Hinge mechanism shall perform to the requirements of ASTM F851, Test Method for Self-Rising Seat Mechanisms plus the performance, requirements required by this specification section.
- G. Seat and Row Identification: Aluminum plates with identification graphics in color, font, and design as selected by Architect.
 - 1. Seat Identification: Securely affix to recess in center of seat back.
 - 2. Row Identification: Securely affix to the end of each row, including "Easy Access Chair" end.
- H. Cup Holders: Cup holders shall be mounted to the back of each standard on stadium chair and to the front rails in the front rows. Acceptable Manufacturer of cup holders includes Caddy Products.
 - 1. Color of cup holder shall match the color of the chair standard.

-
2. Advertising for cup holders shall be provided by the Owner. The cup holder manufacturer shall apply advertising on the cup holder in the factory prior to shipping the cup holder to the chair manufacturer.

2.3 FINISHES

- A. Plastic Component Colors:
 1. Baseball Stadium: Hussey Seating Blue, No. CL64229UV1.
 2. Football Stadium: Color as selected by the Architect.
- B. Cast Iron and/or Ferrous and Non-Ferrous Metal Components: Manufacturer's standard factory applied coating system including surface preparation and primer in the following finishes:
 1. Colors of Logo: Match Team Logos.
 2. Colors of Standards:
 - a. Baseball Stadium: Hussey Seating Color Blue RAL 5011.
 - b. Football Stadium: Color as selected by the Architect.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Examine substrates and conditions with installer present for compliance with requirements for construction tolerances, material properties as the affect anchors and fasteners. Do not proceed with installation until unsatisfactory conditions have been corrected.

3.2 INSTALLATION

- A. General: Install stadium chairs in locations indicated and fasten securely to substrates according to manufacturer's recommendation and approved submittals.
- B. Install chairs with end standards aligned from first to last row.
- C. Fasteners: Seats and backs shall be connected to hinge mechanisms and cast iron standards using screws of sufficient length for attachment, but not protruding from face of nut any more than 1/8 inch. Provide a finished end with no burrs or sharp edges.
- D. Lubricate seat hinge mechanism for smooth and quiet operation.
- E. Adapter Plates: Anchor adapter plates to floor to span expansion joints and horizontal joints.

3.3 ADJUSTMENT AND CLEANING

- A. Adjust self-rising seat mechanisms to align seats in each row when in upright position.
- B. Before final inspection, thoroughly clean stadium chairs using the manufacturer's recommended procedure.
- C. Repair minor abrasions and imperfections in finishes with coating that matches factory-applied finish.
- D. Replace padding damaged during installation.

3.4 FIELD QUALITY CONTROL

- A. Manufacturer or its assigned agent shall provide supervision of the Work and perform field inspection prior to request for final punchlist.
 - 1. Correct identified defect or irregularities.

END OF SECTION

CHAIR SUMMARY

CITIBANK BALLPARK SEATS			
SECTION	ROW	SEATS	PER ROW
1			
	A	8-12	5
	B	1-12	12
	C	1-12	12
	D	1-12	12
	E	1-12	12
	F	1-12	12
	G	1-12	12
	H	1-12	12
	I	1-12	12
	J	1-12	12
	K	1-12	12
	L	1-12	12
	M	1-12	12
	N	1-12	12
	O	1-12	12
	P*	1-8	8
SECTION TOTAL			181
2			
	A	1-18	18
	B	1-18	18
	C	1-18	18
	D	1-18	18
	E	1-18	18
	F	1-18	18
	G	1-18	18
	H	1-18	18
	I	1-18	18
	J	1-18	18
	K	1-18	18
	L	1-18	18
	M	1-18	18
	N	1-18	18
	O	1-18	18
	P*	1-12	12
SECTION TOTAL			282
3			
	A	1-18	18
	B	1-18	18
	C	1-18	18
	D	1-18	18

Handicap Chairback Seats

2,3,6,7

1,4,5,8,9,12

E	1-18	18
F	1-18	18
G	1-18	18
H	1-18	18
I	1-18	18
J	1-18	18
K	1-18	18
L	1-18	18
M	1-18	18
N	1-18	18
O	1-18	18
P	1-18	18
Q	1-18	18
R	1-18	18
S**	1-18	18
SECTION TOTAL		342
4		
A	1-18	18
B	1-18	18
C	1-18	18
D	1-18	18
E	1-18	18
F	1-18	18
G	1-18	18
H	1-18	18
I	1-18	18
J	1-18	18
K	1-18	18
L	1-18	18
M	1-18	18
N	1-18	18
O	1-18	18
P	1-18	18
Q	1-18	18
R	1-18	18
S**	1-18	18
SECTION TOTAL		342
5		
C	1-13	13
D	1-13	13
E	1-13	13
F	1-13	13
G	1-13	13
H	1-13	13
I	1-13	13
J	1-13	13
K	1-13	13

L	1-13	13
M	1-13	13
N	1-13	13
O	1-13	13
P	1-13	13
Q	1-13	13
R	1-13	13
S**	1-13	13
SECTION TOTAL		221
6		
C	1-13	13
D	1-13	13
E	1-13	13
F	1-13	13
G	1-13	13
H	1-13	13
I	1-13	13
J	1-13	13
K	1-13	13
L	1-13	13
M	1-13	13
N	1-13	13
O	1-13	13
P	1-13	13
Q	1-13	13
R	1-13	13
S**	1-13	13
SECTION TOTAL		221
7		
C	1-13	13
D	1-13	13
E	1-13	13
F	1-13	13
G	1-13	13
H	1-13	13
I	1-13	13
J	1-13	13
K	1-13	13
L	1-13	13
M	1-13	13
N	1-13	13
O	1-13	13
P	1-13	13
Q	1-13	13
R	1-13	13
S**	1-13	13
SECTION TOTAL		221

8		
A	1-9	9
B	1-9	9
C	1-10	10
D	1-10	10
E	1-11	11
F	1-11	11
G	1-11	11
H	1-12	12
I	1-12	12
J	1-13	13
K	1-13	13
L	1-14	14
M	1-14	14
N	1-14	14
O	1-15	15
P*	1-10	10
SECTION TOTAL		188
9		
A	1-7	7
B	1-8	8
C	1-8	8
D	1-9	9
E	1-9	9
F	1-10	10
G	1-11	11
H	1-11	11
I	1-12	12
J	1-13	13
K	1-13	13
L	1-14	14
M	1-14	14
N	1-15	15
O	1-16	16
P*	1-10	10
SECTION TOTAL		180
10		
A	1-4	4
B	1-4	4
C	1-5	5
D	1-5	5
E	1-6	6
F	1-6	6
G	1-7	7
H	1-7	7
I	1-8	8

2,3,6,7,10

J	1-8	8
K	1-8	8
L	1-9	9
M	1-9	9
N	1-10	10
O	1-10	10
SECTION TOTAL		106
11		
A	1-5	5
B	1-5	5
C	1-5	5
D	1-6	6
E	1-6	6
F	1-7	7
G	1-7	7
H	1-8	8
I	1-8	8
J	1-8	8
K	1-9	9
L	1-9	9
M	1-10	10
N	1-10	10
O	1-11	11
P*	3-6	4
SECTION TOTAL		118
12		
A	1-4	4
B	1-4	4
C	1-5	5
D	1-5	5
E	1-6	6
F	1-6	6
G	1-7	7
H	1-7	7
I	1-8	8
J	1-8	8
K	1-8	8
L	1-9	9
M	1-9	9
N	1-10	10
O	1-10	10
SECTION TOTAL		106
13		
A	1-7	7
B	1-7	7
C	1-8	8

D	1-9	9
E	1-9	9
F	1-10	10
G	1-10	10
H	1-11	11
I	1-12	12
J	1-12	12
K	1-13	13
L	1-14	14
M	1-14	14
N	1-15	15
O	1-16	16
P*	1-10	10
SECTION TOTAL		177

14		
A	1-9	9
B	1-10	10
C	1-10	10
D	1-10	10
E	1-11	11
F	1-11	11
G	1-12	12
H	1-12	12
I	1-12	12
J	1-13	13
K	1-13	13
L	1-14	14
M	1-14	14
N	1-15	15
O	1-15	15
P*	1-10	10
SECTION TOTAL		191

2,3,6,7,10

15		
C	1-13	13
D	1-13	13
E	1-13	13
F	1-13	13
G	1-13	13
H	1-13	13
I	1-13	13
J	1-13	13
K	1-13	13
L	1-13	13
M	1-13	13
N	1-13	13
O	1-13	13
P	1-13	13

Q	1-13	13
R	1-13	13
S**	1-13	13
SECTION TOTAL		221
16		
C	1-13	13
D	1-13	13
E	1-13	13
F	1-13	13
G	1-13	13
H	1-13	13
I	1-13	13
J	1-13	13
K	1-13	13
L	1-13	13
M	1-13	13
N	1-13	13
O	1-13	13
P	1-13	13
Q	1-13	13
R	1-13	13
S**	1-13	13
SECTION TOTAL		221
17		
C	1-13	13
D	1-13	13
E	1-13	13
F	1-13	13
G	1-13	13
H	1-13	13
I	1-13	13
J	1-13	13
K	1-13	13
L	1-13	13
M	1-13	13
N	1-13	13
O	1-13	13
P	1-13	13
Q	1-13	13
R	1-13	13
S**	1-13	13
SECTION TOTAL		221
18		
A	1-18	18
B	1-18	18
C	1-18	18

D	1-18	18
E	1-18	18
F	1-18	18
G	1-18	18
H	1-18	18
I	1-18	18
J	1-18	18
K	1-18	18
L	1-18	18
M	1-18	18
N	1-18	18
O	1-18	18
P	1-18	18
Q	1-18	18
R	1-18	18
S**	1-18	18
SECTION TOTAL		342
19		
A	1-18	18
B	1-18	18
C	1-18	18
D	1-18	18
E	1-18	18
F	1-18	18
G	1-18	18
H	1-18	18
I	1-18	18
J	1-18	18
K	1-18	18
L	1-18	18
M	1-18	18
N	1-18	18
O	1-18	18
P*	1-12	12
SECTION TOTAL		282
20		
A	1-18	18
B	1-18	18
C	1-18	18
D	1-18	18
E	1-18	18
F	1-18	18
G	1-18	18
H	1-18	18
I	1-18	18
J	1-18	18

1,4,5,8,9,12

K	1-18	18
L	1-18	18
M	1-18	18
N	1-18	18
O	1-18	18
P*	1-12	12
SECTION TOTAL		282
TOTAL STADIUM SEATS		4445
* Handicap Row		
** Additional Row of Seats		

1,4,5,8,9,12

SUITES		
1 A	1-6	6
B	1-6	6
2 A	1-6	6
B	1-6	6
3 A	1-6	6
B	1-6	6
4 A	1-6	6
B	1-6	6
5 A	1-6	6
B	1-6	6
6 A	1-6	6
B	1-6	6
7 A	1-6	6
B	1-6	6
8 A	1-6	6
B	1-6	6
9 A	1-6	6
B	1-6	6
10 A	1-6	6
B	1-6	6
11 A	1-6	6
B	1-6	6
12 A	1-6	6
B	1-6	6
13 A	1-6	6
B	1-6	6
14 A	1-6	6
B	1-6	6
15 A	1-6	6
B	1-6	6
16 A	1-6	6
B	1-6	6
17 A	1-6	6

	B	1-6	6
18	A	1-6	6
	B	1-6	6
19	A	1-6	6
	B	1-6	6
20	A	1-6	6
	B	1-6	6
21	A	1-6	6
	B	1-6	6
22	A	1-6	6
	B	1-6	6
TOTAL SUITE SEATS			264

EXHIBIT C

Bonding Requirements

The successful bidder shall be required to furnish a Performance & Payment Bond* for bids in excess of \$50,000.00, in an amount equal to one hundred percent (100%) of the total contract price, such bond to be executed in five (5) original counterparts by a Corporate Surety authorized to do business in the State of Texas and acceptable to the City of Midland. All bonds must be executed on forms contained in these contract documents. The form of agreement which the successful bidder, as contractor, will be required to execute is also included herewith. The form of agreement and the form of the bonds should be carefully examined by the bidder.

A certified check, cashier's check, bank money order, issued by a bank satisfactory to the Owner, or a bidder's bond on the form provided, in the amount of five percent (5%) of the largest possible lump sum bid submitted, payable without recourse to the owner, must accompany the bidder's proposal, as a guaranty that the bidder will enter a contract and execute the required payment bond and guaranty in the forms provided within fifteen (15) days after notice of award of contract to him. Bids or proposals without the required bid guaranty will not be considered. All bid sureties and payment bonds shall name the City of Midland as Obligee.

*A cash security such as a cashier's check for 100 % of the contract amount may be supplied in lieu of the Performance and Payment Bonds. The check will be returned un-cashed upon satisfactory completion of the work and evidence of payment of all obligations due for the contract.

PAYMENT BOND

STATE OF TEXAS

§
§
§

COUNTY OF MIDLAND

SURETY'S NO. _____

KNOW ALL MEN BY THESE PRESENTS, THAT _____,

_____ of the City of _____ County of _____,
and State of _____ as Principal, and _____

_____ (hereinafter called the Surety(s)), as Surety(s), are held and firmly bound unto the City of Midland, Texas, a home rule municipal corporation of Midland County, Texas, (hereinafter called the Oblige), in the amount of _____ DOLLARS, (\$ _____), for the payment whereof the said Principal and Surety bind themselves and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written contract with the Oblige, dated the _____ day of _____, 20____, to _____, which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

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

PROVIDED further that if any legal action be filed upon this Bond venue shall lie in Midland County, State of Texas.

PROVIDED further that this Payment Bond is submitted in compliance with Chapter 2253 of the Texas Government Code.

Surety, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract, or to the work performed thereunder, or the plans, specifications or drawings accompanying the same, or any assignment of the contract as may be provided for in the instructions to bidders, shall in anywise affect its obligation on this

Bond, and it does waive notice of any such change, extension of time, alteration or addition to the terms of this contract, assignment thereof, or to the work to be performed thereunder.

IN WITNESS WHEREOF the said Principal and Surety have signed and sealed this instrument, this _____ day of _____, 20____.

Principal

Surety

By _____

By _____

Address _____

Address _____

APPROVED AS TO FORM:

City Attorney

NOTE: ATTACH POWER OF ATTORNEY

PERFORMANCE BOND

STATE OF TEXAS

§

SURETY'S NO. _____

§

COUNTY OF MIDLAND

§

KNOW ALL MEN BY THESE PRESENTS, THAT _____

(hereinafter called the principal(s)), as principal(s), and _____

_____,
(hereinafter called the Surety(s)), as Surety(s), are held and firmly bound unto the City of Midland, Texas a home rule municipal corporation of Midland County, Texas, (hereinafter called the Oblige), the amount of _____ DOLLARS, (\$ _____) for the payment whereof the said Principal and Surety bind themselves and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written contract with the Oblige, dated the _____ day of _____, 20____, to furnish and deliver the following equipment:

SPECIFICALLY including in the scope of this work and bond, the additional maintenance guaranty provisions set forth in the contract conditions, which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein, as well as the Principals primary obligation to perform according to plans and specifications.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall faithfully perform the work in accordance with the plans, specifications,

instructions to bidders, general and special conditions and other contract documents, including any addendums thereto, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED further that if any legal action be filed upon this Bond venue shall lie in Midland County, State of Texas.

PROVIDED further that this Performance Bond is submitted in compliance with Chapter 2253 of the Texas Government Code.

Surety, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract, or to the work performed thereunder, or the plans, specifications or drawings accompanying the same, or any assignment of the contract as may be provided for in the instructions to bidders, shall in anywise effect its obligation on this Bond, and it does waive notice of any such change, extension of time, alteration or addition to the terms of this contract, assignment thereof, or to the work to be performed thereunder.

IN WITNESS WHEREOF the said Principal and Surety have signed and sealed this instrument, this _____ day of _____, 20____.

Principal

Surety

By _____

By _____

Address _____

Address _____

APPROVED AS TO FORM:

City Attorney

NOTE: ATTACH POWER OF ATTORNEY

EXHIBIT "D"

PREVAILING WAGE RATE SCHEDULE BUILDING CONSTRUCTION TRADES as of July 24, 2009 Attorney General, General Decision TX20080297

<u>Classification</u>	<u>Rate/hr</u>	<u>Fringes</u>
Acoustical Installers	\$ 11.18	
Boilermaker	\$ 26.02	\$ 13.66
Bricklayers	\$ 18.00	
Carpenters (Including Metal Stud Installation and Drywall Hanging)	\$ 15.17	
Cement Mason/ Concrete Finisher	\$ 13.89	
Drywall Hangers	\$ 11.08	
Electrician	\$ 13.63	\$ 1.25
Elevator Mechanics	\$ 32.66	18.285+a
Forklift Operator	\$ 22.70	\$ 9.35
HVAC mechanic (set unit only)	\$ 10.00	
Ironworkers (reinforcing)	\$ 20.90	\$ 4.60
Ironworkers (structural)	\$ 10.84	
Laborers, Common or General	\$ 8.67	
Laborer, Mason Tender - Brick	\$ 9.13	
Operator, Backhoe/ Excavator	\$ 13.81	
Operator, Blade/ Grader	\$ 12.97	
Operator, Front End Loader	\$ 12.23	
Painter (Including Drywall Finishing)	\$ 15.81	\$ 4.56
Plasterer	\$ 14.00	
Plumber (Including HVAC Work)	\$ 19.20	\$ 6.55
Roofer	\$ 12.06	
Sheet Metal Worker (Including HVAC Work)	\$ 10.00	
Sprinkler Fitters	\$ 12.00	
Tile Setter	\$ 8.50	
Truck Driver	\$ 10.15	
Welders	*	

*Welders receive the rate prescribed for the craft performing the operation to which welding is incidental.

a under 5 years employment, 6% of BHR, over 5 years employment, 8%BHR.

Paid Holidays - New Year's Day, Memorial Day, Independence Day, Labor Day, Labor Day, Thanksgiving Day, The Friday after thanksgiving and Christmas Day.

Unlisted classifications needed for the work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(v)).



City Council Agenda

Approved for Agenda:
THudson
City Manager's Office

MEETING DATE: 10/23/2012

TO: City Council / City Manager

FROM: Regina Stephenson, Purchasing Manager

SUBJECT: Consider a resolution approving a master agreement with Helena Chemical of Stanton, Texas for fertilizer for the Spraberry Farm. 5508-13

Purpose:

Approval of a resolution authorizing the purchase of fertilizer for use at the Spraberry Farm.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

\$114,750.00 Water & Sewer Fund

Discussion:

This is for a one year master agreement. The bid includes 12 various fertilizer mixes for varying conditions at the farm. The operator of the farm may order any amount or combination of mixtures during the term of the agreement up to a maximum of \$114,750.00. A single bid was received from Helena Chemical Company. This firm is the only one in the area that can service the farm at a competitive cost due to location of the other possible suppliers. Fertilizer is ordered, delivered and paid for on an as needed basis.

Therefore, please consider approval of a resolution authorizing an annual master agreement for fertilizer with Helena Chemical Company of Stanton, Texas for a total maximum cost of \$114,750.00.

RESOLUTION NO.

**RESOLUTION AUTHORIZING THE EXECUTION OF
AN AGREEMENT FOR THE PURCHASE OF
FERTILIZER OF ASSORTED TYPES AND IN
ASSORTED VOLUMES FOR OPERATIONS AT THE
SPRABERRY FARM, FROM HELENA CHEMICAL
COMPANY OF STANTON, TEXAS, AT AN ESTIMATED
TOTAL COST OF \$114,750.00**

WHEREAS, the City Manager approved plans and specifications and authorized advertisement for bids for fertilizer of assorted types and in assorted volumes for operations at the Spraberry Farm; and

WHEREAS, Bid No. 5508-13 was opened on October 3, 2012, with the lowest and most advantageous bid, which was also the only bid, being submitted from Helena Chemical Company of Stanton, Texas, in the amount of \$114,750.00, as shown on the bid tabulation attached hereto as Exhibit "A" and incorporated herein for all legal purposes;

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

SECTION ONE. That the City Manager is hereby authorized and directed to execute an agreement for the purchase of the above listed fertilizer from Helena Chemical Company of Stanton, Texas, at an estimated total price not to exceed \$114,750.00, said agreement being on file in the office of the City Secretary, referenced by the date and number of this Resolution.

SECTION TWO. That the City Treasurer is hereby authorized and directed to pay Helena Chemical Company of Stanton, Texas, the sum indicated above from funds available in the Fiscal Year 2012 – 2013 Water and Sewer Fund (300) Utilities (300) Spraberry Farm (0315) budget account upon proper receipt of invoices or statements approved by the City Manager.

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

the following vote:

Council members voting “AYE”:

Council members voting “NAY”:

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Robert Patrick, General Services Director

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

City of Midland - Bid Tabulation

BID # 5508-13 MA for Fertilizer for Spraberry Farm OPENED October 3, 2012 Est. Cost: \$96,750.00			Helena Chemical PO Box 1367 Stanton, TX 79782 James Hill (432) 756-2888	
ITEM	QTY	DESCRIPTION	COST EA.	TOTAL
1	15	Ton - 0-22-4 Liquid	410.00	
2	15	Ton - 0-0-15 Liquid	280.00	
3	3970	Gal - 0-0-1 Liquid Hydra Hume	7.50	
4	4000	Gal - 0-0-10 Liquid	6.90	
5	15	Ton - 0-24-24 Dry	597.00	
6	15	Ton - 0-40-4-5 Dry	640.00	
7	15	Ton - 0-26-11 Dry	593.00	
8	25000	Lbs - Hydra Hume Dry	1.10	
9	15	Ton - 20-25-0-5S w/Hydra Hume	800.00	
10	9	Ton - 30-8-13-0	730.00	
11	1500	Lbs - Hydra Hume DG (AG) (Coated)	1.10	
12	23	Ton - 10-25-0-5S	597.00	
		Delivery Tiime	4 Days ARO	
TOTALS:				
TOTAL MAXIMUM COST TO THE CITY OF MIDLAND				\$114,750.00

Bidding Summary:

5 Bid requests were issued.

1 Bids listed above

0 NO BIDS were received.

4 Bidders did not respond.

BWI Companies, Estes Inc., Pro Chem Sales, West Texas Agriplex



Master Agreement

5508-13

Annual Fertilizer for Farms

THIS AGREEMENT, made this 24th day of October, 2012, by and between the City of Midland, Texas, a home rule municipal corporation, hereinafter referred to as "City", and Helena Chemical Company, hereinafter referred to as "Company".

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

Total Projected Cost: \$114,750.00

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

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

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

4. Such Annual Fertilizer for Farms shall be delivered to the City's Spraberry Farm, 1280 ECR 200, Midland, Texas. Freight and delivery charges are included in the purchase prices stated above.

5. The term of this agreement shall be for a period of 1 year(s) commencing on October 24, 2012, and terminating on October 23, 2013 unless sooner terminated as provided in this agreement. The City may at its option, renew this agreement for a period of one additional year. In order to exercise this option, the City must give Company notice of its intent to renew not less than 30 days prior to the expiration of this agreement.

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

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

In the event of such termination, all monies due Company under the terms of this agreement shall be retained by the City, but such retention shall not release Company from liability for its default. In such event, however,

Company will be credited with the amount of money so retained toward any amount by which the cost of completion of the agreement, as above provided, exceeds the agreement price.

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

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

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

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

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

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

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

10. **RELEASE:** NOTWITHSTANDING ANY OTHER PROVISION, COMPANY HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES CITY, CITY'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH COMPANY HAS OR MIGHT HAVE

IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR CITY'S NEGLIGENCE.

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

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

12. NOTICE OF ALLEGED BREACH; STATUTORY PREREQUISITES

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

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

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

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

THERE IS NO WAIVER OF SOVEREIGN IMMUNITY.

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

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

Helena Chemical Company

By _____

Please Print Name

Please Print Title

CITY OF MIDLAND, TEXAS

By _____
Courtney B. Sharp, City Manager

ATTEST:

APPROVED AS TO FORM:

Amy M. Turner, City Secretary

Keith Stretcher, City Attorney

Corporate Acknowledgment: Master Agreement No. 5508-13

THE STATE OF TEXAS §

§

COUNTY OF MIDLAND §

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

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

Notary Public, State of Texas

City of Midland - Exhibit A

BID # 5508-13 MA for Fertilizer for Spraberry Farm OPENED October 3, 2012			Helena Chemical PO Box 1367 Stanton, TX 79782 James Hill (432) 756-2888	
ITEM	QTY	DESCRIPTION	COST EA.	TOTAL
1	15	Ton - 0-22-4 Liquid	410.00	
2	15	Ton - 0-0-15 Liquid	280.00	
3	3970	Gal - 0-0-1 Liquid Hydra Hume	7.50	
4	4000	Gal - 0-0-10 Liquid	6.90	
5	15	Ton - 0-24-24 Dry	597.00	
6	15	Ton - 0-40-4-5 Dry	640.00	
7	15	Ton - 0-26-11 Dry	593.00	
8	25000	Lbs - Hydra Hume Dry	1.10	
9	15	Ton - 20-25-0-5S w/Hydra Hume	800.00	
10	9	Ton - 30-8-13-0	730.00	
11	1500	Lbs - Hydra Hume DG (AG) (Coated)	1.10	
12	23	Ton - 10-25-0-5S	597.00	
		Delivery Tiime	4 Days ARO	
TOTALS:				
TOTAL MAXIMUM COST TO THE CITY OF MIDLAND				\$114,750.00



City Council Agenda

Approved for Agenda:
THudson
City Manager's Office

MEETING DATE: 10/23/2012

TO: City Council / City Manager

FROM: Regina Stephenson, Purchasing Manager

SUBJECT: Consider a resolution approving the purchase of an estimated annual supply of 2000 tons of Aluminum Sulfate from Chameleon Industries, Inc. of Mesquite, Texas for the Water Purification Plant. 5589-13

Purpose:

Approval of a resolution authorizing the purchase of an estimated annual supply of aluminum sulfate for use at the Water Purification Plant.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

\$505,000.00 Water and Sewer Fund

Discussion:

Resolution 2012-285 rejected the single bid we received for aluminum sulfate and authorized re-advertisement for bids. We received 2 bids on October 3, 2012 and the low bid from Chameleon Industries, Inc. is 21% lower than the single bid we received on August 15, 2012. This chemical is used for the treatment of City drinking water and is ordered on an as needed basis. We are recommending the low bidder.

Therefore, please consider approval of a resolution authorizing the purchase of aluminum sulfate from Chameleon Industries, Inc. of Mesquite, Texas for an estimated annual cost of \$505,000.00.

RESOLUTION NO.

**RESOLUTION AUTHORIZING THE PURCHASE OF AN
ANNUAL SUPPLY OF ALUMINUM SULFATE FOR
PURIFYING CITY OF MIDLAND DRINKING WATER
FROM THE LOW BIDDER, CHAMELEON
INDUSTRIES, INCORPORATED, FOR A TOTAL PRICE
OF \$505,000.00**

WHEREAS, the City Manager approved the specifications and authorized the advertisement for bids for an annual supply of Aluminum Sulfate for purifying City of Midland drinking water; and

WHEREAS, Bid No. 5589-13 was opened on October 3, 2012, with Chameleon Industries, Inc., submitting the lowest and most responsible bid of \$505,000.00; and

WHEREAS, the Council finds the price proposed by Chameleon Industries, Inc., to be fair and reasonable; and

WHEREAS, the City Council finds it to be in the public interest to authorize the purchase of Aluminum Sulfate for purifying City of Midland drinking water from Chameleon Industries, Inc.;

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

SECTION ONE. That the City Manager is hereby authorized and directed to purchase from Chameleon Industries, Inc., an annual supply of Aluminum Sulfate as described and specified in Exhibit "A" attached hereto and made a part hereof for all legal purposes, for a total cost of \$505,000.00.

SECTION TWO. That the City Treasurer is hereby authorized and directed to pay for said Aluminum Sulfate out of funds available in the Fiscal Year 2012 - 2013 Water and Sewer Fund (300) Utilities (300) Purification Plant (0320) Chemicals (2330) budget account 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., 2012, by

the following vote:

Council members voting “AYE”:

Council members voting “NAY”:

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Robert Patrick, General Services Director

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

City of Midland - Bid Tabulation

BID # 5589-13 Aluminum Sulfate MA OPENED October 3, 2012 Est. Cost: \$578,000.00			Chameleon Industries, Inc PO Box 853027 Mesquite, TX 75185-3027 FI Garza (972) 880-1493		General Chemical Performance 90 East Halsey Parsippany, NJ 07054 Elizabeth Ryno (800) 631-8050	
ITEM	QTY	DESCRIPTION	COST EA.	TOTAL	COST EA.	TOTAL
1	2000	Tons - Aluminum Sulfate	252.5000	\$505,000.00	\$314.75	\$629,500.00
		Delivery			(Dry Ton)	
			2-3 Days ARO		1-2 Days ARO	
TOTALS:				\$505,000.00		\$629,500.00

Bidding Summary:

8 Bid requests were issued.

2 Bids listed above

0 NO BIDS were received.

6 Bidders did not respond.

Altivia, Wintersun Chemical, Shrieve Chemical, USALCO LLC, Continental Chemical USA, American Int'l Chemical



City Council Agenda

Approved for Agenda:
CSharp
City Manager's Office

MEETING DATE: 10/23/2012

TO: City Council / City Manager

FROM: Courtney Sharp/City Manager

SUBJECT: Consider a resolution approving the 2013 City Council Meeting Dates and change the Regular City Council Meeting of December 11 to December 18, 2012

Purpose:

The attached resolution will set the 2013 City Council Meeting dates and change the Regular City Council Meeting of December 11 to December 18, 2012.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

Discussion:

RESOLUTION NO.

**RESOLUTION ESTABLISHING THE DATES OF THE
REGULAR CITY COUNCIL MEETINGS TO BE HELD
DURING THE CALENDAR YEAR 2013; AND
CHANGING THE REGULAR CITY COUNCIL
MEETING OF DECEMBER 11, 2012 TO DECEMBER 18,
2012**

WHEREAS, the Midland City Council finds it to be in the public interest to establish the dates whereby the Midland City Council will meet in regular session during the calendar year 2013, and to change the regular City Council meeting of December 11, 2012 to December 18, 2012;

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

THAT the dates for the regular City Council meetings to be held during the 2013 calendar year as shown on Exhibit "A", attached hereto and made a part hereof for all legal purposes, are hereby adopted; and the regular City Council meeting of December 11, 2012 is hereby changed to December 18, 2012.

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

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

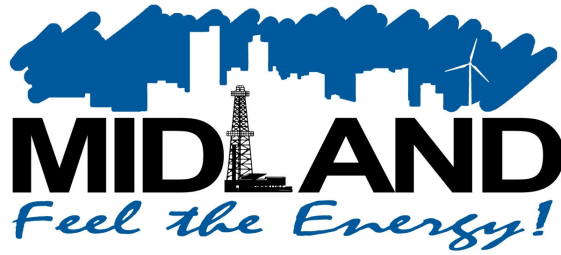
Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



2013 CITY COUNCIL MEETINGS

- | | |
|---------------|----------------|
| ▪ January 8 | ▪ July 9 |
| ▪ January 22 | ▪ July 23 |
| ▪ February 12 | ▪ August 13 |
| ▪ February 26 | ▪ August 27 |
| ▪ March 26 | ▪ September 10 |
| ▪ April 9 | ▪ September 24 |
| ▪ April 23 | ▪ October 8 |
| ▪ May 14 | ▪ October 22 |
| ▪ May 28 | ▪ November 12 |
| ▪ June 11 | ▪ November 26 |
| ▪ June 25 | ▪ December 17 |



City Council Agenda

Approved for Agenda:
CSharp
City Manager's Office

MEETING DATE: 10/23/2012

TO: City Council / City Manager

FROM: Tommy T. Hudson, Deputy City Manager

SUBJECT: Appropriate Reimbursed Fees to Project

Purpose:

Consider a Resolution appropriating funds to Atmos RRM (Rate Review Mechanism) Project 8923

Recommended City Council Action

☒ Approve ☐ Deny ☒ Directional / Informational

Fiscal Impact:

Appropriate \$200,000 to Project 8923

These funds represent reimbursement from Atmos for consulting/legal fees associated with analysis of various Atmos GRIP and Rate Review Mechanism costs. Funds will be appropriated from the General Liability Self-Insurance Fund. There is no impact to General Fund.

An approximate \$205,000 reimbursement has been received from Atmos over 2011-2012.

Discussion:

The City is a member of the Steering Committee of cities Served by Atmos West Texas ("Steering Committee"). Steering Committee membership includes almost all cities north of Midland-Odessa (except Lubbock and Amarillo, which have separate rates and services) served by the West Texas Division of Atmos Energy ("Atmos" or "Company").

The original project was funded by a \$0.12 per capita fee assessed to the West Texas member cities. Those funds have been used to pay on-going legal fees associated with the various GRIP and RRM challenges. Funds being appropriated today are reimbursement of those fees and should be placed back into the project.

RESOLUTION NO.

RESOLUTION APPROPRIATING FUNDS FROM THE GENERAL LIABILITY SELF-INSURANCE FUND TO THE ATMOS RATE REVIEW MECHANISM PROJECT (8923) IN THE AMOUNT OF \$200,000.00; SAID FUNDS REPRESENT REIMBURSEMENT FROM ATMOS FOR CONSULTING/LEGAL FEES ASSOCIATED WITH THE STEERING COMMITTEE'S ANALYSIS OF THEIR RATE REVIEW MECHANISM COSTS; THERE IS NO IMPACT TO THE GENERAL FUND

WHEREAS, the City is a member of the Steering Committee of cities served by Atmos West Texas; and

WHEREAS, the Atmos Rate Review Mechanism (RRM) Project (8923) funds have been used to pay on-going consulting/legal fees associated with the various Gas Reliability Infrastructure Program (GRIP) and RRM challenges; and

WHEREAS, the City Council finds it to be in the public interest to appropriate \$200,000.00 to the Atmos RRM Project (8923) as reimbursement of consulting/legal fees;

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

THAT the sum of \$200,000.00 is hereby appropriated from the General Liability Self-Insurance Fund to the Atmos RRM Project (8923).

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

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

Robert McNaughton, Director of Finance

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
THudson
City Manager's Office

MEETING DATE: 10/23/2012

TO: City Council / City Manager

FROM: Tina Jauz / Community Services Director

SUBJECT: Consider a resolution authorizing the execution of an addendum to the agreement with Midland Sports, Incorporated for Baseball Park and Office Space at the Scharbauer Sports Complex

Purpose:

To approve a resolution authorizing the execution of an addendum to the agreement between Midland Sports, Inc. and the City of Midland.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

Additional revenue to the Scarbauer Sports Complex.

Discussion:

Through the marketing agreement with Midland Sports, Inc., the Midland RockHounds have been charged with generating more revenue. The City is working with the RockHounds to identify additional areas for advertising at the Scharbauer Sports Complex. The new locations are listed in the addendum. They include the commons area naming rights, a new time and temperature sign to be constructed in the south end zone at Grande, and new signage along the field pads at Grande and on the home side near the press box. The new locations were designed and chosen carefully as to maintain the integrity and look of the state-of-the-art facility.

The new advertising will result in more revenue generated, based on the rate charged for the advertising, or naming rights, space. The City will continue to receive 80% of revenue generated from these signs, the RockHounds receive 20%.

RESOLUTION NO.

**RESOLUTION AUTHORIZING THE EXECUTION OF
AN ADDENDUM TO THE AGREEMENT WITH
MIDLAND SPORTS, INCORPORATED FOR BASEBALL
PARK AND OFFICE SPACE AT THE SCHARBAUER
SPORTS COMPLEX**

WHEREAS, the City Council, by Resolution No. 2000-148, dated May 23, 2000, authorized the execution of a Baseball Park and Office Space Agreement (“Agreement”) with Midland Sports, Incorporated; and

WHEREAS, both the City and Midland Sports, Incorporated, wish to amend said Agreement; and

WHEREAS, the Council finds it to be in the public interest to authorize the execution of an addendum amending said agreement;

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

THAT the Mayor and City Secretary are hereby authorized and directed to execute and attest, respectively, on behalf of the City of Midland, an Amendment to the existing Baseball Park and Office Space Agreement with Midland Sports, Incorporated, said Amendment to be on file in the City Secretary’s office referenced by the number and date 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., 2012, by the following vote:

Council members voting “AYE”:

Council members voting “NAY”:

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Tina Jauz, Director of Community Services

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

ADDENDUM TO BASEBALL PARK AND OFFICE SPACE AGREEMENT
between
CITY OF MIDLAND, TEXAS
and
MIDLAND SPORTS, INCORPORATED

WHEREAS, the City of Midland, Texas ("City") and Midland Sports, Incorporated ("MSI"), are parties to an Agreement dated May 23, 2000, concerning a certain baseball stadium as part of the Scharbauer Sports Complex in Section 37, Block 40, TWP I-S T&P RR Co. Survey, Midland County, Texas; and

WHEREAS, said Agreement was duly authorized by Resolution No. 2000-148 of the City Council on May 23, 2000; and

WHEREAS, the Agreement has been in full force and effect since it went into effect on May 23, 2000, and has not been allowed to lapse; and

WHEREAS, pursuant to Article III, Section 23 of said Agreement, the City and MSI desire to amend the Agreement as shown below;

W I T N E S S E T H:

For and in consideration of the execution of this Addendum and the mutual promises and covenants of the parties hereto, it is mutually promised, understood and agreed that said Baseball Park and Office Space Agreement is hereby amended, effective on the date when signed by the last party, by adding the following:

Article I, Section 9. of the Agreement shall be amended to read as follows:

"A-1. Sign Advertising. For the term of this Agreement, it is agreed that MSI shares with the City exclusive rights to sell advertising at the Scharbauer Sports Complex, and that MSI will be allowed to sell Sign Advertising via Sponsorship Agreements. The term "Sign Advertising" shall mean signage at the following Locations.

Baseball Stadium (Citibank Ballpark): Scoreboard

Football/Soccer Stadium (Grande Stadium): Scoreboard, 4 Concourse Ramps, South End Zone at field level, East lower concrete wall, NE upper concrete wall, Press Box (2), Section Signs, Play Clocks, South End Zone Hill (Time/Temperature), Concession signs (East and West Concourse) and two stand-alone signs on NE and SE corners.

Marquees (Loop 250 and Hwy 191)

Commons Area: (Between the two Stadiums) Naming rights (Signs at entrances on East and West ends)

MSI agrees that, for the term of this Agreement, unless otherwise indicated by City in writing, no Sign Advertising or other sign ad promoting or identifying companies having products or services competitive to Grande Communications, Clearsource, Incorporated ("Grande Communications"), including but without limitation cable or satellite television companies, telephone companies, or internet service providers, shall be allowed anywhere in or on Grande Communications Stadium.

MSI agrees that, as part of each and every Sponsorship Agreement regarding Sign Advertising, it shall include a provision informing the parties that the City may cancel

said Sponsorship Agreement, for any or no reason, upon giving at least ninety (90) days written notice to MSI, without any penalty whatsoever to City and/or MSI. Prior to the execution of any Sponsorship Agreement regarding Advertising, MSI shall submit said sponsorship Agreement for approval by the City Community Services Director.

Initial production and installation of Sign Advertising signage for each approved Sponsorship Agreement will be paid by the City in the amount approved by the Director of Community Services with the City. Replacement of copy on all approved Sponsorship Agreements (provided that copy has been up for at least two years and is deemed faded or not sufficient by MSI), will be paid by the City in the amount approved by the City Community Services Director. MSI agrees to provide sufficient artwork and/or finished copy materials to be able to produce MSI's signage not less than ten (10) days prior to the commencement date of each Sponsorship Agreement. MSI agrees that the content, size, location and/or position of any Sign Advertising is subject to the sole approval of City, and if MSI puts up a sign without approval of the City, MSI agrees to make any required changes at its own expense. Should a sponsor want to make additional changes to the display before two years is up in the agreement, all costs will be borne solely by the sponsor.

The City will receive seventy-five percent (75%) of Sign Advertising sales and MSI will receive twenty-five percent (25%) of Advertising sales. The content and appearance of any Sign Advertising shall be subject to the sole approval of the City."

There are no other changes or modifications to the subject Contract, and all remaining terms shall continue in full force and effect.

Agreed to this _____ day of _____, 2012.

CITY:
CITY OF MIDLAND, TEXAS

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Tina Jauz, Director of Community Services

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

MSI:
MIDLAND SPORTS, INCORPORATED

Monty Hoppel, General Manager

THE STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this day personally appeared Monty Hoppel 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 and acknowledged that he executed and delivered the foregoing instrument for the purposes and consideration therein expressed on behalf of Midland Sports, Inc.

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

Notary Public, State of _____



City Council Agenda

Approved for Agenda:

City Manager's Office

MEETING DATE: 10/23/2012

TO: City Council / City Manager

FROM: David D. Beard, P.E.

SUBJECT: Consider a motion on a request by Bradshaw and Associates, Inc. for Country Sky Addition (Section 16), to approve items requested for deferral in the amount of \$18,745, and to waive the associated public improvement guarantee. (City of Midland)

Purpose:

Consider a motion on a request by Schumann Engineering for Country Sky Addition (Section 16), to approve items requested for deferral in the amount of \$18,745, and to waive the associated public improvement guarantee.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

Wastewater Collection	\$12,650
Water Distribution	\$0
Paving Construction	\$1,955
Sidewalk Construction	\$4,140

Total value of deferral (recommended items) \$18,745

Cash deposit or other acceptable security None

Deferral recommendations are based on the model Deferral Process previously presented at the council briefing.

Discussion:

The Country Sky Addition (Section 16) is positioned in the City of Midland, located 200' north of the corner of Cactus Trail and Tumbleweed Trail (approximately 0.8 miles south of Briarwood Ave. and 1.3 miles west of Holiday Hill Rd.).

Bradshaw and Associates, Inc. is proposing to plat the property and defer the public improvements. Below is a discussion of the public infrastructure and deferral request related to the development of the property associated with this plat:

1. Water Distribution: Water is currently available in Tumbleweed Trail. A PID assessment may be required for this property.
2. Wastewater Collection: The applicant is requesting a deferral of wastewater collection improvements.
 - The nearest connection to the City of Midland's wastewater collection system is a manhole on a trunk line in Jal Draw where the Draw intersects with a future extension of Wadley Avenue (distance greater than 1 mile).
 - The likelihood of infrastructure construction based on the distance from the existing collection facilities results in a 100% reduction in cash deposit or other acceptable security.
3. Paving: Tumbleweed Trail is paved to County standards, which is a 24-foot wide pavement surface with no curb-and-gutter. The applicant is requesting a deferral of paving and curb-and-gutter.
 - The nearest connection to the City of Midland's City-standard paving, with curb-and-gutter, is on North Holiday Hill Rd. where it intersects with Briarwood Avenue (distance greater than 1 mile).
 - The likelihood of infrastructure construction based on the distance from the existing City-standard pavement results in a 100% reduction in cash deposit or other acceptable security.
4. Drainage: A Drainage Study for this site has been submitted.
 - Drainage Study approval will be required prior to final platting.
5. Sidewalk: The applicant is requesting deferral of sidewalks.
 - Sidewalk construction is typically accomplished during the building permit phase (builder constructs the sidewalk). Currently, there are no sidewalks Tumbleweed Trail, or elsewhere within the subdivision. If sidewalks are required in the future, they will be addressed when a building permit application is submitted.

Staff supports this deferral request. Attached is a location map, along with a deferral justification, and cost estimate from Bradshaw and Associates, Inc.

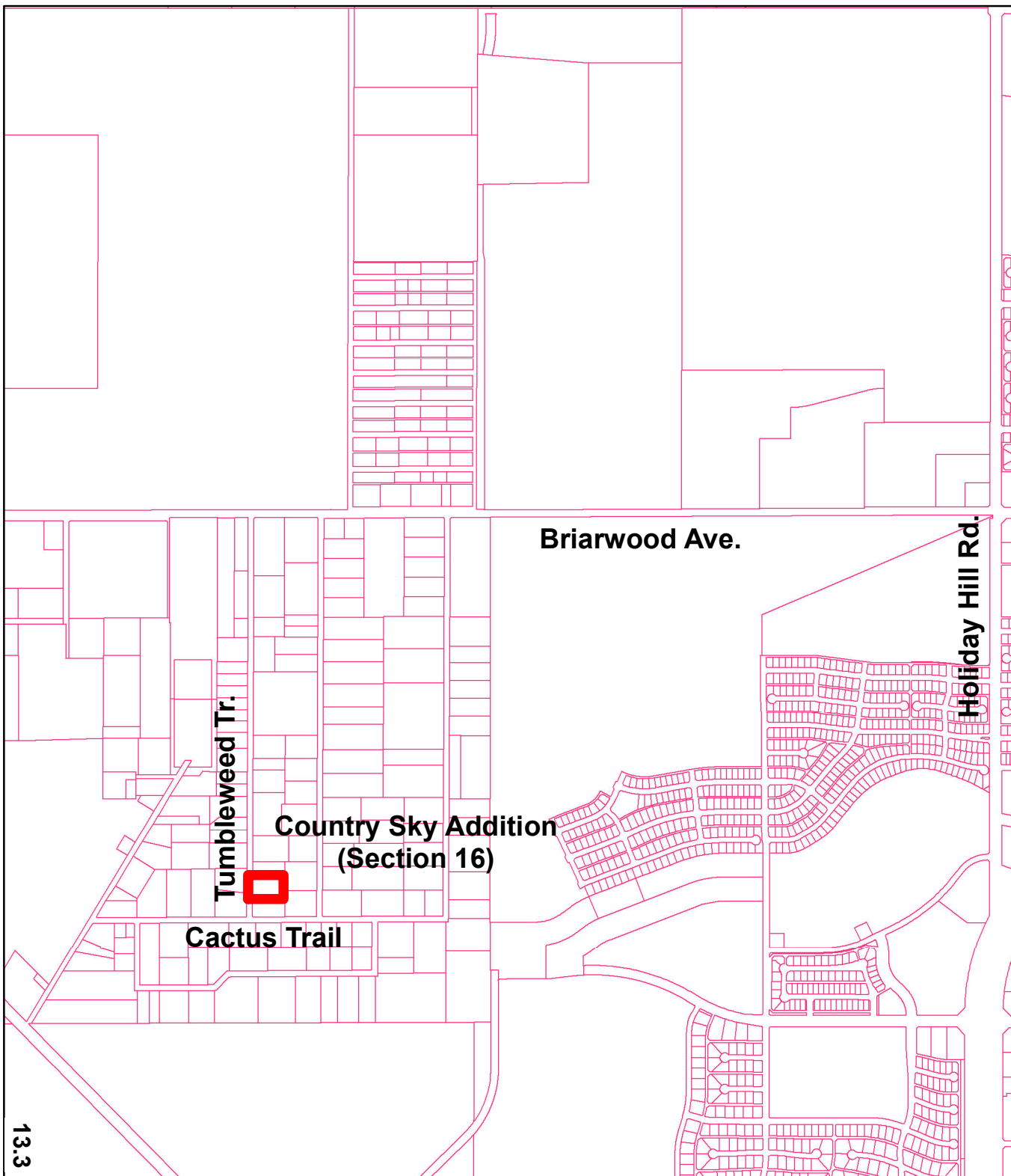
ENGINEERING DIVISION

Country Sky Addition (Section 16)

Request for Deferral



Map by SAS 10/12/2012



Bradshaw and Associates, Inc.
Surveying / Engineering
4400 North Big Spring Street Suite A-8
Midland, Texas 79705
432-682-4400 Fax: 432-682-7997

October 10, 2012

Re: Country Sky Addition Section 16 / Tumbleweed Trail

Subject: Utility Improvement Deferrals

Dear Sirs;

The referenced subdivision is a simple replat of an existing single lot into two lots. The original subdivision includes a paved road, but has no sidewalks, curbs, or gutters. The existing subdivision has no public sanitary sewer system. All existing residential units currently utilize individual septic systems for sanitary sewer requirements. The subdivision already utilizes a publically provided water system (the City of Midland). The project has been approved at both the sketch and preliminary stages and is scheduled for final approval at the next available meeting. Since there are no existing sidewalk, sanitary sewer, or curb improvements within the existing subdivision, I am formally requesting deferrals for the following:

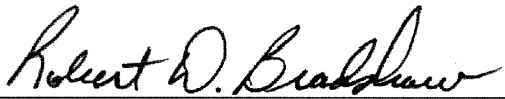
6" req'd

SAS
10-12-12

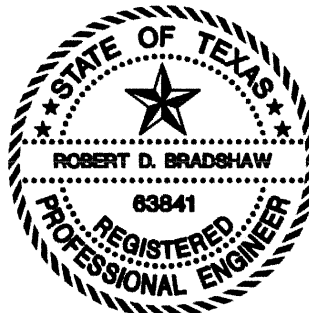
1. Deferral for the installation of a public sanitary sewer system since none currently exists. The property will be served by an individual septic system as are all of the existing residences within this area. The cost of the deferral for this improvement is estimated at \$55/linear foot for the entire 230 foot frontage as shown on the attached exhibit. The estimate is based on a ~~4"~~ sanitary sewer pipe installed under the existing pavement. The resultant deferred cost is \$12,650.
2. Deferral for the installation of a curb along one side of the existing paved roadway. The cost of the deferral for this improvement is estimated at \$8.50/linear foot for the entire 230 foot frontage as shown on the attached exhibit. The resultant deferred cost is \$1,955.
3. Deferral for the installation of a sidewalk along one side of the existing paved roadway. The cost of the deferral for this improvement is estimated at \$4.50/sq. foot (4' wide) for the entire 230 foot frontage as shown on the attached exhibit. The resultant deferred cost is \$4,140.

Thank you for your consideration.

Respectfully submitted,



Robert D. Bradshaw P.E., R.P.L.S.



THE SEAL APPEARING ON THIS
DOCUMENT WAS AUTHORIZED BY
ROBERT D. BRADSHAW P.E. ON 10/10/12
FIRM #6233

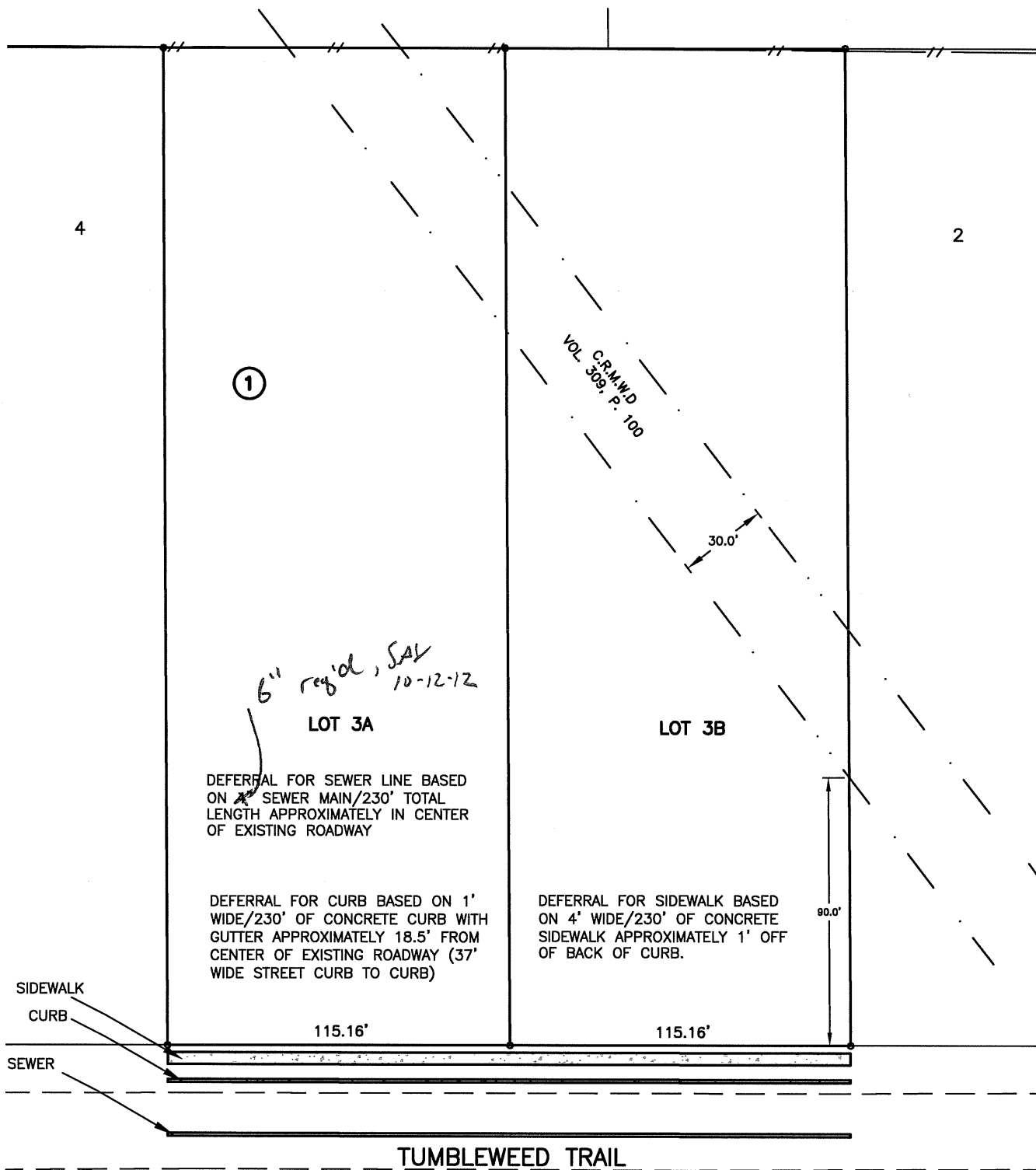


EXHIBIT FOR DEFERRALS FOR COUNTRY SKY ADDITION, SECTION 16

BEING A REPLAT OF LOT 3, BLOCK 1, COUNTRY SKY ADDITION, SECTION 3,
AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS



City Council Agenda

Approved for Agenda:

City Manager's Office

MEETING DATE: 10/23/2012

TO: City Council / City Manager

FROM: David D. Beard, P.E.

SUBJECT: Consider a motion to create a one year blanket deferral for wastewater collection and paving improvements within the Country Sky Addition, and to waive the associated public improvement guarantee. (District #4 – Trost)

Purpose:

Consider a motion by City of Midland Staff to create a blanket deferral for wastewater collection, and paving improvements within the Country Sky Addition and to waive the associated public improvement guarantee. This blanket agreement shall for a period of one year. At the end of the blanket deferral period (1 year), staff will bring the deferral back to council for renewal .

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

Deferral of wastewater and paving improvements for all property located within the Country Sky Addition.

Deferral recommendations are based on the model Deferral Process previously presented at the council briefing.

Discussion:

The Country Sky Addition is positioned in the City of Midland, between Briarwood Ave, SH 158, and the future Wadley Ave approximately, immediately west of the Avalon Rd. section line.

Multiple deferral requests have been applied for and approved within the last year regarding this development:

1. Country Sky Addition (Section 16) – October 23, 2012 (This council meeting)
2. Country Sky Addition (Section 15) – August 28, 2012 CM
3. Country Sky Addition (Section 11) – October 25, 2011 CM

The following discussion is offered to justify this request:

Wastewater Collection: Wastewater service in this development is provided by on-site septic. None of the properties are served by the City's collection system and there is no plan to extend the collection system to the development at this time. In addition, the nearest connection to the system is a manhole on a trunk line in Jal Draw where the Draw intersects with a future extension of Wadley Avenue. Further, there is no available right-of-way to allow the system to be extended to this addition without acquiring an easement between lots along the south side of the addition.

Paving Improvements: This addition was originally developed in the County and later annexed into the City Limits. Therefore, all interior streets within the addition are constructed to County standards, which is a 24-foot wide pavement surface with no curb-and-gutter. Any development adjacent to the Briarwood corridor would be subject developer participation.

Water Distribution: Water service is currently available; however, a Public Improvement District assessment may be required. Any payment regarding the assessment will be collected as part of the platting process.

Drainage Improvements: Drainage improvements are required as property is developed. As part of the platting process, a drainage study will be required for all new plats.

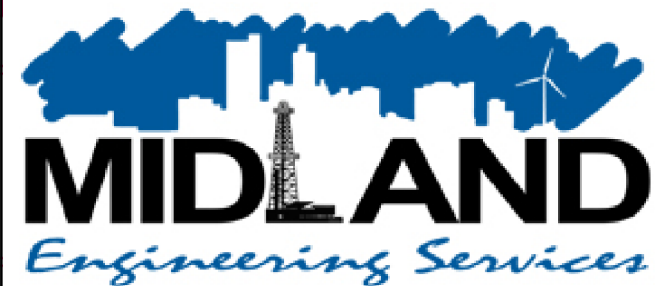
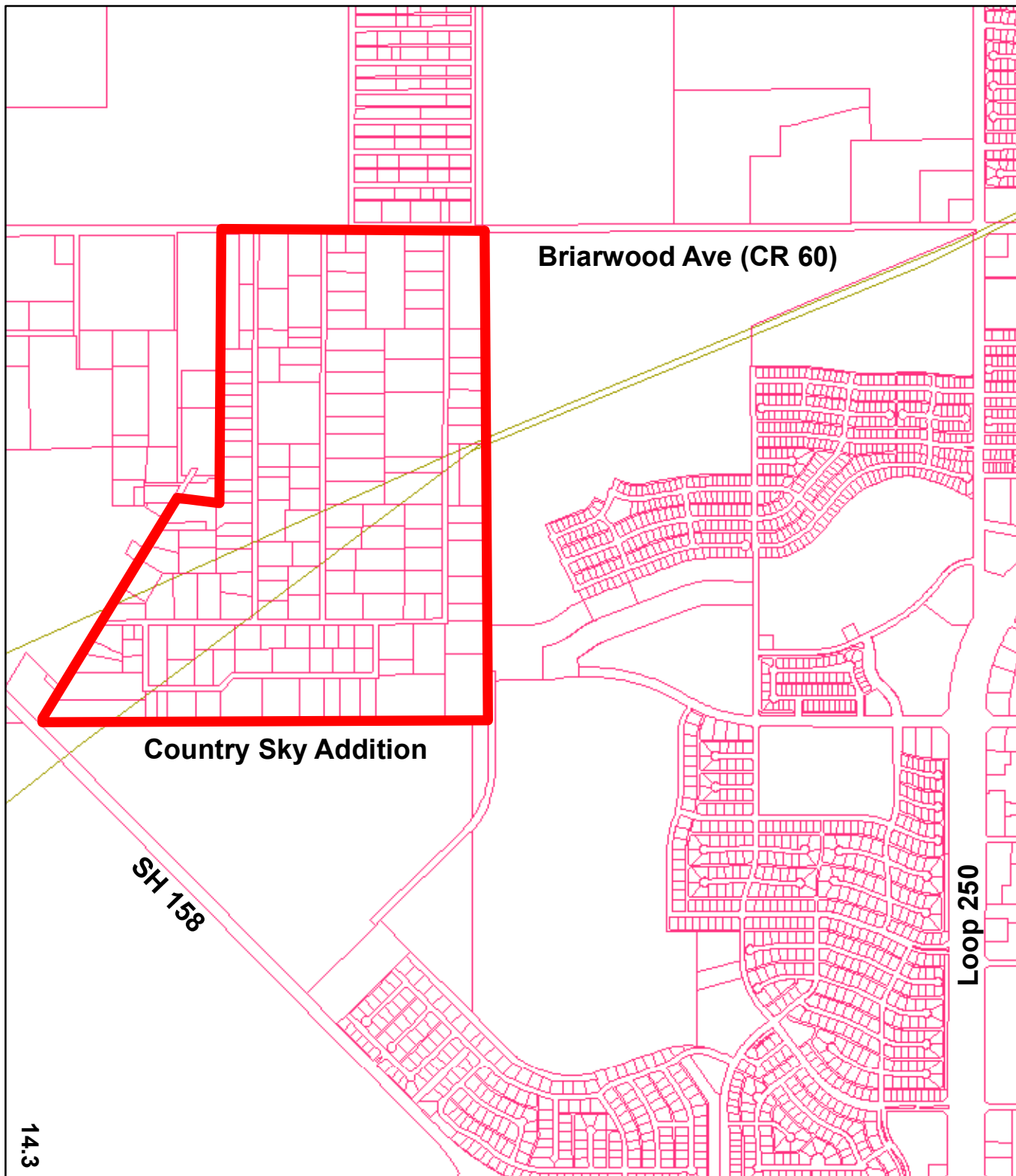
Sidewalk Improvements: Sidewalk construction is typically accomplished during the building permit phase (builder constructs the sidewalk). Currently, there are no sidewalks within the subdivision. If sidewalks are required in the future, they will be addressed when a building permit application is submitted.

Staff supports this deferral request. Attached is a location map showing the boundary of the Country Sky Addition.

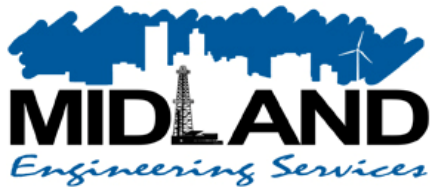
ENGINEERING DIVISION

Country Sky Addition

Request for Deferral



Map by DDB 10/11/2012



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: October 23, 2012

TO: CITY COUNCIL/CITY MANAGER

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

SUBJECT: Consider a resolution authorizing the City Manager to advertise a Request for Qualification (RFQ) for firms to provide professional services (engineering and surveying) for the extension of Tradewinds Blvd., and associated infrastructure, from the intersection at Thomason Dr. to the Gateway Plaza Addition (District #3 – James)

Purpose:

To obtain permission to advertise a request for qualification to provide professional services (engineering and surveying) for the necessary paving, utility, and drainage improvements to extend Tradewinds Blvd. from the intersection at Thomason Dr. to the Gateway Plaza Addition.

Recommended City Council Action:

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

No financial impact at this time. Once an engineer is selected, staff will return to Council to request that money be allocated for the Professional Services Agreement and Construction. It is anticipated that the project will be funded by MDC.

Discussion:

The area around the Scharbauer Sports Complex along with the Gateway Plaza Addition continues to experience significant development interest. A recent traffic study prepared by Dunaway and Associates indicates, as these areas develop, traffic volumes will continue to increase, however, the current system does not allow for efficient traffic movement.

Therefore, to encourage development and allow for more efficient traffic movement, staff recommends to extending Tradewinds Blvd. from the intersection at Thomason Dr. to the Gateway Plaza Addition, including all necessary drainage and utility improvements.

Attached is a location map, and sample RFQ to be advertised in the news paper.

RESOLUTION NO.

RESOLUTION AUTHORIZING THE CITY MANAGER TO ADVERTISE A REQUEST FOR QUALIFICATIONS FOR PROFESSIONAL SERVICES FOR PAVING, UTILITY AND DRAINAGE IMPROVEMENTS ASSOCIATED WITH THE EXTENSION OF TRADEWINDS BOULEVARD FROM THOMASON DRIVE TO THE GATEWAY PLAZA ADDITION; AUTHORIZING THE CITY MANAGER TO NEGOTIATE A PROFESSIONAL SERVICES AGREEMENT FOR SAID SERVICES; AND PROVIDING THAT SAID AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY COUNCIL

WHEREAS, the City Council finds it to be in the public interest to authorize the City Manager, or his designee, to advertise a request for qualifications for professional services for paving, utility and drainage improvements associated with the extension of Tradewinds Boulevard from Thomason Drive to the Gateway Plaza Addition; and

WHEREAS, the City Council finds it to be in the public interest to authorize the City Manager, or his designee, to negotiate a professional services agreement with the most qualified provider of said professional services;

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

SECTION ONE. That the request for qualifications for said professional services, which is attached hereto as Exhibit “A” and incorporated herein for all purposes, is hereby approved.

SECTION TWO. That the City Manager, or his designee, is hereby authorized and directed to advertise said request for qualifications and to negotiate a professional services agreement for said professional services with the most qualified provider. Provided, however, that no such agreement shall become effective until approved by the City Council.

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

Council members voting “AYE”:

Council members voting “NAY”:

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

David Beard, City Engineer

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

Date

XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX

Attn: XXXXXXXXXXXXX

Re: Request for Qualifications (RFQ)

The City of Midland, (hereinafter "City") is seeking concise letters of interest and a Statement of Qualifications (SOQ) from parties interested in assisting the City's Engineering Division by providing Professional Services (engineering, surveying, and administration) for the design of extension of Tradewinds Blvd. between the intersection of Thomason Dr. and Gateway Plaza Addition, including necessary utility and drainage improvements.

SERVICES

The selected submitter will perform the following services under this agreement:

1. Provide engineering, surveying and administrative services in connection with the extension of Tradewinds Blvd. including the necessary utility and drainage improvements.
 - a. Preparing preliminary engineering estimates, including project alternatives and associated opinions of probable cost;
 - b. Perform essential surveying work and prepare field notes to assist in acquiring necessary rights-of-way;
 - c. Accomplish required topographic surveying and engineering work to develop a detailed set of construction drawings and technical specifications;
 - d. Provide technical assistance in the bid and award process;
 - e. Work with City staff to administer the project (project meetings, periodic on-sit observation, construction meetings, preparation of change orders, review pay requests).

QUALIFICATIONS

The Statement of Qualifications should include:

1. Resumes of the proposed project team including at least one professional with a minimum of five (5) years experience in the development, management and oversight of paving and drainage construction projects;
2. Demonstrated familiarity with City of Midland standards pertaining to paving and drainage design;
3. References including project descriptions and client contact information for recent similar projects in which the proposed project team was directly involved;
4. Estimated time for completion of the project;
5. Availability of key personnel and ability to commit their time throughout the life of the project;

SELECTION

The City will make its selection from those responding to this RFQ. If deemed necessary by the City, interviews with the firms deemed most qualified, may be conducted. Once a selection is made, the chosen firm will be requested to submit a detailed scope of work and cost estimate to perform the services. If a mutually satisfactory agreement cannot be reached with the selected professional, negotiations will be terminated with that firm and the negotiation process may be initiated with the next most qualified firm. The process may be repeated until a mutually satisfactory agreement is reached. The City maintains the right to terminate the selection process at any time if they feel it is in the best interest of the project. At such time as an agreement is reached, City staff will make a recommendation to the City Council to execute a contract pursuant to the agreement and subject to the availability of funding. The City reserves the right to accept or reject any or all proposals and to accept what in the judgment of the Mayor and City Council is the most advantageous proposal.

SUBMITTAL

Three (3) copies of the Statement of Qualifications should be submitted. The submittal should not include fees or any other cost estimates. The entire qualification package can be no more than 20, one-sided pages. Text is to be presented in Times 12 format with minimum margins of one-inch on all sides. The total page number shall include all corporate brochures and materials that may be submitted with the Statement of Qualifications. Failure to include all requested information in the qualifications package or follow the format guidelines included herein shall be grounds for disqualification from consideration.

Statements of Qualifications are to be submitted no later than 5:00 p.m., on December 31, 2011, to the following:

City of Midland	Street Address:
Engineering Division	300 North Loraine
PO Box 1152	Midland, Texas 79701
Midland, Texas 79702	
Attn: David D. Beard, P.E.	

Only timely submittals received from invited firms will be considered.

WAIVER

A. WAIVER OF CLAIMS ARISING FROM THE COMPETITIVE REQUEST FOR QUALIFICATION PROCESS OF AWARD OF CONTRACT

BY SUBMITTING A STATEMENT OF QUALIFICATIONS, EACH SUBMITTER AGREES TO AND DOES HEREBY WAIVE ANY CLAIM THE SUBMITTER HAS OR MAY HAVE AGAINST THE CITY AND/OR THE CITY'S EMPLOYEES, AGENTS AND OFFICERS, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE FOLLOWING:

1. THE ADMINISTRATION, EVALUATION OR RECOMMENDATION OF ANY STATEMENT OF QUALIFICATIONS.
2. WAIVER OR DELETION OF ANY OF THE REQUIREMENTS UNDER THE STATEMENT OF QUALIFICATIONS OR THE CONTRACT DOCUMENTS.
3. ACCEPTANCE OR REJECTION OF ANY STATEMENT OF QUALIFICATION.
4. AWARD OF CONTRACT.

By submitting a Statement of Qualifications, the submitter acknowledges that he or she understands all terms of the proposal documents and consents to the competitive selection process and the possibility of a negative assessment. By submitting a Statement of Qualifications, the submitter acknowledges and agrees that there was and is no disparity of bargaining power between the submitter and the City.

The submitter agrees that this is the intentional relinquishment of the above listed presently existing known rights.

B. WAIVER OF ATTORNEY FEES

BY SUBMITTING A STATEMENT OF QUALIFICATIONS, EACH SUBMITTER AGREES TO WAIVE AND DOES HEREBY WAIVE ANY CLAIM THE SUBMITTER HAS OR MAY HAVE AGAINST THE CITY AND/OR ITS RESPECTIVE EMPLOYEES AND REPRESENTATIVES, FOR THE AWARD OF ATTORNEY FEES, ARISING OUT OF OR IN CONNECTION WITH THE ADMINISTRATION, EVALUATION, OR RECOMMENDATION OF ANY STATEMENT OF QUALIFICATIONS, WAIVER OF ANY REQUIREMENTS UNDER THIS RFP, ACCEPTANCE OR REJECTION OF ANY STATEMENT OF QUALIFICATIONS, AND AWARD OF THE CONTRACT. BY SUBMITTING A STATEMENT OF QUALIFICATIONS, THE SUBMITTER SPECIFICALLY WAIVES ANY RIGHT TO RECOVER OR BE PAID ATTORNEY'S FEES FROM THE CITY OR ANY OF THE CITY'S EMPLOYEES AND REPRESENTATIVES UNDER ANY OF THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE, SECTION 37.001, ET. SEQ., AS AMENDED).

The submitter agrees that this is the intentional relinquishment of a presently existing known right.

By execution and submission of a Statement of Qualifications under this RFQ, the submitter hereby represents and warrants to the City that the submitter has read and understands the RFQ and the Statement of Qualifications is submitted in accordance with this RFQ. The submitter acknowledges that it understands all terms within the proposal documents, which include the waiver provisions, and that it had the right to consult with counsel regarding all of the above documents.

This section shall not be construed as a Waiver of Sovereign Immunity.

SOVEREIGN IMMUNITY

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.

QUESTIONS REGARDING THIS REQUEST

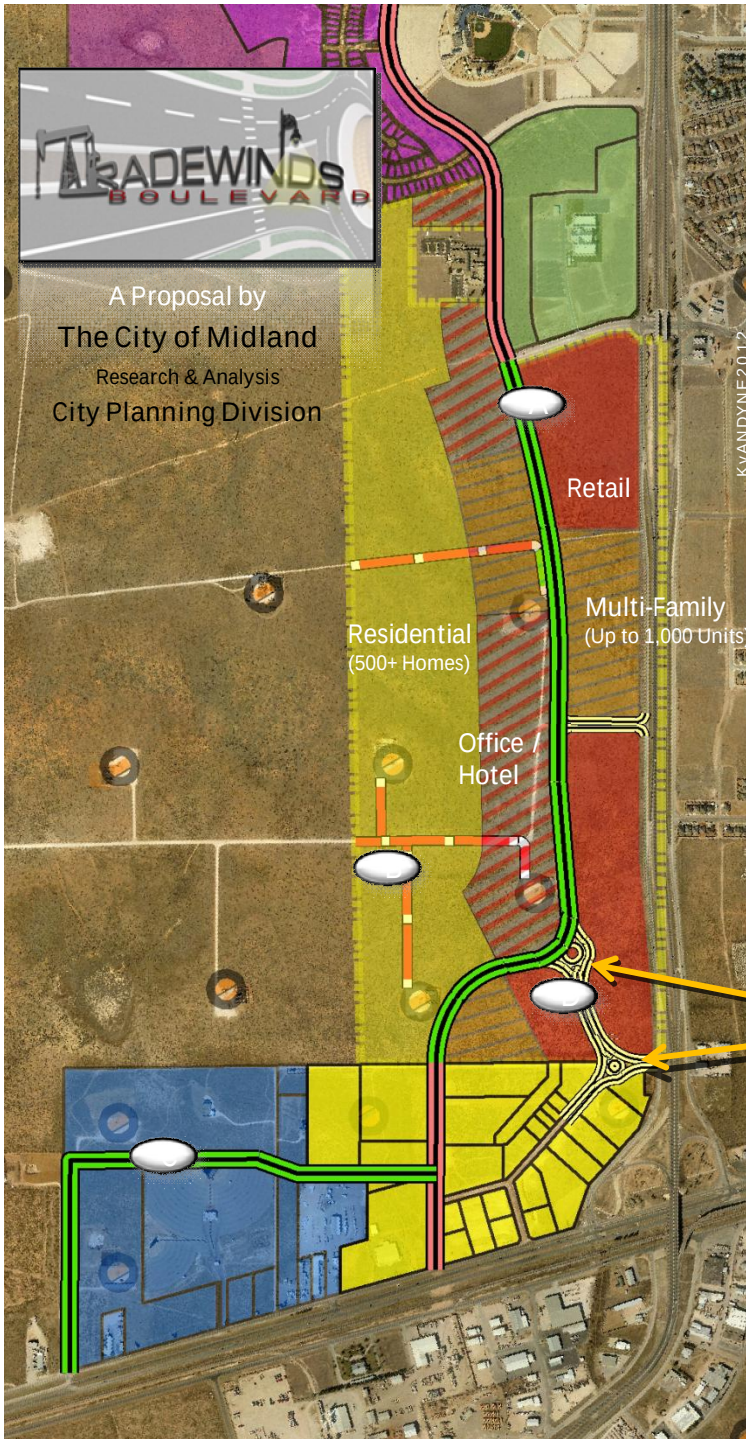
Questions should be directed to:

David D. Beard, P.E.
Phone No. (432) 685-7286
Fax No. (432) 685-1786

Very truly yours,

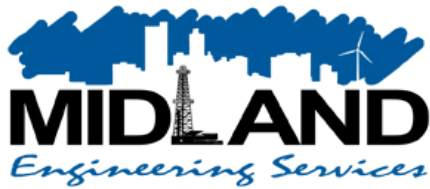
David D. Beard, P.E.
City Engineer

Tradewinds Boulevard Connection



*A & C Exact Arterial/Collector Routings TBD
Zoning examples are based upon observed Midland capacities





City Council Agenda

Approved for Agenda:

City Manager's Office

MEETING DATE: October 23, 2012

TO: CITY COUNCIL/CITY MANAGER

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

SUBJECT: Consider a resolution authorizing the City Manager to advertise a Request for Qualification (RFQ) for firms to provide professional services to develop a drainage study for the Midland Draw watershed between A St. and Loop 349. (District #1 – Sparks)

Purpose:

To obtain permission to advertise an RFQ to solicit professional services to study the drainage area in the Midland Draw watershed between A St. and Loop 349, and prepare a drainage plan for development.

Recommended City Council Action:

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

No financial impact at this time. Once an engineer is selected, staff will return to Council to request that money be allocated for the Professional Services Agreement and Construction. It is anticipated that the project will be funded by MDC.

Discussion:

The current Master Drainage Plan was prepared in 1996. The Plan has been a useful tool in regulating the growth of Midland. However, growth on the west and north sides of Midland are nearing the limits of the study and in some instances has exceeded the studied area.

Based on current development and anticipated future growth, staff recommends soliciting an RFQ to select an Engineering Firm to study the drainage area in the Midland Draw watershed and prepare a drainage plan for development.

Attached is a location map, and sample RFQ to be advertised in the news paper.

RESOLUTION NO.

RESOLUTION AUTHORIZING THE CITY MANAGER TO ADVERTISE A REQUEST FOR QUALIFICATIONS FOR PROFESSIONAL SERVICES FOR THE DEVELOPMENT OF A DRAINAGE STUDY FOR MIDLAND DRAW FROM “A” STREET TO LOOP 349; AUTHORIZING THE CITY MANAGER TO NEGOTIATE A PROFESSIONAL SERVICES AGREEMENT FOR SAID SERVICES; AND PROVIDING THAT SAID AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY COUNCIL

WHEREAS, the City Council finds it to be in the public interest to authorize the City Manager, or his designee, to advertise a request for qualifications for professional services for the development of a drainage study for Midland Draw from “A” Street to Loop 349; and

WHEREAS, the City Council finds it to be in the public interest to authorize the City Manager, or his designee, to negotiate a professional services agreement with the most qualified provider of said professional services;

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

SECTION ONE. That the request for qualifications for said professional services, which is attached hereto as Exhibit “A” and incorporated herein for all purposes, is hereby approved.

SECTION TWO. That the City Manager, or his designee, is hereby authorized and directed to advertise said request for qualifications and to negotiate a professional services agreement for said professional services with the most qualified provider. Provided, however, that no such agreement shall become effective until approved by the City Council.

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

Council members voting “AYE”:

Council members voting “NAY”:

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

David Beard, City Engineer

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

Date

XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX

Attn: XXXXXXXXXXXXX

Re: Request for Qualifications (RFQ)

The City of Midland, (hereinafter "City") is seeking concise letters of interest and a Statement of Qualifications (SOQ) from parties interested in assisting the City's Engineering Division by providing Professional Services to study the drainage area in the Midland Draw watershed between A St. and Loop 349.

SERVICES

The selected submitter will perform the following services under this agreement:

1. Provide engineering, surveying and administrative services in connection with the drainage study of the Midland Draw watershed between A St. and Loop 349.
 - a. Preparing preliminary engineering estimates, including project alternatives, routes and associated opinions of probable cost;
 - b. Review existing topographic information and perform necessary surveying to recommend locations of proposed rights-of-way;
 - c. Accomplish required topographic surveying and engineering work to develop a detailed drainage study.
 - d. Prepare a CLOMR for the study area;
 - e. Make presentation at Council Meetings or Briefing Sessions as requested by staff;
 - f. Update City staff on a regular basis at monthly progress meetings;
 - g. Prepare a bound report of the drainage study;

QUALIFICATIONS

The Statement of Qualifications should include:

1. Resumes of the proposed project team including at least one professional with a minimum of five (5) years experience in the development, management and oversight of drainage reports and FEMA studies;
2. Demonstrated familiarity with City of Midland standards pertaining to Master Drainage Plan;
3. References including project descriptions and client contact information for recent similar projects in which the proposed project team was directly involved;
4. Estimated time for completion of the project;
5. Availability of key personnel and ability to commit their time throughout the life of the project;

SELECTION

The City will make its selection from those responding to this RFQ. If deemed necessary by the City, interviews with the firms deemed most qualified, may be conducted. Once a selection is made, the chosen firm will be requested to submit a detailed scope of work and cost estimate to perform the services. If a mutually satisfactory agreement cannot be reached with the selected professional, negotiations will be terminated with that firm and the negotiation process may be initiated with the next most qualified firm. The process may be repeated until a mutually satisfactory agreement is reached. The City maintains the right to terminate the selection process at any time if they feel it is in the best interest of the project. At such time as an agreement is reached, City staff will make a recommendation to the City Council to execute a contract pursuant to the agreement and subject to the availability of funding. The City reserves the right to accept or reject any or all proposals and to accept what in the judgment of the Mayor and City Council is the most advantageous proposal.

SUBMITTAL

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Qualifications. Failure to include all requested information in the qualifications package or follow the format guidelines included herein shall be grounds for disqualification from consideration.

Statements of Qualifications are to be submitted no later than 5:00 p.m., on December 31, 2011, to the following:

City of Midland	Street Address:
Engineering Division	300 North Loraine
PO Box 1152	Midland, Texas 79701
Midland, Texas 79702	
Attn: David D. Beard, P.E.	

Only timely submittals received from invited firms will be considered.

WAIVER

A. WAIVER OF CLAIMS ARISING FROM THE COMPETITIVE REQUEST FOR QUALIFICATION PROCESS OF AWARD OF CONTRACT

BY SUBMITTING A STATEMENT OF QUALIFICATIONS, EACH SUBMITTER AGREES TO AND DOES HEREBY WAIVE ANY CLAIM THE SUBMITTER HAS OR MAY HAVE AGAINST THE CITY AND/OR THE CITY'S EMPLOYEES, AGENTS AND OFFICERS, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE FOLLOWING:

1. THE ADMINISTRATION, EVALUATION OR RECOMMENDATION OF ANY STATEMENT OF QUALIFICATIONS.
2. WAVIER OR DELETION OF ANY OF THE REQUIREMENTS UNDER THE STATEMENT OF QUALIFICATIONS OR THE CONTRACT DOCUMENTS.
3. ACCEPTANCE OR REJECTION OF ANY STATEMENT OF QUALIFICATION.
4. AWARD OF CONTRACT.

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The submitter agrees that this is the intentional relinquishment of the above listed presently existing known rights.

B. WAIVER OF ATTORNEY FEES

BY SUBMITTING A STATEMENT OF QUALIFICATIONS, EACH SUBMITTER AGREES TO WAIVE AND DOES HEREBY WAIVE ANY CLAIM THE SUBMITTER HAS OR MAY HAVE AGAINST THE CITY AND/OR ITS RESPECTIVE EMPLOYEES AND REPRESENTATIVES, FOR THE AWARD OF ATTORNEY FEES, ARISING OUT OF OR IN CONNECTION WITH THE ADMINISTRATION, EVALUATION, OR RECOMMENDATION OF ANY STATEMENT OF QUALIFICATIONS, WAIVER OF ANY REQUIREMENTS UNDER THIS RFP, ACCEPTANCE OR REJECTION OF ANY STATEMENT OF QUALIFICATIONS, AND AWARD OF THE CONTRACT. BY SUBMITTING A STATEMENT OF QUALIFICATIONS, THE SUBMITTER SPECIFICALLY WAIVES ANY RIGHT TO RECOVER OR BE PAID ATTORNEY'S FEES FROM THE CITY OR ANY OF THE CITY'S EMPLOYEES AND REPRESENTATIVES UNDER ANY OF THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE, SECTION 37.001, ET. SEQ., AS AMENDED).

The submitter agrees that this is the intentional relinquishment of a presently existing known right.

By execution and submission of a Statement of Qualifications under this RFQ, the submitter hereby represents and warrants to the City that the submitter has read and understands the RFQ and the Statement of Qualifications is submitted in accordance with this RFQ. The submitter acknowledges that it understands all terms within the proposal documents, which include the waiver provisions, and that it had the right to consult with counsel regarding all of the above documents.

This section shall not be construed as a Waiver of Sovereign Immunity.

SOVEREIGN IMMUNITY

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.

QUESTIONS REGARDING THIS REQUEST

Questions should be directed to:

David D. Beard, P.E.
Phone No. (432) 685-7286
Fax No. (432) 685-1786

Very truly yours,

David D. Beard, P.E.
City Engineer

ENGINEERING DIVISION

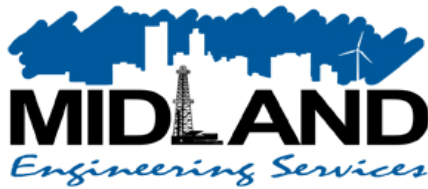
Midland Draw Channel Study

Project Map



Map by DDB 07/16/2012





City Council Agenda

Approved for Agenda:

City Manager's Office

MEETING DATE: October 23, 2012

TO: CITY COUNCIL/CITY MANAGER

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

SUBJECT: Consider a resolution authorizing the City Manager to advertise a Request for Qualification (RFQ) for firms to provide professional services to develop a drainage study for the Jal Draw watershed between CJ Kelly Park and Loop 349. (District #4 – Trost)

Purpose:

To obtain permission to advertise an RFQ to solicit professional services to study the drainage area in the Jal Draw watershed between CJ Kelly Park and Loop 349, and prepare a drainage plan for development.

Recommended City Council Action:

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

No financial impact at this time. Once an engineer is selected, staff will return to Council to request that money be allocated for the Professional Services Agreement and Construction. It is anticipated that the project will be funded by MDC.

Discussion:

The current Master Drainage Plan was prepared in 1996. The Plan has been a useful tool in regulating the growth of Midland. However, growth on the west and north sides of Midland are nearing the limits of the study and in some instances has exceeded the studied area.

The west and north sides of Midland are experiencing significant interest in development. In addition, the T-Bar water line and associated improvements along the SH 191 corridor

are making infrastructure more accessible. As these areas grow, drainage infrastructure will need to be addressed.

Based on current development and anticipated future growth, staff recommends soliciting an RFQ to select an Engineering Firm to study the drainage area in the Jal Draw watershed and prepare a drainage plan for development.

Attached is a location map, and sample RFQ to be advertised in the news paper.

RESOLUTION NO.

RESOLUTION AUTHORIZING THE CITY MANAGER TO ADVERTISE A REQUEST FOR QUALIFICATIONS FOR PROFESSIONAL SERVICES FOR THE DEVELOPMENT OF A DRAINAGE STUDY FOR JAL DRAW FROM C.J. KELLY PARK TO LOOP 349; AUTHORIZING THE CITY MANAGER TO NEGOTIATE A PROFESSIONAL SERVICES AGREEMENT FOR SAID SERVICES; AND PROVIDING THAT SAID AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY COUNCIL

WHEREAS, the City Council finds it to be in the public interest to authorize the City Manager, or his designee, to advertise a request for qualifications for professional services for the development of a drainage study for Jal Draw from C.J. Kelly Park to Loop 349; and

WHEREAS, the City Council finds it to be in the public interest to authorize the City Manager, or his designee, to negotiate a professional services agreement with the most qualified provider of said professional services;

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

SECTION ONE. That the request for qualifications for said professional services, which is attached hereto as Exhibit “A” and incorporated herein for all purposes, is hereby approved.

SECTION TWO. That the City Manager, or his designee, is hereby authorized and directed to advertise said request for qualifications and to negotiate a professional services agreement for said professional services with the most qualified provider. Provided, however, that no such agreement shall become effective until approved by the City Council.

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

Council members voting “AYE”:

Council members voting “NAY”:

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

David Beard, City Engineer

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

Date

XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX

Attn: XXXXXXXXXXXXX

Re: Request for Qualifications (RFQ)

The City of Midland, (hereinafter "City") is seeking concise letters of interest and a Statement of Qualifications (SOQ) from parties interested in assisting the City's Engineering Division by providing Professional Services to study the drainage area in the Jal Draw watershed between CJ Kelly Park and Loop 349.

SERVICES

The selected submitter will perform the following services under this agreement:

1. Provide engineering, surveying and administrative services in connection with the drainage study of the Jal Draw watershed between CJ Kelly Park and Loop 349.
 - a. Preparing preliminary engineering estimates, including project alternatives, routes and associated opinions of probable cost;
 - b. Review existing topographic information and perform necessary surveying to recommend locations of proposed rights-of-way;
 - c. Accomplish required topographic surveying and engineering work to develop a detailed drainage study.
 - d. Prepare a CLOMR for the study area;
 - e. Make presentation at Council Meetings or Briefing Sessions as requested by staff;
 - f. Update City staff on a regular basis at monthly progress meetings;
 - g. Prepare a bound report of the drainage study;

QUALIFICATIONS

The Statement of Qualifications should include:

1. Resumes of the proposed project team including at least one professional with a minimum of five (5) years experience in the development, management and oversight of drainage reports and FEMA studies;
2. Demonstrated familiarity with City of Midland standards pertaining to Master Drainage Plan;
3. References including project descriptions and client contact information for recent similar projects in which the proposed project team was directly involved;
4. Estimated time for completion of the project;
5. Availability of key personnel and ability to commit their time throughout the life of the project;

SELECTION

The City will make its selection from those responding to this RFQ. If deemed necessary by the City, interviews with the firms deemed most qualified, may be conducted. Once a selection is made, the chosen firm will be requested to submit a detailed scope of work and cost estimate to perform the services. If a mutually satisfactory agreement cannot be reached with the selected professional, negotiations will be terminated with that firm and the negotiation process may be initiated with the next most qualified firm. The process may be repeated until a mutually satisfactory agreement is reached. The City maintains the right to terminate the selection process at any time if they feel it is in the best interest of the project. At such time as an agreement is reached, City staff will make a recommendation to the City Council to execute a contract pursuant to the agreement and subject to the availability of funding. The City reserves the right to accept or reject any or all proposals and to accept what in the judgment of the Mayor and City Council is the most advantageous proposal.

SUBMITTAL

Three (3) copies of the Statement of Qualifications should be submitted. The submittal should not include fees or any other cost estimates. The entire qualification package can be no more than 20, one-sided pages. Text is to be presented in Times 12 format with minimum margins of one-inch on all sides. The total page number shall include all corporate brochures and materials that may be submitted with the Statement of

Qualifications. Failure to include all requested information in the qualifications package or follow the format guidelines included herein shall be grounds for disqualification from consideration.

Statements of Qualifications are to be submitted no later than 5:00 p.m., on December 31, 2011, to the following:

City of Midland	Street Address:
Engineering Division	300 North Loraine
PO Box 1152	Midland, Texas 79701
Midland, Texas 79702	
Attn: David D. Beard, P.E.	

Only timely submittals received from invited firms will be considered.

WAIVER

A. WAIVER OF CLAIMS ARISING FROM THE COMPETITIVE REQUEST FOR QUALIFICATION PROCESS OF AWARD OF CONTRACT

BY SUBMITTING A STATEMENT OF QUALIFICATIONS, EACH SUBMITTER AGREES TO AND DOES HEREBY WAIVE ANY CLAIM THE SUBMITTER HAS OR MAY HAVE AGAINST THE CITY AND/OR THE CITY'S EMPLOYEES, AGENTS AND OFFICERS, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE FOLLOWING:

1. THE ADMINISTRATION, EVALUATION OR RECOMMENDATION OF ANY STATEMENT OF QUALIFICATIONS.
2. WAVIER OR DELETION OF ANY OF THE REQUIREMENTS UNDER THE STATEMENT OF QUALIFICATIONS OR THE CONTRACT DOCUMENTS.
3. ACCEPTANCE OR REJECTION OF ANY STATEMENT OF QUALIFICATION.
4. AWARD OF CONTRACT.

By submitting a Statement of Qualifications, the submitter acknowledges that he or she understands all terms of the proposal documents and consents to the competitive selection process and the possibility of a negative assessment. By submitting a Statement of Qualifications, the submitter acknowledges and agrees that there was and is no disparity of bargaining power between the submitter and the City.

The submitter agrees that this is the intentional relinquishment of the above listed presently existing known rights.

B. WAIVER OF ATTORNEY FEES

BY SUBMITTING A STATEMENT OF QUALIFICATIONS, EACH SUBMITTER AGREES TO WAIVE AND DOES HEREBY WAIVE ANY CLAIM THE SUBMITTER HAS OR MAY HAVE AGAINST THE CITY AND/OR ITS RESPECTIVE EMPLOYEES AND REPRESENTATIVES, FOR THE AWARD OF ATTORNEY FEES, ARISING OUT OF OR IN CONNECTION WITH THE ADMINISTRATION, EVALUATION, OR RECOMMENDATION OF ANY STATEMENT OF QUALIFICATIONS, WAIVER OF ANY REQUIREMENTS UNDER THIS RFP, ACCEPTANCE OR REJECTION OF ANY STATEMENT OF QUALIFICATIONS, AND AWARD OF THE CONTRACT. BY SUBMITTING A STATEMENT OF QUALIFICATIONS, THE SUBMITTER SPECIFICALLY WAIVES ANY RIGHT TO RECOVER OR BE PAID ATTORNEY'S FEES FROM THE CITY OR ANY OF THE CITY'S EMPLOYEES AND REPRESENTATIVES UNDER ANY OF THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE, SECTION 37.001, ET. SEQ., AS AMENDED).

The submitter agrees that this is the intentional relinquishment of a presently existing known right.

By execution and submission of a Statement of Qualifications under this RFQ, the submitter hereby represents and warrants to the City that the submitter has read and understands the RFQ and the Statement of Qualifications is submitted in accordance with this RFQ. The submitter acknowledges that it understands all terms within the proposal documents, which include the waiver provisions, and that it had the right to consult with counsel regarding all of the above documents.

This section shall not be construed as a Waiver of Sovereign Immunity.

SOVEREIGN IMMUNITY

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.

QUESTIONS REGARDING THIS REQUEST

Questions should be directed to:

David D. Beard, P.E.
Phone No. (432) 685-7286
Fax No. (432) 685-1786

Very truly yours,

David D. Beard, P.E.
City Engineer

ENGINEERING DIVISION

Jal Draw Channel Study

Project Map



Map by DDB 07/16/2012



City Council Agenda

Approved for Agenda:
CSharp
City Manager's Office

MEETING DATE: 9/25/2012

TO: City Council / City Manager

FROM: Price Robinson, Police Chief

SUBJECT: Request a resolution to approve amendments to the Midland Police Department General Orders

Purpose:

Request a resolution to approve amendments to the Midland Police Department General Orders

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

None

Discussion:

Resolution No. 2010-320 requires that all amendments and modifications to the MPD General Orders be submitted to the City Council, not less than annually, for review and approval.

A brief description of amendments made to the MPD General Orders is attached for review and approval.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS, APPROVING CERTAIN AMENDMENTS TO THE GENERAL ORDERS OF THE MIDLAND POLICE DEPARTMENT; AND PROVIDING THAT THE CITY COUNCIL IS THE POLICYMAKING AUTHORITY OF THE CITY OF MIDLAND

WHEREAS, the City of Midland is a home-rule municipality with the full power of local self-government pursuant to Section 51.072 of the Texas Local Government Code; and

WHEREAS, the City Council is the governing body of the City of Midland pursuant to Article IV, Section 1, of the Midland City Charter; and

WHEREAS, the City Council determines the goals for all City of Midland functions and devises means for achieving those goals; and

WHEREAS, the City Council has the power and duty to supervise and control all City of Midland departments, including the Midland Police Department, pursuant to Article IV, Section 14, of the Midland City Charter; and

WHEREAS, the City Council is the sole governing body responsible for internal police policy; and

WHEREAS, the City Council finds that the General Orders of the Midland Police Department constitute internal regulations and procedures of the department which are subject to City Council oversight, review and approval, including, but not limited to, such orders regarding training, supervision, search, seizure, and use of force regulations or procedures; and

WHEREAS, the City Council finds it to be in the public interest to approve certain amendments to the General Orders of the Midland Police Department; and

WHEREAS, the City Council finds it to be in the public interest for both the City Council and the City Manager, the administrative head of the City of Midland pursuant to Title 1, Chapter 5, Section 1, of the Midland Municipal Code, to review and approve any future amendments or modifications to the General Orders of the Midland Police Department; and

WHEREAS, the City Council finds and hereby reaffirms that the City Council is the policymaking authority of the City of Midland, including all law enforcement policies of the City of Midland; and

WHEREAS, the City Council finds and hereby reaffirms that the City Council has not delegated any policymaking authority to the Chief of Police of the Midland Police Department;

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

SECTION ONE. That the above recitals are hereby adopted and approved by the City Council of the City of Midland, Texas.

SECTION TWO. That the following amendments to the General Orders of the Midland Police Department are hereby approved:

Chapter 1, Section 1, Organizational Philosophy

* The new Vision, Mission and Values Statement as follows:

Vision Statement

The Midland Police Department will be recognized as a progressive law enforcement agency striving for a safer community and a better quality of life to ensure Midland is a safe place to live, visit and conduct business.

Mission Statement

The Midland Police Department will develop personnel and manage resources to promote effective partnerships with the community to improve the quality of life through the delivery of fair and impartial police services while maintaining an atmosphere of respect for human dignity.

Core Values

Professionalism – Our conduct and demeanor display the highest standard of personal and organizational excellence.

Integrity – Our actions and relationship with the community are guided by an internal sense of honesty and morality.

Respect – We are committed to respecting the individual rights, human dignity and the value of all members of the community and the department.

Accountability – Our duty is to promote public trust by ensuring we are always answerable for our actions.

Vigilance – Our responsibility is to be alert to issues and activities impacting our community.

Chapter 1, Section 7, Department Organization

* The move of Personnel/Recruiting to the Administrative Services Bureau and the Airport Police to the Field Operations Bureau.

* Other organizational moves within the department.

* Removing CISD from the Police Department.

Chapter 3, Section 11, Mandatory Physical Fitness Program

- * The removal of the 1.5% incline requirement on the treadmill test.

Chapter 3, Section 17, Media Relations and Release of Information

- * The revisions pertaining to the release of information under the Texas Public Information Act.

Chapter 4, Section 3, Off-Duty Employment

- * The off duty pay rate raise from \$25 per hour to \$30 per hour in order to stay equal with other local law enforcement agencies. The raise for supervisors working off duty from \$30 per hour to \$35.
- * The revised section pertaining to “Courtesy Officers.” This is an officer who works as a resident security officer on the premises of an apartment complex.

Chapter 4, Section 3, Off-Duty Employment

- * The changed requirement that resident security officers do not have to live on the property.

Chapter 4, Section 4, Personal Information

- * The change to “employee” instead of “sworn” and “non-sworn.”
- * The added information regarding employee personal information.

Chapter 4, Section 8, Career Development

- * The updated the number of career development positions in the department.

Chapter 4, Section 10, Promotions and Transfers

- * The changed reference from “all officers” to “all employees” who are promoted or transferred shall be on probation their first twelve months.

Chapter 4, Section 11, Performance evaluations

- * The revised unsatisfactory performance procedures to reflect CALEA standards. It is no longer necessary to give an employee 90-days notice that they will receive an unsatisfactory rating on their performance evaluation; the notice to the employee will be given as soon as possible.

Chapter 8, Section 2, Jurisdiction and Mutual Aid

- * The included statement that the MPD shares concurrent jurisdiction with the Sheriff's Office and the Department of Public Safety, but has primary jurisdiction over all incidents and motor vehicle accidents within the defined boundaries of the City of Midland.

Chapter 9, Section 1, Planning and Research

- * The moved responsibility of conducting the Citizen Survey from Community Relations to Planning and Research.

Chapter 10, Section 9, DWI Procedures

- * The revisions to procedures followed by MPD officers processing those suspected of driving while intoxicated.
- * The addition of the term “if physically” capable to the requirement that suspects perform certain tests to assess their level of impairment.
- * The replacement of the term “VHS cassette” with video.
- * The modified testing requirements to better align with the intoxilizer room at the new jail facility.

- * The removal of requirements which are already covered in the Texas Transportation Code.
- * The addition of the Midland County Detention Center infirmary or “any other designated sanitary place” as a location where blood specimens may be taken.

Chapter 10, Section 12, Civilian Observers

- * The changed term “MDT” to “laptop.”

Chapter 10, Section 17, Missing Persons

- * The addition of the Persons Detective to the call-out list for a missing person incident.

Chapter 11, Section 3, Juvenile Investigations

- * The inclusion of the school notifications procedure which is now a state requirement

Chapter 11, Section 11, Photo lineups and field interrogation

- * The modification of MPD policy to comply with House Bill 215, which requires adoption of written procedures in regard to police lineups. This requirement applied to every law enforcement agency in Texas.
- * The implementation of procedures designed to reduce erroneous eyewitness identifications; enhance the reliability and objectivity of eyewitness identifications; collect and preserve eyewitness evidence properly; respect the needs and wishes of victims and witnesses; and address the needs of witnesses with limited English proficiency.

Chapter 12, Section 7, Community Relations Crime Prevention

- * The moved responsibility of conducting the citizen survey to Planning and Research.

Chapter 12, Section 7, Community Relations Crime Prevention

- * The change to the program evaluation period from 1 year to every 3 years to meet a CALEA requirement.

Chapter 12, Section 10, Auxiliaries

- * The addition of the Citizen Police Academy Alumni Association to this group.

Chapter 12, Section 11, Chaplain Program

- * The revised monthly reporting requirements and job duties.

A copy of said General Orders, as amended, shall be on file in office of the Chief of Police of the Midland Police Department.

SECTION THREE. That the Chief of Police is hereby directed to submit, not less than annually, all amendments or modifications to the General Orders of the Midland Police Department to the City Manager for administrative review and approval. The City Manager is hereby directed to submit, not less than annually, all such amendments or modifications to the General Orders of the Midland Police Department to the City Council for review and

approval. Such amendments or modifications shall not become effective until approved by the City Council, and such approval shall be within the sole discretion of the City Council.

SECTION FOUR. That the City Council is the policymaking authority of the City of Midland, Texas, including, but not limited to, all law enforcement policies of the City of Midland, Texas.

SECTION FIVE. That the City Council has not delegated any policymaking authority, expressly or impliedly, to the Chief of Police of the Midland Police Department.

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

Council members voting “AYE”:

Council members voting “NAY”:

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

City of Midland
Police Department

Interoffice Memorandum

DATE: September 4, 2012

TO: Courtney Sharp, City Manager

FROM: Price Robinson, Chief of Police

SUBJECT: Amendments to the MPD General Orders for the 3rd and 4th Quarter of 2011 and the 1st Quarter of 2012

Resolution No. 2010-320 requires that all amendments and modifications to the MPD General Orders be submitted to the City Council, not less than annually, for review and approval.

The following involve administrative changes only.

Chapter 1 Section 1 - Organizational Philosophy

- Added new Vision, Mission and Values Statement

Chapter 4 Section 3 – Off Duty Employment

- Off duty pay rate was raised from \$25 per hour to \$30 per hour in order to say equal with other local law enforcement agencies.
- Revised the section pertaining to “Courtesy Officers.” This is an officer who works as a resident security officer on the premises of an apartment complex.

Chapter 4 Section 8 – Career Development

- Updated the number of career development positions in the department

Chapter 4 Section 10 – Promotions and Transfers

- Changed the reference from “all officers” to “all employees” who are promoted or transferred shall be on probation their first twelve months.

Chapter 4 Section 11 – Performance evaluations

- Revised unsatisfactory performance procedures to reflect CALEA standards. No longer have to give an employee 90-days notice that they will receive an unsatisfactory rating on their performance evaluation. The notice to the employee will be given as soon as possible.

Chapter 9 Section 1 – Planning and Research

- Moved the responsibility of conducting the Citizen Survey from Community Relations to Planning and Research.

Chapter 12 Section 7 – Community Relations Crime Prevention

- Moved the responsibility of conducting the citizen survey to Planning and Research

Chapter 1 Section 7 – Department Organization

- Reflects the move of Personnel/Recruiting to the Administrative Services Bureau and the Airport Police to the Field Operations Bureau.
- Other organizational moves within the department
- Removing Cisd from the Police Department

Chapter 3 Section 11 – Mandatory Physical Fitness Program

- Removed the 1.5% incline requirement on the treadmill test.

Chapter 4 Section 3 – Off-Duty Employment

- Changed the requirement that resident security officers do not have to live on the property.
- For many years, police officers have been working security at apartment complexes and they either lived on or off the property. Complexes would have an officer work security in lieu of payment or reduced rent.
- Recently, General Orders was changed to require officers to live on the property where they worked security. In hindsight, this was done as a “kneejerk” reaction following two small issues. This change would adversely affect those working security that did not live on the property. Several apartment management companies called the department and asked that the change be reconsidered. Duties of resident security officers mainly consist of patrolling the complex, closing the swimming pool, and responding to loud music complaints.
- This change will reflect that resident security officers do not have to live on the property in which they provide security. An answering service usually calls the resident security officer and they respond to the complex. If it's an issue that requires other assistance, an on-duty unit is usually called.

Chapter 4 Section 4 – Personal Information

- Change the verbiage to reflect “employee” instead of “sworn” and “non-sworn”
- Added information to employees regarding the release of excepted information.

Chapter 8 Section 2 – Jurisdiction and Mutual Aid

- Included the statement that the MPD shares concurrent jurisdiction with the Sheriff's Office and the Department of Public Safety, but has primary jurisdiction over all incidents and motor vehicle accidents within the defined boundaries of the City of Midland.

Chapter 10 Section 9 – DWI Procedures

- Revised the way that MPD officers process those suspected of Driving While Intoxicated.
- This policy was reviewed by Sgt. Craig Matthews of the MPD who is an expert in the area of DWI investigation and DWI testimony.
- Some of the changes were:
 - Adding the term “if physically” capable to the requirement that suspects perform certain tests to assess their level of impairment. Some tests

require the suspect to walk and turn and participate in a one-leg stand test.

- Replaced the term “VHS cassette” with “video.”
- Modified the testing requirements to better align with the intoxilizer room at the new jail facility.
- Removing requirements which are already covered in the Texas Transportation Code.
- Added the Midland County Detention Center infirmary or “any other designated sanitary place” as a location where blood specimens may be taken.

Chapter 10 Section 12 – Civilian Observers

- Changed the term “MDT” to “laptop”

Chapter 10 Section 17 – Missing Persons

- Included a Persons Detective to the call-out list for a missing person incident.

Chapter 11 Section 3 – Juvenile Investigations

- Included the school notifications procedure which is now a state requirement

Chapter 11 Section 11 – Photo lineups and field interrogation

- MPD policy was modified to meet the requirements of House Bill 215. This requirement applied to every law enforcement agency in Texas.
- In summary, the procedures that have been implemented have been designed to: (a) reduce erroneous eyewitness identifications, (b) enhance the reliability and objectivity of eyewitness identifications, (c) collect and preserve eyewitness evidence properly, (d) respect the needs and wishes of victims and witnesses, and (d) address the needs of witnesses with limited English proficiency, where applicable.

Chapter 12 Section 7 – Community Relations Crime Prevention

- Changed the program evaluation period from 1-year to every 3 years to meet a CALEA requirement.

Chapter 12 Section 10 – Auxiliaries

- Added the Citizen Police Academy Alumni Association to this group

Chapter 12 Section 11 – Chaplain Program

- Revised their monthly reporting requirements and job duties.

CHAPTER 1

SECTION 1 ORGANIZATIONAL PHILOSOPHY

I. STATEMENT OF PURPOSE (CALEA 12.2.1.a)

The purpose of this order is to identify the organizational philosophy of the Department that emphasizes a positive working relationship between the public and the police. This concept involves a community-oriented approach to policing. Each organizational component's goals and objectives will be focused to achieve this philosophy.

II. VISION STATEMENT

The Midland Police Department will be recognized as a progressive law enforcement agency striving for a safer community and a better quality of life to ensure Midland is a safe place to live, visit, and conduct business.

III. MISSION STATEMENT (CALEA 12.2.1.a)

~~We, the members of the Midland Police Department, are committed to our community in the delivery of quality service. Recognizing our responsibility as public servants to maintain order while affording dignity and respect to every individual, our objective is to improve the quality of life through a community partnership that promotes safe, secure neighborhoods. The Midland Police Department values People, Leadership, Service, Performance, and Mutual Understanding.~~ The Midland Police Department will develop personnel and manage resources to promote effective partnerships with the community to improve the quality of life through the delivery of fair and impartial police services while maintaining an atmosphere of respect for human dignity.

IV. CORE VALUES

Professionalism – Our conduct and demeanor display the highest standard of personal and organizational excellence.

Integrity – Our actions and relationship with the community are guided by an internal sense of honesty and morality.

Respect – We are committed to respecting the individual rights, human dignity and the value of all members of the community and the department.

Accountability – Our duty is to promote public trust by ensuring we are always answerable for our actions.

Vigilance – Our responsibility is to be alert to issues and activities impacting our community.

HHV. GOALS AND OBJECTIVES (CALEA 15.2.1)

A. The Department and each organizational component within the Department has a written set of goals and objectives.

CHAPTER 1

SECTION 1 ORGANIZATIONAL PHILOSOPHY

- B. The Department goals and objectives form the foundation and are in addition to the individual component goals and objectives. All agency goals and objectives are established by providing each employee the opportunity to supply input into the process.
- C. Supervisors of each organizational component draft and submit their goals and objectives after consulting with the employees of the component. Each organizational component maintains their goals and objectives and is responsible for accomplishing them within the allotted period of time.
- D. A copy of all goals and objectives is submitted to the Chief of Police every January. An update of the progress towards the attainment of the Department's goals and objectives, as well as the component's goals and objectives, is submitted by each organizational unit to the Chief of Police every July. The Planning and Research unit retains copies of the goals and objectives as well as the progress reports. (CALEA 15.2.2)
- E. The Department and the component goals and objectives are available for inspection at any time by agency personnel in the offices of Planning and Research.

+VI. POLICY STATEMENT (CALEA 12.2.1.f)

It is the desire of the Midland Police Department to provide guidance in those circumstances wherein General Orders, Special Orders, Standard Operating Procedures or stated procedures cannot be followed. When officers encounter circumstances in which departmental policy or stated procedures cannot be followed, officers adopt alternative procedures to accomplish police objectives.

When the use of alternative procedures becomes necessary, officers adopt those alternative procedures that will accomplish policy objectives in the most expedient manner with the least inconvenience to the public. Alternative procedures are those that tend to accomplish stated policy objectives in a manner which best insures the safety and welfare of the officer and the general public.

CHAPTER 1

SECTION 7 DEPARTMENT ORGANIZATION

I. STATEMENT OF PURPOSE (CALEA 11.1.2)

The purpose of this order is to define the organizational structure of the Department. It includes Department and Bureau Organizational Charts that depict the Department's structure.

II. STRUCTURE (CALEA 11.1.1, 11.1.2)

A. The Department is organized into four Bureaus, each commanded by a Deputy Chief, except the Administrative Services Bureau, which is under the command of the Chief of Police.

B. The Bureaus are:

1. Administrative Services Bureau
2. Field Operations Bureau
3. Investigative Services Bureau
4. Support Services Bureau

III. PRIMARY BUREAU RESPONSIBILITIES (CALEA 11.1.1, 11.1.2, 15.1.2)

A. Administrative Services Bureau

The Administrative Services Bureau is responsible for Administrative functions and fiscal affairs. This Bureau contains the Professional-Administrative Services Division. This Bureau is commanded by the Chief of Police.

Administrative Services Division

The functions of this Division consist of the following: Internal Affairs; **Personnel and Recruiting**; Law Enforcement Grants and Planning; Accreditation; Purchasing/Supply; and Crime Analysis. This Division is commanded by a Lieutenant who reports directly to the Chief of Police. Internal Affairs **and Personnel and Recruiting** are ~~is~~ staffed by a Sergeant, who reports ~~s~~ to the Lieutenant. Also reporting to the Lieutenant are the Accreditation Manager, Law Enforcement Planner/Coordinator, Purchasing/Supply Clerk, and Crime Analysis Supervisor.

CHAPTER 1

SECTION 7 DEPARTMENT ORGANIZATION

B. Field Operations Bureau

The Field Operations Bureau is responsible for the preliminary investigation of calls for service, traffic law enforcement and directed patrol activities. This bureau is commanded by four Lieutenants. The Lieutenants report to the Deputy Chief of the Field Operations Bureau who in turn reports to the Chief of Police.

1. Patrol Division

This Division is responsible for the preliminary investigation of calls for service, traffic law enforcement, accident investigations and general patrol duties for the geographic area, 24 hours a day. The geographic areas are determined by periodic workload studies.

* 2. Special Operations Division

This Division is divided into the following areas: Traffic Unit; Departmental Fleet Program; Explosive Ordinance Disposal; and Emergency Operation Center. The Lieutenant of this Division is responsible for the above listed units and their deployment.

3. Airport Division

This Division is responsible for the preliminary investigation of calls for service, traffic law enforcement, accident investigation, general patrol duties and other duties as may be required by the geographical location of the Midland International Airport and Airpark Municipal Airport.

C. Investigative Services Bureau

The Investigative Services Bureau is responsible for follow-up investigations in criminal cases, excluding traffic related cases. This Bureau is made up of two Divisions each commanded by a Lieutenant who report to the Deputy Chief of the Investigative Services Bureau. The Deputy Chief of the Bureau reports to the Chief of Police.

* 1. Investigations

This Division is responsible for the investigation of Crimes against ~~Property~~ **Persons**; White-Collar Investigations; Auto Theft Investigations; Juvenile Crimes Investigations; **Sex Offender Awareness Facts and Enforcement (SAFE)**; **Victim's of Crime Liaison**; and the ~~Identification Section Crime Scene Investigation Unit~~. ~~The Investigations Division Sergeants supervise Crimes against Property, White-Collar, Auto Theft Investigations and Juvenile Investigations.~~ The division is divided into three units, two are supervised by

CHAPTER 1

SECTION 7

DEPARTMENT ORGANIZATION

sergeants and the Identification Unit is supervised by a civilian. ~~This Division provides initial training for new investigators. Cases are assigned in this Division on the basis of solvability factors.~~

~~This Division is also responsible for second contact on all non-assigned criminal cases and submits new information on these cases to the proper I.S.B. Division for reassessment of these cases.~~

*** 2. Special Investigations**

This Division is responsible ~~for the following:~~ Narcotics/Vice Investigations; HIDTA; DEA Task Force Officer; ~~and Crimes against~~ **Persons Property**; ~~Victim /Witness Assistant Liaison, Evening Detectives; and Sex Offender Awareness Facts and Enforcement (SAFE).~~ The Narcotics/Vice Investigations Sergeant, **Persons Property** Investigations Sergeant; ~~Evening Detectives Sergeant; and~~ HIDTA Sergeant report to the Special Investigations Lieutenant. ~~The SAFE Detective reports to the Evening Detective Sergeant and the Victim/Witness Assistant Liaison reports to the Persons Investigations Sergeant.~~

Crimes Against Property provides initial training for new investigators.

D. Support Services Bureau

The Support Services Bureau is responsible for Community Relations, ~~Airport Operations~~, Information/Property Management, ~~and Training and Public Safety Communications.~~ The Community Services, ~~Airport~~, and Training Divisions are each commanded by a Lieutenant. ~~Public Safety Communications is commanded by a Communications Manager.~~ Division Commanders report to the Deputy Chief of the Support Service Bureau.

1. Community Services Division

This Division is responsible for the Crime Prevention/Community Relations Section, Mobile Substation, Telephone Response Unit (TRU), Records/Data Management, Property/Evidence, Auxiliary Programs, and the Chaplain Program.

*** 2. Training Division**

This Division has the primary responsibility of assuring that all personnel receive adequate training in their job area. Functions within this Division include Personnel/Recruiting, Field Training/Probationary Police Officer Programs, Firearms training, Physical Fitness training, In-service training, Career Development Programs, and the Cadet Program.

CHAPTER 1

SECTION 7 DEPARTMENT ORGANIZATION

~~3. Airport Division~~

~~This Division is responsible for the preliminary investigation of calls for service, traffic law enforcement, accident investigation, general patrol duties and other duties as may be required by the geographical location of the Midland International Airport and Airpark Municipal Airport.~~

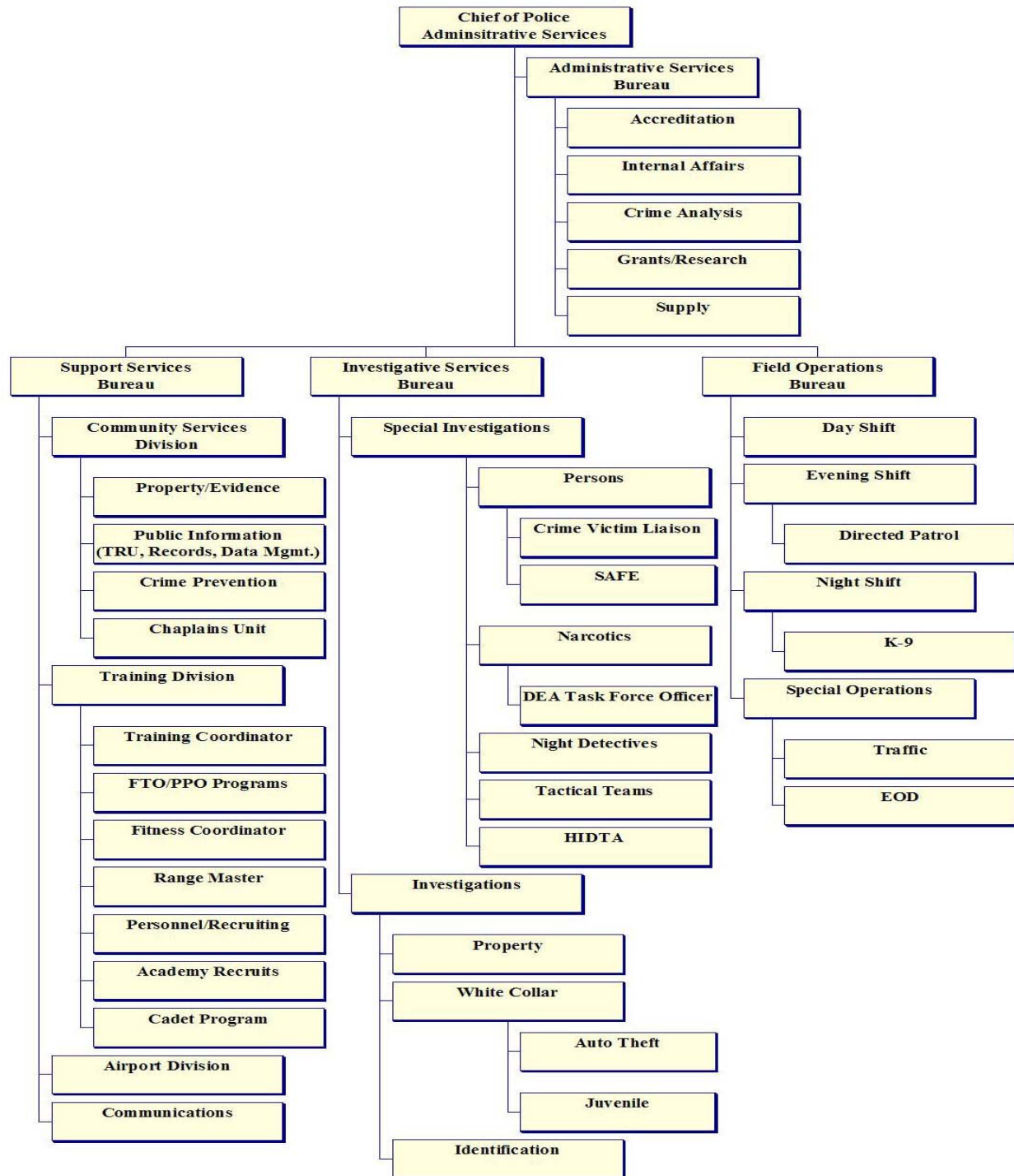
~~* 4. Public Safety Communications Center (PSCC)~~

~~The PSCC provides centralized communications services to the City of Midland, Midland Police Department, Midland Fire Department, and the Midland County Sheriff's Department. Centralized communications provided by the PSCC include base mobile communications and twenty-four hour telephone communications for both emergency and non-emergency calls.~~

- * IV. ORGANIZATIONAL CHARTS (CALEA 11.1.1, 11.1.2)
 - A. The organizational structure of the Department is depicted in organizational charts, which reflect the chain of command and lines of authority within the Department and within each Bureau.
 - B. The organizational charts of the Department are included in the General Orders manual. These charts are reviewed and updated annually. Charts are available to all personnel.

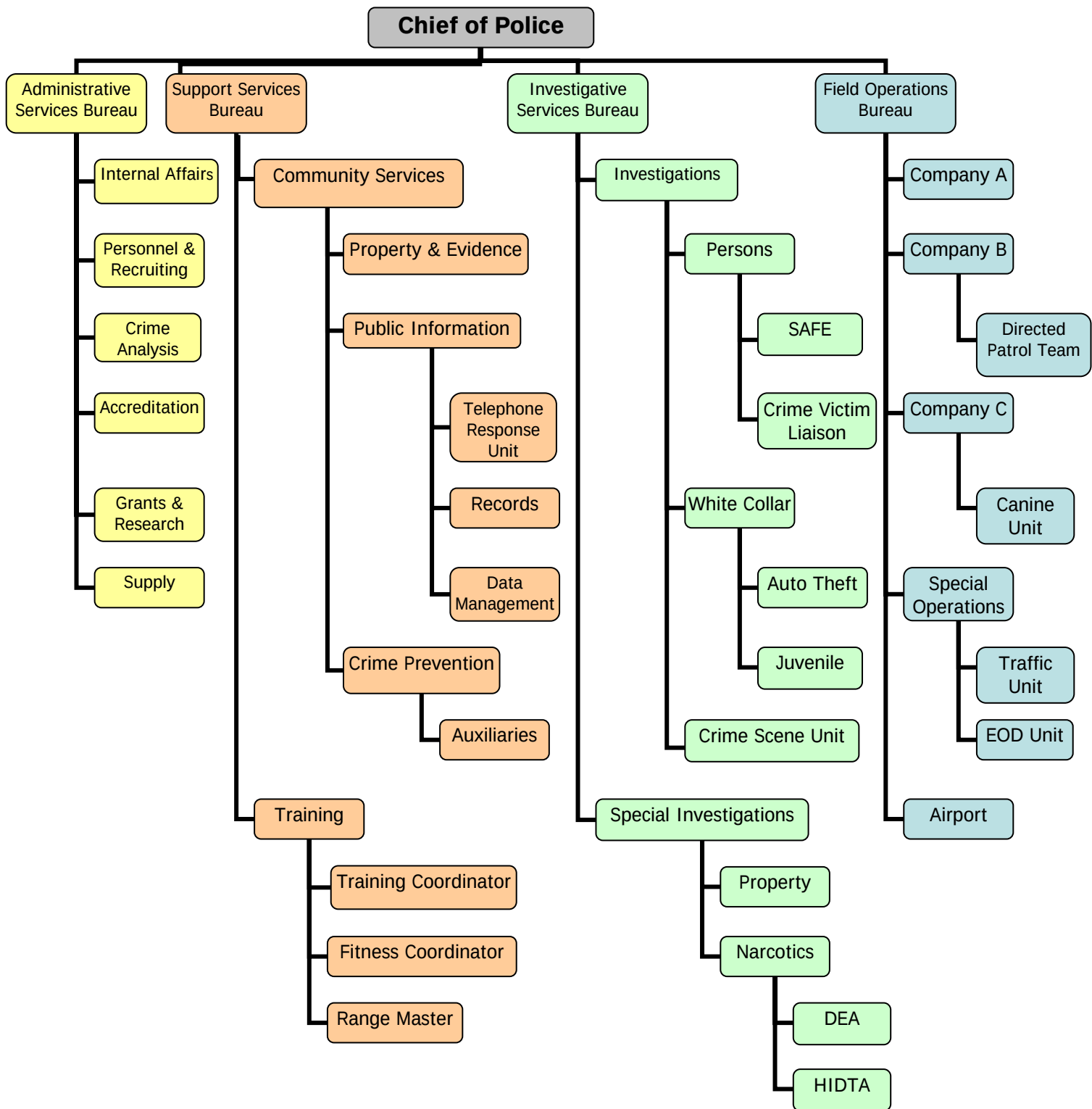
CHAPTER 1
SECTION 7 DEPARTMENT ORGANIZATION

Department Vision



CHAPTER 1

SECTION 7 DEPARTMENT ORGANIZATION



CHAPTER 3

SECTION 11 MANDATORY PHYSICAL FITNESS PROGRAM

I. STATEMENT OF PURPOSE (CALEA 22.3.2, 22.3.3.a)

The Department's physical fitness program is directed to all commissioned police officers employed by the Department. All officers are required to participate in the program. The intent is to have all officers involved in a physical training program that they maintain for the remainder of their career. All other personnel are encouraged to voluntarily participate and benefit from this program. The Training Division is responsible for the administration of the program.

II. PROGRAM GOALS AND OBJECTIVES (CALEA 22.3.2, 22.3.3.a)

A. The primary goals of the Department are:

1. To involve every officer in some type of physical training program that the individual can stay with their entire career. (CALEA 22.3.3.d)
2. To provide training in fitness and wellness on a continuing basis. Officers are trained on different methods of obtaining and maintaining a desired level of fitness. (CALEA 22.3.3.d)
3. To increase the capacity to reduce job related injuries by being physically capable and flexible through increased stamina, strength and ability.
4. To enhance the capacity to maintain increased decision making skills in biologically and emotionally intense situations.
5. To increase survival skills in physical confrontations.
6. To decrease the negative effects of stress and increase the quality of personal life.
7. To improve the basic health level and reduce the use of sick leave, as well as increase the efficiency of professional life by increasing tolerance to fatigue.
8. To reverse the negative effects of the traditional sedentary nature of police work that contributes to certain diseases such as heart disease, high blood pressure, lower back pain and obesity.
9. To reduce premature termination of a productive work life.
10. To increase self-confidence, contributing to greater job satisfaction and a positive work attitude.

CHAPTER 3

SECTION 11 MANDATORY PHYSICAL FITNESS PROGRAM

11. To field physically fit officers, both in appearance and demeanor, thereby increasing citizen respect and confidence.
- B. The objective of the physical fitness program is to impact officers in three critical areas.
 1. Increase or maintain a high aerobic capacity
 2. Increase or maintain good muscular strength
 3. Increase or maintain good muscular endurance

* III. MEDICAL EXAMINATIONS (CALEA 22.3.1, 22.3.2, 22.3.3.a, c)

- A. Prior to the first physical assessment test, all officers are required to have a physical examination. This is usually covered by the pre-employment physical. The examination is performed by a physician made available through and paid for by the City.
- B. Officers with City Insurance have a physical exam available to them each year on a voluntary basis through the City Insurance under preventative/wellness care.

IV. ASSESSMENT TESTING PROCEDURES (CALEA 22.3.3.c)

- A. Employee testing, for program compliance, is conducted on a semi-annual basis, unless the individual is in remedial training or qualifies for incentive testing. The testing is conducted by the Training Division and is coordinated/controlled by the Physical Training Coordinator. All test results, prescribed individual training programs, contractual agreements, and progress reports are maintained in the individual employee's training file. Participation in the program is mandatory.
- B. The assessment test and norms for the test were adopted from the Cooper's Institute for Aerobics Research in Dallas, Texas. They represent a data bank of 30,000 people that are actual Cooper patients and are not a random sample of the population. This assessment test was developed through years of intensive research. The test is designed to measure an individual's fitness in three areas: Aerobic capacity, muscular strength, and muscular endurance.
- C. The test does not measure specific motor related functions that would be considered to be directly job related. The test does measure the individual's fitness level in each of the three listed areas. The test can then be used as an accurate prediction of how well the individual should be able to perform a number of job related tasks.

CHAPTER 3

SECTION 11 MANDATORY PHYSICAL FITNESS PROGRAM

- D. Employees are tested in the following categories:
1. Aerobic Power Test
 - a. The 1.5 mile run is a maximum field test of cardiovascular fitness, in which the objective is to cover the distance as fast as possible. The officer (not the officer's supervisor) may choose to run on the treadmill in the gym or at the track. ~~If the run is completed on the treadmill, the treadmill will be set on a 1.5% incline grade to simulate the propelling of body weight on a stationary track.~~
 - b. Those who are 40 years old or older or those with a permanent medical condition and valid doctor's excuse that prohibits running, may choose to test on the stationary bicycle.
 2. 1 minute push-ups – 1 minute push-up test measures muscular endurance and dynamic strength. The objective is to perform as many as you can correctly in 1 minute.
 3. 1 minute sit-ups - 1 minute sit-up test measures muscular endurance and dynamic strength. The objective is to perform as many as you can correctly in 1 minute.
- E. The "Assessment Testing and Norms" portion of the program contain the norms for each exercise done in the assessment test. The far left column of the norms sheet for each exercise or activity indicates the percentage of the population that an individual measures up to in that particular test. In the far right column, the letters from top to bottom S(superior), E(excellent), G(good), F(fair), P(poor), and VP(very poor) indicate the level of fitness of the individual being tested. MPD minimum standards are based on the 50% percentile for each test.
- F. The order in which the semi-annual Physical Training Assessments are completed is at the discretion of the Physical Fitness Training Coordinator based on group/squad size, so the assessments may be completed in a timely manner.
- G. Direct supervisors shall be present with their squads during assessment testing.

CHAPTER 3

SECTION 11 MANDATORY PHYSICAL FITNESS PROGRAM

V. INCENTIVE AND AWARDS (CALEAL 22.3.3.d)

- A. As a reward for maintaining excellent physical conditioning and as an incentive to maintain that level of conditioning, officers who do not go below the 75% level in the three categories are only required to take the assessment test once a year. If they fall below the 75% level in two out of three categories they are required to test in six months on the regular assessment schedule. If they fall below the 75% level in only one category, the officer will have 30 days to retest in that category, and if they score at 75% or above, they will qualify for assessment testing once a year.
- B. In order to be eligible for the Physical Fitness Award, an officer must achieve 80 percentile in all three categories.
- C. Once the Physical Fitness Award has been earned, the individual officer must maintain an 80-percentile level to display the award on a uniform.
- D. The training division will maintain a program of fitness incentives to be determined after each assessment.
- E. The officer's lowest score in any of the physical areas determines the fitness level.

VI. MEDICAL EXEMPTIONS FROM FITNESS TESTING

- A. Those officers, who are on light duty, at the time of scheduled testing, must test at the next scheduled assessment.
- B. When an officer suffers from an injury that affects the officer's ability to test (i.e. knee surgeries, shoulder surgeries, hernias) he/she must submit a physicians review form which identifies:
 - 1. The injury that prevents the officer from testing
 - 2. What test the injury prevents the officer from engaging in
 - 3. Renewal of the physicians review form is not mandatory if the officer continues in a regularly scheduled fitness program.
- C. All other medical excuses must be accompanied by a physicians review form that identifies the following:
 - 1. The injury/illness that prevents the officer from testing;
 - 2. What test the injury/illness prevents the officer from engaging in;

CHAPTER 3

SECTION 11 MANDATORY PHYSICAL FITNESS PROGRAM

3. The length of time the officer would be excused from performing the test;
 4. These excuses must be renewed every 90 days.
- D. Doctor's excuses do not exempt an MPD Officer from participating in the assessment program.

VII. REMEDIAL PROGRAM (CALEA 22.3.3 d & e)

- A. The remedial fitness program began with the October 1992 assessment, and is in effect on any assessment after that date.
- B. Each officer with the Midland Police Department is asked to be at the 50% level in each of the categories. Officers that fall below the 50% level in one or more of the categories are consulted by the Physical Fitness Coordinator and their immediate supervisor to:
1. Be notified of the area(s) that are below standard.
 2. Be given notice that the officer is in remedial training until such time as the sub-standard area(s) are brought up to the 50% level.
 3. Develop a personalized fitness prescription with the Physical Fitness Coordinator to bring up the sub-standard area(s).
 4. Be given a remedial testing schedule of times that they are to be re-tested in the sub-standard area(s) to check their progress.
 5. Set realistic goals that are agreed upon by the officer and the Physical Fitness Coordinator.
- C. The goal of the remedial program will be for the officer to participate regularly in a fitness program prescribed by the Physical Fitness Coordinator, in order to be able to meet the 50% level at the next assessment period.
- D. Officers in the Remedial program will meet with the Physical Fitness Coordinator each month that they are in remedial. The purpose of this meeting will be to consult and test as to the effectiveness of their individual fitness program.

CHAPTER 3

SECTION 11 MANDATORY PHYSICAL FITNESS PROGRAM

- * E. Officers in the remedial program have 30 days after their initial assessment to re-test in sub-standard area(s). Officers may re-test as many times as they like in those 30 days. If after 30 days the officer has not obtained Fit For Duty status by achieving 50th percentile in sub-standard area(s), the officer will have to complete an assessment in the sub-standard area(s) on a weekly basis and set up an individual fitness program agreed upon by the remedial officer and the Fitness Coordinator.

VIII. PROMOTIONS AND INTERDEPARTMENTAL TRANSFERS

The Midland Police Department Physical Fitness Program does not serve as a disqualifier for promotions or interdepartmental transfers. Any consideration that physical fitness does play in the promotion process or in interdepartmental transfers is specifically outlined in the General Orders Manual.

IX. WORKOUT TIME

On-duty workout time is left to the discretion of each commander. Because this department has such a strong emphasis on fitness, each commander is encouraged to adopt a liberal on-duty workout program that adapts to their manpower situation.

X. CIVILIAN EMPLOYEES (CALEA 22.3.3.a, c)

- A. Civilian employees are encouraged to make use of the MPD gym and the physical assessment program.
- B. Sworn and civilian employees are encouraged to participate in the City of Midland Wellness Program.

XI. WORKER'S COMPENSATION

The current worker's compensation policy applies to this program. If an officer is hurt while testing or when working out in the MPD gym while on-duty they will be covered by Worker's Compensation. Injuries sustained while working out off-duty are not covered by Worker's Compensation. However, injuries are covered under the accident clause of the City insurance. This applies only to those who are members of the City of Midland group insurance policy. For further information refer to the "City of Midland Personnel Handbook" and provisions of the insurance policy.

CHAPTER 3

SECTION 17 MEDIA RELATIONS AND RELEASE OF INFORMATION

I. STATEMENT OF PURPOSE

Positive press relations are an integral part of the operation of any public service agency; the Midland Police Department is no exception. Most citizens have little contact with law enforcement officers and their opinion of the police is often formed by the mass media's portrayal of our functions. The maintenance of good press relations is therefore a crucial element of public relations. Officers and employees must maintain good rapport with the media and deal with them in a courteous and impartial manner. It must be remembered that the media has a legitimate function in our society and the public trust of the police can be enhanced through proper dealings with the media.

Towards this end, officers and employees of the Department are expected to cooperate fully in meeting the relevant needs of accredited members of the media. Every reasonable effort should be made to obtain the requested information, so long as the release of that information conforms to departmental regulations and local restrictions.

II. NEWS MEDIA REQUIREMENTS AND PRIVILEGES

- A. The Department does not issue or revoke news media credentials. Media representatives who possess a current Texas Department of Public Safety press card or who are otherwise known to be legitimate media representatives are allowed at the scene of a police operation. If a question exists as to whether or not the representative is with the media, the media agency is contacted to verify credentials of the individual in question.
- B. Members of the media may not resist, obstruct or otherwise interfere with an officer in the lawful execution of his duty. The mere presence of a member of the media, the taking of pictures or the asking of questions does not constitute interference. (CALEA 54.1.3)
- C. Officers shall not restrict the movement of members of the media, unless their actions clearly and directly interfere with police functions or investigations. (CALEA 54.1.3)
- D. Members of the media are not exempt from any federal law, state law, or any local ordinance. They are dealt with in the same manner as any other violator if arrested.
- E. No member of the media shall have any property confiscated nor be threatened with confiscation, without due process of law. This includes cameras, film, notes, etc.
- F. Officers who experience difficulties in dealing with individual members of the media at the scenes of incidents should report such by memorandum to the Chief of Police and the Public Information Office.

CHAPTER 3

SECTION 17 MEDIA RELATIONS AND RELEASE OF INFORMATION

III. NEWS CONFERENCES AND SCHEDULED MEDIA INTERVIEWS

- A. Generally, officers and investigators may release information, through the Public Information Officer, about an ongoing investigation so long as the information released does not impede or interfere with the investigation, apprehension, or prosecution of the suspect.
- B. All news conferences or scheduled media interview requests should be coordinated through the Public Information Officer.

IV. CRIME SCENE

- A. The on-scene commander, ranking officer or PIO shall assist news media in covering news at the crime scene. Exceptions to this are: (CALEA 54.1.1.a, 54.1.3)
 - 1. When the crime scene is on private property and the person responsible for the property requests the media to leave the property.
 - 2. When the presence of members of the media might adversely effect the preservation of the crime scene or interfere with an investigation.
 - 3. When the presence of members of the media would interfere with a police operation.
 - 4. When members of the media could, in the opinion of the officers at the scene, be exposed to a clear and present danger.
- B. Members of the media are allowed access to perimeter areas of a crime scene unless otherwise permitted in by the officer in charge of the scene.
- C. The above described procedures apply to scenes of major fires, natural disasters and any other catastrophic event. (CALEA 54.1.1.a, 54.1.3)

V. RESPONSIBILITIES FOR THE RELEASE OF INFORMATION

- A. Public Information Officer
 - 1. The P.I.O. will be notified any time the news media is at the scene of an incident. After being briefed on the situation, the P.I.O. will determine if it is necessary to travel to the scene. (CALEA 54.1.1.a)
 - 2. All press releases will be coordinated through the P.I.O. (CALEA 54.1.1.b)

CHAPTER 3

SECTION 17 MEDIA RELATIONS AND RELEASE OF INFORMATION

B. Watch Commanders

The highest-ranking officer or his designee, at the scene of an incident releases pertinent information to the news media. Only verified, preliminary information is to be released at the scene. For more detailed information, the news media is referred to the Public Information Office. (CALEA 54.1.1.a)

C. Other Personnel

1. During regular duty hours, the P.I.O. maintains close contact with the Investigative Services Bureau for updated information on cases or incidents under investigation. Interviews with detectives on specific investigations are scheduled by the P.I.O. or his designee during regular business hours. For routine updates on cases under investigation, media representatives are referred to the Public Information Officer.
- * 2. The existence of the Public Information Officer does not imply any prohibition on other personnel with regard to speaking to members of the news media. The very nature of newsgathering necessitates the immediate retrieval of accurate, factual information and often the best source of such information is the patrol officer or the detective. Personnel may respond to media inquiries relating to police matters in which they are personally involved or about which they are sufficiently informed. The PIO should be informed if any information and what information was released to the news media. If not personally knowledgeable about the subject of inquiry, personnel are to refer the person making the inquiry to someone capable of providing the information. These being:
 - a. Public Information Officer
 - b. Ranking Officer at the scene
 - c. Watch Commander
 - d. Chief of Police

VI. Internal Resume

A. Purpose

The departmental internal resume is utilized by the Command Staff and other members dealing with the public and news media to avail themselves of the latest information concerning investigations and occurrences requiring police attention. The information contained in the internal resume should be brief and accurate with

CHAPTER 3

SECTION 17 MEDIA RELATIONS AND RELEASE OF INFORMATION

sufficient details to allow readers to understand what took place. The basic questions of who, what, when, where, why, and how should serve as a starting point. Frequently an explanation is required.

B. Responsibilities

Without jeopardizing the investigation, members shall complete an internal resume as soon as possible during the course of the investigation. It is the responsibility of the reporting officer, investigating detective or other follow-up officer to ensure that the internal resume is properly placed at the front desk or e-mailed. An exception occurs when a member is present at the scene performing the function of the Public Information Officer. If there is an officer at the scene in the position of P.I.O. he is responsible for assuring that the internal resume is properly completed and placed at the front desk or e-mailed. The internal resume is for Departmental use only and will not be forwarded or shared with anyone outside the Department.

C. Incidents Requiring Internal Resume

Incidents requiring an internal resume include but are not limited to:

1. Assaults - Serious Injury or possible death.
2. Arson - All
3. Assault on Police Officer - All
4. Bombs/explosives - All
5. Business Burglary - All
6. Residential Burglary - Items taken of significant value or suspect is believed to be a professional.
7. Child Abuse - All
8. Collisions - Injuries could result in death, or where death occurs; someone is admitted to the hospital with serious injuries; property damage is significant; or where the circumstances are obviously out of the ordinary.
9. Deaths - Those cases other than natural deaths.
10. Extortion/Fraud - Unusual circumstances or significant loss.
11. Felony Arrests - Those that will not hinder on going investigations.

CHAPTER 3

SECTION 17 MEDIA RELATIONS AND RELEASE OF INFORMATION

12. Homicides - All
13. Hostage/Barricaded Subjects - All
14. Kidnapping – All (Not Attempt to Locate)
15. Sabotage - All
16. Thefts - Significant loss
17. Missing Persons - Elderly person or young person, where the welfare of the individual could be threatened.
18. Riots, Large disturbances, Demonstrations - All
19. Robberies - All
20. Sexual Assaults – All (To include arrest of suspect if on different date)
21. Suicides – All
22. Criminal Mischief, extensive damage or series of occurrences that appear to be connected.
23. Others - Any unusual, serious or sensational incident should be recorded.

VII. RELEASING NAMES OF DECEASED (CALEA 54.1.1.e)

In cases of death due to causes other than a natural death, the name of the deceased shall not be released by department personnel for a reasonable time or until next of kin has been notified. Reasonable time necessarily varies depending on the circumstances of each case.

VIII. TEXAS PUBLIC INFORMATION ACT

- A. This Act states that all information collected, assembled or maintained by governmental agencies in connection with the transaction of business is public information and available to the public, unless the act exempts the information from disclosure. (CALEA 54.1.1.e)
- B. The Public Information Act is applicable to information in the files and records of the Department, including:
 1. Accident Reports

CHAPTER 3

SECTION 17 MEDIA RELATIONS AND RELEASE OF INFORMATION

~~2. Front page of offense/incident reports. Supplemental reports are not open to disclosure, except as detailed in this order.~~ Offense / Incident / Supplemental reports

3. Police photographs. The media may be furnished a copy of a police photograph or composite sketch when:
 - a. The release does not jeopardize an ongoing investigation.
 - b. The person is in-custody and has been charged with the offense.
 - c. The person is being sought and is charged with the offense and there is a need to alert the public to a dangerous fugitive.
 - d. Authorized by the Chief of Police.

- * C. The Department may withhold information under Section 552.108 of the Government Code ~~as-a~~ under the "Law Enforcement Exception" if the information:
1. Would interfere with the detection, investigation, or prosecution of crime;
 2. Deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication;
 3. Is relating to a threat against a peace officer or detention officer collected or disseminated under Section 411.048;
 4. Is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation or reflects the mental impression or legal reason of an attorney representing the state.
 5. An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of Section 552.021 if:
 - a. release of the internal record or notation would interfere with law enforcement or prosecution;
 - b. the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication; or

CHAPTER 3

SECTION 17 MEDIA RELATIONS AND RELEASE OF INFORMATION

- c. the internal record or notation is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or
- d. the internal record or notation reflects the mental impressions or legal reasoning of an attorney representing the state.

~~6. Reveals a confidential source.~~

~~7. Discloses investigative techniques.~~

~~8. Endangers the life or physical safety of law enforcement personnel or others.~~

~~9. Jeopardizes the State's position in a criminal prosecution.~~

~~106.~~ This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

D. Other provisions of the ~~Open Records~~ Act's exceptions allows the Department to withhold the following:

- 1. Information which, if released, would be an unwarranted invasion of personal privacy.
- 2. Criminal history record information as controlled by federal regulations.
- 3. Juvenile Records as governed by the Texas Family Code.
- 4. Information relating to ongoing litigation involving the City or any of its employees and/or information relating to reasonable anticipated litigation. This applies only if the City Attorney's Office determines that the particular information should be withheld from the public or the media.

E. As applied to incident reports, the ~~Open Records~~ Act has been held to require that the following information be disclosed to the public and media:

- 1. Offense committed
- * 2. Location of the crime and of the arrest
- 3. Identification and description of the complainant/victim, except in cases of sexual assault and juveniles (CALEA 54.1.1.e)
- 4. Premises involved

CHAPTER 3

SECTION 17 MEDIA RELATIONS AND RELEASE OF INFORMATION

- * 5. Time of occurrence and of the arrest
 - 6. Property involved
 - 7. Vehicle involved
 - 8. Any resistance, pursuit or use of weapons.
 - * 9. ~~Detailed~~ description of the offense.
 - * 10. Identity of arresting and investigating officers so long as it does not interfere with or compromise an undercover operation.
- F. The following information contained in incident reports is exempt from public disclosure under the "Law Enforcement Exception":
- 1. Identification of witnesses.
 - 2. Synopsis of any confession.
 - 3. Officer's speculation as to a suspect's guilt.
 - 4. Officer's view of a witness's credibility.
 - 5. Identity of informants.
 - 6. Statements made by informants.
 - 7. Fingerprint comparisons.
 - 8. Blood test or other laboratory results.
 - 9. Refusal to take a polygraph examination.
 - 10. Results of a polygraph examination.
 - 11. Paraffin or ballistics test results.
 - 12. Spectrographic or other investigative reports.

CHAPTER 3

SECTION 17 MEDIA RELATIONS AND RELEASE OF INFORMATION

- G. ~~Although the Open Records Act's "Law Enforcement Exception" is applicable to an active or ongoing investigation, it may not apply to all information in the report of a closed case. Once the prosecution has been completed, there is no need to protect the suspect's right to a fair trial. However, the identity of a confidential informant may need to be protected indefinitely. Each request for particular information must be evaluated on an individual basis.~~ In order to withhold any information from public disclosure, the Department must ask for a decision from the Attorney General about whether the information falls within an exception to disclosure. This process will be arranged with the Public Information Act Coordinator in the City Attorney's office.

IX. PHOTOGRAPHS, VIDEO, AND INTERVIEWS

- A. Photographs or video may be taken in or from any area which media members have been given access. Officers may restrict the use of flash, strobes or high intensity lighting when such illumination might hinder a police operation.
- B. Department personnel shall not compel prisoners to pose for photographs or digital video. However, officers are not to interfere with photographers or cameramen photographing or gathering digital images of prisoners from public access areas. These areas might include the hallways and other public access areas of the Police Department building and areas that the media is allowed access to at the scene.

X. INTERNAL AFFAIRS INVESTIGATIONS (CALEA 54.1.1.e)

- A. Information regarding an Internal Affairs investigation is confidential and is released only by the Chief of Police.
- B. The Internal Affairs officer and/or the Public Information Office may confirm that an internal affairs investigation is being conducted, the name of the employee involved, and the nature of the allegation or incident.
- C. Premature and/or unauthorized statements made concerning confidential information may have an adverse effect on the investigation and is prohibited.

XI. MUTUAL OPERATIONS (CALEA 54.1.1.f)

- A. Any request for information on incidents involving actions initiated by another agency are referred to that agency.
- B. Incidents initiated by the Department and assisted by other police agencies are handled under the provisions of this order.

CHAPTER 3

SECTION 17 MEDIA RELATIONS AND RELEASE OF INFORMATION

XII. CHANGES IN NEWS MEDIA POLICY (CALEA 54.1.2)

The Chief of Police and the Public Information Officer meet periodically with members of the news media to discuss any changes and to request input.

XIII. CONFIDENTIALITY/RELEASE OF TLETS AND NLETS INFORMATION (CALEA 81.2.9 & 82.1.7)

- A. As a subscribing agency to the Texas Law Enforcement Telecommunications System, the Department is bound by state statutes and federal regulations. These provide that "TLETS/NLETS" is designed exclusively for use by Criminal Justice Agencies in conducting their lawfully authorized duties within their respective jurisdictions and between agencies as required.
- B. Release of TLETS/NLETS information to persons or organizations, other than those described above, must be handled in strict compliance with the guidelines that govern such releases.
- C. In order to insure compliance with the release of TLETS/NLETS information, all requests by the public are referred to one of the following:
 - 1. Public Information Office or
 - 2. Records Section
- D. Use of the TLETS/NLETS system information for any reason other than stated above is a violation of state and federal regulations. These violations could result in the termination of TLETS/NLETS service to the Department. Personnel who disseminate this information to individuals or organizations in violation of this order are subject to disciplinary action.

XIV. INTERAGENCY CONFIDENTIAL INFORMATION (CALEA 81.2.9 & 82.1.7)

- A. Confidential information dealing with the investigation and prosecution of crimes by Criminal Justice Agencies shall not be released or requested unless the information is to be used exclusively by the Criminal Justice Agency in conducting its lawfully authorized duties. This might include, but not be limited to warrant information, case status, witnesses, etc.
- B. Use of interagency confidential information for any reason other than previously stated is a violation of state and federal regulations.
- C. If a question arises over whether requested information may violate state or federal guidelines, the request is referred to the Public Information Office.

CHAPTER 3

SECTION 17 MEDIA RELATIONS AND RELEASE OF INFORMATION

- D. Any employee of the Department who releases interagency confidential information to individuals or organizations in violation of this order is subject to disciplinary action or termination.
- E. Any employee of the Department who requests interagency confidential information for individuals or organizations in violation of this order is subject to disciplinary action.

CHAPTER 4

SECTION 3 OFF-DUTY EMPLOYMENT

I. STATEMENT OF PURPOSE (CALEA 22.3.4)

Department employees are career employees and thereby shall not accept or engage in any outside business or employment, which might conflict or interfere with their responsibilities. Employees shall devote full attention to the business of the Department when on-duty. Permission for department employees to engage in outside employment may be revoked by the Chief of Police where it is determined pursuant to departmental policy when such outside employment is not in the best interests of the department. The following orders are intended to provide guidance in the acceptance and completion of all off-duty employment situations.

II. OFF-DUTY WORK PERMITS (CALEA 22.3.5.a)

- A. Employees desiring to engage in any off-duty employment are required to have a current permit for off-duty employment. Employees who do not have a current off-duty work permit shall not work off-duty jobs. Permits expire June 30 of each year.
- B. Off-duty employment is defined as any job or services in which a salary, commission, fee or compensation is paid. This work may or may not be law enforcement related. (CALEA 22.3.4)
- C. Permit applications must be approved by the employee's supervisor and Bureau Chief prior to being considered for approval by the Chief of Police. (CALEA 22.3.5.c)
- D. Permit approval may be denied at any level of the chain-of-command on the basis of the employee's attendance, job performance or any other duty factors which might be adversely affected by the employee's outside employment. (CALEA 22.3.5.c)
- E. A permit may be revoked or suspended when an employee's off-duty employment interferes with on-duty job performance or for violations of this order. Recommendations for revocation and suspension shall be forwarded to the Chief of Police who makes the final decision. (CALEA 22.3.5.c)
- F. A written explanation is required on any denial, revocation, or suspension of a permit by the supervisor making the recommendation. (CALEA 22.3.5.c)

III. APPROVAL OF SPECIFIC OFF-DUTY JOBS (CALEA 22.3.5.c)

- * A. Off-duty jobs not called in or coordinated through the Administrative Services Bureau must have specific approval from the Chief of Police through the chain of command.
- B. Requests for specific approval are made to the Chief of Police in memorandum form.

CHAPTER 4

SECTION 3 OFF-DUTY EMPLOYMENT

- C. Approval must be received prior to accepting outside employment.
- D. A written explanation is required on all denials of an employee's request for specific approval.
- E. The Chief of Police may cancel any existing off-duty job for cause.

*** IV. OFF-DUTY JOB ASSIGNMENT**

- A. Officers wishing to engage in police related off-duty employment are required to notify the Administrative Services Bureau of this desire.
- B. Officers will be contacted by mass e-mail as job opportunities become available through the Administrative Services Bureau. Off-duty jobs will be filled on a first come first serve basis.
- C. Persons requesting an off-duty officer may request a specific officer for the assignment. Requesting parties may also request that a particular officer not be used. Such requests are honored and the officer specifically requested shall be contacted first.
- D. Officers who cannot work an off-duty job assignment after accepting or volunteering to work it must notify the Administrative Services Bureau during normal business hours (8 a.m. – 5 p.m., Monday – Friday). Officers are responsible for finding another officer to replace them in their off-duty work assignment. The Administrative Services Bureau will assist the officer in finding a replacement; however, if no replacement can be found to work the off-duty job, then the officer shall work the assignment or be considered absent and subject to disciplinary action according to VII listed below.
- E. Officers shall not volunteer or accept off-duty job assignments for other officers.

V. REQUESTS FOR OFF-DUTY OFFICERS

- A. All requests for off-duty officers are referred to the Administrative Services Bureau for evaluation and staffing. (CALEA 22.3.5.c, d)
- *** B. Officers, contacted by or who contact anyone about police related off-duty employment, refer such persons to the Administrative Services Bureau for evaluation and staffing. (CALEA 22.3.5.c, d)
- C. Emergency requests for off-duty staffing during non-business hours are referred to the ranking on-duty patrol supervisor. The supervisor is not required to arrange off-duty staffing for non-emergency situations that obviously do not require off-duty

CHAPTER 4

SECTION 3 OFF-DUTY EMPLOYMENT

police officers or situations that could have been arranged during business hours. (CALEA 22.3.4, 22.3.5.c)

- * D. Emergency requests may be filled with officers who do not have an off-duty job work permit. However, officers who wish to continue to work in such situations must obtain a work permit as soon as practical on the next regular business day. (CALEA 22.3.4, 22.3.5.c)
- E. When filling emergency requests, supervisors shall submit a memorandum to the Chief of Police explaining the circumstances and actions taken. (CALEA 22.3.4)

VI. GENERAL RULES

- A. Employees and officers shall not:
 - 1. Use information obtained by the Department or through official capacity with the Department in any outside employment, other than to control crime.
 - 2. Engage in off-duty employment until all requirements for off-duty employment are met and approval received. This applies regardless of the type employment and compensation.
 - 3. Be compensated by the Department for any civil court case resulting from off-duty employment. On-duty officers required to attend a civil trial resulting from official police action during off-duty employment may be authorized special assignment for this purpose. If the civil action is for other than a police related matter, the officer shall take vacation or compensatory time.
 - 4. Work off-duty employment to the extent that it affects the officer's on-duty job performance. (CALEA 22.3.5.b)
 - 5. Engage in off-duty employment on the same calendar day they fail to report for duty or fail to complete their tour of duty due to illness or injury.
 - 6. Advertise for or solicit business in connection with off-duty employment while on-duty. (CALEA 22.3.4)
 - 7. Hold a commission from any other law enforcement agency (local, state, or federal). (CALEA 22.3.4)

CHAPTER 4

SECTION 3 OFF-DUTY EMPLOYMENT

8. Obtain a permit or license from the Texas Department of Public Safety, Private Security Bureau. Employees may not be employed by, or through, any individual, firm, association, company, partnership, corporation or other entity which holds a license or permit from the board. (CALEA 22.3.4)
9. Enforce company policies or rules commonly known as "house rules" on any off-duty job. An officer's primary responsibility while working in an off-duty capacity is the enforcement of local, state, and federal laws. (CALEA 22.3.4)
10. Work as a bill or bad check collector or any job which might tend to degrade the employee's professional status. (CALEA 22.3.4)
11. Work as a bouncer, or where liquor, beer or other alcoholic beverage is sold and/or consumed on premises and this sale is the principal source of income, unless specifically approved by the Chief. Texas Alcoholic Beverage Commission records concerning alcoholic beverage sales are used to determine the principal source of income. (CALEA 22.3.4)
12. Engage in any sort of off-duty employment which might: (CALEA 22.3.4)
 - a. Render the employee unavailable to respond during an anticipated emergency.
 - b. Physically or mentally exhaust the employee to the point that performance is affected.
 - c. Require that any special consideration be given to the scheduling of the employee's regular duty hours.
 - d. Bring the Department or employee into disrepute or impair the operation and/or efficiency of the employee or the Department.
13. Work for a repossession agency. (CALEA 22.3.4)
14. Work in off-duty employment with his weapon exposed unless he is wearing the Department uniform or the badge is displayed on the belt or waistband of the slacks. (CALEA 22.3.5.b)
15. Work an off-duty job in uniform outside the Midland City Limits, except as approved by the Chief of Police. (CALEA 22.3.5.b)

CHAPTER 4

SECTION 3 OFF-DUTY EMPLOYMENT

- B. A supervisor is required for any off-duty employment requiring more than three police officers working at one time. The officer initially contracted to provide off-duty police officers determines the number of officers needed for the job. The ranking supervisory officer at any event is in charge of subordinates and is responsible for their actions.
- C. Employees shall report immediately, in writing, any incidents or situations arising from or connected with off-duty employment which might adversely effect the Department. (CALEA 22.3.5.b, e)
- D. All officers performing off-duty police services are subject to the same rules as if they were performing on-duty police services. (CALEA 22.3.5.b, e)
- E. Officers on suspension, limited duty or restricted duty shall not engage in any off-duty employment of a security, law enforcement or peace officer capacity. (CALEA 22.3.5.b, e)
- F. Upon successful completion of the Field Training Officer Program, a probationary police officer may apply for an off-duty work permit. As with any law enforcement activity, a probationary police officer's conduct while performing in an off-duty capacity is considered as a part of that officer's probationary evaluation.
- G. All Officers scheduled to work an off-duty job are governed by the General Orders in regards to absence, tardiness, and discipline. (CALEA 22.3.5.b)

VII. DISCIPLINARY ACTIONS

- A. Violations of any provision of this order may result in cancellation of approval for off-duty employment and formal disciplinary action.
- B. Off-duty work privileges may be suspended as follows:
 - 1. First Violation: Thirty days suspension
 - 2. Second Violation: Six months suspension
 - 3. Third Violation: Permanent suspension.
- C. Officers engaged in off-duty employment shall conduct themselves pursuant to all General Orders and existing laws. (CALEA 22.3.5.b)
- D. Suspension of off-duty work privileges is in addition to any other action that may be taken under the Disciplinary Procedures Section of General Orders.

CHAPTER 4

SECTION 3 OFF-DUTY EMPLOYMENT

VIII. RESIDENT SECURITY/COURTESY OFFICERS

- A. Officers who work as resident security officers must live on the premises of the multi-family complex.
- B. Officers must display their department issued badge that identifies them as a Midland Police Department Peace Officer while performing any duty associated with resident security employment.
- C. Resident security officers may respond to minor nuisance calls such as loud noise or loud music at the complex.
- D. Resident security officers may respond to serious breaches of the peace such as civil or domestic disturbances and felonies that occur in their presence, but must request an on-duty officer to respond to the complaint.
- E. Resident security officers may not collect rents, debts or monies in any form for the complex.
- F. Officers working as a resident security officer at a complex should not respond to complaints at the complex where they are employed when on duty unless they are dispatched to the location.
- G. If responding to the complex while on duty, the officer is to represent the Midland Police Department, not management of the complex. Complex management needs to be notified to respond as a representative of the apartment complex.
- H. Resident security officers may not respond to any complaints at the apartment complex if he/she has been consuming alcoholic beverages.

~~VIII~~IX.OFF-DUTY ARRESTS

- A. Officers making custody arrests in connection with off-duty law enforcement related employment shall document all such arrests. All reports and evidence are the responsibility of the arresting officer. (CALEA 22.3.5.b)
- B. Arrest policies shall apply as outlined in the Arrest Policies section of the General Orders and normal reporting procedures followed.
- C. An on-duty supervisor must approve any requests from off-duty personnel as they pertain to the utilization of on-duty manpower. (CALEA 22.3.5.b)

CHAPTER 4

SECTION 3 OFF-DUTY EMPLOYMENT

- D. The arresting officer shall sign the required complaints on Class "C" Misdemeanor arrests as soon as possible after making the arrest prior to ending their off-duty assignment. Transporting officers shall not sign complaints for the arresting officer.

~~XXX.~~ INCIDENT REPORTS (CALEA 22.3.5.b)

- A. An officer, during the course of off-duty employment, shall initiate incident reports on suspected criminal activity that may come to his attention. This may include narcotics activity, criminal trespass, theft information, or any other intelligence information.
- B. Incident reports initiated by an off-duty officer shall be completed and turned in prior to the officer going home.
- C. Employers of off-duty officers may call an on-duty unit to the scene of any incident to make an investigation and written report for non-arrest situations.

~~XXI.~~ COMPENSATION

- A. The minimum hourly rate of pay for off-duty law enforcement related employment is established by the Chief of Police at \$~~25.00~~ 30.00 per hour. When an off-duty job requires three or more officers and a supervisor, the hourly rate of pay for the supervisor is established by the Chief of Police at \$~~30.00~~ \$35.00 per hour.
- B. The Midland Police Department will not compensate officers for actions taken while employed in an off-duty capacity.
- C. Officers shall be compensated for a minimum of three hours.
- D. Other forms of compensation must be approved in writing by the Chief of Police.

CHAPTER 4

SECTION 3 OFF-DUTY EMPLOYMENT

I. STATEMENT OF PURPOSE (CALEA 22.3.4)

Department employees are career employees and thereby shall not accept or engage in any outside business or employment, which might conflict or interfere with their responsibilities. Employees shall devote full attention to the business of the Department when on-duty. Permission for department employees to engage in outside employment may be revoked by the Chief of Police where it is determined pursuant to departmental policy when such outside employment is not in the best interests of the department. The following orders are intended to provide guidance in the acceptance and completion of all off-duty employment situations.

II. OFF-DUTY WORK PERMITS (CALEA 22.3.5.a)

- A. Employees desiring to engage in any off-duty employment are required to have a current permit for off-duty employment. Employees who do not have a current off-duty work permit shall not work off-duty jobs. Permits expire June 30 of each year.
- B. Off-duty employment is defined as any job or services in which a salary, commission, fee or compensation is paid. This work may or may not be law enforcement related. (CALEA 22.3.4)
- C. Permit applications must be approved by the employee's supervisor and Bureau Chief prior to being considered for approval by the Chief of Police. (CALEA 22.3.5.c)
- D. Permit approval may be denied at any level of the chain-of-command on the basis of the employee's attendance, job performance or any other duty factors which might be adversely affected by the employee's outside employment. (CALEA 22.3.5.c)
- E. A permit may be revoked or suspended when an employee's off-duty employment interferes with on-duty job performance or for violations of this order. Recommendations for revocation and suspension shall be forwarded to the Chief of Police who makes the final decision. (CALEA 22.3.5.c)
- F. A written explanation is required on any denial, revocation, or suspension of a permit by the supervisor making the recommendation. (CALEA 22.3.5.c)

III. APPROVAL OF SPECIFIC OFF-DUTY JOBS (CALEA 22.3.5.c)

- A. Off-duty jobs not called in or coordinated through the Administrative Services Bureau must have specific approval from the Chief of Police through the chain of command.
- B. Requests for specific approval are made to the Chief of Police in memorandum form.

CHAPTER 4

SECTION 3 OFF-DUTY EMPLOYMENT

- C. Approval must be received prior to accepting outside employment.
- D. A written explanation is required on all denials of an employee's request for specific approval.
- E. The Chief of Police may cancel any existing off-duty job for cause.

IV. OFF-DUTY JOB ASSIGNMENT

- A. Officers wishing to engage in police related off-duty employment are required to notify the Administrative Services Bureau of this desire.
- B. Officers will be contacted by mass e-mail as job opportunities become available through the Administrative Services Bureau. Off-duty jobs will be filled on a first come first serve basis.
- C. Persons requesting an off-duty officer may request a specific officer for the assignment. Requesting parties may also request that a particular officer not be used. Such requests are honored and the officer specifically requested shall be contacted first.
- D. Officers who cannot work an off-duty job assignment after accepting or volunteering to work it must notify the Administrative Services Bureau during normal business hours (8 a.m. – 5 p.m., Monday – Friday). Officers are responsible for finding another officer to replace them in their off-duty work assignment. The Administrative Services Bureau will assist the officer in finding a replacement; however, if no replacement can be found to work the off-duty job, then the officer shall work the assignment or be considered absent and subject to disciplinary action according to VII listed below.
- E. Officers shall not volunteer or accept off-duty job assignments for other officers.

V. REQUESTS FOR OFF-DUTY OFFICERS

- A. All requests for off-duty officers are referred to the Administrative Services Bureau for evaluation and staffing. (CALEA 22.3.5.c, d)
- B. Officers, contacted by or who contact anyone about police related off-duty employment, refer such persons to the Administrative Services Bureau for evaluation and staffing. (CALEA 22.3.5.c, d)
- C. Emergency requests for off-duty staffing during non-business hours are referred to the ranking on-duty patrol supervisor. The supervisor is not required to arrange off-duty staffing for non-emergency situations that obviously do not require off-duty

CHAPTER 4

SECTION 3 OFF-DUTY EMPLOYMENT

police officers or situations that could have been arranged during business hours. (CALEA 22.3.4, 22.3.5.c)

- D. Emergency requests may be filled with officers who do not have an off-duty job work permit. However, officers who wish to continue to work in such situations must obtain a work permit as soon as practical on the next regular business day. (CALEA 22.3.4, 22.3.5.c)
- E. When filling emergency requests, supervisors shall submit a memorandum to the Chief of Police explaining the circumstances and actions taken. (CALEA 22.3.4)

VI. GENERAL RULES

- A. Employees and officers shall not:
 - 1. Use information obtained by the Department or through official capacity with the Department in any outside employment, other than to control crime.
 - 2. Engage in off-duty employment until all requirements for off-duty employment are met and approval received. This applies regardless of the type employment and compensation.
 - 3. Be compensated by the Department for any civil court case resulting from off-duty employment. On-duty officers required to attend a civil trial resulting from official police action during off-duty employment may be authorized special assignment for this purpose. If the civil action is for other than a police related matter, the officer shall take vacation or compensatory time.
 - 4. Work off-duty employment to the extent that it affects the officer's on-duty job performance. (CALEA 22.3.5.b)
 - 5. Engage in off-duty employment on the same calendar day they fail to report for duty or fail to complete their tour of duty due to illness or injury.
 - 6. Advertise for or solicit business in connection with off-duty employment while on-duty. (CALEA 22.3.4)
 - 7. Hold a commission from any other law enforcement agency (local, state, or federal). (CALEA 22.3.4)

CHAPTER 4

SECTION 3 OFF-DUTY EMPLOYMENT

8. Obtain a permit or license from the Texas Department of Public Safety, Private Security Bureau. Employees may not be employed by, or through, any individual, firm, association, company, partnership, corporation or other entity which holds a license or permit from the board. (CALEA 22.3.4)
9. Enforce company policies or rules commonly known as "house rules" on any off-duty job. An officer's primary responsibility while working in an off-duty capacity is the enforcement of local, state, and federal laws. (CALEA 22.3.4)
10. Work as a bill or bad check collector or any job which might tend to degrade the employee's professional status. (CALEA 22.3.4)
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 - a. Render the employee unavailable to respond during an anticipated emergency.
 - b. Physically or mentally exhaust the employee to the point that performance is affected.
 - c. Require that any special consideration be given to the scheduling of the employee's regular duty hours.
 - d. Bring the Department or employee into disrepute or impair the operation and/or efficiency of the employee or the Department.
13. Work for a repossession agency. (CALEA 22.3.4)
14. Work in off-duty employment with his weapon exposed unless he is wearing the Department uniform or the badge is displayed on the belt or waistband of the slacks. (CALEA 22.3.5.b)
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CHAPTER 4

SECTION 3 OFF-DUTY EMPLOYMENT

- B. A supervisor is required for any off-duty employment requiring more than three police officers working at one time. The officer initially contracted to provide off-duty police officers determines the number of officers needed for the job. The ranking supervisory officer at any event is in charge of subordinates and is responsible for their actions.
- C. Employees shall report immediately, in writing, any incidents or situations arising from or connected with off-duty employment which might adversely effect the Department. (CALEA 22.3.5.b, e)
- D. All officers performing off-duty police services are subject to the same rules as if they were performing on-duty police services. (CALEA 22.3.5.b, e)
- E. Officers on suspension, limited duty or restricted duty shall not engage in any off-duty employment of a security, law enforcement or peace officer capacity. (CALEA 22.3.5.b, e)
- F. Upon successful completion of the Field Training Officer Program, a probationary police officer may apply for an off-duty work permit. As with any law enforcement activity, a probationary police officer's conduct while performing in an off-duty capacity is considered as a part of that officer's probationary evaluation.
- G. All Officers scheduled to work an off-duty job are governed by the General Orders in regards to absence, tardiness, and discipline. (CALEA 22.3.5.b)

VII. DISCIPLINARY ACTIONS

- A. Violations of any provision of this order may result in cancellation of approval for off-duty employment and formal disciplinary action.
- B. Off-duty work privileges may be suspended as follows:
 - 1. First Violation: Thirty days suspension
 - 2. Second Violation: Six months suspension
 - 3. Third Violation: Permanent suspension.
- C. Officers engaged in off-duty employment shall conduct themselves pursuant to all General Orders and existing laws. (CALEA 22.3.5.b)
- D. Suspension of off-duty work privileges is in addition to any other action that may be taken under the Disciplinary Procedures Section of General Orders.

CHAPTER 4

SECTION 3 OFF-DUTY EMPLOYMENT

- * VIII. ~~RESIDENT~~ SECURITY/COURTESY OFFICERS
- A. Officers who work as ~~resident~~ security officers for multi-family complexes ~~must~~ are not required to live on the premises of the multi-family complex.
 - B. Officers must display their department issued badge that identifies them as a Midland Police Department Peace Officer while performing any duty associated with ~~resident~~ security employment.
 - C. ~~Resident~~ Security officers may respond to minor nuisance calls such as loud noise or loud music at the complex.
 - D. ~~Resident~~ Security officers may respond to serious breaches of the peace such as civil or domestic disturbances and felonies that occur in their presence, but must request an on-duty officer to respond to the complaint.
 - E. ~~Resident~~ Security officers may not collect rents, debts or monies in any form for the complex.
 - F. Officers working as a resident or non-resident security officer at a complex should not respond to complaints at the complex where they are employed when on duty unless they are dispatched to the location.
 - G. If responding to the complex while on duty, the officer is to represent the Midland Police Department, not management of the complex. Complex management needs to be notified to respond as a representative of the apartment complex.
 - H. ~~Resident~~ Security officers may not respond to any complaints at the apartment complex if he/she has been consuming alcoholic beverages.
- IX. OFF-DUTY ARRESTS
- A. Officers making custody arrests in connection with off-duty law enforcement related employment shall document all such arrests. All reports and evidence are the responsibility of the arresting officer. (CALEA 22.3.5.b)
 - B. Arrest policies shall apply as outlined in the Arrest Policies section of the General Orders and normal reporting procedures followed.
 - C. An on-duty supervisor must approve any requests from off-duty personnel as they pertain to the utilization of on-duty manpower. (CALEA 22.3.5.b)

CHAPTER 4

SECTION 3 OFF-DUTY EMPLOYMENT

- D. The arresting officer shall sign the required complaints on Class "C" Misdemeanor arrests as soon as possible after making the arrest prior to ending their off-duty assignment. Transporting officers shall not sign complaints for the arresting officer.
- X. INCIDENT REPORTS (CALEA 22.3.5.b)
 - A. An officer, during the course of off-duty employment, shall initiate incident reports on suspected criminal activity that may come to his attention. This may include narcotics activity, criminal trespass, theft information, or any other intelligence information.
 - B. Incident reports initiated by an off-duty officer shall be completed and turned in prior to the officer going home.
 - C. Employers of off-duty officers may call an on-duty unit to the scene of any incident to make an investigation and written report for non-arrest situations.
- XI. COMPENSATION
 - * A. The minimum hourly rate of pay for off-duty law enforcement related employment is established by the Chief of Police at \$30.00 per hour. When an off-duty job requires three or more officers and a supervisor, the hourly rate of pay for the supervisor is established by the Chief of Police at \$35.00 per hour.
 - B. The Midland Police Department will not compensate officers for actions taken while employed in an off-duty capacity.
 - C. Officers shall be compensated for a minimum of three hours.
 - D. Other forms of compensation must be approved in writing by the Chief of Police.

CHAPTER 4

SECTION 4 PERSONAL INFORMATION

I. STATEMENT OF PURPOSE

Department personnel are required to have a telephone, in working order, at their residence. Officers from time to time must be contacted at home. Employees must also assure that the office of the Chief of Police has current information on their residence address and home telephone numbers.

* II. REQUIREMENTS

- A. Employees shall maintain a current record with the office of the Chief of Police of their physical residence address and home telephone number.
- B. P.O. Boxes may be used for mailing addresses only. A physical address must still be provided.
- C. Changes in residence address or home telephone number shall be reported to the employee's immediate supervisor as soon as practical. The supervisor assures that this information is forwarded to the office of the Chief of Police and Communications.

III. DISCLOSURE OR RELEASE OF RESIDENCE ADDRESS OR HOME TELEPHONE NUMBER

~~A.~~ ~~Sworn Employees~~

- A. Written requests for the residence address, ~~or~~ telephone number, or emergency contact information of a commissioned police officer or non-sworn employee shall be forwarded to the affected officer for his action.
- B. Requests for the residence address or home telephone number of an ~~police-officer~~ employee received at the Department over the telephone shall be transferred to the affected ~~officer~~ employee if on-duty and available.
- C. If the affected ~~officer~~ employee is not on-duty or available to speak with the caller requesting the information, the following shall apply;
 - a. The requesting party shall not be given the information over the telephone.
 - b. The caller is given the option of leaving their name, the reason for requesting the information, a brief message to the ~~officer~~ employee and telephone number where the ~~officer~~ employee may contact the caller.
 - c. In emergencies, one or more attempts should be made by the call-taker to contact the ~~officer~~ employee in order to relay the information.

CHAPTER 4

SECTION 4 PERSONAL INFORMATION

~~B. Non-Sworn Employees~~

- ~~1. Non-Sworn employees may choose whether or not to allow public access to their home address and telephone number.~~
- ~~2. This exclusion is not automatically done. Civilian employees must submit a memo to the Office of the Chief of Police stating that the employee does not wish to have their home address and home phone number disclosed to the public.~~

- D. All persons, other than the **actual** individual ~~officer~~, are prohibited by law from disclosing the home address, ~~or~~ telephone number, **or emergency contact information** of a commissioned peace officer to members of the public or to the press.
- E. In regards to Open Records, employees are required to complete a Release of Information form if they would like for excepted information to remain confidential. This form can also be found on the intranet under Administrative Services, Human Resources, Forms, Release of Information. Such excepted information includes home address, home telephone number, emergency contact information, or social security number, or information that reveals whether the person has family members.

IV. CONTROL OVER ACCESS TO PROTECTED INFORMATION

- A. In order to insure that residence addresses and home telephone numbers of employees are protected, access to that information shall be controlled and restricted to those individuals within the Department with a need for it.
- B. Outdated copies of personnel lists shall be destroyed in an appropriate manner.
- C. Personnel lists shall not be given out to any person or organization outside the Department unless authorized by the Chief of Police.

CHAPTER 4

SECTION 8 CAREER DEVELOPMENT

I. STATEMENT OF PURPOSE

Career development is a structured process that is used by the Department to provide opportunities for the individual growth and development of an employee. It is designed to promote productive, efficient, effective job performance and improve the overall level of job satisfaction among all personnel of the Department.

II. EXPECTATIONS AND GOALS

A. The career development program of the Midland Police Department is designed and intended to promote productive, efficient, and effective job performance, and to enhance upward movement of employees by providing:

1. Each employee with an annual review of training, transfer, and promotional opportunities available.
2. All supervisory personnel with the training, staff support, and resource materials needed to fulfill their counseling and evaluation responsibilities.
3. Encouragement to personnel to continue their formal education to achieve a minimum of a Bachelor's Degree from an accredited college or university.
4. The Chief of Police with an annual review of will determine the effectiveness of the career development program.

III. OBJECTIVES OF CAREER DEVELOPMENT

- A. To identify through skills, knowledge, and abilities, an employee inventory relative to future job assignments.
- B. To maintain a file of inventories of all Department employees.
- C. To identify in-service training needs by comparing inventories with Department needs.
- D. To identify the potential number of personnel likely to use the services of the career development program.
- E. To complete a written assessment of Equal Employment Opportunity objectives when necessary or when directed by the Chief of Police.

CHAPTER 4

SECTION 8 CAREER DEVELOPMENT

IV. EQUAL EMPLOYMENT OPPORTUNITY OBJECTIVES

A. Equitable Treatment of All Department Employees

The Department shall administer uniform policies and procedures on a consistent basis by continued efforts to provide Department employees with equal employment opportunities regardless of race, sex, color, religion, creed, national origin, age, handicap, or political affiliation.

B. Compliance with Federal Standards

The Department shall revise policies when they come into conflict with federal regulations, so that the Midland Police Department complies with the letter, as well as the spirit, of the law.

C. Recruitment

The Department shall continue its efforts to facilitate a strong recruitment policy providing feasible equal employment opportunities to all applicants.

V. RESPONSIBILITIES

A. Training Division Lieutenant

1. Administer the career development program, providing direction to and using the expertise and assistance of the Training Division.
2. Maintain and distribute, when necessary, information regarding procedures and requisites for promotion.
3. Arrange for in-service training and other proficiency training programs to achieve the following:
 - a. Keep employees informed on the latest trends and knowledge in their work area.
 - b. Enhance and expand existing employee skills.
4. Make arrangements for all personnel promoted to rank of Sergeant to attend a police supervision course. Make arrangements for all personnel promoted to the rank of Lieutenant to attend a command level training and/or management class. This training should occur within 30 days.

CHAPTER 4

SECTION 8 CAREER DEVELOPMENT

5. Make arrangements for civilians in supervisory positions to receive supervisory training.
6. Develop and maintain a list of schools and training opportunities necessary to maintain proficiency in those positions designated as career specialty positions.
7. Administer temporary job assignments and job rotation programs currently in use or projected for the future.
8. Conduct an annual evaluation of the career development program and make suggestions for revisions if needed.
9. Develop a process for conducting an annual inventory of the skills, knowledge, and abilities of each employee.
10. Identify positions within the Department that are career specialty positions, and determine the skills, knowledge, and abilities required to perform at a satisfactory level in each of these positions.

B. Supervisors

1. As part of each employee's performance appraisal, supervisors conduct career counseling to include but not be limited to: (CALEA 35.1.7.c)
 - a. An annual review of the employee's in-service record.
 - b. A review of the available training programs that are applicable to the employee's present assignment.
 - c. A review of the requirements and procedures for lateral transfer within the Department. Assess training needs in achieving career objectives.
 - d. A review of current E.E.O.C. and any affirmative action objectives established by the Chief of Police.
2. Familiarize themselves with the information distributed by the Training Division Lieutenant under the Expectations and Goals of Career Development Section of this order.
3. Participate in training programs designed to enhance career development and counseling skills. This training should include but not be limited to: (CALEA 33.8.1)

CHAPTER 4

SECTION 8 CAREER DEVELOPMENT

- a. Counseling and skills assessment techniques.
 - b. Department opportunities and benefits.
 - c. Record keeping.
 - d. Department ethnic make-up, and cultural differences, if any.
 - e. Outside programs and resources, if applicable.
4. If performance appraisals are held other than on an annual basis, the career counseling session shall be held annually. (CALEA 33.8.1)

VI. CAREER SPECIALTY IN SERVICE TRAINING

- A. Career specialty areas are designed to stimulate personnel to compete for new areas of interest and specialization and to enhance the overall potential of the employees for upward movement. They are further intended to improve skills, knowledge and abilities needed to perform job tasks required in specialized areas. (CALEA 33.8.1)
- B. Although the majority of departmental personnel are generalists, the Department shall identify and provide appropriate training opportunities for all positions classified as specialties.
- C. Employees participating in management and supervision as a career specialty are provided appropriate training as it becomes available.

VII. JOB ROTATION - CAREER DEVELOPMENT POSITIONS

- * A. Periodic job rotation is implemented to afford personnel opportunities for individual growth as well as improved job satisfaction and performance. A career development position may be created in any bureau in the Department. Bureau Chiefs will identify those positions in their respective bureau that will be targeted for career development positions. The following are the current career development position(s) by bureau: FOB-Traffic Section (2); ISB-Detective Unit(s) (4); and SSB-Community Relations Unit (~~21~~), ~~Training Unit (1)~~.
- B. Career development assignment will normally not exceed two years, however the assignment may be extended to a third year based on employee performance and the needs of the Department.

CHAPTER 4

SECTION 8 CAREER DEVELOPMENT

VIII. TEMPORARY ASSIGNED DUTY (TDY)

- A. Temporary duty assignments (TDY) are made to satisfy and address particular needs of the Department and are filled as manpower availability allows.
- B. TDY assignments may be short term (less than one year) or long term (more than one year) depending on the circumstances and assignment.

IX. EDUCATIONAL LEAVE

- A. Department assigned in-service training should occur during on-duty time. Supervisors should schedule employees accordingly.
- B. The Department strives, within constraints of scheduling and manpower requirements, to provide flexibility in work hours and/or shift assignments and, to provide an employee time to continue an education. All such decisions must be approved by the employee's respective Division Commander.
- C. Extended leaves of absence may be provided in accordance with established City policies.

CHAPTER 4

SECTION 10 PROMOTION AND TRANSFERS

I. STATEMENT OF PURPOSE

The promotion or transfer of a police officer to any rank or position is made on the basis of knowledge, skill, demonstrated performance, and to serve the needs of the department. On this premise, the promotion policy attempts to provide encouragement to the most qualified police officers to achieve their potential and, therefore, provide the Department with the best service and leadership possible. (CALEA 34.1.1, 34.1.3.a)

II. CHIEF OF POLICE

The process for the selection of Chief of Police, who is the Department Head, is established by the City Manager's office with assistance from the Director of Personnel. (CALEA 34.1.1, 34.1.3.g)

III. DEPUTY CHIEF OF POLICE

The process for the selection of Deputy Chiefs of Police, who are Administrative Officers, is established by the Chief of Police. A Bachelor's Degree from an accredited college or university is required for consideration to a Deputy Chief position. (CALEA 34.1.1, 34.1.3.g)

IV. LIEUTENANT AND SERGEANT (CALEA 34.1.1)

A. The promotional process for Lieutenants and Sergeants is administered by the Support Services Bureau Chief or other person as designated by the Chief of Police. This person is responsible for the security of testing materials. The test is administered when an eligibility list is expired or exhausted. Any employee meeting the existing standards for promotion may take part in the testing. (CALEA 34.1.2, 34.1.3.h, 34.1.4)

B. The process for the selection of Lieutenants and Sergeants, who are Division Commanders and First Line Supervisors, is by competitive testing and evaluation through a promotional examination process. This process is job related and non-discriminatory. (CALEA 34.1.3.a, b 34.1.4)

C. A notice of at least sixty days is given for scheduled promotional examinations. Interested officers who meet the qualifications for the announced rank examination must petition, per instructions indicated on the announcement, to participate in the promotional process. The written notice includes, at a minimum: (CALEA 34.1.5)

1. Description of classification being tested for.
2. A schedule of dates, times, and location of the written examination.
3. A description of eligibility requirements.
4. An updated bibliography of reading materials used as a source of questions.

CHAPTER 4

SECTION 10 PROMOTION AND TRANSFERS

- D. In order to be eligible to participate in the promotional examination process, an officer must: (CALEA 34.1.6.c)
- * 1. Have four or more years of continuous service as a police officer with Midland Police Department to test for Sergeant and 3 or more years of continuous service as Sergeant to test for Lieutenant. The years of continuous service are calculated from the most recent date of rank or employment, up to and including, the date of the promotional examination.
2. Sergeant - Candidates must possess an Intermediate Certificate.
3. Lieutenant - Candidates must possess an Advanced Certificate
- E. The promotional process tests for technical knowledge as well as supervisory skills. The process consists of a written test and an internal review board. (CALEA 34.1.3.a, b)
- F. Officers who take the written test will have bonus points added to their score for longevity, education, and physical fitness. The written test score plus applicable bonus points will be used to qualify officers for the review board.
- G. The maximum number of points that can be awarded for the review board qualifying score is as follows: (CALEA 34.1.3.b, 34.1.6.a, c.)
- | | | |
|----|-------------------------|-----|
| 1. | Written Test | 100 |
| 2. | Longevity | 7 |
| 3. | Education Points | 2 |
| 4. | Physical Fitness Points | 1 |
- H. Bonus Points (CALEA 34.1.6.a)
1. Longevity for Sergeants
- Longevity points for Sergeants are calculated at one-half point for each complete year of continuous service. In addition, for each additional complete month, the following points will be added:
- | | | |
|--------------|----|--------------|
| One month | -- | 0.042 points |
| Two months | -- | 0.083 points |
| Three months | -- | 0.125 points |
| Four months | -- | 0.167 points |

CHAPTER 4
SECTION 10 PROMOTION AND TRANSFERS

Five months	--	0.208 points
Six months	--	0.250 points
Seven months	--	0.292 points
Eight months	--	0.333 points
Nine months	--	0.375 points
Ten months	--	0.417 points
Eleven months	--	0.458 points

A maximum of seven (7) points is allowed for longevity.

2. Longevity for Lieutenants

Longevity points for Lieutenants are calculated at one-fourth point for each complete year of continuous service. In addition, for each additional complete month, the following points will be added:

One month	--	0.021 points
Two months	--	0.042 points
Three months	--	0.063 points
Four months	--	0.083 points
Five months	--	0.104 points
Six months	--	0.125 points
Seven months	--	0.146 points
Eight months	--	0.167 points
Nine months	--	0.188 points
Ten months	--	0.208 points

CHAPTER 4

SECTION 10 PROMOTION AND TRANSFERS

Eleven months	--	0.229 points
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A maximum of seven (7) points will be allowed for longevity.

3. Education points

Bachelor's Degree	--	2.0 points or;
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Associate Degree	--	1.0 point or;
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Each credit hour	--	0.0166 points
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A maximum of two (2) points will be allowed for education.

4. Physical Fitness Points

Officers who have participated in the most recent semi-annual physical assessment may receive points for their level of fitness. The Physical Fitness Coordinator issues a report at the end of each semi-annual physical assessment. The report on file prior to the date on the notice of a promotional examination will be used to determine physical fitness bonus points. However, if an officer did not test due to an exemption for achieving above 75%, the scores used to qualify for the exemption will be used to determine physical fitness bonus points. Remedial testing or other testing after the "testing period" will not be considered. There are three physical tests that will be used for determining bonus points, Sit-ups, Push-ups, and the Aerobic Test (either the 1.5 mile run or the 12 minute bike test). An officer must meet or exceed the following fitness levels on all three tests to receive the corresponding points for that level.

50%	--	.5 points
-----	----	-----------

55%	--	.6 points
-----	----	-----------

60%	--	.7 points
-----	----	-----------

70%	--	.8 points
-----	----	-----------

80%	--	.9 points
-----	----	-----------

90%	--	1.0 points
-----	----	------------

A maximum of one (1) point will be allowed for physical fitness.

CHAPTER 4

SECTION 10 PROMOTION AND TRANSFERS

- I. A minimum of seven (7) officers with the highest qualifying score will proceed to the review board. In the event that the “cut off” falls between officers who have identical scores, then all officers with that score advance to the Review Board. (CALEA 34.1.3.b, d)
- J. The Review Board will be comprised of 6 members with the same or higher rank as that being tested. Members of the review board will be selected by the Chief of Police. All eligible candidates will be provided with material explaining the review board process. (CALEA 34.1.3.d)
- K. The Review Board members shall have access to, and be allowed to review any of the personnel records of the officers involved. This can include, but not be limited to, Internal Affairs records, personnel files, and training records. (CALEA 34.1.3.c, d)
- L. An eligibility list is compiled of the qualifying applicants ranked by the review board results. Based on the review board scores, only five (5) will be placed on the eligibility list. This list shall be in effect for two years from the date of publication. (CALEA 34.1.3.d, 34.1.6.b, d)
- M. Eligible officers declining promotion remain on the current eligibility list at their respective position for consideration for future vacancies as they occur. (CALEA 34.1.3.d, 34.1.6.e)
- N. The Chief of Police has the option of promoting any one of the top three candidates on the promotion eligibility list. Candidates passed over for promotion shall be furnished with a written statement from the Chief explaining why they were not selected. (CALEA 34.1.3.d, 34.1.6.e)
- V. REVIEW AND APPEAL (CALEA 34.1.3.e)
 - A. All officers participating in the promotional process have the opportunity to review each step in the process, to include:
 - 1. Review of the answer key to written examinations.
 - 2. Review of the written results of scored elements of the selection process and scoring by review board members.
 - 3. Review of promotional-potential reports used in the selection process.

CHAPTER 4

SECTION 10 PROMOTION AND TRANSFERS

- B. Officers who feel they were not treated fairly in any aspect of the promotional process may initiate a grievance in accordance with The Grievance Procedures of the City of Midland Personnel Policies. If the aggrieved employee prevails, the case shall be formally evaluated by Administrative Review. The Administrative Review Board shall resolve the case within five (5) days of receipt of the grievance decision. The Board then notifies the involved employee, in writing, of the recourse available. Recourse may consist of, but not be limited to reapplication, retesting, or reevaluation. (CALEA 34.1.3.f)

VI. TRANSFERS WITHIN THE DEPARTMENT

- A. When a vacancy or request for transfer exists at the rank of lieutenant or sergeant within the Department, other employees of the same rank required to fill the position may at the discretion of the Chief of Police be transferred to fill the position. Transfers are generally based on the needs of the Department and the needs and desires of the employee. The Commander of the affected Bureau reviews the transfer request and makes recommendations based on an administrative review of the interested employee(s). Interest on the part of the employee is defined as having the position under review on their career development list or by specific request in memorandum form.
- B. When a vacancy or request for transfer exists at any level below the rank of Sergeant, the Commander of the affected Bureau contacts the Personnel Sergeant and provides information describing the job and any mandatory requirements.
- C. At least two weeks prior to the selection process the Personnel Sergeant advertises department-wide for applicants. This is done by memorandum, daily bulletin, or other media. The advertisement contains a description of the assignment and the necessary requirements for selection consideration. (CALEA 16.2.3)
- D. A memo and resume is required of all applicants and is directed to the Personnel Sergeant. (CALEA 16.2.3.c)
- E. The Personnel Sergeant sends each applicant pertinent information describing the selection process as well as the date and time that it will be held. If an applicant does not meet the selection criteria for the assignment, the Personnel Sergeant will provide a written explanation of the disqualification prior to the selection date. (CALEA 16.2.3.d)
- F. The Personnel Sergeant oversees, but does not participate in the selection process of all vacancies. The Personnel Sergeant convenes all oral interview boards. The Sergeant tabulates scores, if appropriate, and submits results to the Bureau Chief and the Chief of Police. (CALEA 16.2.3.d)

CHAPTER 4

SECTION 10 PROMOTION AND TRANSFERS

- G. The selection process consists of:
 - 1. Administrative Review and
 - 2. Oral Interview (Optional at the discretion of the Division Commander and Bureau Chief)
- H. An employee may apply for as many positions as desired.

VII. SPECIAL ASSIGNMENTS

- A. It may be necessary from time to time for the department to create a specialized program, activity or organizational component to meet an identified problem or condition. These programs, activities or organizational components will be classified as "Special Assignments". (CALEA 16.2.1.a)
- B. The criteria for assignment is based on the skills, knowledge, and abilities required for the position and includes consideration for education and experience. (CALEA 16.2.2)
- C. At least two weeks prior to the selection process the Personnel Sergeant advertises department-wide for applicants. This is done by memorandum, daily bulletin, or other media. The advertisement contains a description of the assignment and the necessary requirements for selection consideration. For security reasons it is not required to announce, in writing, openings in undercover or similar assignments. (CALEA 16.2.2)
- D. A memorandum and resume is required of all applicants and is directed to the Personnel Sergeant. (CALEA 16.2.2)
- E. The Personnel Sergeant sends each applicant pertinent information describing the selection process as well as the date and time it is to be administered. If an applicant does not meet the selection criteria for the assignment, the Personnel Sergeant will provide a written explanation of the disqualification prior to the selection date.
- F. The Personnel Sergeant oversees, but does not participate in the selection process of all vacancies. The Personnel Sergeant convenes all oral interview boards. The Sergeant tabulates scores, if appropriate, and submits results to the Bureau Chief and the Chief of Police.

CHAPTER 4

SECTION 10 PROMOTION AND TRANSFERS

- G. The selection process consists of: (CALEA 16.2.2)
 - 1. Administrative Review and
 - 2. Oral Interview (Optional at the discretion of the Division Commander and the Bureau Chief.)
- H. An employee may apply for as many positions as desired.
- I. All special assignments shall be reviewed at least annually. The review will determine if the assignment should continue, avoid over-specialization and ensure the continued effective operation of special assignments. The review should address the following: (CALEA 16.2.1.c)
 - 1. Evaluate the initial problem or condition that required the implementation of the specialized assignment and
 - 2. A cost-benefit analysis of continuing the specialized assignment.

VIII. ADMINISTRATIVE REVIEW

Administrative Review is the process used to select employees for positions within the Department. The Administrative Review process has been established in an effort to provide employees with fair and equal opportunity within the Department; to assist in meeting the needs of the Department; and to achieve the Affirmative Action Goals for the Department. The Administrative Review is conducted by the Chief of Police and/or the respective Deputy Chief who oversees the Administrative Review process.

- A. Administrative review is used in the following situations:
 - 1. Lateral transfer between bureaus.
 - 2. Changing a work assignment within a bureau.
 - 3. Staffing a new position.
 - 4. Appointment of a civilian employee to a different position in a higher pay grade.
 - 5. Assigning newly promoted sergeants and lieutenants.
 - 6. Appointment to the position of Deputy Chief.

CHAPTER 4

SECTION 10 PROMOTION AND TRANSFERS

- B. The Administrative Review process involves the following steps (as a minimum, when applicable):
1. Review of any documentation submitted by the employee for consideration (i.e. resume, memos requesting transfer and recommendations).
 2. Review of the following information in the employee's personnel file:
 - a. Last two (2) performance evaluations.
 - b. Review of any commendations.
 - c. Review of any Internal Affairs complaints during the preceding two (2) years.
 - d. Review of attendance records.
 - e. Review of employee's safety record.
 3. Other items that may be considered during the administrative review process include, but are not limited to the following:
 - a. Level of formal education.
 - b. Amount and type of in-service training.
 - c. Involvement in Problem Oriented Policing Projects.
 - d. Other special job skills or communication skills that would enhance the employee's performance in the assignment.
 - e. Attendance at the Law Enforcement Management Institute or FBI National Academy.
 - f. Physical Fitness Assessment.

IX. PROBATIONARY PERIOD (CALEA 34.1.7)

- A. All ~~officers~~ ~~employees~~ who are promoted or transferred shall have a twelve-month probationary period. The performance of an ~~officer~~ ~~employee~~ on probation should be closely monitored. (CALEA 34.1.3.d)

CHAPTER 4

SECTION 10 PROMOTION AND TRANSFERS

- B. As early as possible during the probationary period, ~~unsatisfactory officers~~ ~~employees with unsatisfactory performance levels~~ ~~should be~~ need to be alerted about their need for improvement. They should be informed that their failure to improve could be cause for return to their former rank or status. (CALEA 34.1.3.d)

X. REVIEW OF PROMOTIONAL PROCESS

At least annually, the Support Services Bureau Chief conducts an evaluation of the promotion and transfer process. If the need for changes is discovered in the process, those changes are made as soon as possible. An evaluation report is submitted to the Chief of Police detailing the evaluation and any required changes.

XI. ADVERSE IMPACT ON THE PROMOTIONAL PROCESS

A. Adverse Impact Analysis

1. An adverse impact analysis shall be conducted by Planning and Research within 30 days after the posting of the eligibility list.
2. Upon completion of the analysis, a copy shall be forwarded to the Chief of Police and the Training Division.
3. The Training Lieutenant evaluates the analysis and results of counseling with the candidates in order to identify deficiencies. The Training Lieutenant shall report his findings to the Chief of Police.
4. If deficiencies are found, the Training Lieutenant implements methods to minimize adverse impact.

B. Minimizing Adverse Impact

1. A skills test will be offered to all officers to identify areas of deficiencies.
2. Training is offered to all officers to improve test taking skills, writing skills, reading comprehension skills and study skills.
3. The Training Division is responsible for developing lesson plans and providing training.
4. The department furnishes study material to all eligible candidates.

CHAPTER 4

SECTION 10 PROMOTION AND TRANSFERS

5. Counseling is provided to all candidates after the posting of the eligibility list.
Counseling consists of the following:
 - a. Review of the candidates resume.
 - b. Review of the written examination.
 - c. Review of the assessment center.
 - d. Critique of the overall process.
6. The Training Division Lieutenant is responsible for this counseling.

CHAPTER 4

SECTION 11 PERFORMANCE EVALUATIONS

I. STATEMENT OF PURPOSE

The City of Midland has established a policy of evaluating all employees periodically. The evaluation of an employee's daily work activities is an important and effective way for management to ensure that continued high standards of performance are achieved by all employees. Evaluations allow the employee and management to identify problem areas and deal with these problems on an individual as well as departmental basis. Performance evaluations may be used for positive disciplinary purposes when necessary.

II. OBJECTIVES OF THE SYSTEM (CALEA 33.8.3, 35.1.1.b)

- A. The objectives of an evaluation system are intended to serve both the employee and management.
- B. The objectives of the system are:
 - 1. Evaluate job performance.
 - 2. Identify strengths and weaknesses.
 - 3. Plan for the development of skills and expertise and identify training needs.
 - 4. Help employees qualify for promotion and merit pay increases.
 - 5. Provide feedback to the employee on a fair and impartial basis.

III. PREPARATION OF PERFORMANCE EVALUATION FORMS

- A. Criteria used for the performance evaluation must be specific to the type position occupied by the employee. (CALEA 35.1.1.b, 35.1.4)
 - 1. The job description of the position occupied provides a basis to identify the work performed.
 - 2. An employee may be given a special assignment in addition to or in lieu of regular duties during all or part of a rating period. When necessary, these special assignments and the employee's performance is addressed in a memo attached to the evaluation form.
- B. The employee's immediate supervisor completes the performance evaluation form. (CALEA 35.1.1.b, 35.1.8)
 - 1. Each evaluation is prepared as objectively as possible.

CHAPTER 4

SECTION 11 PERFORMANCE EVALUATIONS

2. The evaluation of each supervisor includes an evaluation of the quality of the ratings given by that supervisor to subordinates. (CALEA 35.1.8)
- C. All ratings, either favorable or unfavorable to the employee, require comments to justify that rating. (CALEA 35.1.1.b, 35.1.5.b)
- D. Performance rating categories may include but are not limited to:
(CALEA 33.8.1)
 1. Appearance
 2. Attitude
 3. Job Knowledge
 4. Initiative
 5. Communication Skills
 6. Judgment/Decision Making
- E. Explanations of individual performance categories are included with the performance evaluation form.

IV. TIMING OF EVALUATIONS

- A. Probationary employees are evaluated quarterly, at a minimum, during their probationary period to determine if the employee qualifies for a permanent position. (CALEA 35.1.3, 35.1.5.a)
- B. Permanent employees are evaluated once each year in the month of their employment anniversary date. (CALEA 35.1.2)
- C. An employee may be evaluated more frequently if deemed necessary by the Chief of Police. (CALEA 35.1.2)
- D. If an employee changes immediate supervisors between anniversary dates, the previous supervisor completes an evaluation of the affected employee for the time period the employee was supervised during that evaluation period. The employee evaluation shall be complete by the previous supervisor at end of the employee's anniversary date. The weight percentage and time period is indicated on the evaluation form. The new supervisor will then complete an employee evaluation on the affected employee for the time period the employee was under his/her

CHAPTER 4

SECTION 11 PERFORMANCE EVALUATIONS

command. Changing of an immediate supervisor includes the transfer of the subordinate or the supervisor.

- E. Regular evaluations initiated during an employee's anniversary month shall be completed during the anniversary month.
- F. Any evaluation not completed during the specified time period shall be accompanied by a written memorandum detailing the circumstances of the late evaluation.

V. EVALUATION PROCEDURES

- A. Performance evaluations are ordinarily prepared once each year and are based on performance during the specified rating period only. (CALEA 35.1.1.b, 35.1.5.a)
 - 1. Special performance reports are prepared as needed.
 - 2. Performance evaluations are due during the employee's employment anniversary month, unless specified otherwise by the Chief of Police.
- B. Each month the City Personnel Office sends to the Administrative Secretary a listing of employees who are to be evaluated during the following month. The Administrative Secretary notifies the appropriate supervisors of any evaluations due for the following month.

Appraisers shall use the following documents:

- 1. Performance Evaluation Instructions
 - 2. The appropriate Appraisal Rating Manual, which varies depending upon job family.
 - 3. A Performance Objectives/Standards Form for use in conjunction with the next evaluation period.
- C. The performance appraisal documents are either retrieved from the Forms drive for officer evaluations or distributed by the Administrative Secretary to the employee's supervisor, who rates their respective employee(s).
- D. The supervisor completes the Appraisal Rating Manual. If there are multiple raters, each must complete their portion of the Manual prior to review with the employee.

CHAPTER 4

SECTION 11 PERFORMANCE EVALUATIONS

- E. The supervisor and employee meet, review Sections I and II, and after discussion, the supervisor and the employee prepare and sign the performance objectives and standards form to be used for the next evaluation period. Employees have the option to write in comments about the performance evaluation under the Employee Comments section. (CALEA 35.1.1.b, c; 35.1.5.c, d, e; 35.1.7.a, b, c)

The purpose of this review is to: (CALEA 35.1.1.c, 35.1.7.a)

1. Provide feedback to the employee and communicate the results of the evaluation.
 2. Provide a basis for maintaining or improving employee performance. (CALEA 35.1.7.b)
 3. Identify the employee's strengths, weaknesses and any training needs. (CALEA 35.1.7.c)
 4. Discuss any necessary plans to improve performance.
 5. Clarify any misunderstandings by either the employee or the supervisor.
- F. As a part of the evaluation counseling session, the supervisor and employee discuss areas to be considered for the next rating period. This session includes discussion of: (CALEA 35.1.7.a, b)
1. Tasks of the employee's present position.
 2. Expected levels of performance for the position occupied.
 3. Explanation of performance criteria.
- G. The evaluating supervisor shall then forward the completed packet to his Division Commander. The packet is routed to the Chief of Police through the chain of command. If any changes are made to the evaluation, they must be discussed with the employee.
- H. If approved, the Chief of Police signs the evaluation and sends the packet to the Administrative Secretary for distribution.
- I. Each performance evaluation becomes a part of the employee's personnel file. (CALEA 35.1.5.g)

CHAPTER 4

SECTION 11 PERFORMANCE EVALUATIONS

- * J. If the employee does not agree with any part of the evaluation, he may submit a written rebuttal, or he may appeal the evaluation in the same way as is provided for any other grievance in Chapter IX of the City of Midland personnel policy. (CALEA 35.1.5.f)
- *
 - 1. If the employee wishes to rebut either part of or the entire evaluation, he shall submit the rebuttal and a memorandum within 5 working days to the Bureau Chief requesting a review of the evaluation.
 - 2. The Bureau Chief shall conduct a review of the evaluation with the employee, the supervisor completing the evaluation and may include other supervisors in the employee's chain of command.
- *
 - 3. Any documentation submitted either as a rebuttal to the evaluation, or in the course of the grievance process, shall be attached to and become part of the performance evaluation. The inclusion of this documentation insures fair consideration when performance evaluations are used for administrative review.
- K. Immediately after the date of the performance review with the employee, the evaluating supervisor forwards the evaluation to his supervisor.
- L. The performance evaluations shall be reviewed and signed by each level of supervision in the employee's chain of command. The final review is with the Chief of Police. (CALEA 35.1.5.c, 35.1.8)
- M. Performance evaluations are distributed as follows:
 - 1. Original evaluations and attachments are sent to the Personnel Office at Midland City Hall.
 - 2. One copy to the employee (CALEA 35.1.5.e)
 - 3. One copy to the employee's personnel file
 - 4. Other copies as required

VI. EFFECTS OF EVALUATIONS

- A. Evaluations are placed on file and may be used to identify training needs and to record specific areas of performance for employees.

CHAPTER 4

SECTION 11 PERFORMANCE EVALUATIONS

- B. Successive good evaluations may be the basis for merit pay increase recommendations.
- C. Successive inadequate evaluations may be the basis for remedial action, or dismissal in its most extreme form.

VII. UNSATISFACTORY PERFORMANCE

- A. When a supervisor finds that the performance of an employee is unsatisfactory, the employee shall be advised in writing of the unsatisfactory performance. This notice must be provided ~~at least 90 days prior to the anticipated evaluation date or~~ as soon as possible ~~when there are less than 90 days remaining until the next evaluation.~~ This notice must include: (CALEA 35.1.1.c, 35.1.6)
 - 1. Listing of performance areas which are unsatisfactory
 - 2. Goals for improvement
 - 3. Written statement of expected performance
- B. The employee's performance shall be closely monitored by an immediate supervisor. The supervisor shall counsel with the employee on a monthly basis to measure progress.
- C. If the employee's performance improves the supervisor shall notify the employee in writing that an acceptable level of performance has been achieved.
- D. If the employee's performance has not improved to an acceptable level ~~after three (3) months;~~ ~~information should be included in the performance evaluation.~~ The employee may be subject to disciplinary action ~~too~~.
- E. If the unsatisfactory performance is the result of an infraction of departmental rules, the employee shall be notified immediately. An exception to this may be made when it is suspected the employee is engaged in unlawful conduct and an investigation is pending.

VIII. SPECIAL CONSIDERATIONS

- A. Bureau Chiefs are responsible for instructing their supervisory personnel in the performance evaluation process. (CALEA 35.1.1.c, d)

This instruction includes: (CALEA 35.1.1.c, d)

- 1. Methods of evaluation

CHAPTER 4

SECTION 11 PERFORMANCE EVALUATIONS

2. Rater responsibilities
 3. Standard procedures for the completion of the Performance Evaluation Form.
- B. It is the responsibility of each evaluating supervisor to conduct each evaluation in an impartial and objective manner. The evaluation should be as complete as possible. Every attempt should be made to ensure that an employee receives recognition for outstanding work performance and that areas needing improvement are identified.
- C. Except where prohibited by law or policy, performance evaluations may be utilized as the basis for changes in duties, reassignments and like actions.
- D. The Performance Evaluation System shall be reviewed annually to determine if it meets current departmental needs.

Each Bureau Chief shall submit a report to the Chief of Police that contains:

1. Any extreme ratings given to employees and detailed explanations for the rating.
2. Any contested evaluations and the reasons for contention.
3. Any recommendations or comments if necessary.

IX. PERSONNEL EARLY WARNING SYSTEM

- A. This system is designed to assist supervisors in identifying police employees whose performance indicates that a review is necessary. The purpose of the review is to determine if intervention is appropriate to prevent negative consequences for the employee and the department. This system is not intended to be a substitute for good supervision. It does not relieve the supervisor of the normal responsibility to monitor their assigned employees performance and initiate a review and remedial action when necessary.
- B. The failure of an agency to develop a comprehensive Personnel Early Warning System can lead to the erosion of public confidence in the agency's ability to investigate itself, while putting the public and agency employees in greater risk of danger.
- C. The purpose of this system is to:
1. Compile accurate statistical information regarding complaints, use of force incidents, and fleet accidents.

CHAPTER 4

SECTION 11 PERFORMANCE EVALUATIONS

2. Provide a means to identify patterns of complaints and use of force incidents to enable supervisors to address training or other needs at an earlier stage and improve employee performance.
 - a. The Professional Standards Lieutenant and the Internal Affairs Sergeant shall maintain all complaints and use of force records.
 - b. Only those complaints with a final disposition of sustained, not sustained, or exonerated will be tracked in the Personnel Early Warning system.
- D. The Personnel Early Warning System will activate when an employee has: (CALEA 35.1.9 a)
 1. Two or more sustained Internal Affairs complaints within a calendar year.
 2. Three or more Internal Affairs complaints within a calendar year.
 3. Three or more Internal Affairs complaints of the same nature in two consecutive years.
 4. Three use of force incidents within a calendar year.
 5. Two or more fleet accidents, rated a "B" or higher by the accident review board.
- E. The Professional Standards Lieutenant shall notify, in writing, the Lieutenant of the involved employee that the Personnel Early Warning System has been activated. The Chief of Police and the appropriate Deputy Chief shall receive a copy of the notice. The notification should include: (CALEA 35.1.9.b)
 1. The date of incident(s).
 2. The type of incident(s).
 3. The status of the incident (s).
 4. The final classification.
 5. Any discipline administered.

CHAPTER 4

SECTION 11 PERFORMANCE EVALUATIONS

- F. The employee's Lieutenant shall notify the appropriate supervisor, that the Personnel Early Warning System has been activated. (CALEA 35.1.9.d)
 - 1. The supervisor should then contact the Office of Professional Standards to review the employee's files consisting of, but not limited to:
 - a. Internal Affairs
 - b. Use of force
 - c. Performance evaluations
 - d. Personnel file
 - 2. The supervisor shall submit a written response, through the chain of command, to the Deputy Chief with the findings, and a plan for improvement if applicable. (CALEA 35.1.9.d)
 - 3. Possible corrective measures may include, but are not limited to: (CALEA 35.1.9.e, f)
 - a. Supervisory counseling.
 - b. Referral to the Employee Assistance Program (EAP).
 - c. Remedial training to address identifiable problems.
 - d. Reassignment or transfer.
- G. The Deputy Chief shall review the written response, and approve any action taken. The Deputy Chief shall be responsible to insure that any corrective measures are accomplished, and submit a report to the Chief of Police with the final results.
- H. The Personnel Early Warning System shall be reviewed annually by the Professional Standards Lieutenant to evaluate the system's effectiveness and make changes as required. (CALEA 35.1.9.c)
- I. The employee's supervisor will notify the employee of a review when it is initiated. The Supervisor will also notify the employee of the supervisor's recommendation prior to submitting it through the chain of command.

CHAPTER 8

SECTION 2 JURISDICTION AND MUTUAL AID

I. STATEMENT OF PURPOSE

It is essential that the Department maintain a good working relationship with other law enforcement agencies, both adjoining and within the Department's jurisdiction. Agreements between these agencies to provide assistance to each other in the event of natural disaster, mass disorder, or other emergency situations must be established before the need for the mutual assistance arises. The purpose of this section is to establish procedural guidelines that ensure the positive cooperative efforts of all agencies involved.

II. AGENCY JURISDICTION (CALEA 2.1.1)

- A. The boundaries and limits of Department jurisdiction includes all areas within the corporate limits of the City of Midland.
- B. An official City map detailing the City's boundaries and the interior police division boundaries is maintained in the communications area. In the event a question arises in regards to any specific boundary of the corporate limits of the City, a prevailing official City map is maintained in the office of Engineering and Transportation and the City Planning Office at Midland City Hall. (CALEA 2.1.1)

III. CONCURRENT JURISDICTION (CALEA 2.1.2)

The Midland Police Department shares concurrent jurisdiction with other law enforcement agencies, such as: the Midland County Sheriff's Department, the Texas Department of Public Safety (DPS), and other State and Federal agencies that receive jurisdiction by law. The Midland Police Department has primary jurisdiction in all incidents and motor vehicle accidents within the defined boundaries of the City of Midland.

HH.IV. ASSISTANCE FROM LOCAL AGENCIES

- A. Emergency situations may require augmented law enforcement capabilities to restore order and assist victims. For this reason, the City has entered into an inter-local contract between law enforcement agencies of the Midland County Sheriff's Department, Odessa Police Department and Ector County Sheriff's Department.
- B. The contract exists to provide additional law enforcement officers to protect health, life and property against riot, unlawful assembly accompanied by the use of force and violence, and during times of natural disaster or man-made calamity.
- C. The inter-local contract agreement, as negotiated by the City Attorney or designee, should include at a minimum the following information:
 - 1. The legal status of agencies and agency personnel responding to a mutual aid request; (CALEA 2.1.3.a)

CHAPTER 8

SECTION 2 JURISDICTION AND MUTUAL AID

2. Procedures for investing provider agency personnel with the legal authority to act within the receiver agency's jurisdiction; (CALEA 2.1.3.b)
 3. Procedures for requesting mutual aid; (CALEA 2.1.3.c)
 4. Identity of those persons authorized to request mutual aid; (CALEA 2.1.3.d)
 5. Identity of persons to whom outside personnel are to report; (CALEA 2.1.3.e)
 6. Procedures for maintaining radio communications with outside personnel; (CALEA 2.1.3.f)
 7. Procedures for determining liability for expenditures, if any, of the provider agency's resources. (CALEA 2.1.3.g)
- D. Mutual aid agreements shall be reviewed annually by the Department and the legal advisor/City Attorney to ensure that they define the current legal status of the agencies involved. (CALEA 2.1.3.h)
- E. In the event that mutual aid is enacted, both provider and receiver agency personnel may assist in the operation of temporary detention facilities which may include transporting and processing prisoners.

~~IV~~V. REQUEST FOR FEDERAL LAW ENFORCEMENT ASSISTANCE (CALEA 2.1.4)

- A. Request for federal law enforcement assistance in emergency situations is generally made through the Chief of Police, the Acting Chief of Police or in their absence, the Duty Chief who contacts the appropriate federal agency without undue delay. The Chief or designee should convey:
1. The type of problem or circumstance requiring federal assistance.
 2. Details pertinent to the problem or circumstance.
 3. The types of assistance or resources required and, if known, the length of time it is anticipated the assistance will be needed.
- B. Requests for federal law enforcement assistance in situations other than an emergency shall be made in writing under authority of the Chief of Police. The Chief or designee should convey in writing:
1. The type of problem or circumstance requiring federal assistance.

CHAPTER 8

SECTION 2 JURISDICTION AND MUTUAL AID

2. Details pertinent to the problem or circumstance.
3. The types of assistance or resources required and, if known, the length of time it is anticipated the assistance will be needed.

VI. REQUEST FOR NATIONAL GUARD ASSISTANCE (CALEA 2.1.4)

- * A. Requests for State or Federal Assistance, including activation of the Texas National Guard or other military forces, shall be made to the Emergency Manager, Region 4, District 4-A, Department of Public Safety (DPS), Midland, Texas, telephone number (432) 498-2100.
- B. Such request shall be made by the Mayor, or in his name, by an official so designated.
- C. The request for assistance to the Emergency Manager should include the following:
 1. The nature of the emergency or disaster;
 2. That a state of emergency has been declared by the Mayor;
 3. That the City of Midland resources and resources available through mutual aid agreements are insufficient to handle the emergency;
 4. The types of assistance needed from the State and Federal agencies and the length of time it is anticipated the assistance will be needed;
- D. The local Emergency Manager relates the information to the State Coordinator, Division of Emergency Management;
- E. The State Coordinator, DEM, informs the Governor, Adjutant General, and/or Federal authorities as appropriate.

CHAPTER 9

SECTION 1 PLANNING AND RESEARCH

I. STATEMENT OF PURPOSE (CALEA 15.1.1)

Planning and Research activities are essential to the effective management of the Department. This section establishes the structure and duties of the Planning and Research Section.

II. STRUCTURE (CALEA 15.1.1, 15.1.2)

- A. The Planning and Research Section is commanded by the Professional Standards Lieutenant who reports directly to the Chief of Police.
- * B. The Accreditation Manager shall receive specialized accreditation manager training within one year of being appointed. (CALEA 33.5.4)
- C. The Chief of Police may assign any sworn officer to the Planning and Research Section temporarily for the purpose of completing a specific task. Upon completion of the assigned task, the temporary assignment shall be terminated. (CALEA 16.2.3.c)

III. DUTIES (CALEA 15.1.1)

- A. The Planning and Research Section coordinates, integrates, maintains on file and disseminates to the affected organizational units the following: (CALEA 52.1.1.c)
 - 1. Annual Budget
 - 2. Annual Report
 - 3. Manpower Analysis

The Planning and Research Section reviews each manpower analysis and when appropriate, uses the results to evaluate the agency plan and budgetary requests. (CALEA 16.1.2)
 - 4. Operations Analysis

The Planning and Research Section maintains on file the results of each operations analysis conducted by the Field Operations Bureau and the Investigative Services Bureau. Parallel studies may be conducted at the request of the Chief of Police. (CALEA 16.1.2)

CHAPTER 9

SECTION 1 PLANNING AND RESEARCH

B. Multi-Year Plan

The Planning and Research Section coordinates, integrates, maintains on file and disseminates to all organizational units a departmental multi-year plan to include the following: (CALEA 15.1.3, a, b, c, d)

1. Departmental and component goals and objectives by year (CALEA 15.1.3.a)
2. Departmental and component benchmarks by year
3. Departmental operational objectives by year
4. Anticipated workload by year (CALEA 15.1.3.b)
5. Anticipated City population by year (CALEA 15.1.3.b)
6. Anticipated personnel levels by year (CALEA 15.1.3.c)
7. Anticipated capital improvements and equipment needs by year (CALEA 15.1.3.d)

C. Policy Development

1. The Planning and Research Section has the responsibility of maintaining the Department's General Orders and Special Orders.
2. Upon request by the Chief of Police, the Planning and Research Section deletes, reviews, modifies, revises, or researches and develops any General Order or Special Order.
3. Whenever appropriate, the Planning and Research Section proposes deletions, modifications, revisions or additions reviewed by departmental supervisory staff. (CALEA 15.1.3.e)
4. No General Order or Special Order may be deleted, modified, revised, or implemented without the approval of the Chief of Police.
5. When any General Order or Special Order is deleted, modified, revised, or developed and implemented, the Planning and Research Section shall notify all departmental personnel.

CHAPTER 9

SECTION 1 PLANNING AND RESEARCH

6. All departmental personnel are responsible for maintaining, updating, and retaining all Special Orders that may be issued from the Planning and Research Section. All departmental personnel are responsible for reviewing changes made to the General Orders as they are made available on the Intranet.
 7. The Planning and Research Section, through the Professional Standards Lieutenant, may make specific assignments to any departmental employee in the furtherance of policy development. Any such assignment shall be completed as if issued directly from the Chief of Police.
- D. Forms Control (CALEA 11.4.2)
- * 1. The Accreditation Manager has the responsibility for the control of all official forms used within the Department.
 - * 2. All department employees are encouraged to submit proposals for new forms when a need is identified. Any department employee may draft a new form. Proposed new forms are forwarded through the chain-of-command to the Chief of Police for approval.
 - * 3. No form shall be issued or used in an official capacity without the approval of the Chief of Police and the assignment of a control number by the Accreditation Manager.
 - * 4. The Accreditation Manager maintains on file a copy of each approved official form and all revisions.
- E. Grant Management
1. The Planning and Research Section has responsibility for overall grant management within the Department and maintains on file all grant records.
 2. Upon approval of the Chief of Police, any departmental employee may make application for any available grant.
 3. The Planning and Research Section provides assistance, upon request, to any departmental employee pursuing a grant application.
 4. When any departmental employee pursues any grant, a copy of the grant application, supporting documentation and all correspondence is filed with the Planning and Research Section.

CHAPTER 9

SECTION 1 PLANNING AND RESEARCH

5. When any grant application is approved and funded, a copy of the approved grant and any additional correspondence is filed with the Planning and Research Section.

F. Committee Support

The Planning and Research Section serves as support for any intra-departmental committee. The Planning and Research Section provides research assistance but is not responsible for drafting committee proposals.

G. Citizen Survey

1. A survey of citizen attitudes and opinions is conducted with respect to overall:
 - a. Police Department performance (CALEA 45.2.5.a)
 - b. Competence of Department personnel (CALEA 45.2.4.b)
 - c. Citizens' perception of officers' attitude and behavior (CALEA 45.2.4.c)
 - d. Concern over safety and security within the City of Midland. (CALEA 45.2.4.d)
 - e. Concern for safety and security in the area where the responding person lives.
 - f. Citizens' recommendations and suggestions (CALEA 45.2.4.e)
2. The citizen survey may be accomplished by publications such as a crime watch bulletin, newspaper articles in the Midland Reporter Telegram, or other reasonable means. This may be by telephone, mail, internet web based or in person.
3. The citizen survey is carried out by the Planning and Research Division with assistance from other authorized representatives.
4. Results of the citizen survey are presented to the Chief of Police and made available to all interested personnel.

CHAPTER 9

SECTION 1 PLANNING AND RESEARCH

* **GH.** Staff Inspection

The Planning and Research Section has the responsibility for coordinating staff inspections. A staff inspection shall be conducted within each organizational component at least every three years. Unannounced spot inspections are conducted at random at the direction of the Chief of Police.

* **HI.** Accreditation Management (CALEA 15.1.3. 16.2.1.b)

The Accreditation Manager has the responsibility for management and maintenance of all matters pertaining to the accreditation process and the Commission on Accreditation for Law Enforcement Agencies. The Planning and Research Section serves to support this process at the direction of the Professional Standards Lieutenant.

CHAPTER 12

SECTION 11 CHAPLAIN PROGRAM

I. PURPOSE

The purpose of the Midland Police Department Volunteer Police Chaplain Program is to provide more sensitive responses to the public in times of crisis and to provide members of the Midland Police Department (MPD) with any personal assistance they may require. A volunteer police chaplain will be available on a 24-hour basis. The purpose of this general order is to detail the responsibilities of the MPD volunteer police chaplains.

II. ORGANIZATION

- A. The MPD volunteer police chaplains will be referred to as police chaplain(s) within this general order.
- * B. The Volunteer Police Chaplain Program is headed by the volunteer police chaplain coordinator and shall be staffed with as many police chaplains as necessary to accomplish the objectives of the chaplain program.
 - 1. The volunteer police chaplain coordinator shall:
 - a. Be a member, in good standing, of the MPD Volunteer Chaplain Program.
 - * b. Be appointed by the Community Services Division Lieutenant.
 - * c. Answer directly to the Sergeant of Community Relations.
 - d. Provide leadership for the MPD Volunteer Chaplain Program. Such leadership includes, but is not limited to, the supervision, direction, and coordination of the program.
 - e. Recruit and train new chaplains.
 - f. Maintain an accurate list of all chaplains.
 - g. Develop ways to improve the effectiveness of the program.
 - h. Coordinate the scheduling of the chaplains for special events and public ceremonies.
 - i. Be responsible for budgeting for training and equipment.

CHAPTER 12

SECTION 11 CHAPLAIN PROGRAM

- C. Police chaplains shall be approved by the Chief of Police based upon the recommendations of the police chaplain membership. They shall be volunteers chosen from the generally recognized religious community in Midland or Midland County.

1. The police chaplains must:

- a. Be ordained ministers, associate ministers, or rabbis who are active full-time in a generally recognized church or synagogue within Midland or Midland County;
- b. Never have been convicted of a felony or any criminal offense involving moral turpitude;
- c. Be willing and able to undergo careful screening by the department before appointment;
- d. Be willing and able to serve the chaplaincy by being subject to 24 hour call-out when assigned;
- e. Be willing to sign a release of claim releasing the city, the department, the Chief of Police, or any member of the department from civil liability should they be injured or killed while conducting the duties of a police chaplain.
- f. Attend the first available Citizen Police Academy.
- * g. Attend the first available Citizens on Patrol training before being issued a police radio.
- h. Successfully complete a six-month probationary period before being issued equipment from Supply.

III. RESPONSIBILITIES AND DUTIES (CALEA 16.4.1.b)

- A. The police chaplain will make his services available to department personnel when they are burdened with personal problems adversely affecting their professional abilities. *Any such assistance will be privileged and confidential between the officer and chaplain involved.*
- B. The police chaplain will assist department officers in notifying member's families and the general public in the event of serious injury or death. *Police chaplains will accompany a police officer when conducting notifications.*

CHAPTER 12

SECTION 11 CHAPLAIN PROGRAM

- C. The police chaplain shall not become involved in domestic situations except when the investigating officer's supervisor or deputy chief determines that the chaplain's services may be of help to the family involved.
- D. The police chaplain will assist department officials during major emergency incidents or crisis of any kind where the presence of a trained chaplain might help, i.e.; major disturbances, natural disasters, major accidents, etc.
- E. When requested, the police chaplain will assist department officials in:
 - 1. The development and implementation of programs and activities designed to address general and specific crime problems within the various communities of the city.
 - 2. Making presentations at the police academy and/or to new employees concerning various topics; i.e. dealing with personal stress, family crisis intervention, etc.
 - 3. Visiting with sick or injured members of the Department at their home or in the hospital.
- F. The police chaplain shall not attempt to convert to or bring into their religious affiliations members of the department or the general public while they are assisting the department, unless a person requests information about the particular faith of the police chaplain.
- G. When responding to a service call by vehicle, the police chaplain will observe all traffic regulations.
- H. The police chaplain, when responding to a service call, will identify himself and will obey all commands and requests made by an officer during any given situation.
- I. The police chaplain, when engaged on a service call, will identify himself verbally and by displaying identification provided by the department.
- J. While "riding along" or when on the scene of a police incident, the police chaplain shall wear the issued uniform, hats, or other authorized insignia that clearly identifies him as a police chaplain. The exception will be when the chaplain is serving on emergency call-out and doesn't have time to change.
- K. The police chaplain will not be armed, nor will he carry armament in his vehicle while he is performing the duties of police chaplain. Additionally, if he observes a crime in progress, he will not intervene, but will notify a dispatcher immediately and observe the offense from a safe viewing area until officers arrive.

CHAPTER 12

SECTION 11 CHAPLAIN PROGRAM

- L. The police chaplain is a volunteer of the department and, as such, is not considered a component of the formal chain of command. The police chaplain shall not intervene or hinder in any way the actions and decisions made by department employees in the performance of their duties. However, nothing in this general order shall prohibit the police chaplain from utilizing the prescribed department complaint process.
- * M. The police chaplain who fails to make the meetings and fails to take his on-call turns for a period of ninety days, without a reasonable excuse, will be dropped from the program and required to return all issued equipment to supply.
- * N. If circumstances exist, which prevents a police chaplain from performing his duty for a six-month period, the Chaplain will be asked to resign and return all issued equipment.

* IV. REPORTS

Any time a chaplain is utilized by a police officer in conjunction with official chaplain duties, other than those of a personal nature, the chaplain shall ~~document~~ ~~notify in a report the volunteer chaplain coordinator of~~ the role performed as a police chaplain. ~~Chaplains will make regular reports to~~ The volunteer police chaplain coordinator ~~will present a written report~~ outlining their chaplain activities for the month. ~~-.The chaplain coordinator will be responsible for compiling those reports and presenting them~~ This report needs to be submitted to the ~~Sergeant of~~ Community Relations ~~Sergeant~~ ~~no later than~~ by the fifth day of the following month for inclusion into the Community Relations monthly report.

V. SAFETY

Every attempt shall be made not to jeopardize the safety of the police chaplains. Should a situation develop in which an officer requires immediate assistance, i.e.; an officer with whom a police chaplain is working becomes involved in a fight, the police chaplain should call for assistance and should only become involved when requested to do so by an officer or if an officer is incapacitated.

VI. RIDING ALONG

- A. A "Release of Claim" must be signed by the police chaplain wishing to ride along.
 - 1. Once a police chaplain has completed the necessary forms, the forms will be kept on file in the office of the deputy chief over Field Operations Bureau.

CHAPTER 12

SECTION 11 CHAPLAIN PROGRAM

2. A list of all police chaplains approved to ride along will be sent to all division lieutenants by the police chaplain coordinator, and will be updated when changes occur.
- B. A police chaplain shall only be permitted to ride with personnel approved by the FOB Division Lieutenant.
- C. The police chaplain shall follow the directives of the patrol officer to whom they may be assigned.
- D. The police chaplain shall remain in the patrol unit unless the officer directs the police chaplain that it is safe to exit the unit. A police chaplain shall not exit the vehicle on any "high risk" calls to which they may be assigned. This will include family violence calls unless no elements of risk are present nor are expected and only a reporting procedure is necessary.
- E. In some rare instances where circumstances indicate a serious danger due to the nature of a call, the officer may have the police chaplain exit the vehicle in a safe place. The officer shall notify communications so that the police chaplain may be retrieved as soon as possible. Officers should use good discretion and should consider all options in determining an appropriate area in which to release the police chaplain.
- F. Under no circumstances will a police chaplain be present in a patrol vehicle involved in any aspect of a pursuit.
- G. Police chaplains may ride with units in any bureau, pending approval of the Community Services Division lieutenant and/or the Chief of Police.

VII. POLICE RELATED SHOOTINGS

Any time an officer is involved in a police related shooting, he will be given the opportunity to have a police chaplain present as soon after the shooting as possible. If the officer so desires, the police chaplain may stay with the officer through every phase of the investigation, except, at the discretion of an investigator, the interview of the officer.

VIII. COMPLAINT AGAINST POLICE CHAPLAINS

Should any officer have a complaint against a police chaplain, the officer shall document the complaint and forward it to the Chief of Police through the chain of command.

CHAPTER 12

SECTION 11 CHAPLAIN PROGRAM

* IX. CONFIDENTIALITY

Any counseling conducted by the police chaplains, with either department members or the public will be held in strict confidence in accordance with state law. Should the police chaplain no longer be effective with a particular person, that person may be referred to another chaplain or agency by the Department. Information concerning the individual may only be released to the referred counseling source with permission of the person being counseled, except when it is clear to the chaplain that the person is a danger to himself or to others.

X. NOTIFICATION AND/OR CALL OUT OF POLICE CHAPLAINS

- A. Any notification and/or call out of the police chaplain will require the approval of a supervisor.
- B. All MPD police chaplains will be issued a pager, and the police chaplain coordinator will be responsible for providing all bureaus and the Communications Section with an up-to-date list of the on-call chaplains and their pager numbers.
- C. The police chaplain may be called out to assist in:

- 1. The death notification and/or acknowledgment of an employee or a member of the employee's immediate family.
- 2. Any officer involved in a shooting.
- 3. Serious injury or illness to an officer or immediate family.
- * 4. Any traumatic crime scene.

When a chaplain is called out and arrives at the location, the Chaplain should contact a uniformed officer and identify themselves as a chaplain. The uniformed officer shall notify the supervisor in charge of the scene of the presence of the chaplain. That supervisor, or his designee, shall contact the chaplain as soon as practical and apprise him of the situation.

- 5. Any matter pertaining to moral, spiritual and/or religious welfare of police personnel or a private citizen where religious guidance is needed to address a crisis situation.

CHAPTER 12

SECTION 11 CHAPLAIN PROGRAM

~~XI. — VEHICLE ASSIGNMENT AND USAGE~~

~~Whenever possible, depending on availability, a City of Midland vehicle will be placed at the disposal of the MPD chaplains for use when they are performing the duties of a chaplain to include being on-call.~~

- ~~* 1. — The police chaplain coordinator will be responsible for checking the condition and maintenance of the assigned vehicle, informing the sergeant of Community Relations of any damage, malfunctions, or repair needs.~~
- ~~2. — Any chaplain who drives the assigned vehicle will be required to be properly licensed to drive in the state of Texas.~~
- ~~3. — Chaplains will be bound by the same rules and regulations pertaining to the operation of City of Midland vehicles, as any other operator, and as set out in the general orders of the Midland Police Department.~~

CHAPTER 10

SECTION 9 D.W.I. PROCEDURES

I. STATEMENT OF PURPOSE (CALEA 61.1.11)

The Department encourages officers to enforce Driving While Intoxicated Statutes in order to remove persons suspected of driving under the influence of alcohol, or other substances, from public places. The procedures are intended to serve as guidelines in D.W.I. enforcement.

II. ENFORCEMENT (CALEA 61.1.11)

The Department uses the following methods to assist in the enforcement of Driving While Intoxicated Laws.

- A. Training officers to detect drivers under the influence or alcohol or other substances.
- B. Selective assignments of personnel to D.W.I. units. A computer study is utilized to determine the time of day, day of week, and locations where D.W.I. violations have been most frequent.
- C. Use of D.W.I. mobile video camera units to assist in the detection and prosecution of D.W.I. cases.
- D. Use of specially trained Drug Recognition Experts.

III. ARREST (CALEA 61.1.11)

Officers with probable cause to believe that the driver of a motor vehicle is under the influence of alcohol or other substance may take the following actions:

- A. Observe the suspect's driving behavior for a safe distance to determine probable cause to stop the vehicle.
- B. Stop the vehicle at a safe location for the protection of the suspect, officer, and any vehicular traffic.
- C. Observe the suspect to determine if he may be under the influence of alcohol, drugs, or a combination of alcohol and drugs. ~~Once this is determined, the suspect may be advised that he is suspected of Driving While Intoxicated.~~
- D. Request that the suspect take psychophysical tests that are methods of assessing a suspect's mental and/or physical impairment (if physically capable), to include:
 - 1. Horizontal Gaze Nystagmus means an involuntary jerking of the eyes occurring as the eyes gaze toward the side. The HGN is only to be administered by those officers that attend and successfully pass the Standardized Field Sobriety Testing Course that is approved by The National Highway Traffic Safety Administration.

CHAPTER 10

SECTION 9 D.W.I. PROCEDURES

If the officer is not trained in Horizontal Gaze Nystagmus, a trained officer may be called to assist.

2. The Walk and Turn Test requires the suspect to take nine heel-to-toe steps in an imaginary ~~or~~ real straight line; to turn around, keeping one foot on the line and turn by taking several small steps with the other foot, and to return nine heel-to-toe steps. While walking, the suspect should watch his feet at all times, keep arms at sides at all times, count steps out loud, and once the walking begins, not to stop until the test is completed. Note: The original research indicated that individuals over 65 years of age had difficulty performing this test.
3. The One-Leg Stand test requires the suspect to stand on ~~leg~~ foot, with the other ~~leg foot held-out-straight~~, approximately six inches off the ground, keeping that foot pointed out, both legs straight, arms at side, looking at elevated foot, counting out loud in the following manner: "one thousand and one, one thousand and two, and so on, until told to stop." Stop the test at the end of 30 seconds. Note: The original research indicated individuals over 65 years of age ~~and~~ ~~or~~ 50 pounds or more overweight had difficulty performing this test.

E. If alternate tasks are necessary the following may be used:

1. Have the suspect recite the alphabet, if able. If not, the suspect should be asked to count numbers in descending order.
2. The suspect should be asked to stand with feet together, eyes closed, and head tilted back. He then puts his hands out to the side, and is asked to touch his nose with the index finger of each hand, alternating hands, until he has done it 3 times with each hand.
3. Suspect holds either hand out, with palm up. With the thumb he counts the fingers from 1 to 4, then from 4 to 1. Each time he counts for 1 to 4, then 4 to 1 is one time. The task should be performed 4 times.

F. When it is determined that the person ~~may-be~~ ~~is~~ intoxicated, the suspect should be placed under arrest for Driving While Intoxicated. The vehicle the person was driving should be handled according to the provisions of the Vehicle Impoundment Section.

G. Read the Statutory Warning and request that the suspect give a breath or blood specimen. If a substance other than alcohol is suspected, a drug recognition expert may be contacted.

CHAPTER 10

SECTION 9 D.W.I. PROCEDURES

- H. Transport the suspect to the Midland County Detention Center for a breath test or transport to Midland Memorial Hospital for a blood test. If the person has indicated that he will submit to a breath test and the arresting officer is not an Intoxilyzer Operator, one shall be requested to perform the test.

IV. VIDEO TAPE (CALEA 61.1.11)

- A. Upon arrival at the Detention Center the suspect may be taken into a videotaping/intoxilyzer room if further tests are needed.
- ~~B. Check the equipment for correct time, date, and tape number to be used. The tape should be started at this time.~~
- C. Officers present are instructed to turn off portable radios. ~~The door must be closed but unlocked.~~
- D. The handcuffs should be removed from the suspect. The suspect is directed to remove any headgear. ~~stand inside the red square and to face the camera. The officer should stand between the camera and the suspect, and as close to the wall as possible. Witnessing or Intoxilyzer Officers should remain in a position just below the camera, facing the suspect.~~
- ~~E. The suspect is asked to face the camera and stand inside the red square.~~
- F. The arresting officer identifies himself and any other persons in the room, by name, rank and department. The suspect is instructed to identify himself by stating full name and date of birth.
- G. The suspect shall be told that the proceedings are being videotaped and that the videotape may be used as evidence in court. The Miranda Warning is read and the charge of D.W.I. stated.
- H. The suspect is asked to perform a variety of sobriety tasks if the field sobriety test were not recorded on ~~videotape~~ the patrol car camera system. The arresting officer informs the suspect that he will demonstrate the tests and then asks the suspect to perform the test. The suspect should be told not to start until told to do so.
- I. The officer requests the suspect perform tasks using the instructions in Chapter 10 Section 9, ~~D 2, and Chapter 10 Section 9 E 1 and 2.~~
- J. The interview is conducted by asking questions on the D.W.I. Case Report. Each verbal answer, in response to the questions asked, shall be written in the appropriate blank on the report if not refused. The interview should cease if the arrested person refuses to answer questions.

CHAPTER 10

SECTION 9 D.W.I. PROCEDURES

- K. The suspect shall be given a copy of the "Police Officer D.W.I. Statutory Warning" ~~and return to his position~~. The suspect is asked to read along while the officer reads the warning aloud.
- L. The officer asks one ~~or both~~ of the following questions, as appropriate:
 - 1. Will you take a breath test?
 - 2. Will you take a blood test?
- M. ~~If the suspect agrees to either the breath or blood test the videotape machine may be turned off, however, the tape may be allowed to run during the intoxilyzer test.~~ Procedures for taking a breath or blood specimen are completed.
- ~~N. The videotape is removed from the VCR and turned in with D.W.I. reports.~~
- V. REQUIRED PAPERWORK (CALEA 61.1.11)
 - A. The following paperwork is required when filing a D.W.I. CASE
 - 1. D.W.I. Case Report.
 - 2. Intoxilyzer report (2 copies) if a breath sample was given.
 - 3. D.I.C. 24 (D.W.I. Statutory Warning) Provide a copy of this document to the arrested person while being read aloud.
 - 4. D.I.C. 25 (Notice of Suspension Temporary Driving Permit) Provide a copy of this document to the arrested person.
 - 5. Seize driver's license if licensed in Texas.
 - 6. D.I.C. 23 (Peace Officer Sworn Report)
 - 7. D.I.C. 23A (Specimen Routing Report) if blood specimen is obtained.
 - 8. TLE-51 (Statutory Authorization – Mandatory Blood Specimen) If the peace officer is required to obtain a blood specimen.
 - 9. Commercial Motor Vehicle paperwork if applicable (DIC-54, DIC-55, DIC-57).
 - 10. Criminal Case History obtained from T.L.E.T.S.

CHAPTER 10

SECTION 9 D.W.I. PROCEDURES

11. Driver's License history, complete.
 12. Copy of the booking sheet.
 13. Copy of the accident report, if applicable.
 14. Drug Recognition Expert report, if applicable.
- B. All paperwork and the video ~~cassette~~ shall be placed in a D.W.I. Case Report Bag. The bag shall be turned in to a supervisor for approval. After approval the supervisor shall place the bag in the D.W.I. locker in the Report Writing Room, through the mail slot.
- C. The Traffic Section does any necessary follow-up on prior convictions and presents the case for prosecution to the proper court.
- VI. INTOXILYZER OPERATION (CALEA 61.1.11)
- A. The Texas Department of Public Safety has developed Texas Breath Alcohol Testing Regulations. These regulations establish parameters within which breath alcohol testing is to be administered and regulated in the state.
- B. Regulations are based on state law, Texas case law and recommendations from the Department of Transportation, the National Highway Traffic Safety Administration and the National Safety Council Committee on Alcohol and other Drugs.
- C. Adherence to and implementation of Breath Alcohol Testing Regulations insure a valid testing program.
- D. Breath test operators shall complete a 40-hour course approved by the Scientific Director of the State of Texas.
- E. Breath test operators are required to renew certification prior to the expiration date of their certificate.
- F. Breath test operators are governed by the "Breath Testing Regulation" manual and shall operate the Intoxilyzer instrument in accordance with this manual.
- G. A person, who is arrested for Driving While Intoxicated, is requested to give a breath sample.
- H. ~~During the videotaping procedure,~~ The ~~arrested~~ person is read the D.W.I. Statutory Warning form and asked to sign the form. Upon signature of the form agreeing to take the test, a certified Intoxilyzer operator performs the test.

CHAPTER 10

SECTION 9 D.W.I. PROCEDURES

VII. BLOOD TESTS (CALEA 61.1.11)

- A. Persons operating motor vehicles upon public highways are deemed to have given consent to submit to a breath or blood test for the purpose of analysis to determine alcohol concentration or presence in the body of controlled substances or drugs, if arrested for any offense arising while he was Driving While Intoxicated.
- B. In most cases a breath specimen is taken. There are circumstances where a blood test may be required.
 - 1. The person is injured and a breath specimen cannot be taken ~~within the required time.~~
 - 2. A breath specimen is taken and the officer has reason to believe that the person is under the influence of drugs, rather than alcohol.
 - 3. The person appears to be under the influence of drugs and there is no indication of alcohol.
 - 4. Two vials of blood may be taken from **at fault** drivers involved in fatal motor vehicle accidents **that are suspected of being intoxicated**. These are used to determine Blood Alcohol Concentration and Drug Analysis.
- C. Blood specimens shall be taken at Midland Memorial Hospital, **The Midland County Detention Centers infirmary, or any other designated sanitary place**. The Traffic Section supplies Blood vials. Blood samples shall be taken by a physician, a qualified technician, chemist, Registered Nurse (RN), or a Licensed Vocational Nurse (LVN). ~~Unless unable to do so (unconscious), the suspect must sign the Consent to Give Blood form in the kit or a mandatory blood specimen is requested and the TLE-51 form is completed.~~
- D. Blood vial kits are sealed on the outside of the kit. This seal should not be broken until the kit is to be used. All necessary paperwork is in the kit along with step-by-step instructions.
- E. After the specimen is received, all instructions shall be followed in regards to sealing the vial and holder.
- F. The evidence must be signed, dated, and timed by the submitting officer. The case number should be marked on the outside label.
- G. The blood sample kit is logged into evidence and later sent to the appropriate laboratory.

CHAPTER 10

SECTION 9 D.W.I. PROCEDURES

- H. When analysis is completed, the appropriate laboratory sends a letter explaining the results of the test. Upon receipt, the submitting officer shall submit a supplement to Data Entry giving results. The officer requests that the case be filed in the appropriate court. ~~If the BAC is less than 0.08% the officer may request that the case not be filed.~~
- I. With the exception of the Intoxilyzer report, all other required paperwork remains the same for a complete D.W.I. report.

VIII. HANDLING PERSONS WITH B.A.C. BELOW .08% (CALEA 61.1.11)

- A. When breath test results are below 0.08% a Drug Recognition Expert may be contacted to determine if the suspect is under the influence of one of the seven drug categories, has a medical condition, exhibits no impairment, or is intoxicated but under the 0.08% intoxication limit.
- B. Officers believing that a case can be made based on probable cause, sobriety tasks, and other factors, should discuss the case with a supervisor. The case shall be taken to the District Attorney's Office for review.
- C. If charges are accepted and the person has already been released the District Attorney's Office issues a summons or arrest warrant.
- D. If charges are not accepted and the person has been placed in custody, the Midland County Detention Center shall be notified and the persons released.
- E. Officers, who do not believe that custody for D.W.I. is warranted, may file any other applicable charges, such as traffic offenses. The suspect is released if no other charges are filed.
- F. In cases where no charges are filed, paperwork shall be forwarded to the Traffic Section with "Charges Not Filed" written on the case report. The Communications Center shall be instructed to change the classification from D.W.I. to Traffic. A narrative shall be submitted to Data Entry to substantiate the circumstances.

IX. HANDLING PERSONS WITH B.A.C. ABOVE .35% (CALEA 61.1.11)

- A. Persons giving a breath sample showing a BAC above .35% receive medical treatment. A supervisor shall be notified and the person's condition checked. A nurse, paramedic or EMT at the jail checks vital signs.
- B. If vital signs are normal a decision is made as to whether to have the person checked by a physician. If the person remains in jail, jailers shall be notified to keep the person under observation.

CHAPTER 10

SECTION 9 D.W.I. PROCEDURES

- C. Persons who are unconscious or in an otherwise unstable condition, including unstable vital signs, shall be immediately transported to a hospital or approved medical clinic. ~~An officer in these circumstances may issue a class A or B summons to a person in any of these conditions or otherwise injured, in lieu of having to guard the person.~~

CHAPTER 10

SECTION 12 CIVILIAN OBSERVERS

I. STATEMENT OF PURPOSE

In an effort to build public understanding of the police role in the community, the Department allows citizens to accompany patrol officers in the field as observers. This order is intended to provide rules and guidelines for the ride-along-program.

II. PROCEDURES

- A. All persons who desire to ride as an observer with an officer during a tour-of-duty shall complete a "City of Midland Full and Complete Release of Liability Form". It must include the relationship to the officer or the affiliation to a department sponsored program.
- B. The liability release form and previous riding history will be checked by an on-duty patrol supervisor by inquiring into the computer information files with INFO RIDERS and list observer's name. Riders not participating in a Department sponsored program shall not be permitted to ride more than once in a six months period.
- C. The supervisor approves or disapproves the request based upon circumstances and the criteria of this procedure.
- * D. If the request is approved, Communications will issue to the observer an identification number beginning with 9000 and ending at 9010. The observer will be placed with an officer as designated by a patrol supervisor. The officer informs the communications center by logging onto his/her laptop with the officer's P.I.N. number on the first line and the observer's identification number and name on the second line.
- E. Persons who are not approved to be an observer shall be told of this fact by a supervisor and given the reason for the denial. Reasons for disapproval will be shown on the liability release form.
- F. All release forms are initialed by the ranking division supervisor and are forwarded to the FOB Secretary for filing.
- * G. On-duty, non-sworn personnel may ride with officers for the purpose of training. The officer informs the communications center by logging the P.I.N. number of the non-sworn observer onto his/her laptop.
- H. No person under eighteen years of age shall be permitted to ride as an observer in a police vehicle without prior approval from the Chief of Police.

CHAPTER 10

SECTION 12 CIVILIAN OBSERVERS

III. ENSURING OBSERVER SAFETY

- A. Officers who are assigned observers make every reasonable effort to assure the safety of the observer. Observers should remain in the patrol vehicle unless otherwise directed by the officer.
- B. Observers who do not cooperate with officers must be brought to the Police Department. A supervisor shall be advised of the situation and permission for further observation must be withdrawn.

IV. DRESS AND APPEARANCE STANDARDS

- A. Civilian observers are expected to present a neat, conservative, well-groomed appearance. Approved dress consist of shirts with collars, dress Levi type slacks, Dockers, etc; and conservative type shoes or boots may be worn. Sandals are not approved. Hair must be well groomed and cleanliness/physical hygiene are required.
- B. Observers shall not wear any article, sign, or symbol on their clothing that advertises any product, business or organization.
- C. Officers are responsible for the personal appearance of civilian observers when they report to ride. Observers who do not meet dress and grooming requirements are not permitted to ride until requirements are met.

V. RESTRICTIONS

- A. Civilian observers shall not become directly involved in any police action unless necessary to preserve the safety of the officer.
- B. Observers remain in the police vehicle on traffic stops unless otherwise directed by an officer. Observers remain in the car during any disturbance calls of a serious nature. Observers may be required to summon assistance by radio if needed.
- C. Police riders shall conduct themselves with proper decorum. Riders shall refrain from:
 - 1. Use of alcoholic beverages prior to and during tours of duty.
 - 2. Use of profane or abusive language.
 - 3. Excessive conversation which may distract the officer or interfere with monitoring the police radio.

CHAPTER 10

SECTION 12 CIVILIAN OBSERVERS

4. Making remarks or voicing opinions to complainants, witnesses, victims, violators or suspects in any manner which would tend to provoke, degrade or escalate tensions.
 5. Giving information to any unauthorized person that may compromise a police operation, procedure or investigation in progress or anticipated.
 6. Giving information to unauthorized persons concerning the identity of arrested persons, persons confined in jail or suspects in a criminal act.
 7. Using any learned information for personal gain.
- D. Civilian observers shall not carry weapons. Observers have no police powers and have no authority except when acting at the direction of a Police Officer.

VI. EXCEPTIONS

- A. Off-duty police officers from this or other departments may ride with patrol officers subject to the approval of the ranking on-duty supervisor.
- B. All clothing and appearance guidelines apply.
- C. Off-duty officers perform as if they were on-duty while riding as observers. Officers riding on a voluntary basis shall not be compensated under normal circumstances.
- D. Off-duty officers riding as observers shall be appropriately armed and identified by badge.
- E. Spouses and family members may ride along with the approval of the on-duty supervisor once in a thirty-day period. Spouses and family members must be eighteen years of age or older and complete the authorized city liability form. All family members must be logged on the ~~MDT~~ laptop as an observer.
- F. Officers are not allowed observers until they have completed the probationary period.

CHAPTER 10

SECTION 17 MISSING PERSONS

I. STATEMENT OF PURPOSE

The purpose of this policy is to establish responsibilities and guidelines for the investigation of missing persons.

II. REPORTING/CLASSIFICATION OF MISSING PERSONS

- A. There is no waiting period for reporting a missing person. Missing persons reports will be taken in person or by telephone.
- B. A person may be declared "missing" when whereabouts are unknown and unexplainable for a period of time.
- C. An individual may be considered "missing critical" who meets the following criteria and who, among other possible circumstances: (CALEA 41.2.5.f)
 - 1. May be the subject of foul play.
 - 2. Because of age (young or old), may be unable to properly safeguard or care for themselves. (CALEA 41.2.6.a)
 - 3. Suffers from diminished mental capacity or medical conditions that potentially could be life threatening if left untreated or unattended.
 - 4. Is a patient of a mental facility and is a danger to himself or others.
 - 5. Has demonstrated the potential for suicide.
 - 6. May have been involved in an accident or natural disaster.
- D. In the event a person is "missing critical", a supervisor shall be notified. The supervisor should immediately: (CALEA 41.2.5.e, f, 41.2.6.c, e)
 - 1. Contact the dispatcher to broadcast an attempt to locate on the subject.
 - 2. Request that the Division Commander authorize resources necessary for an area search.
 - 3. Contact the on-call **Persons** detective to coordinate the investigation.
 - 4. The Crimes Against Persons Unit Sergeant or his designee will be in charge of initiating the activation of the Amber Alert System. (CALEA 41.2.6.d)

CHAPTER 10

SECTION 17 MISSING PERSONS

- E. Reports of juveniles who have voluntarily left home should be classified as runaways only after investigation. (CALEA 41.2.5.f)
- III. INITIAL REPORT TAKING (CALEA 41.2.5.a, 41.2.6.c, e)
 - A. The initial report taker must gather as much information as possible in order to initiate a proper response. This should include:
 - 1. Name, age, and physical description.
 - 2. Time and place of subject's last known location.
 - 3. The extent of any search already in progress for the subject.
 - 4. If the subject has been missing on prior occasions or has a prior history of absences.
 - 5. Current physical and mental condition of subject.
 - B. The on-duty supervisor and the on-call detective will be notified on all missing person cases. (CALEA 41.2.6.b)
- IV. INVESTIGATIONS (CALEA 41.2.5.e, f, 41.2.6.f)
 - A. Investigations concerning missing persons should include, but not be limited to, the following:
 - 1. Conducting interviews at the last known location of the missing person.
 - 2. Investigating the possibility of foul play or voluntary flight.
 - 3. Contact of area hospitals for injured or deceased persons fitting the description of the subject.
 - B. Identification and related information will be provided to all elements of the agency, neighboring agencies, NCIC, and TCIC. (CALEA 41.2.5.b, c)
 - C. Decisions to use the local media to help locate a missing person will be made by the family of the missing person and the investigating officer's supervisor. (CALEA 41.2.5.b)
 - D. The follow-up investigator will maintain contact with the missing person's closest relative concerning the progress of the investigation. (CALEA 41.2.5.d)

CHAPTER 10

SECTION 17 MISSING PERSONS

- V. RECOVERY OF MISSING PERSONS AND CASE CLOSURE (CALEA 41.2.6.f)
- A. Competent adults, having left home for personal reasons, cannot be forced to return home. Officers locating such individuals will: (CALEA 41.2.5.e)
 - 1. Advise them that they are the subject of a missing person investigation.
 - 2. Ask if they desire the reporting party or the next-of-kin to be notified of their whereabouts.
 - 3. This information should be transmitted to the reporting party or the next-of-kin if permitted by the missing person. (CALEA 41.2.5.d)
 - B. In all cases, reporting parties will be notified of the well-being of located missing persons. Desires of competent adult missing persons not to reveal their whereabouts shall be honored. (CALEA 41.2.5.d, e)
 - C. Missing persons will be questioned to establish the circumstances surrounding their disappearance and whether criminal activity was involved. (CALEA 41.2.5.e)
 - D. In cases involving juveniles, officers shall ensure that: (CALEA 41.2.5.f, 41.2.6.a)
 - 1. The juvenile receives medical attention in a timely manner if necessary.
 - 2. Initial questioning of the youth identifies the circumstances surrounding the child's disappearance, individuals who may be criminally responsible, and whether an abusive or negligent home environment was a contributory factor to the child's disappearance.
 - 3. The parent, guardian, or reporting party is notified in a timely manner upon the location of the missing child. (CALEA 41.2.5.d)
 - E. Upon location of a missing person, all agencies and information systems previously contacted for assistance will be notified or updated. (CALEA 41.2.5.c, d)
 - F. A complete case report will include the actions and activities of the missing person.

CHAPTER 11

SECTION 3 JUVENILE INVESTIGATIONS

I. STATEMENT OF PURPOSE

The purpose of this order is to define departmental policy and provide guidance to officers when handling juveniles. Law enforcement interaction with juveniles differs from that of adults, adding to the complexity of the delivery of services to the public. While juveniles are afforded equal protection under the law, as are adults, there are differences in how juveniles are to be handled under current Texas law.

II. GOALS AND OBJECTIVES

- A. The Department's goal when dealing with juveniles is one of education, intervention, and behavioral correction wherever feasible. This agency is committed to the development and perpetuation of programs designed to prevent and control juvenile delinquency. All personnel are encouraged to use the least stringent and most productive means reasonably available to them when dealing with juvenile offenders. Violations of the law are not ignored and any interventions by the Department shall be documented. (CALEA 44.1.1)
- B. In the event education, intervention, and corrective measures do not achieve positive results or are not reasonably or legally available, juvenile offenders shall be processed through the applicable judicial system as provided by the Texas Family Code and the Texas Code of Criminal Procedure.

III. DEFINITION OF CHILD (JUVENILE)

The Texas Family Code defines a "child" as a person 10 years of age or older and under 17 years of age. "Child" is further described as one who is 17, but under 18 years of age and who is alleged to have been engaged in delinquent conduct or to be in need of supervision as a result of acts committed before reaching the age of 17.

IV. RESPONSIBILITIES

A. Juvenile ~~Officer~~ Detective Responsibilities

~~The Investigative Services Bureau Investigations Division Lieutenant shall appoint a sergeant and two ISB Detectives, referred to as Juvenile Officers, the following responsibilities that include, but are not limited to:~~

- 1. Visitation with juvenile offenders
- 2. Promoting support for law enforcement activities in the community through school, church and civic organization programs

CHAPTER 11

SECTION 3 JUVENILE INVESTIGATIONS

3. Informing the adult and juvenile community of law enforcement objectives and Department services
4. Educating Department personnel in Department policy and procedures related to the handling of juvenile offenders
5. Reviewing juvenile arrest reports to determine that all required information is present
6. Reviewing case files of arrested juveniles for pertinent background information
7. Reviewing all completed follow-up investigations involving juvenile offenders to ensure all Constitutional rights have been afforded to a juvenile offender
8. Meeting with other representatives of the Juvenile Justice System ~~on a~~ **weekly basis** to review and discuss issues involving juvenile offenders
9. Maintaining and securing all records relating to juvenile offenders handled by the Department
10. Providing feedback from the Juvenile Justice System to the Department, utilizing the chain of command
11. Liaison between the Department and other social services agencies providing services to juveniles
12. Attending detention and other type of juvenile proceedings when the Department has a legitimate interest
13. Providing training to departmental personnel in juvenile services and programs
14. Investigating juvenile cases as determined and assigned by the Investigation Division Sergeants.

B. Patrol Officers

Patrol Officers shall, in addition to other duties and when possible, conduct preventive patrol activities to include, but not limited to:

1. Making frequent positive contact with children to enlist their support for law enforcement and to encourage a bond between the police and children

CHAPTER 11

SECTION 3 JUVENILE INVESTIGATIONS

2. Taking positive steps to provide parents and children with proper counseling for the benefit of the child and/or the parent--counseling may be provided by the officer, other members of the Department, or other social agencies
3. Patrolling through the known congregation areas or trouble spots for juveniles
4. Notifying the Juvenile Officer in circumstances when counseling may provide benefits
5. Forwarding information concerning runaways, truants, or any criminal activity involving a juvenile to the Juvenile Section.

C. Investigative Services Bureau Supervisors

Supervisors of the Investigative Services Bureau assign, at their discretion, a detective to investigative cases which may involve the actions of juveniles.

D. Department Personnel (CALEA 44.1.1)

Department efforts, with regard to encouraging positive juvenile behavior within the agency's jurisdiction, begin with crime prevention activities. It is the responsibility of all Department employees to attend to the law enforcement needs of any juvenile with whom they may come into contact.

V. REVIEW OF JUVENILE PROCEDURES (CALEA 44.1.2)

- A. To further insure that Departmental directives are in the best interest of the juvenile, drafts of such relevant directives shall be forwarded to the Juvenile Judge of the County Court at Law and to the Assistant County Attorney assigned to juvenile cases for review and comment.
- B. Additionally, such directives may be forwarded to Juvenile Officers of other law enforcement agencies for review and comment. This is done in an effort to enhance inter-agency cooperation in dealing effectively with juveniles in general and specifically with regard to juvenile offenders.
- C. All juvenile procedures, policies, and enforcement programs shall be reviewed and evaluated at least annually to determine whether or not policies and programs should remain in effect, be modified or be discontinued. The annual report shall be forwarded to the Chief of Police. (CALEA 44.1.3)

CHAPTER 11

SECTION 3 JUVENILE INVESTIGATIONS

VI. GENERAL PROCEDURES FOR QUESTIONING OR INTERVIEWING JUVENILES

- A. All reasonable attempts shall be made to work with the parents of the juvenile or child being questioned. Parents or guardians have personal legal responsibility and police officers work with parents as closely as possible in interviewing children. Examples of procedures which assist parents are: (CALEA 44.2.2.d, 44.2.3.a)
 - 1. Explaining the child's illegal or suspicious behavior as soon as possible
 - 2. Responding with patience and understanding to parents who sometimes ask defensive questions and have fears about police procedures and the court system
 - 3. Whenever reasonable, giving parents advance notice that their child is to be questioned as a suspect
- B. The Department encourages officers to adjust their interviewing style to be sensitive to each juvenile's age and experience. The more approaches an officer can use, the more cooperation can be achieved with each child. Interview styles that include the use of threats or belittling tactics are not tolerated under any circumstances.
- C. Juveniles must be questioned apart from adults. The certified areas for the conduct of interviews are:
 - 1. Offices of Patrol Supervisors
 - 2. Investigative Services Bureau Offices
- D. Juveniles are advised of their constitutional rights.
- E. Juveniles are advised of the options of being in detention or being released.
- F. Only law enforcement officers, parents or attorneys are present during questioning. Normally, there are no more than two officers present during questioning. (CALEA 44.2.3.b)
- G. The interview shall not exceed two hours without a 15 minute break. (CALEA 44.2.3.b)

CHAPTER 11

SECTION 3 JUVENILE INVESTIGATIONS

VII. STATEMENTS MADE BY JUVENILES (CALEA 44.2.2.c)

Statements made by children suspected of criminal conduct are, in most respects, treated the same as those made by adults under similar circumstances. However, very careful consideration must be given to the status of the child when the statement is made. In addition to recognizing when, in the course of an interview, a child becomes a suspect, officers must also pay careful attention to the difference between custodial and non-custodial situations. At each step (interview-suspect-custody) the guidelines set out in the Texas Family Code must be strictly followed. The following statement types should be considered:

- A. Evidence discovered as a result of asking a child, who is a suspect, direct questions relative to a crime may be admissible only if the officer has complied with the requirements of the Texas Family Code.
- B. Oral admissions made by a child must be corroborated. If, for example, the statement leads to the discovery of the fruits of the crime, then that statement has been corroborated.
- C. A Res Gestae statement made by a child may be used in the same manner as one made by an adult.
- D. An audio or video recorded statement is acceptable if:
 - 1. The child is in custody as a suspect and has been warned by a magistrate before the statement is taken.
 - 2. A child who is not in custody and is merely a witness may give a voluntary recorded statement with no magistrate's warning, provided the statement is given voluntarily and the child is free to leave after the statement is given.
- E. A written statement made by a child is acceptable if:
 - 1. The child is a suspect and has first been warned by a magistrate before the statement is taken.
 - 2. The written statement is signed in the presence of the magistrate without the officer being present, unless requested by the magistrate for safety reason, at which time the officer shall not carry a weapon in the presence of the child.
 - 3. A written statement may be made by a child not in custody and who is merely a witness, does not require a magistrate's warning.

CHAPTER 11

SECTION 3 JUVENILE INVESTIGATIONS

VIII. GENERAL PROCEDURE FOR TAKING JUVENILES INTO CUSTODY

- A. It is the policy of the Department that whenever a juvenile is taken into custody or brought to the Police Department as a victim or witness, the parent or guardian is notified as soon as practical. (CALEA 44.2.1.c, 44.2.2.e)
- B. A juvenile may be taken into custody pursuant to the Texas Family Code: (CALEA 44.2.1.c, 44.2.2.a)
 - 1. Pursuant to an order of the Juvenile Court
 - 2. Under the laws of arrest
 - 3. If there is probable cause to believe the child has engaged in:
 - a. Conduct that violates a penal law of this state or city ordinance of a degree of class B misdemeanor or above.
 - b. Conduct that constitutes delinquent conduct or conduct indicating a need for supervision.
 - 4. Pursuant to a directive to apprehend.
- C. An officer taking a juvenile into custody, without unnecessary delay and without taking the juvenile elsewhere must do one of the following: (CALEA 44.2.1.c, 44.2.2.d)
 - 1. Release the juvenile to a parent, guardian, custodian, or other responsible person.
 - 2. Take the juvenile to one of the following:
 - a. A designated juvenile processing office.
 - b. A juvenile detention facility (Culver Juvenile Detention Facility or other designated facility).
 - c. An officer or official designated by the juvenile court.
 - d. A medical facility if the child is believed to be suffering from a serious physical condition or illness that requires prompt treatment.

CHAPTER 11

SECTION 3 JUVENILE INVESTIGATIONS

3. An officer taking a child into custody, who has reasonable grounds to believe the child has been operating a motor vehicle while under the influence of alcohol may:
 - a. Take the child to a place to obtain a specimen of the child's breath or blood.
 - b. Perform intoxilyzer processing and video taping of the child in an adult processing office of a law enforcement facility, providing the request for the child's breath specimen is video taped and the child's submission or refusal to submit is made a part of that recording.
- D. When a juvenile is taken into custody it is the policy of the Department that:
(CALEA 44.2.1.c)
 1. The juvenile is advised of all required constitutional rights on all felony arrests and on any arrest where the juvenile will be interrogated.
 - * 2. The officer taking the juvenile into custody is responsible for immediately notifying the parents, guardian, or custodian of the charge, circumstances, and the location of the child. (CALEA 44.2.2.e)
 3. After the parent, guardian or custodian arrives at the Police Department, the arresting officer, at a minimum, advises the parents of the following:
 - a. The seriousness of the child's conduct
 - b. The options of the officer concerning detention or release of the juvenile
 - c. Answers questions concerning the circumstances of the arrest, unless the release of certain information might place others in danger of bodily injury or jeopardize an investigation
 4. Before placing a juvenile in detention center, the arresting officer considers the following:
 - a. The seriousness of the alleged offense
 - b. The age and maturity of the alleged offender
 - c. Prior arrest record

CHAPTER 11

SECTION 3 JUVENILE INVESTIGATIONS

- d. The community based rehabilitation programs available for the juvenile
5. If a decision is made to transfer a juvenile to the detention center, the transporting officer provides officials at the center with a copy of the MPD Arrest/Detention Form.
6. Juveniles will be taken to the juvenile detention center to be fingerprinted and photographed prior to release for a Class B misdemeanor or higher offense. (CALEA 44.2.2.d)

E. School Notifications

1. Arresting officers are required to notify the arrested juvenile's school *within 24 hours of arrest or by the start of the next school day, whichever is the earliest*. MISD considers 0730 hours the start of the school day. Officers cannot wait until Monday to notify the school for arrests made during the weekend. Officers are still required to notify the school within 24 hours
2. The arresting officer or referring officer must fill out a school notification form located on the PD Forms drive and email it to the appropriate school. A carbon copy of the email also needs to be sent to the arresting officer's Sergeant and the Juvenile Secretary (Olga Bustamante) for verification.
3. The contact for all MISD schools is the same – **"PD MISD Notification"** under the City's Global Address List. MISD will disseminate the arrest information to the appropriate school.
4. Contact information for any other schools not considered part of the Midland Independent School District, such as charter schools, private school, or other Independent School Districts will need to be obtained by the officer from the internet.
5. If the arresting officer is unable to determine which school the student is enrolled, then MISD is the default school to notify.
6. Notifications include 17-18 year olds still enrolled in school.
7. Notification is required for the offenses listed on the Notification form. This includes Class C Assaults and Class C Possession of Drug Paraphernalia.
8. Officers need to indicate in their police report the name of the person and/or school notified and how the notification was relayed.

CHAPTER 11

SECTION 3 JUVENILE INVESTIGATIONS

IX. PROTECTIVE CUSTODY

Privately owned and operated Emergency Shelter is available to this Department when dealing with abused, neglected or abandoned children. This facility is available under the following circumstances: (CALEA 44.2.2.b)

- A. The child is with a parent or guardian at the time that the parent is arrested and no other responsible person can be located to care for the child.
- B. The child is a victim of abuse, neglect, or is without supervision due to some other problem.
- C. The Department of Human Services is called to make the determination of placement.

X. ALTERNATIVES TO TAKING A JUVENILE INTO CUSTODY

- A. An officer may release a juvenile in the field to a parent, guardian or other responsible adult without taking the juvenile into custody when the welfare of the juvenile and the State would be best served by doing so. (CALEA 44.2.1.a, c)
 - 1. The Officer may transport the juvenile to the juvenile's residence or contact the Communications Center and have the juvenile's parents come to the officer's location.
 - 2. It is preferred that a juvenile who is mentally incompetent be released to a parent or guardian.
 - 3. A field release shall be documented for Class C offenses by completing an offense report.
- B. Any juvenile who has reached their 14th birthday may be issued a traffic citation. (CALEA 44.2.1.b, c)
- C. Field Citations may be issued to juvenile offenders for any Class C offense except public intoxication. Public Intoxication is the only Class C offense for which a child can be placed in the juvenile detention center however, this can be done only after all attempts have been made to locate a parent, legal guardian, or other responsible adult have failed. (CALEA 44.2.1.b, c)
- D. The most recent edition of the Directory of Community Services for Midland County is maintained in the Juvenile Section and the Communications Center with listings for social services available for juveniles or children. (CALEA 44.2.1.c)

CHAPTER 11

SECTION 3 JUVENILE INVESTIGATIONS

XI. TRAFFIC RELATED OFFENSES

- A. The traffic offenses of Driving While Intoxicated and Driving Under the Influence are Juvenile Court cases. Normal DWI/DUI procedures are followed including a breath test if requested. A specific notation is made in the incident report that the offender is a juvenile and the case is not filed in court as with an adult offender.
(CALEA 44.2.1.c)
- B. Juveniles are not arrested on traffic warrants. Juveniles should not be entered into the computer on traffic warrants. In the event that a juvenile is found to be in the computer, the officer releases the juvenile and forwards a memorandum to the Municipal Court so the warrant can be removed from the computer.
- * C. Juveniles cannot be arrested for traffic offenses, other than reckless driving and DWI. (CALEA 44.2.1.c)

XII. INTOXICANTS

Juveniles found under the influence of paint or glue should be arrested and taken to a medical facility for treatment before being placed in the juvenile detention center. Juveniles arrested for public intoxication are to be delivered to a parent, legal guardian, or other responsible adult. In the event that no parent, guardian, or responsible adult is available, the juvenile will first be taken to a medical facility for treatment and then placed in the juvenile detention center

- A. Officers should prepare an incident report and detention sheet and place the individual at the juvenile detention center.
- B. The report should include as much information as possible relevant to the juvenile. Specific data is requested in order to obtain proper referral for the child. Include circumstances on how the intoxicant was obtained, if possible. This may be credible information from anyone with knowledge of the individual or regarding the specific incident.
- C. If for any reason the juvenile detention center will not take the child, the child's parent or guardian shall be contacted and the child released to their custody.

XIII. FINGERPRINTS AND PHOTOGRAPHS (CALEA 82.1.2.b)

- A. If latent fingerprints are found during the investigation of an offense, an officer may fingerprint the child for the purpose of comparison with latent fingerprints if:
 - 1. The officer has consent from Juvenile Court;

CHAPTER 11

SECTION 3 JUVENILE INVESTIGATIONS

2. Written permission from the child's parent/guardian; or
 3. The child is in custody.
- B. If the comparisons of the fingerprints are negative, all copies of the fingerprint card shall be destroyed immediately.
- C. If an officer has reason to believe that photograph of a child will assist in the identification of the offender, the officer may photograph child if:
1. The officer has consent from the Juvenile Court;
 2. Written permission from the child's parent/guardian; or
 3. The child is in custody.
- D. If the child is not identified as the offender, all photographs shall be destroyed immediately.

XIV. RECORD KEEPING AND DOCUMENTATION (CALEA 82.1.2.a, c, d, e)

- A. Offense reports concerning juveniles are kept in the Records Division.
(CALEA 82.1.2.a, c)
- B. Accessibility to juvenile records is limited to sworn personnel and to civilian personnel who perform communication, data processing, and administrative functions as approved by the Chief of Police. (CALEA 82.1.2.a, c)
- C. Information regarding juveniles is not given to the media. (CALEA 82.1.2.a, c)
- D. Juvenile fingerprint files, photograph files and other records of identification are kept separate from adult records and are maintained on a local basis only.
(CALEA 82.1.2.a)
- E. Files concerning juveniles may be inspected by a Juvenile Justice Agency, which is defined in the Family Code as, "an agency that has custody or control over juvenile offenders". (CALEA 82.1.2.a, e)
- F. Juvenile fingerprints and photographs are removed from the files or records and destroyed by the Investigation Division Lieutenant or designee, if:
(CALEA 82.1.2.a, d)
1. A petition is not filed against the juvenile

CHAPTER 11

SECTION 3 JUVENILE INVESTIGATIONS

2. Proceedings are dismissed after a petition is filed
 3. The juvenile is found not guilty
 4. The person reaches 18 years of age and there is no record of committing a criminal offense after reaching 17 years of age
- G. The destroying of juvenile fingerprints and photographs is conducted by the Investigation Division Lieutenant or designee, with approval of the Chief of Police without a judicial order under circumstances approved by law. (CALEA 82.1.2.a, d)
- H. A juvenile's record is maintained until their 23rd birthday, unless ordered expunged by a court order. The expungement or destroying of juvenile records is the duty of the Investigation Division Lieutenant as approved by the Chief of Police.
(CALEA 82.1.2.a, d, e)
- XV. RUNAWAY (CALEA 41.2.6.a)
- A. A runaway report will be taken if: (CALEA 41.2.6.e)
1. A child, 10 years of age but not yet 18 years of age, is voluntarily absent from the home, without the effective consent of the parent or guardian, for a substantial length of time or without intent to return.
 2. Any parent or guardian believes that a child is a runaway.
- B. Upon verification, a runaway report will be completed and appropriate entries made in state and national information databases in accordance with established procedures. (CALEA 41.2.6.c)
- C. Recovery of a runaway: (CALEA 41.2.6.e & f)
1. In all cases, a police supplement will be completed and a copy of the supplement will be submitted to the Communications Center to cancel the runaway report.
 2. The parent or guardian will be notified to take custody of the child. If the parent or guardian refuses to take custody of the child ages 10-16, or the parent/guardian is not available then the officer SHALL deliver the runaway child to the Department of Protective and Regulatory Services (Child Protective Services).
 3. If the recovered runaway child does not live in Midland County, the child will be taken to the Culver Juvenile Detention Center and placed.

CHAPTER 11

SECTION 3 JUVENILE INVESTIGATIONS

4. If the child is 17 years of age a runaway report will be made unless the child is considered endangered then a "Missing Person" or "Missing Child" report must be filed. Once the child is located, the child SHALL be returned to a person entitled to the possession of the child meaning only a parent or legal guardian. If the parent/guardian is not available then the officer SHALL deliver the 17 year-old child to the Department of Protective and Regulatory Services (Child Protective Services), rather than a detention center.
5. Officers may use force to detain a missing child who wishes to elude protective custody, but only to the degree the officer reasonably believes is necessary to safeguard or promote the child's welfare consistent with the protective purpose of Article 63.009 (g) Code of Criminal Procedure.

XVI. CURFEW

- A. The City of Midland's curfew ordinance does not allow any child 10 years of age, but not yet 17 years of age, in public during designated hours. The hours and exceptions to this curfew are detailed in City Ordinance #7377.
- B. Curfew violations will result in the following actions:
 1. Issuance of a Field Citation for a Class C offense, and
 2. Parent or guardian contacted to take custody and control of the child, or
 3. Child transported home by officer and released to parent or guardian
- C. If the parent or guardian of a child cannot be located, the child, if possible, should be released to a responsible adult.

CHAPTER 11

SECTION 11 PHOTO LINEUPS AND FIELD IDENTIFICATION

*** I. STATEMENT OF PURPOSE**

Lineups are an important part of an investigation. Because of its vulnerability to abuse, certain Constitutional guidelines have been created to protect the innocent. Abiding by specific technical procedures assures a successful identification process of perpetrators. This order details specific procedures to be used in the execution of ~~physical lineups~~, photograph lineups and field identification. ~~The procedures which follow have been designed to: (a) reduce erroneous eyewitness identifications, (b) enhance the reliability and objectivity of eyewitness identifications, (c) collect and preserve eyewitness evidence properly, (d) respect the needs and wishes of victims and witnesses, and (d) address the needs of witnesses with limited English proficiency, where applicable.~~ Procedures are included for preparing, conducting and presenting the results as evidence.

~~H. PHYSICAL LINEUPS~~

~~A. Legal Requirements~~

- ~~1. The courts have ruled that participation in lineups by in-custody suspects permits mandatory compliance. A suspect in-custody may be forced to participate in a lineup. Since this is not the best procedure and could result in a tainted lineup, a court order is obtained in order to force the suspect's compliance with the physical lineup.~~
- ~~2. The courts have ruled that the suspect's right to counsel at lineups is applicable only after the initiation of formal judicial proceedings (case filing, indictment, arraignment, etc.)~~
- ~~3. The courts have also ruled that either an attorney of the suspect's choice or an unbiased attorney appointed by the court may be present during the lineup. This attorney is intended to protect the suspect's constitutional rights during a lineup if held after initiation of formal proceedings. If the suspect is in-custody and requests appointment of an attorney, the investigator will contact the court with the request. The lineup will not proceed until an attorney has been appointed and is present.~~
- ~~4. If the suspect is not in custody, a court order is required to compel participation in the lineup.~~
- ~~5. All procedures relevant to the lineup and its results are subject to critical review by the court. The investigator must maintain accurate and complete notes recording the entire procedure. (CALEA 42.2.11.g)~~
- ~~6. An unbiased and impartial approach towards the suspect's constitutional rights is mandatory for all officers.~~

CHAPTER 11

SECTION 11 PHOTO LINEUPS AND FIELD IDENTIFICATION

B. Attorneys

- ~~1. The Midland County District Attorney's Office may require the presence of a member of their staff at the lineup. The District Attorney's Office should be provided with the circumstances of the case prior to conducting the lineup. The District Attorney's Office determines whether their presence is required or not.~~
- ~~2. If formal proceedings have been initiated and the suspect is represented by an attorney, the attorney must be given reasonable notice of the lineup date. The investigator schedules the lineup date and time, making an effort to arrange a convenient time for the police and the attorney.~~
- ~~3. If the attorney does not appear at the date and time notified, the lineup is postponed. The suspect may waive the right to counsel or agree to a substitute attorney.~~
- ~~4. If the suspect refuses to retain an attorney, no lineup is conducted until the suspect has a court appointed attorney. A case of this nature requires the presence of a member of the District Attorney's staff.~~
- ~~5. Defense attorneys may not question witnesses who are under police control. The attorney may be present during the identification and post lineup interview.~~
- ~~6. A witness may speak to a defense attorney if they desire, but should be advised they are not obligated to do so. The investigator should be present during any conversation between witnesses and the suspect's attorney.~~
- ~~7. There is no obligation by police to notify or to have a court reporter present in the lineup room. The attorney for the suspect may have a court reporter present during the lineup if so desired. The lack of a court reporter will not cause a delay in the lineup procedure.~~

C. Victims and Witnesses (CALEA 42.2.11.d)

- ~~1. Victims and witnesses should be given instructions concerning procedures.~~
~~They should not:~~
 - ~~a. Discuss anything with attorneys present unless accompanied by the investigator.~~

CHAPTER 11

SECTION 11 PHOTO LINEUPS AND FIELD IDENTIFICATION

~~b. — Make any overt or declaratory statements.~~

~~c. — Proceed until instructed.~~

~~d. — Discuss the lineup or identification with other witnesses.~~

~~2. — Victims and witnesses are shown courtesies of proper and ample notification of lineup date, time and location.~~

~~D. — Suspects~~

~~1. — Suspects may be compelled to repeat words or phrases. All persons in the lineup must repeat the same words or phrases. (CALEA 42.2.11.b)~~

~~2. — If a suspect refuses to cooperate in speaking, the suspect may be taken directly before a magistrate to be ordered to speak or be held in contempt of court. This proceeding requires the presence of the District Attorney's staff.~~

~~3. — Suspects must be dressed in a like manner (coveralls, jail uniforms, socks/no socks, jewelry, etc.). (CALEA 42.2.11.a)~~

~~E. — Lineup Procedures~~

~~1. — The lineup date, time and location is arranged as quickly as possible after the arrest of the suspect in order to limit the time available to alter personal appearance.~~

~~2. — If formal proceedings have been initiated against the suspect, arrange for the suspect's attorney to be present.~~

~~3. — Witnesses should be properly isolated from each other before, during and after the lineup. Each witness views the lineup individually. Witnesses are not allowed to see the suspect prior to the lineup. (CALEA 42.2.11.c)~~

~~4. — When selecting lineup participants, physical characteristics should be as close as possible and/or practical. It is advisable to permit the defense attorney to actively participate in the selection of jail inmates or other persons to stand in the lineup. Unreasonable recommendations should be rejected. All suggestions offered by the suspect's attorney, whether they are adopted or not, should be noted and made a part of the report describing the lineup. (CALEA 42.2.11.a)~~

~~5. — Co-defendants are not placed in the same lineup. (CALEA 42.2.11.a)~~

CHAPTER 11

SECTION 11 PHOTO LINEUPS AND FIELD IDENTIFICATION

- ~~6. The lineup generally consists of the suspect and at least four other individuals. More may be used if deemed necessary and appropriate.~~
- ~~7. The lineup should be conducted with one investigator working with the participants. A second investigator should work with the witnesses and attorney(s). (CALEA 42.2.11.a)~~
- ~~* 8. The investigator does not, by words or gesture, suggest an opinion as to which photograph is the suspect. The investigator must remain neutral during the presentation. (CALEA 42.2.11.f)~~
- ~~* 9. Information pertinent to the line-up procedure is documented in the investigator's paperwork. This information might include statements made by the viewing individual(s), the level of confidence expressed by the victim/witness and identities of other persons present during line-up. (CALEA 42.2.11.e, g)~~
- ~~* 10. Each time a physical lineup occurs, record is made of the procedure, to include: (CALEA 42.2.11.g)~~
 - ~~a. Time~~
 - ~~b. Date~~
 - ~~c. Location~~
 - ~~d. Name of the witness/victim~~
 - ~~e. Offense date~~
 - ~~f. Type offense and incident number~~
 - ~~g. ISB section working the case~~
 - ~~h. Investigator working the case~~

II. DEFINITIONS

- A. Blind Procedure** – A procedure wherein the person administering the live lineup or photo array does not know who the suspect is.
- B. Blinded Photo Array Procedure** – A procedure wherein the person who administers the photo array knows who the suspect is, but each photo is

CHAPTER 11

SECTION 11 PHOTO LINEUPS AND FIELD IDENTIFICATION

presented so that the administrator cannot see or track which photograph is being presented to the witness.

- C. **Folder Shuffle Method** – A method of administering a photo array such that the administrator cannot see or track which photograph is being presented to the witness until after the procedure is completed. This method is employed when a blind procedure is not possible.
- D. **Fillers** – Non-suspect photographs or persons. Fillers are selected to both fit the description of the perpetrator provided by the witness and to ensure that no individual or photo stands out.
- E. **Interpreter** – An interpreter is a person who is fluent in English and the language of the witness or victim and who facilitates communication between two parties in two different languages. The term includes persons who facilitate communication with persons who are deaf, hearing impaired, or speaking impaired.
- F. **Live lineup** – An identification procedure in which a group of persons is displayed to the witness or victim in order to identify or exclude the suspect.
- G. **Person with Limited English Proficiency** – An individual who is unable to communicate effectively in English with a level of fluency that is typical of native English speakers. Such a person may have difficulty speaking, reading, or writing in English and includes persons who can comprehend English, but are physically unable to talk or write.
- H. **Photo Array** – An identification procedure in which a series of photographs is displayed to the witness or victim in order to identify or exclude the suspect.
- I. **Sequential Photo Array** – An identification procedure in which the persons in the photographs in the photo array are displayed one by one (sequentially).
- J. **Field Identification** – An identification procedure in which a single suspect is shown to a victim or witness soon after the commission of a crime for the purpose of identifying or eliminating the suspect as the perpetrator. This procedure can be carried out by any officer.
- K. **Witness Instructions** – Written statements that are read out loud to the witness or victim describing the procedures of the identification process.

CHAPTER 11

SECTION 11 PHOTO LINEUPS AND FIELD IDENTIFICATION

IIII. PHYSICAL LINEUPS

Physical lineups are not conducted by the Midland Police Department due to the lack of a persons needed for the selection of fillers to conduct a live lineup. Photographic lineups are more work efficient.

HHIV. PHOTOGRAPHIC LINEUPS

A. Justification

1. Photographic lineups are proper investigative tools in securing suspect identification, provided they are not suggestive or improperly presented.
2. Photo lineups may be used during an investigation either before or after arrest. There is no requirement that the suspect's attorney be present when a photo lineup is presented to a witness.
3. Witnesses and victims may be allowed to view photos on file at the police building to generally search for a photo of the suspect. This is generally used when a definite suspect has not been identified.
4. Photo arrays are preferred over other techniques because: (a) they can be controlled better, (b) nervousness can be minimized, and (c) they are easier to manage logistically.

~~B. Lineup Presentation~~ (CALEA 42.2.11.a)

- ~~1. When displaying a photograph of a specific suspect to a witness/victim it shall be arranged at random with at least five photos of other individuals. All photos must be of the same sex, race and approximate age are displayed in the MPD photo spread folder.~~
2. When mug shots are used in a photo lineup, all identifying written information or law enforcement reference on the photos is removed or covered. (Moved to IV, B, 1 under lineup procedures)
3. When general photographic police files are shown to a witness/victim, any names on the photos are removed or covered. These files may include pictures of individuals who have been handled for a particular type offense. This may be necessary to ensure an adequate number of pictures for viewing to make the process objective. (Moved to IV, B, 1 under lineup procedures)

CHAPTER 11

SECTION 11 PHOTO LINEUPS AND FIELD IDENTIFICATION

B. Lineup Procedures

- ~~1. A photographic line up is not shown to more than one witness/victim at a time. (CALEA 42.2.11.e)~~
- ~~2. In the case of multiple witnesses/victims viewing a photo lineup, individual responses of each witness are not made known to other witnesses. (CALEA 42.2.11.e)~~
3. The investigator does not, by words or gesture, suggest an opinion as to which photograph is the suspect. The investigator must remain neutral during the presentation. (CALEA 42.2.11.f) Moved to IV, B, 7
- ~~4. Each time a photo lineup presentation is made a record is be made of the procedure, to include: (CALEA 42.2.11.g)~~
 - ~~a. Time~~
 - ~~b. Date~~
 - ~~c. Location~~
 - ~~d. Name of the witness/victim~~
 - ~~e. Offense date~~
 - ~~f. Type offense and incident number~~
 - ~~g. ISB section working the case~~
 - ~~* h. Investigator working the case~~
- ~~5. The information listed above is documented on the MPD photo spread folder in the spaces provided for this purpose. (CALEA 42.2.11.g)~~
- ~~6. The viewing witness circle and initial the photo number selected, if any. (CALEA 42.2.11.g)~~
- ~~7. In the case of multiple witnesses, all witnesses are shown the original photo spread file individually. Copies of the folder are made for the purpose of documenting the witness's selection. All witnesses circle and initial the photo number selected, without other witness's knowledge. (CALEA 42.2.11.e)~~

CHAPTER 11

SECTION 11 PHOTO LINEUPS AND FIELD IDENTIFICATION

- ~~* 8. Information pertinent to the presentation procedure is documented in the investigator's paperwork. This information might include statements made by the viewing individual(s), the level of confidence expressed by the victim/witness and identities of other persons present during the presentation. (CALEA 42.2.11.e, g)~~
- ~~9. If the photos presented are out of general photographic police files, pertinent information is documented in investigative reports. The photo selected is marked and maintained as evidence. (CALEA 42.2.11.g)~~
- 10. The photo spread folder with all pictures is marked and maintained as evidence if a suspect selection is made. It is kept intact until the final disposition of the case, and becomes a part of the permanent case file.
(CALEA 42.2.11.g) (Moved to IV, B, 20, c)
- ~~* 11. Photographic lineups do not have to be recorded in any manner. (CALEA 42.2.11.b)~~

1. Selecting Suspect Photograph

If multiple photos of the suspect are available, choose the photo that most resembles the suspect's appearance at the time of the crime. Do not include more than one photograph of the same suspect. If you do not know what the suspect looked like at the time of the crime, choose the photo that most resembles the victim's or witness's description of the perpetrator. When general photographic police files are shown to a witness/victim, any names on the photos are removed or covered. These files may include pictures of individuals who have been handled for a particular type offense. This may be necessary to ensure an adequate number of pictures for viewing to make the process objective. If mug shots are used in a photo lineup, all identifying written information or law enforcement reference on the photos is removed or covered. If there are multiple suspects, include only one suspect's photo in the array.

2. Selecting Fillers (CALEA 42.2.11.a)

All persons in the photo array should be of the same sex and race and should be reasonably similar in age, height, weight, and general appearance. Ideally, the characteristics of the filler should be consistent with the description of the perpetrator provided by the witness(es). Where there is a limited or inadequate description of the perpetrator provided by the witness(es), where the description of the perpetrator differs significantly from the appearance of the suspect, fillers should be chosen so that no person stands out in the photo array. Do not mix color and black and white

CHAPTER 11

SECTION 11 PHOTO LINEUPS AND FIELD IDENTIFICATION

photos. Use photos of the same size and basic composition. Never mix mug shots with other types of photographs.

3. Choosing Number of Fillers (CALEA 42.2.11.a)

Wherever possible, include a minimum of five fillers. Because increasing the number of fillers tends to increase the reliability of the procedure, one may have more than the minimum number of fillers.

4. Ensuring Similarity (CALEA 42.2.11.a)

Assess the array to ensure that no person stands out from the rest. Cover any portions of the photographs that provide identifying information on the suspect and similarly cover other photographs used in the array.

5. Placement of Photographs in Order

Place photographs according to the procedures for either a blind photo array or a blinded photo array outlined below.

6. Administration of photo array

Photo lineups are administered according to the procedures for either a blind photo array or a blinded photo array outlined below.

7. Instructing Witness (CALEA 42.2.11.d)

Because witnesses may be under pressure to identify a suspect, they should be informed that the suspect may or may not be present in a live lineup or photo array and that the person presented in a show-up may or may not be the perpetrator. The investigator does not, by words or gesture, suggest an opinion as to which photograph is the suspect. The investigator must remain neutral during the presentation. The administrator should also explain to the witness that the investigation will continue, regardless of whether an identification is made, as another way of alleviating pressure on the witness to identify a suspect. (CALEA 42.2.11.f)

8. Question Witness

After the witness has looked at a photo and handed it back to you, ask: **"Is this the person you saw [insert description of act here]?"**

CHAPTER 11

SECTION 11 PHOTO LINEUPS AND FIELD IDENTIFICATION

9. Document Witness's Responses (CALEA 42.2.11.e, g)

Document the witness's response using the witness's own words. Have the witness complete the appropriate section of the "Instructions to Witness" form to reflect the outcome of the procedure.

10. Show All Photographs/Folders with Photos

Even if the witness makes an identification, show the witness the next photo until you have gone through all the photographs. If a witness asks why he or she must view the rest of the photos, despite already making an identification, simply tell the witness that to assure objectivity and reliability, the witness is required to view all of the photographs.

11. Avoid Feedback During the Procedure (CALEA 42.2.11.f)

Do not give the witness any feedback regarding the individual selected or comment on the outcome of the identification procedure in any way. Be aware that witnesses may perceive such things as unintentional voice inflection or prolonged eye contact, in addition to off-hand words or phrases, as messages regarding their selection. Avoid casual conversation comments such as "very good." Be polite but purposeful when you speak.

12. Additional Viewings

Only upon request of the witness, the witness may view the photo array again after the first photo array procedure has been completed. If the witness requests an additional viewing, the photo array administrator should present the entire photo array in the same order as the original presentation, a second time. If this occurs, it must be documented. The photo array administrator should never suggest an additional viewing to the witness. It is recommended that the witness not be allowed to view the photo array more than two times.

13. Subsequent Use of Materials

Ensure that if the witness writes on, marks, or in any way alters identification materials, those materials are not used in subsequent procedures.

14. Multiple Identification Procedures With Same Witness

Avoid multiple identification procedures in which the same witness views the same suspect more than once.

CHAPTER 11

SECTION 11 PHOTO LINEUPS AND FIELD IDENTIFICATION

15. Multiple Identification Procedures With Different Witness

If you need to show the same suspect to a new witness, have the preparer remix the photo array and renumber them accordingly. (CALEA 42.2.11.c)

16. Multiple Suspects

When there are multiple suspects, a separate photo array should be conducted for each suspect. There should not be more than one suspect per photo array.

17. Reuse of Fillers

When showing a different suspect to the same witness, do not reuse the same fillers from a previous array shown to that witness.

18. Contact Among Witnesses

To the extent possible, prevent witnesses from conferring with each other before, during, and after the photo array procedure. (CALEA 42.2.11.c)

19. Identification of Special Features

Only after an identification is made, a follow-up interview should assess any relevant factors that support the identification, such as: special facial features, hair, marks, etc. (CALEA 42.2.11.e)

20. Documenting lineup and results (CALEA 42.2.11.d, e, & g)

a. In order to strengthen the evidentiary value of the identification procedure, it should be documented in full. Video documentation is the preferred method. Audio recording is the preferred alternative. If neither method is employed, then the reason for not using video or audio recording should be documented.

b. Regardless of whether a photo lineup is recorded, each time a photo lineup presentation is made, ~~record is made of the procedure to include:~~ information pertinent to the presentation procedure is documented in the "Report of Identification Procedures" form. This information will include:

1. ~~Time~~

2. ~~Date~~

CHAPTER 11

SECTION 11 PHOTO LINEUPS AND FIELD IDENTIFICATION

3. ~~Location~~

4. ~~Name of the witness/victim~~

5. ~~Offense date~~

6. ~~Type of offence and incident number~~

7. ~~ISB section working the case~~

8. ~~Investigator working the case~~

10c. The photo spread folder containing the instructions to witness, consent to participate, report of photo array and ~~with~~ all pictures used in the photo array ~~is~~ ~~are~~ ~~marked and~~ maintained as evidence ~~if~~ ~~whether~~ a suspect selection is made ~~or not~~. It is kept intact until the final disposition of the case, and becomes a part of the permanent case file. (CALEA 42.2.11.g)

C. Procedures for Juvenile Offenders

1. The photo lineup is prepared the same as for an adult. Use of this procedure must be in accordance with the Texas Family Code dealing with photographs of children.
2. School yearbooks may be used as photo lineups. All names and identifying information, including page numbers, must be covered. A sufficient number of pages must be displayed to allow the witness to view an adequate number of photos with similar characteristics as the suspect.

D. Procedures for Sequential, Blind Photo Array Administrations

In sequential, blind photo arrays the photographs are presented one at a time to the witness or victim by a person who does not know who the suspect is. This method requires a preparer who may be familiar with the case and an administrator who does not know the identity of the suspect.

1. Designating a Preparer

Preparing the photo array should be undertaken by someone other than the person who will administer the photo array. Ideally, the investigating officer will prepare the photo array as this ensures that others who might be involved in the case are not used as fillers. Moreover, because the investigating officer knows who the suspect is, he or she should not be conducting the actual administration of the photo array.

CHAPTER 11

SECTION 11 PHOTO LINEUPS AND FIELD IDENTIFICATION

2. Placing Subject Photographs in Order
 - a. Place a filler in the lead position.
 - b. Place the remaining photographs which will comprise the photo array in random order.
 - c. Place two blank photographs at the end (blanks on the same type of photographic paper as the actual photographs but which will not be shown to the witness; this is intended to cause the witness to think there may still be photographs to view in order to reduce pressure to choose what the witness may presume to be the last photograph).
3. Presenting the Photo Array to the Independent Administrator

Present the ordered photo array to the independent administrator. Do not tell the independent administrator which position the suspect is in.
4. Administration

The administrator of the photo array presentation should be an independent administrator who does not know the identity of the suspect and the witness should be informed of this. In a blind procedure, no one should be present who knows the suspect's identity.
5. Instruct Witness

Each witness should be instructed outside the presence of the other witnesses. The independent administrator should give the witness a written copy of the "Instructions to Witness" form (Attachment A) and read aloud the instruction statements at the beginning of each identification procedure.
9. Document Consent to Participate
 - a. Witnesses are then be asked to read the "consent to participate" at the end of the "Witness Certification Statement" before signing and dating the Witness Certification Statement.
 - b. If a witness declines to sign, it is sufficient for the investigating officer to document that the witness was appropriately instructed.

CHAPTER 11

SECTION 11 PHOTO LINEUPS AND FIELD IDENTIFICATION

10. Presentation of Photographs

Present each photo to the witness separately (one at a time), in order. When the witness is finished viewing the photo, have the witness hand the photo back.

E. Procedures for Sequential, Blinded Photo Array Administrations

If the blind procedure cannot be followed, then the photo array administrator should document the reason why. The administrator should be blinded and conduct the photo array according to the following the procedures for blinded photo array. The purpose of a blinded administration is to conduct the photo array in a manner such that the administrator does not know which person in the array the witness is looking at

1. Placing Subject Photographs in Order

- a. Place a filler in a folder and set it aside for placement in the lead position.
- b. Place the remaining photographs which will comprise the photo array in separate folders and place them in random order (mix them up) so you do not know which photograph is in which folder.
- c. Take the folder you set aside in step 1), above and place it in the lead position.
- d. Place two empty folders at the end.
- e. Number the folders.

2. Instruct Witness

Each witness should be instructed outside the presence of the other witnesses. The independent administrator should give a copy of the "Instructions to Witness" form (Attachment A) and read aloud the instruction statements at the beginning of each identification procedure.

3. Present Folders

Present each folder to the witness separately (one at a time), in order. The blinded administrator should not be in a position to view the photographs while the witness is viewing the photographs. The eyewitness should be the only person viewing the photographs. When the witness is finished viewing the photo, have the witness hand the folder back.

CHAPTER 11

SECTION 11 PHOTO LINEUPS AND FIELD IDENTIFICATION

F. Special Procedures for Persons Who Possess Limited English Proficiency

Be Alert to People Who do not Speak English or Possess Limited English Proficiency. Given the diversity of communities, police officers may encounter persons who do not speak English or who possess limited English proficiency in the course of a criminal investigation. When presented with this situation, officers should carefully consider the ethical and legal ramifications of how to handle the case when there is a language barrier.

1. Using an Interpreter

Unless the administrator speaks the victim's or witness's language fluently, an interpreter should be used for persons who do not speak English. The interpreter shall sign the Witness Certification Statement on obtaining consent of a non-English speaking person to assist in the eyewitness identification process. Law enforcement personnel should consider arranging for an interpreter if a person interviewed:

- a. Is unable to communicate in English
- b. Has a limited understanding of English
- c. Is deaf, hearing impaired, or speaking impaired
- d. Is otherwise physically challenged to communicate in English

2. Review and Explain Forms

If the person is unable to read, the administrator, in the presence of the witness, will give the explanation, read any forms, and obtain consent and acknowledge the consent on the Witness Certification Statement, stating why the person was unable to sign the form.

*** IV. FIELD IDENTIFICATION**

Field Identification is when a single suspect is viewed by a victim or witness immediately following the commission of a crime for purposes of identifying or eliminating a person as the perpetrator of the crime. This procedure normally takes place during the preliminary investigation and in some circumstances will be conducted by a Patrol officer. When circumstances require the use of field identification, a supervisor shall be notified and the following guidelines shall be followed.

CHAPTER 11

SECTION 11 PHOTO LINEUPS AND FIELD IDENTIFICATION

- A. Justification (CALEA 42.2.12.a)
 - 1. The individual to be viewed must closely fit the general description of the suspect involved in the crime being investigated.
 - 2. When possible, identification should be made within ~~ONE HOUR~~ a reasonable time after ~~of~~ the commission of the crime and is found in relatively close proximity to it. If questions exist, contact the appropriate on-call investigator.
 - 3. Officers must articulate in a report why the individual in the field identification was considered a suspect.
- B. Procedures
 - 1. If time permits, Patrol officers shall consult with the on-call detective prior to field identification for all felony offenses.
 - 2. Determine and document, prior to the field identification, a description of the perpetrator. (CALEA 42.2.12.g)
 - 3. Officers may handcuff or keep the suspect handcuffed during field identification. The officer shall articulate the reason why it was necessary in the report.
 - 4. Suspects shall not be required to put on clothing worn by the perpetrator, to speak words uttered by the perpetrator or to perform other actions of the perpetrator. Avoid conducting show-ups when the suspect is in a patrol car, handcuffed, or physically restrained by police officers unless such protective measures are necessary to ensure safety and/or to prevent escape.
 - 5. The witness must be transported to the location of the detained suspect to limit the legal impact of the suspect's detention. The person stopped is to be detained for only that reasonable amount of time necessary to complete the procedure. (CALEA 42.2.12.b)
 - 6. When multiple witnesses are involved, separate the witnesses and do not allow communication between them before or after conducting a show-up. ~~instruct them to avoid discussing the details of the incident with one another.~~ If a positive identification is obtained from one witness through field identification, use a photo lineup for the remaining witnesses. (CALEA 42.2.12.c)
 - 7. The same suspect shall not be presented to the same witness more than once.

CHAPTER 11

SECTION 11 PHOTO LINEUPS AND FIELD IDENTIFICATION

8. Words or conduct of any type by officers that may suggest to the witness that the individual is or may be the perpetrator shall be avoided. Each witness should be instructed outside the presence of the other witnesses. The show-up administrator gives the witness a written copy of the Witness Certification Statement and reads the instruction statement aloud at the beginning of the show-up identification procedure. (CALEA 42.2.12.d & f)
9. Do not refer to the individual as a "suspect" when instructing the victim and witness. Officers should only ask victims or witnesses to look at an individual to see if they recognize him/her as the person he/she saw commit the crime. (CALEA 42.2.12.d)
10. Document the time and location of the procedure. (CALEA 42.2.12.g)
11. Document the distance the person fitting the description is from the crime scene at the time he/she is stopped. (CALEA 42.2.12.g)
12. Instruct the witness that a statement of certainty will be needed for both identifications and non-identifications. (CALEA 42.2.12.d, e)
13. Record the witness's own words in writing regarding how certain he/she is about the identification or non-identification of the subject. (CALEA 42.2.12.e & g)
14. In the event the witness does not identify the person detained, the officer detaining the potential suspect should record the identity of the person detained on a Field Interview Card or incident report. (CALEA 42.2.12.g)
15. In order to strengthen the evidentiary value of the administration it should be documented in full including the time, date, and location of the procedure, identities of persons present, and the outcome of the procedure. Video documentation (with audio) is the preferred method. Audio recording is the preferred alternative. If neither method is employed, then the reason for not video or audio recording should be documented. (CALEA 42.2.12.g)

CHAPTER 11
SECTION 11 PHOTO LINEUPS AND FIELD IDENTIFICATION

ATTACHMENT A

MIDLAND POLICE DEPARTMENT
Photo Lineup Identification Procedures - Instructions to Witness

Case # _____ **Date:** _____ **Time:** _____

Identifying Witness: _____
Name **Date of Birth**

INSTRUCTIONS TO WITNESS BEFORE PRESENTATION

I am going to show you a series of photos in random order.

The person who committed the crime may or may not be included, so you should not feel you have to make identification.

It is just as important to clear innocent people as it is to identify the possible perpetrator(s).

Whether or not you identify someone, the police will continue to investigate.

I will not provide you with any feedback during the process, and I will be unable to comment or provide feedback to you on the results of the process.

I will show you one person at a time, and I cannot tell you how many people there are in total. I will show you all of the people, even if you identify someone earlier. Let me know when you are finished looking at each person.

Keep in mind that people may not appear exactly as they did at the time of the event because features like clothing, hair styles, beards, and mustaches are subject to change and that complexion colors may look slightly different in photographs.

Think back to the time of the event: the place, view, lighting, your frame of mind, etc. Take as much time as you need.

After you look at each photo, I will ask you "Is this the person you saw **[insert description of act here]**?"

Take your time answering the question.

Should you identify a person in the photo array as the perpetrator you will be asked to tell me in your own words how sure you are of the identification.

Please do not discuss this identification procedure or the results with other witnesses in this case or with the media.

Do you understand the way the photo array procedure will be conducted and the other instructions I have given you?

CHAPTER 11

SECTION 11 PHOTO LINEUPS AND FIELD IDENTIFICATION

MIDLAND POLICE DEPARTMENT

Photo Lineup Identification Procedures - Instructions to Witness (continued)

Consent to Participate:

I have read these instructions, or they have been read to me, and I understand the instructions. I am prepared to review the photographs and I will follow the instructions provided on this form.

Signed: _____
(Witness)

I certify that I have translated and read the instructions to the witness.

Signed: _____
(Translator, if applicable)

Signed: _____
(Photo Array Administrator)

Identification Made: ____ Yes ____ No **If yes, letter/order # selected:** _____

Witness Identification Statement: _____

Witness Signature: _____ **Date:** _____

Officer Signature: _____ **Date:** _____

CHAPTER 11

SECTION 11 PHOTO LINEUPS AND FIELD IDENTIFICATION

ATTACHMENT B

MIDLAND POLICE DEPARTMENT Report of Identification Procedures for Photo Lineup

Case # _____ **Date:** _____ **Time:** _____

Location of Presentation: _____

Audio Recorded: Yes or No

Video Recorded: Yes or No

Explanation (If not recorded): _____

Identifying Witness: _____

Officer(s) Composing Array: _____

Name

ID #

Name

ID #

Officer(s) Presenting Array: _____

Name

ID #

Name

ID #

Photo Lineup Presentation: _____ **Sequential-Blind** _____ **Sequential-Blinded**

Administrator Certification:

The photo that was picked from the photo array by the above-named witness has been identified as

Signed: _____
(Administrator)

All Others Present: _____

Statements made by any other persons during ID procedure and in presence of witness:

Officer Signature

Date

CHAPTER 11

SECTION 11 PHOTO LINEUPS AND FIELD IDENTIFICATION

ATTACHMENT C

MIDLAND POLICE DEPARTMENT Field Identification Procedures – Instructions to Witness

Case # _____

Date: _____

Identifying Witness: _____
Name **Date of Birth**

INSTRUCTIONS TO WITNESS BEFORE PRESENTATION

I am going to show you an individual.

This may or may not be the person who committed the crime, so you should not feel compelled to make identification.

It is just as important to clear innocent people as it is to identify the possible perpetrator(s).

Whether or not you identify someone, the police will continue to investigate.

I will not provide you with any feedback during the process, and I will be unable to comment or provide you with feedback on the results of the process.

Please do not discuss this identification procedure or the results with other witnesses in this case or with the media.

Focus on the event: the place, view, lighting, your frame of mind, etc. Take as much time as you need.

People may not appear exactly as they did at the time of the event, because features such as clothing and hair style may change, even in a short period of time.

As you look at this person, tell me if you recognize him/her. If you do, please tell me how you know the person, and in your own words, how sure you are of the identification.

Identification Made: _____ Yes _____ No

Witness Identification Statements: _____

Officer Signature **Date**

Witness Signature **Date**

CHAPTER 11

SECTION 11 PHOTO LINEUPS AND FIELD IDENTIFICATION

ATTACHMENT D

MIDLAND POLICE DEPARTMENT Report of Field Identification Procedures

Case # _____ Date: _____ Time: _____

Identifying Witness: _____
Name Date of Birth

Officer Conducting Presentation: _____
Name ID #

All Others Present (Officers, Relatives, Etc.): _____

Person Shown to Witness: _____
Name Address Date of Birth

Circumstances Warranting Show-up (complete all that apply):

Proximity of crime/method of flight (time/place): _____

Matching factors to witness' initial description (clothing, gender, age, size, color, etc.): _____

Factors attracting police attention (possession of stolen items, etc.): _____

Need for quick/efficient police investigation: _____

Public Safety Concerns/exigency: _____

Show-up Procedure:

Address/location of show-up: _____

Lighting: _____

Location/position of witness: _____

Location/position of suspect: _____

Suspect wearing handcuffs: Yes No Comments: _____

Witness transported to suspect location: Yes No by Private Vehicle _____ by Patrol Vehicle _____
(Check One)

Suspect transported to witness location: Yes No Comments: _____

Officer to suspect distance: _____

Other: _____

Statements by any other people, made during ID procedure and in presence of witness: _____

Officer Signature

Date

CHAPTER 12

SECTION 7 COMMUNITY RELATIONS/CRIME PREVENTION

I. STATEMENT OF PURPOSE (CALEA 45.2.1.b)

Community involvement is essential to the operation of any police department. The citizens are the eyes and ears of the police. Without the assistance and acceptance of the community, a police force cannot function effectively. All avenues must be utilized in promoting the respect and cooperation of the public with the police.

It is the policy of the Midland Police Department to involve all Department personnel in a Citywide community relations effort. This includes working to establish an attitude that the police are an integral part of the community. Citizen participation and interaction with the police is necessary to achieve a condition within the community where the normal application of law enforcement may prevail. It is the policy of the Department that community relations is a shared effort of each and every employee.

II. RESPONSIBILITIES

A. Supervisors

1. Supervisors, by their words and actions, are to set the example for their subordinates in establishing and maintaining a superior degree of professionalism when dealing with the public and other employees.
2. All supervisors should encourage their employees to maintain this same spirit of professionalism in their conduct and support them in promoting the respect and cooperation of the community in daily contacts.
3. When practical, supervisors should assign on duty personnel to attend neighborhood meetings and civic organizational functions.
4. Supervisors should strive to cultivate avenues of communications with individual citizens and groups within the community to solicit and maintain mutual understanding. Police-community cooperation can be maintained through open channels of communications. This allows for the discussion of concerns and problems within the community. (CALEA 45.2.1.d)
5. Supervisors are to keep employees apprised of specific problems and community concerns; briefing their personnel as situations warrant. (CALEA 45.2.1.d)
6. During daily contacts supervisors should acknowledge commendable acts of community service accomplished by employees, as well as by citizens in support of the police effort. (CALEA 45.2.1.e)

CHAPTER 12

SECTION 7 COMMUNITY RELATIONS/CRIME PREVENTION

B. Department Personnel

1. No one can do more to foster good police community relations than the employee who is in contact with the public on a day to day basis. Employees are encouraged to cultivate the respect and cooperation of the public in these day-to-day contacts. Employees must realize that every contact with a citizen has an impact on police-community relations. (CALEA 45.2.1.f)
2. It is the responsibility of all Department personnel to promote good community relations by recognizing that their actions and demeanor in dealing with the general public has a significant effect on the image of the Department. This ultimately influences the Department's overall effectiveness and level of acceptance within the City.
3. The Department is committed to correcting actions, practices, and attitudes which may contribute to community tensions and grievances.

C. Community Relations/Crime Prevention Section

1. The Community Services Lieutenant in the Support Services Bureau is responsible for the coordination, development, evaluation, and activity reports of the Community Relations/Crime Prevention Section. (CALEA 45.2.1.b)
2. The Community Services Lieutenant maintains liaison with all staff members in order to maintain a continuous, integrated, coordinated response for the furtherance of the Department's community relations effort. (CALEA 45.2.1.b)
3. The Community Services Lieutenant provides the Chief of Police with a monthly report. This report addresses concerns of the community, potential police/citizen problems and recommended actions. (CALEA 45.2.1.d)
4. All community relations programs are evaluated on an annual basis and a report sent to the Chief of Police by the Community Services Lieutenant. (45.1.1.c)

CHAPTER 12

SECTION 7 COMMUNITY RELATIONS/CRIME PREVENTION

III. GOALS AND OBJECTIVES

- A. To create and maintain liaison with community groups and organizations. This includes exchanging information, identifying police service needs of the community, promoting police/citizen contacts, acquainting each other with mutual problems and encouraging action aimed at solving these problems. Information obtained in these meetings may be used to provide direction in development or modification of Department policies, procedures, and programs. (CALEA 45.1.2, 45.2.1.a, b, f)
- B. To educate citizens about the functions and operations of the Department. (CALEA 45.2.1.a, c)
- C. To obtain input from community groups to insure that Department policies and/or training reflect the needs of the community. Input is obtained through various sources. These include but are not limited to: (CALEA 45.1.2, 45.2.1.d)
 - 1. City Council
 - 2. Hispanic Chamber of Commerce
 - 3. Midland Chamber of Commerce
 - 4. Neighborhood Crime Watch Area Chairpersons
- D. To identify sources of conflict between the police and the community, then encourage efforts to resolve these conflicts. Training needs that are identified are documented and forwarded to the Training Section. (CALEA 45.2.1.e)
- E. The Department strives to provide, through established programs and the media, crime awareness information and crime prevention procedures. This is done to assist the public in reducing its victimization rate and its fear of crime. (CALEA 45.2.1.c)
- F. To inform the public that crime prevention is a cooperative effort between the Department and the citizens of Midland. (CALEA 45.2.1.c)
- G. To maintain contact with other Department units, which can provide the Community Relations/Crime Prevention Section with pertinent data on criminal activity. This information includes such things as location, type, and time of crime. Decisions are made on where various crime prevention activities would be most effective in combating the observed problems. (CALEA 45.1.1.a, 45.2.1.f)

CHAPTER 12

SECTION 7 COMMUNITY RELATIONS/CRIME PREVENTION

- H. To assist in organizing crime prevention groups in residential areas through the Neighborhood Watch Program. Through group development, the citizen should become better educated on how his or her involvement is vital to community crime prevention. Initial organizing efforts may be made by the Community Relations/Crime Prevention Section or by concerned citizens.
(CALEA 45.1.1.a, 45.1.2, 45.2.1.f)
- I. To have contact with individuals who are willing to serve as volunteer foreign language specialists to enhance police interaction with all sections of the community. The Community Relations/Crime Prevention Section maintains an agreement with the Midland College Communications Department to provide volunteer assistance from foreign language specialists. The Community Relations/Crime Prevention Section also coordinates these efforts with that of the Midland Chapter of the American Red Cross.
 - 1. The Community Relations/Crime Prevention Section has established a list of volunteers fluent in as many languages as possible. The Community Relations/Crime Prevention Section also strives to identify a back-up volunteer for each language.
 - 2. The Community Relations/Crime Prevention Unit provides a list of foreign language specialists to the C.I.S.D. Communications Supervisor. This list is updated as necessary and includes both business and home telephone numbers.
- J. To present crime prevention programs and maintain liaison with diverse community groups including but not limited to: (CALEA 45.2.1.a, d, e)
 - 1. The business community
 - 2. Local citizens groups
 - 3. Local civic associations
 - 4. Church groups
 - 5. Minority organizations
 - 6. Private security companies
 - 7. Statewide associations
 - 8. Schools

CHAPTER 12

SECTION 7 COMMUNITY RELATIONS/CRIME PREVENTION

- K. To review, upon specific request, development or revisions of City zoning policies, building codes, and building permits for crime prevention input.
(CALEA 45.1.3, 45.2.1.b, e)
 - 1. Community Relations/Crime Prevention Officers should evaluate property or personal safety issues of persons living or working in the areas that are in question.
 - 2. Recommendations, if any, are forwarded to appropriate parties through the Chief of Police. Recommendations are not mandatory.

IV. COMMUNITY RELATIONS ACTIVITIES

A. Public Information Programs

Publicize Department objectives, problems and successes through the annual report and public budget documents. (CALEA 45.2.1.c)

B. Community Relations Programs

Meet with civic groups, minority groups, home owners associations, crime watch groups and individuals to exchange information and convey information back to the Department for development of other community relations programs as needed.
(CALEA 45.2.1.d)

~~C. Citizen Survey~~

- ~~1. A survey of citizen attitudes and opinions is conducted with respect to overall:
 - ~~a. Police Department performance (CALEA 45.2.5.a)~~
 - ~~b. Competence of Department personnel (CALEA 45.2.4.b)~~
 - ~~* c. Citizens' perception of officers attitude and behavior (CALEA 45.2.4.c)~~
 - ~~d. Concern over safety and security within the City of Midland. (CALEA 45.2.4.d)~~
 - ~~e. Concern for safety and security in the area where the responding person lives.~~~~

CHAPTER 12

SECTION 7 COMMUNITY RELATIONS/CRIME PREVENTION

~~f. Citizens' recommendations and suggestions (CALEA 45.2.4.e)~~

~~2. The citizen survey may be accomplished by publications such as a crime watch bulletin, newspaper articles in the Midland Reporter Telegram, or other reasonable means. This may be by telephone, mail or in person.~~

~~* 3. The citizen survey is carried out by the Planning and Research Division with assistance from other authorized representatives.~~

~~4. Results of the citizen survey are presented to the Chief of Police and made available to all interested personnel.~~

V. RESPONSIBILITIES FOR CRIME PREVENTION

- A. Officers assigned to the Community Relations/Crime Prevention Section are responsible for the coordination, development, evaluation, and activity reports of the Community Relations/Crime Prevention Section.
- B. It is the responsibility of the Lieutenant of the Community Services Division of the Support Services Bureau to maintain liaison with Administrative Staff members. This is done to insure a continuous, integrated, coordinated response to the furtherance of the Department's Crime Prevention Program.
- C. The Community Relations/Crime Prevention Section evaluates all elements of crime prevention programs annually and updates as necessary. (CALEA 45.1.1.c)
- D. It is the responsibility of all officers of the Department to provide basic crime awareness and prevention information to citizens when answering calls for service or through informational contacts. (CALEA 45.1.1.c)
- E. All officers encourage citizens to participate in the Department's various crime prevention and awareness programs. (CALEA 45.1.1.b)

VI. PROGRAMS

- A. Crime Prevention and Awareness Programs include but are not limited to: (CALEA 45.1.1.b)
 - 1. Neighborhood Watch Programs
 - 2. Burglary Prevention
 - 3. Sexual Assault Prevention

CHAPTER 12

SECTION 7 COMMUNITY RELATIONS/CRIME PREVENTION

4. 911 Emergency Reporting Procedures
 5. Fraud Prevention
 6. Home Security Surveys
 7. Operation ID
 8. Robbery Prevention
 9. Commercial Burglary Prevention
 10. Citizens Police Academy
- B. Crime Prevention and Awareness Programs may be presented by Community Relations/Crime Prevention Officers or by others in the Department having expertise in the area of concern. The Community Relations/Crime Prevention Section may also utilize individuals from the community to assist in presentation of programs.

CHAPTER 12

SECTION 7 COMMUNITY RELATIONS/CRIME PREVENTION

I. STATEMENT OF PURPOSE (CALEA 45.2.1.b)

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CHAPTER 12

SECTION 7 COMMUNITY RELATIONS/CRIME PREVENTION

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3. The Community Services Lieutenant provides the Chief of Police with a monthly report. This report addresses concerns of the community, potential police/citizen problems and recommended actions. (CALEA 45.2.1.d)
4. All community relations programs are evaluated ~~on an annual basis~~ every **three years** and a report sent to the Chief of Police by the Community Services Lieutenant. (45.1.1.c)
5. **Programs aimed specifically at the prevention of juvenile delinquency are reviewed and evaluated annually to determine whether or not a particular program should resume, be modified or be discontinued. (44.1.3)**

CHAPTER 12

SECTION 7 COMMUNITY RELATIONS/CRIME PREVENTION

III. GOALS AND OBJECTIVES

- A. To create and maintain liaison with community groups and organizations. This includes exchanging information, identifying police service needs of the community, promoting police/citizen contacts, acquainting each other with mutual problems and encouraging action aimed at solving these problems. Information obtained in these meetings may be used to provide direction in development or modification of Department policies, procedures, and programs. (CALEA 45.1.2, 45.2.1.a, b, f)
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 - 3. Midland Chamber of Commerce
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- D. To identify sources of conflict between the police and the community, then encourage efforts to resolve these conflicts. Training needs that are identified are documented and forwarded to the Training Section. (CALEA 45.2.1.e)
- E. The Department strives to provide, through established programs and the media, crime awareness information and crime prevention procedures. This is done to assist the public in reducing its victimization rate and its fear of crime. (CALEA 45.2.1.c)
- F. To inform the public that crime prevention is a cooperative effort between the Department and the citizens of Midland. (CALEA 45.2.1.c)
- G. To maintain contact with other Department units, which can provide the Community Relations/Crime Prevention Section with pertinent data on criminal activity. This information includes such things as location, type, and time of crime. Decisions are made on where various crime prevention activities would be most effective in combating the observed problems. (CALEA 45.1.1.a, 45.2.1.f)

CHAPTER 12

SECTION 7 COMMUNITY RELATIONS/CRIME PREVENTION

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- J. To present crime prevention programs and maintain liaison with diverse community groups including but not limited to: (CALEA 45.2.1.a, d, e)

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2. Local citizens groups
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4. Church groups
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CHAPTER 12

SECTION 7 COMMUNITY RELATIONS/CRIME PREVENTION

- K. To review, upon specific request, development or revisions of City zoning policies, building codes, and building permits for crime prevention input. (CALEA 45.1.3, 45.2.1.b, e)
 - 1. Community Relations/Crime Prevention Officers should evaluate property or personal safety issues of persons living or working in the areas that are in question.
 - 2. Recommendations, if any, are forwarded to appropriate parties through the Chief of Police. Recommendations are not mandatory.

IV. COMMUNITY RELATIONS ACTIVITIES

A. Public Information Programs

Publicize Department objectives, problems and successes through the annual report and public budget documents. (CALEA 45.2.1.c)

B. Community Relations Programs

Meet with civic groups, minority groups, home owners associations, crime watch groups and individuals to exchange information and convey information back to the Department for development of other community relations programs as needed. (CALEA 45.2.1.d)

V. RESPONSIBILITIES FOR CRIME PREVENTION

- A. Officers assigned to the Community Relations/Crime Prevention Section are responsible for the coordination, development, evaluation, and activity reports of the Community Relations/Crime Prevention Section.
- B. It is the responsibility of the Lieutenant of the Community Services Division of the Support Services Bureau to maintain liaison with Administrative Staff members. This is done to insure a continuous, integrated, coordinated response to the furtherance of the Department's Crime Prevention Program.
- C. The Community Relations/Crime Prevention Section evaluates all elements of crime prevention programs annually and updates as necessary. (CALEA 45.1.1.c)
- D. It is the responsibility of all officers of the Department to provide basic crime awareness and prevention information to citizens when answering calls for service or through informational contacts. (CALEA 45.1.1.c)

CHAPTER 12

SECTION 7 COMMUNITY RELATIONS/CRIME PREVENTION

- E. All officers encourage citizens to participate in the Department's various crime prevention and awareness programs. (CALEA 45.1.1.b)

VI. PROGRAMS

- A. Crime Prevention and Awareness Programs include but are not limited to:
(CALEA 45.1.1.b)

1. Neighborhood Watch Programs
2. Burglary Prevention
3. Sexual Assault Prevention
4. 911 Emergency Reporting Procedures
5. Fraud Prevention
6. Home Security Surveys
7. Operation ID
8. Robbery Prevention
9. Commercial Burglary Prevention
10. Citizens Police Academy

- B. Crime Prevention and Awareness Programs may be presented by Community Relations/Crime Prevention Officers or by others in the Department having expertise in the area of concern. The Community Relations/Crime Prevention Section may also utilize individuals from the community to assist in presentation of programs.

CHAPTER 12

SECTION 10 AUXILIARIES

I. STATEMENT OF PURPOSE

The agency's Auxiliary Program is established to provide an opportunity for citizens interested in contributing assistance to the agency in a support capacity.

II. GUIDELINES

A. The Departments Auxiliary Program consists of, but is not limited to:
(CALEA 16.4.1.a)

1. Explorers
2. Chaplains
3. Volunteers
4. Citizens Police Academy Alumni Association (C.P.A.A.A.)

B. The Community Services Division Lieutenant is responsible for the introductory training and initial deployment of the volunteers utilized in the Auxiliary Program. Deployment of Auxiliaries is based on training, recognized Department needs, and requisite skills. (CALEA 16.4.2)

- * 1. When volunteers are assigned to another bureau, the Bureau Deputy Chief is responsible for their assignment within that Bureau and ensures that a supervisor is responsible for the volunteers.
- * 2. When volunteers are assigned to another bureau, the Bureau Deputy Chief is responsible for additional training required for the volunteer position.
- * 3. When volunteers are assigned to another bureau, the Bureau Deputy Chief is responsible for forwarding records of training and hours volunteered to the Community Services Sergeant.

C. Auxiliaries are to be assigned primarily to clerical duties and as support for community service functions. Auxiliaries are not assigned duties requiring sworn officer status and do not have law enforcement authority. (CALEA 16.4.1.a & b)

D. Auxiliaries shall neither divulge nor use for personal gain any information of a confidential or sensitive nature learned while associated with the program.

CHAPTER 12

SECTION 10 AUXILIARIES

- E. A criminal history background check of all prospective volunteers will be conducted by the Community Relations Sergeant prior to the person being accepted into the program.

- F. If auxiliaries are anticipated to perform quasi-law enforcement duties, appropriate training will be provided by the agency prior to performing these duties. The training will provide the Auxiliary with a clear definition of their authority and anticipated duties. (CALEA 16.4.1.b, 16.4.2)

- G. If Auxiliaries wear a uniform during an assignment, the uniform will be such that clearly distinguishes the Auxiliary from a sworn officer. (CALEA 16.4.2)



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: 10/23/2012

TO: City Council / City Manager

FROM: Stuart Purvis, Utilities Director

SUBJECT: Consider a Resolution Approving an Amendment to a Task Order with Arcadis U.S., Inc. and Appropriate Funds

Purpose:

Consider a Resolution approving an amendment to a Task Order with Arcadis U.S., Inc. and appropriate funds.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

Award amount is \$143,900 from the Water and Sewer Fund. That the sum of \$78,000 is hereby appropriated from the T-Bar Ranch Fund (340) Unappropriated Fund Balance (5650) to the Re-evaluation of T-Bar and Paul Davis Well Fields Project (8517) and that the sum of \$65,900 is hereby appropriated from the Water and Sewer Fund (300) Unappropriated Fund Balance (5650) to the Spraberry Groundwater Project (8927).

Discussion:

Arcadis is assisting the Utilities Department in several tasks that need additional funding.

- T-Bar Wellfield Activities - This activity includes providing all the existing information, including information on the chloride plume, the Midland County Freshwater Supply District No. 1 for use in the design of the well field, continuation of the split sampling and monitoring of the chloride plume, assessment of the fire, explosion, and saltwater spill at the White Oak Operating Crittendon SWD tank battery, and support for the City's legal department on T-Bar as required. An additional \$78,000 is requested to fund these activities through the remainder of 2012.

- Water Pollution Control Plant Permit Renewal - This activity covers their work with TCEQ on the elevated nitrates found in the groundwater. It also covers the activities of Applied Waste Technologies, the firm that is generating the operating plan for the current permit renewal. After meeting with TCEQ and determining the actual work remaining for the permit renewal, an additional \$65,900 is being requested to complete this activity.

RESOLUTION NO.

**RESOLUTION APPROPRIATING \$78,000.00 TO THE
RE-EVALUATION OF T-BAR AND PAUL DAVIS WELL
FIELDS PROJECT AND APPROPRIATING \$65,900.00
TO THE SPRABERRY GROUNDWATER PROJECT**

WHEREAS, the Council finds it to be in the public interest to appropriate \$78,000.00 to the Re-evaluation of T-bar and Paul Davis Well Fields Project and to appropriate \$65,900.00 to the Spraberry Groundwater Project;

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

SECTION ONE. That the sum of \$78,000.00 is hereby appropriated from the T-Bar Ranch Fund (340) Unappropriated Fund Balance (5650) to the Re-evaluation of T-Bar and Paul Davis Well Fields Project (8517).

SECTION TWO. That the sum of \$65,900.00 is hereby appropriated from the Water and Sewer Fund (300) Unappropriated Fund Balance (5650) to the Spraberry Groundwater Project (8927).

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

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: October 23, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: Hold a public hearing at approximately 10:30 a.m. and consider an ordinance on a request by Sagestar Development and Construction, LLC for a zone change from PDSC, Planned District to an Amended PD, Planned District.

Purpose: Hold a public hearing and consider a request for a zone change from PDSC, Planned District, to an Amended PD, Planned District.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process this request.

Discussion:

This property was previously approved for a hotel site in 2008 as a PD, Planned District for a Shopping Center. The applicant has submitted plans to develop a 4 story hotel with 122 rooms located off of Tradewinds Boulevard, and is requesting an amended PD, Planned District for a Shopping Center. Further, before a building permit can be issued, the new site plan must be approved. The underlying district for the PD would remain as LR-2 for this property. The previously approved hotel site plan was approved for a max height of 62 feet, and the modified site plan has a maximum of 60 feet for the building height. The purpose of this application is to amend the Planned District for the property and to adopt the required site plan. Staff recommends approval of this request for an Amended PD, Planned District for a Shopping Center.

ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 4A, BLOCK 3, WESTRIDGE PARK ADDITION, SECTION 15, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS AN AMENDED PLANNED DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF TRADEWINDS BOULEVARD, APPROXIMATELY 630 FEET SOUTH OF ANDREWS HIGHWAY); 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 an Amended Planned District, 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 Shopping Center, and it shall be used as an Amended Planned District, subject to the special conditions and restrictions hereinafter set out, said property being described as follows:

Lot 4A, Block 3, Westridge Park Addition, Section 15, City and County of Midland, Texas.

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 LR-2, Local Retail District.
2. That the development of a hotel on this property shall conform to the conditions shown on Exhibits “A”, “B”, “C” and “D”, which are attached hereto and incorporated herein.
3. That the maximum height of the building shall not exceed 60 feet.
4. That the exterior of the building shall be a combination of the materials denoted in Exhibits “A”, “B”, “C” and “D”.
5. That all fire lanes shall be in compliance with the City of Midland Fire Code and approved by the Fire Marshal.
6. That all driveways shall be in compliance with the Midland City Code.
7. That all signs on this property shall conform to the City of Midland Sign Code.
8. That City of Midland Ordinance No. 8683 is hereby repealed.

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., 2012; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the ____ day of _____, A.D., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS ____ day of _____, A.D., 2012.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

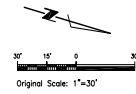
APPROVED AS TO FORM:

Keith Stretcher, City Attorney

WESTRIDGE PARK ADDITION **SECTION 15**

Lot 4-A

Block 3



PD Site Plan:
Submitted to City of Midland P&Z
on September 7, 2012.

NOTES:

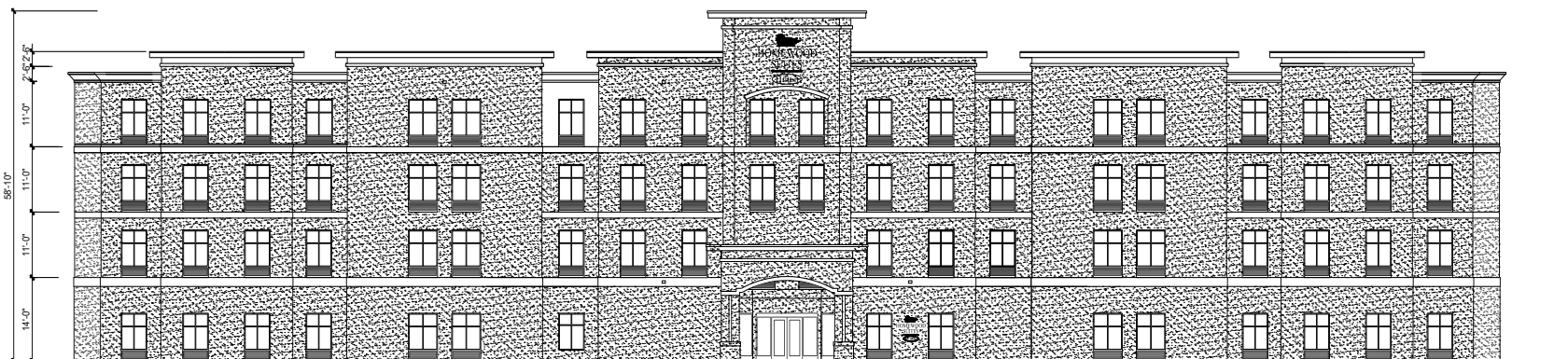
- * BUILDING FOOTPRINT, PARKING AND LANDSCAPING SHOWN ARE FOR ILLUSTRATIVE PURPOSES ONLY. FINAL SITE DESIGNS TO BE REVIEWED BY THE CITY OF MIDLAND PRIOR TO ISSUING BUILDING PERMITS.
- * SHADED AREAS DENOTED BY TO BE PAVED OR OTHER DRIVING SURFACE.
- * SHADED AREAS DENOTED BY TO BE CONCRETE.
- * SHADED AREAS DENOTED BY TO BE IRRIGATED & LANDSCAPED INCLUDING TREES OR SHRUBS - WHICH MAY BE ENHANCED BY OTHER LANDSCAPE MATERIALS.
- * SHADED AREAS DENOTED BY ARE BUILDINGS.
- * SHADED AREAS DENOTED BY ARE SCREEN WALLS.
- * AREAS DENOTED BY ARE FIRE LANES.
- * LANDSCAPED AREA (NOT INCLUDING R.O.W.S) WILL BE A MINIMUM OF 10% OF TOTAL LOT AREA, LESS THE BUILDING AREA.
- * EXTERIOR BUILDING MATERIALS SHALL BE DECORATIVE OR PAINTED CMU, FACE BRICK, PRECAST CONCRETE, TILT-WALL, STUCCO, GLAZING OR SIMILAR CONSTRUCTION AND PER THE ELEVATION EXHIBITS.
- * 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.
- * HVAC UNITS WILL BE LOCATED ON THE GROUND AND SURROUNDED BY A SCREEN WALL.

SITE DATA	
SITE AREA	122,290 SF ±
BUILDING AREA (Foot Print)	24,000 SF ±
BUILDING AREA (Total Floor Space)	94,954 SF ±
LANDSCAPE AREA REQUIRED	9,829 SF ±
LANDSCAPED AREA SHOWN	29,801 SF ±
PARKING SPACES REQUIRED (1 per Room + 1 per 200 SF MTG SPACE)	130
PARKING SPACES PLANNED	130
H.C. PARKING SPACES REQUIRED	5
H.C. PARKING SPACES PLANNED	8

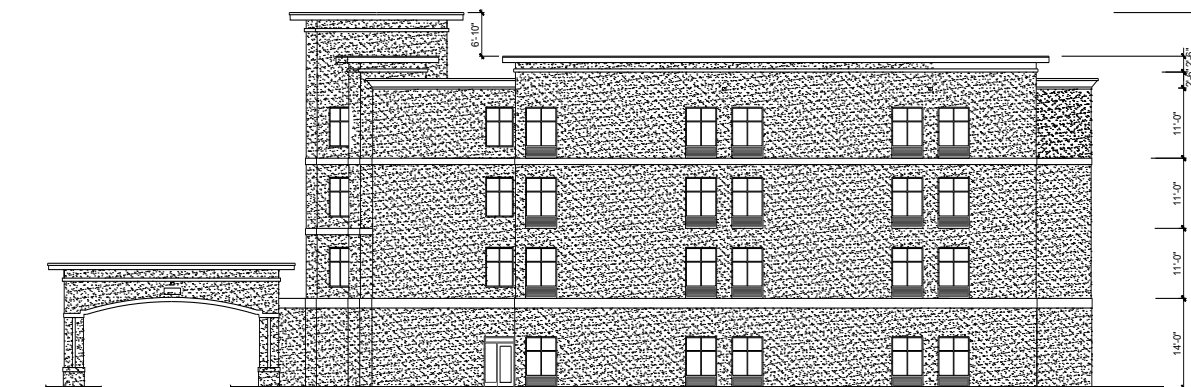
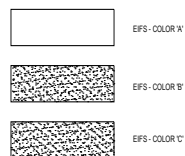
WESTRIDGE PARK ADDITION **SECTION 15**

TRADEWINDS

WESTRIDGE



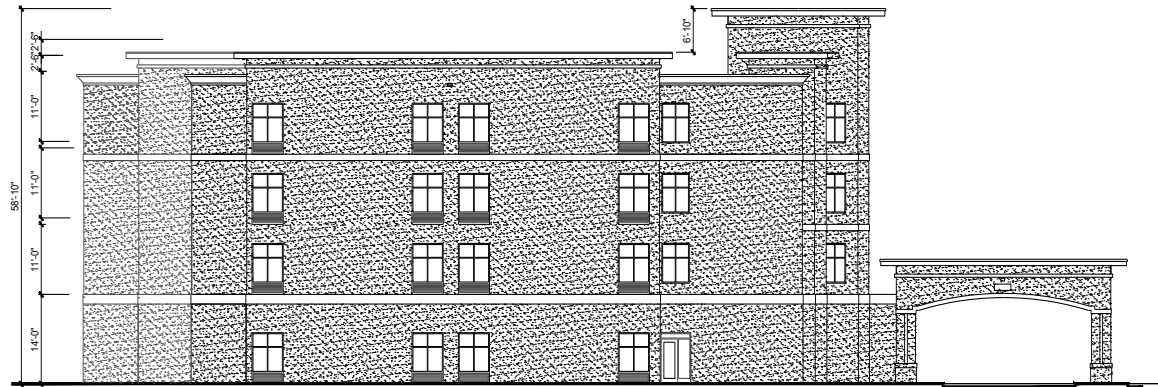
01 FRONT ELEVATION
SCALE: 3/32" = 1'-0"



02 SIDE ELEVATION
SCALE: 3/32" = 1'-0"



01 REAR ELEVATION
SCALE: 3/32" = 1'-0"



02 SIDE ELEVATION
SCALE: 3/32" = 1'-0"



**HOMWOOD
SUITES**
 — Hilton —
MIDLAND, TEXAS

h u g o m o n s a n t o
 a r c h i t e c t
103 1/2 north rogers street #5 • waxahachie texas 75165 • monsantoarchitects@att.net • 972.938.2500

Case Number: Z-12-037

CITY OF MIDLAND
Planning Division

APPLICATION TO CHANGE ZONING CLASSIFICATION

Sagestar Development and Construction, LLC (214) 774-4650

Applicant Name	(Phone/e-mail)
1135 Kinwest Parkway, Suite 150, Irving, TX	75063
Address	Zip Code

Midland Host Hotels, LLC	(214) 774-4650
--------------------------	----------------

Property Owner Name	(Phone/e-mail)
1135 Kinwest Parkway, Suite 150, Irving, TX	75063
Address	Zip Code

Parkhill, Smith, & Cooper, Inc.	(432) 697-1447
---------------------------------	----------------

Representative Name	(Phone/e-mail)
1700 W. Wall St, 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. Lot 4A, Block 3, Westridge Park Addition - Section 15, City of Midland, Midland County, Texas

PRESENT ZONE: PD-SC REQUESTED ZONE: Amend PD
(List by tracts if more than one district is requested)

Reason for Zone Change Request: Request increased height beyond current PD Zoning

Present Use of Property: Vacant

Proposed Use of Property: Hotel

How will zone change affect the public health, safety and welfare? Zone Change will augment the hotel choices for Midland

Describe how conditions affecting the property have changed since present zoning designation: Hotel development has extended into the area

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: X
Site Plan in digital format .pdf and .jpg: X

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

Eric L. West, PE who, being by me duly sworn, upon oath says: That (s)he is authorized by Midland Host Hotels, LLC, 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.

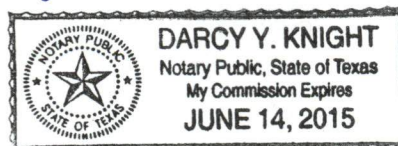
Eric L. West

Authorized Agent (signature)

Subscribed and sworn to before me, this 4th day of September, 20 12, to certify which witness my hand and seal of office.

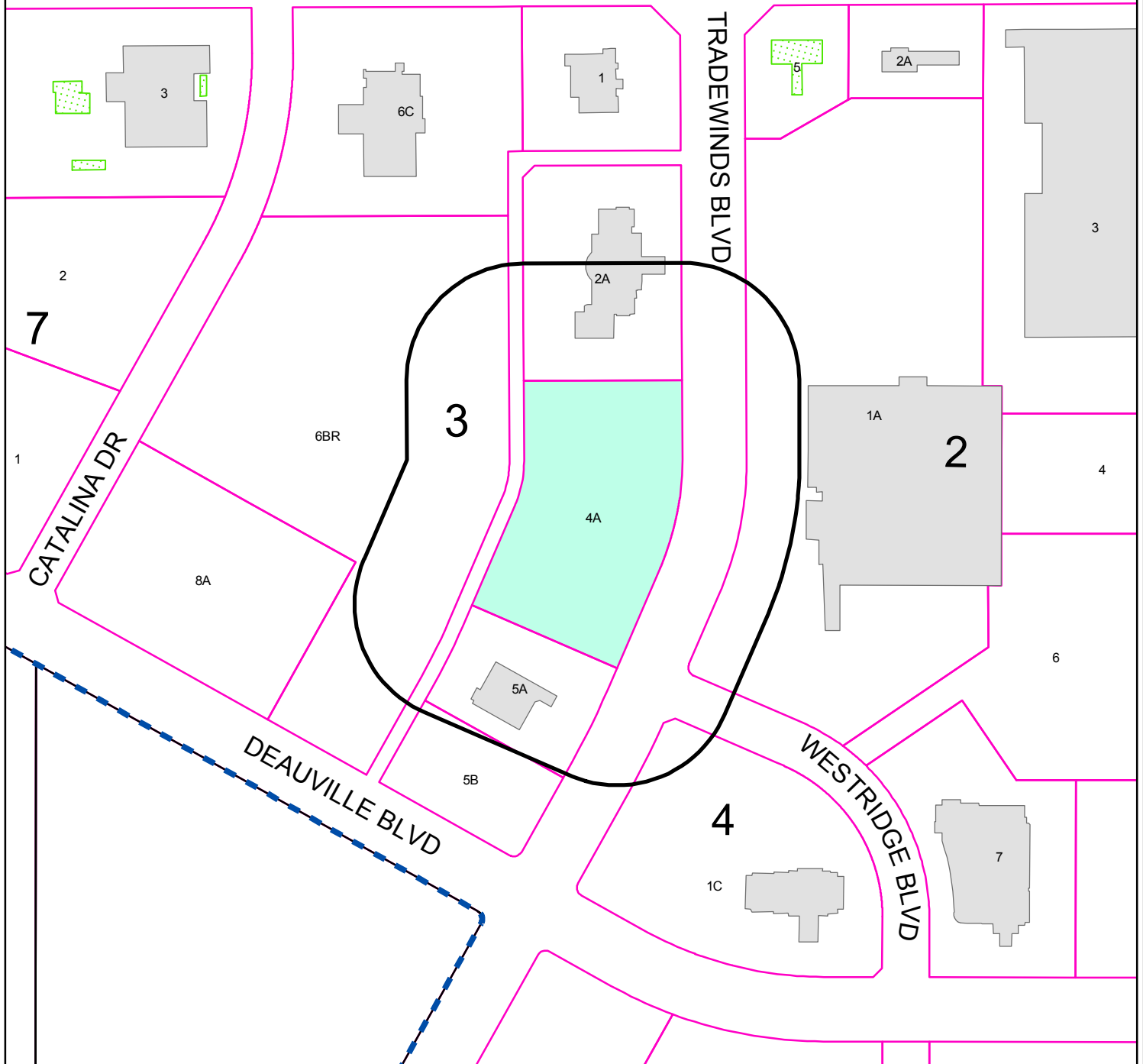
Darcy Y. Knight
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
Rec'd By: <u>AM</u>	Date: <u>9/7/12</u>
Assigned: <u>MS</u>	
For: _____	On: _____



****Application will not be considered for scheduling until reviewed by a planner.****

ANDREWS HWY



PROPERTY OWNER NOTIFICATION MAP

Z - 12 - 037

Scale: 1" = 250'

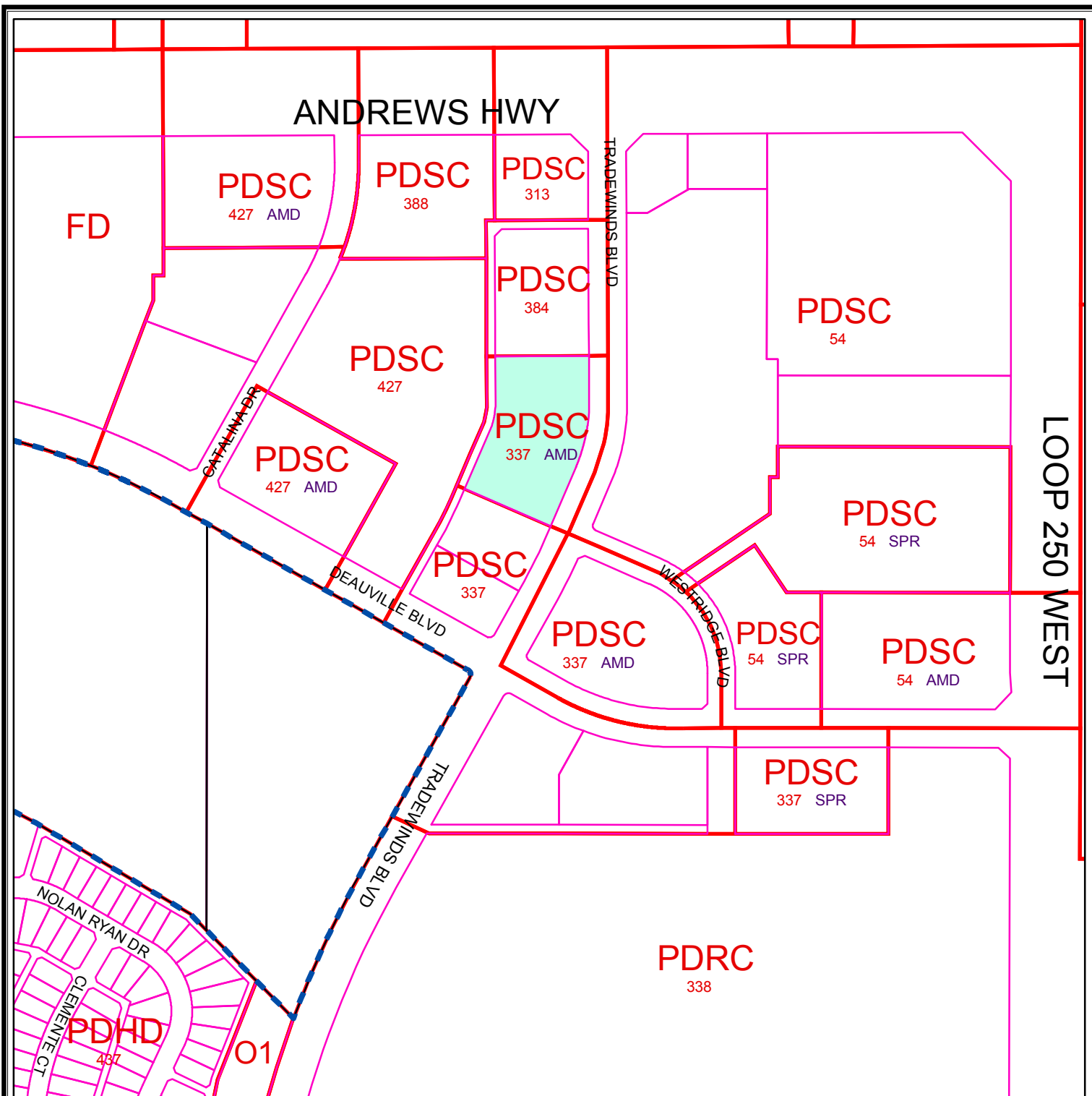
Consider a request for a zone change from PD, Planned District for a Shopping Center, to an Amended Planned District on Lot 4A, Block 3, Westridge Park Addition, Section 15, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- 200 FT. LEGAL NOTICE LIMIT
- CITY PARCEL
- COUNTY PARCEL
- PUBLIC BLDGS
- ACCESSORY BLDGS



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ZONING MAP

Z - 12 - 037

Scale: 1" = 400'

Consider a request for a zone change from PD, Planned District for a Shopping Center, to an Amended Planned District on Lot 4A, Block 3, Westridge Park Addition, Section 15, City and County of Midland, Texas.

LEGEND

- ZONING
- - CITY LIMITS
- CITY PARCELS
- COUNTY PARCELS

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	01, 02	OFFICE
CE	COUNTRY ESTATE	NS	NEIGHBORHOOD SERVICE
1F1, 1F2, 1F3	ONE-FAMILY DWELLING	LR1, LR2, LR3	LOCAL RETAIL
MH	MOBILE HOME DWELLING	C1, C2, C3	COMMERCIAL
TH	TOWNHOUSE DWELLING	IP, IP1, IP2, IP3	INDUSTRIAL PARK
2F	TWO-FAMILY DWELLING	LI	LIGHT INDUSTRY
MF1, MF2	MULTIPLE FAMILY DWELLING	HI	HEAVY INDUSTRY

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City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: October 23, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: At approximately 10:33 A.M. hold a public hearing and consider a resolution on a request by Justine Blair Sosa for a Temporary Land Use Permit for a Outdoor Amusement Function on Lots 9 and 10, Block 2, Highland Addition, City and County of Midland, Texas. (Generally located on the east side of N. Big Spring Street, approximately 130 feet north of W. Cuthbert Avenue.)

Purpose:

At approximately 10:33 A.M. hold a public hearing and consider a resolution on a request by Justine Blair Sosa for a Temporary Land Use Permit for a Outdoor Amusement Function on Lots 9 and 10, Block 2, Highland Addition, City and County of Midland, Texas. (Generally located on the east side of N. Big Spring Street, approximately 130 feet north of W. Cuthbert Avenue.)

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City associated with approving this request.

Discussion:

This is a proposed one-day event north of downtown near the corner of Big Spring Street and Cuthbert Ave. The applicant is proposing to host an outdoor Halloween party in a covered tent and in the parking lot south of their El Burrito restaurant as shown on the attached site plan.

Proposed hours are 2:00 p.m. on October 27, 2012 to 1:30 a.m. on October 28, 2012.

The sale and on-premise consumption of alcoholic beverages is planned for the hours of the private party event. The parking lot will be temporarily fenced to protect attendees from nearby traffic and provide a gate to limit guests to invitees only. Recorded music played through speakers is planned with a reduction in volume by 10:00 p.m. to a level such that normal household activities can be performed without disturbance. A minimum of four restroom facilities (including the indoor facilities) will be provided. A minimum of three (3) security officers will be available throughout the event. No street closure is proposed, however, adequate barricades are required to prevent vehicles from entering the event area from both the Big Spring Street side and the alley side. Parking locations for anticipated guests are shown on the site plan. The barricades on the Big Spring Street side will also have to be sized and located to TxDOT standards.

Attachments: Application, Maps, Exhibit A – Site Plan

RESOLUTION NO.

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR AN OUTDOOR AMUSEMENT FUNCTION ON LOTS 9 AND 10, BLOCK 2, HIGHLAND ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF NORTH BIG SPRING STREET, APPROXIMATELY 130 FEET NORTH OF WEST CUTHBERT AVENUE); AND MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN

WHEREAS, pursuant to Section 11-1-6(D) of the City Code of Midland, Texas, Justine Sosa has applied for authorization to temporarily use land for an outdoor amusement function on Lots 9 and 10, Block 2, Highland Addition, 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 Justine Sosa is hereby authorized by the City Council to have an outdoor amusement function on the following described land:

Lots 9 and 10, Block 2, Highland Addition, 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 and hours of operation of the function shall be limited to October 27, 2012 from 2:00 p.m. until 1:30 a.m. on October 28, 2012.
- B. That alcoholic beverage sales and consumption shall be limited to the parking lot south of the applicant's building and in the outdoor tent area of the function.
- C. That this outdoor function area shall be enclosed by a temporary fence with gates to limit outside guests, maintain the private (invitation only) capacity for this Halloween costume party function, and protect attendees from nearby traffic.
- D. That recorded music shall be allowed during all operating hours of the function with the volume to be reduced by 10:00 p.m. to a level such that normal household activities can be performed without disturbance.

- E. That a minimum of two (2) portable restrooms and two (2) restrooms within the El Burrito building shall be provided during all operating hours of the function.
- F. That a minimum of three (3) certified peace officers shall be provided as security guards during all operating hours of the function.
- G. That the function shall comply with all requirements of the Fire Code, including the fire rating on the material of the tent.
- H. That the alley right-of-way shall not be used for parking, and the parking locations secured by the applicant shall conform to the site plan attached hereto as Exhibit "A" and incorporated herein for all purposes.
- I. That the required vehicle barricades shall be placed adjacent to the alley to prevent vehicles from straying into the party area of the function.
- J. That the Texas Department of Transportation's approval of the access plan included the following recommendations which the applicant shall comply with:
 - 1) That the barricades at Big Spring Street shall be placed at least 2 ½ feet but no more than 5 feet behind the curb and gutter;
 - 2) That the Texas Department of Transportation's standards for barricade sizing in the right-of-way shall be met by the applicant; and
 - 3) That the north parking lot may be used for an entrance, drop off and exit through the alley only, with no traffic backing onto Big Spring Street.
- K. That Justine Sosa shall be responsible for ensuring that the conditions of this permit are observed.

SECTION THREE. The 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 permit 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., 2012, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

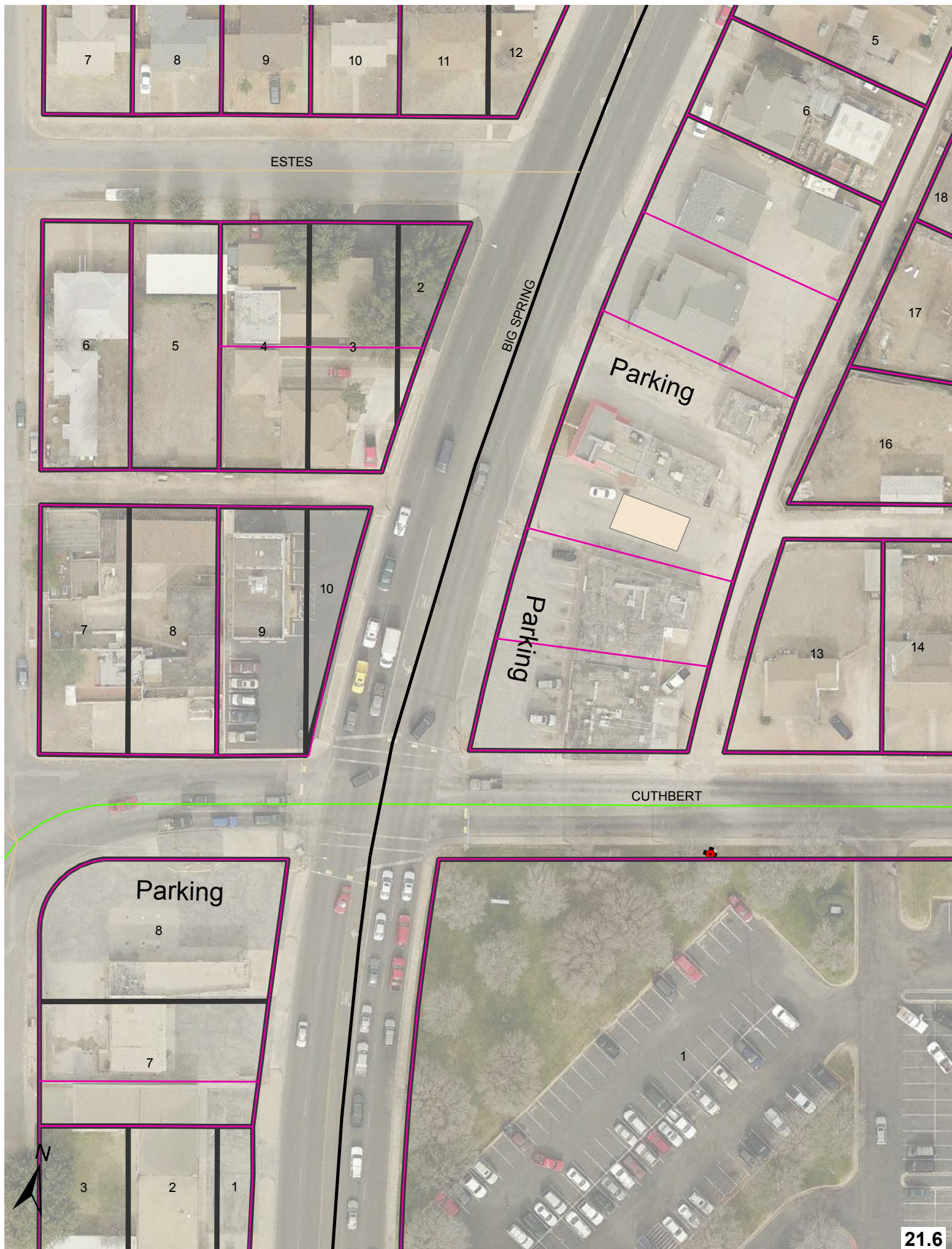
Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



CITY OF MIDLAND, TEXAS
Planning Division

TEMPORARY LAND USE PERMIT APPLICATION

Submission Requirements: Application shall be submitted to the Planning Division not less than eighteen (18) 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: JUSTINE BLAIR SOSA ^(J.B.) Phone: 528-8769
Applicant's Address: 1106 N. Big Spring St. E-mail: JABE2005@yahoo.com
Property Owner: George O. Sosa Phone: 683-9701
Owner's Address: 1106 N. Big Spring St. E-mail: _____

Other required information:

1. Street address and legal description of property: _____

2. Zoning District: LR-2
3. Type of temporary use requested: PRIVATE PARTY
4. Duration of temporary use: ONE DAY
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: Oct 27th 2pm - 1:30am
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: 3, 4
Number of restrooms provided: 4
Type of music (carnival, live, etc.): RECORDED MUSIC / SPEAKERS
Showmobile requested _____ Days and hours _____

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:

Justine Blair Sosa 1106 N Big Spring 79701 528-8769
Printed Name of Owner/Operator Address Zip Phone

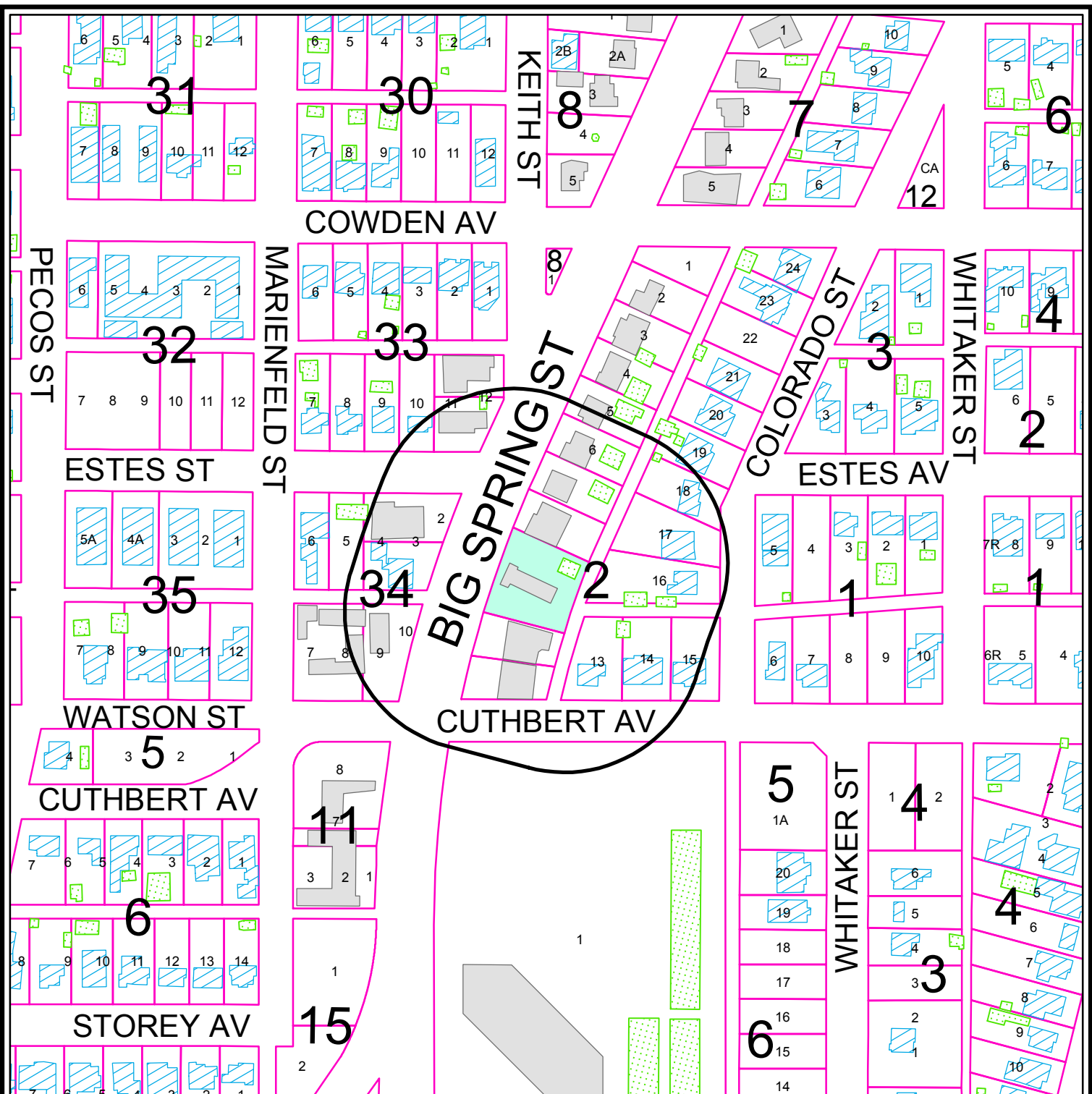
[Signature] Sept. 24 2012
Signature of Owner/Operator Date

[Signature] Sept 24 2012
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>[Signature]</u>	Date: <u>9/24/12</u>
Assigned: _____	
For: <u>CC</u>	On: <u>10/23/12</u>



PROPERTY OWNER NOTIFICATION MAP

M - 12 - 025

Scale: 1" = 200'

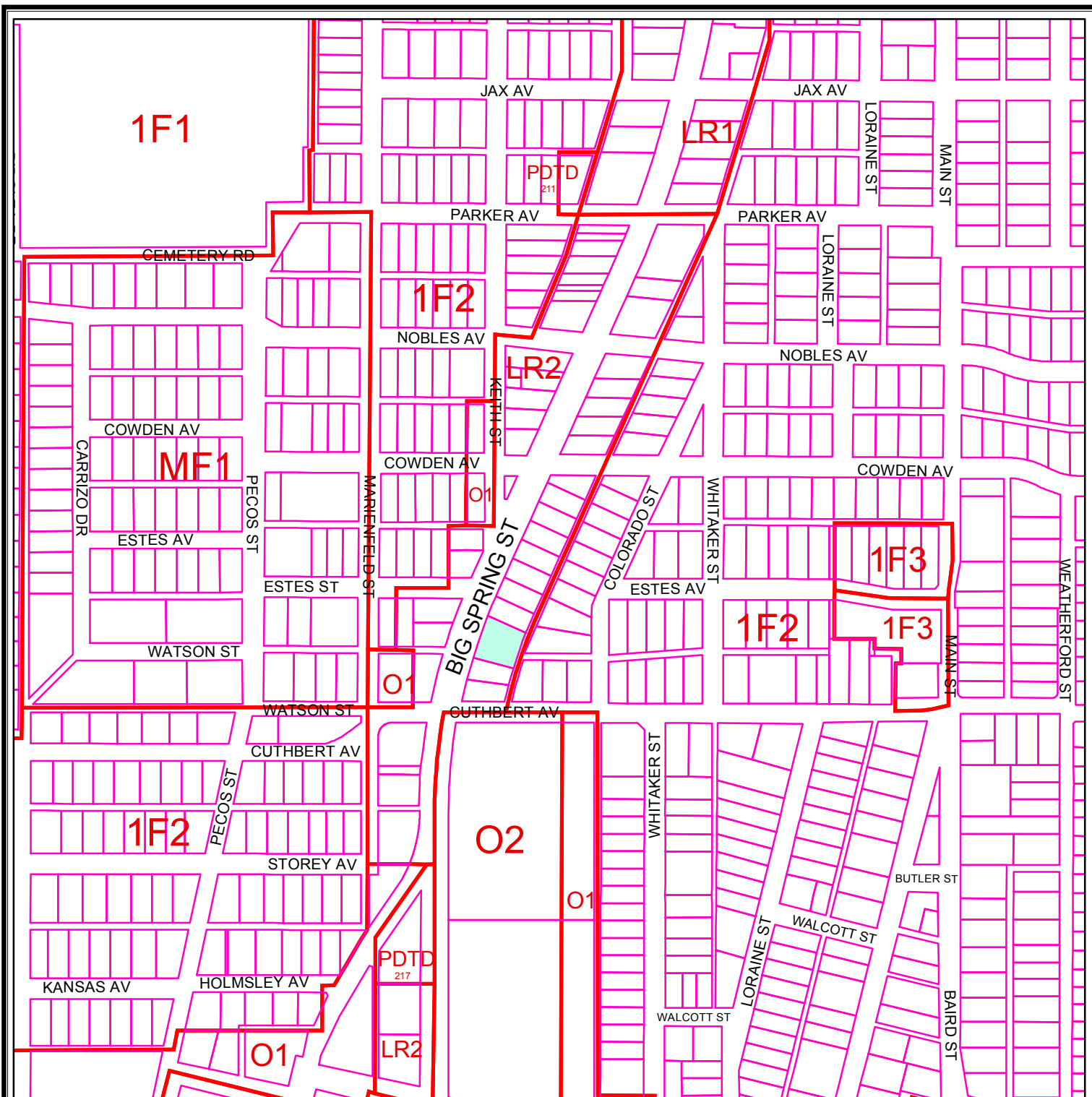
Consider a request for a Temporary Land Use Permit for a Outdoor Amusement Function on Lots 9 and 10, Block 2, Highland Addition, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- 200 FT. LEGAL NOTICE LIMIT
- PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS



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ZONING MAP

M - 12 - 025

Scale: 1" = 400'

Consider a request for a Temporary Land Use Permit for a Outdoor Amusement Function on Lots 9 and 10, Block 2, Highland 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: 10/23/2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: Consider a request for the vacation of a 1,400 square foot portion of the right-of-way of W. Ohio Street adjacent to Lot 12, Block 26, Original Town, City and County of Midland, Texas. (Generally located on the southeast corner of the intersection of W. Ohio Street and N. Colorado Street)

Purpose:

Consider a request for the vacation of a 1,400 square foot portion of the right-of-way of W. Ohio Street adjacent to Lot 12, Block 26, Original Town, City and County of Midland, Texas. (Generally located on the southeast corner of the intersection of W. Ohio Street and N. Colorado)

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

The City will receive \$2,100.00 for the purchase of right-of-way.

Discussion:

Sonny Aguilar is representing Rita & SMA Properties concerning the request for the vacation of the above described right-of-way to allow for off-street parking. The lot will be used by the Brass Munkey and other businesses under construction across Colorado St. The area to be vacated is a 10' wide strip extending 140' parallel-to and behind the south curb of Ohio Ave. at the intersection of N. Colorado St. (Exhibit A). The additional 10' that has been used for parking for a number of years by prior owners permits two lanes of parking and circulation on the lot. The proposed right-of-way to be vacated is 1,400 square feet and is valued at \$1.50 per square foot which establishes its value at \$2,100.00. There are no City or franchise utilities within this right-of-way. A payment to the City in the amount of \$2,100.00 must be received prior to second reading.

Attachments:

Application, Map, Land Survey

ORDINANCE NO.

AN ORDINANCE VACATING AND ABANDONING A 0.032-ACRE PORTION OF WEST OHIO STREET RIGHT-OF-WAY ADJACENT TO LOT 12, BLOCK 26, ORIGINAL TOWN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF WEST OHIO STREET AND NORTH COLORADO STREET); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$2,100.00; AND ORDERING RECORDATION BY THE CITY SECRETARY

WHEREAS, it has been determined by the Midland City Council that a 0.032-acre portion of West Ohio Street right-of-way adjacent to Lot 12, Block 26, Original Town Addition, 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 \$2,100.00, 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 0.032-acre portion of West Ohio Street right-of-way adjacent to Lot 12, Block 26, Original Town Addition, 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 \$2,100.00.

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., 2012; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2012.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

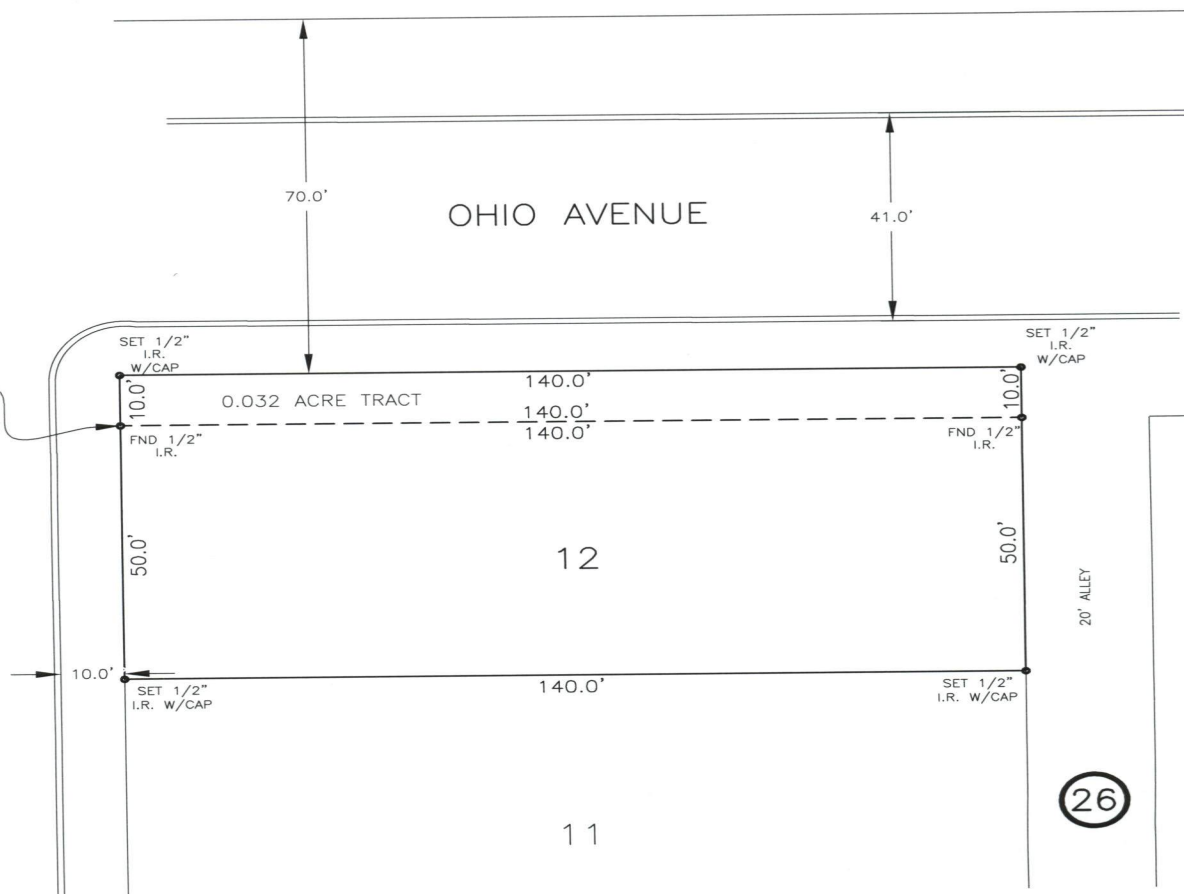
James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

COLORADO STREET
(80' RIGHT-OF-WAY)

POINT OF
BEGINNING



PLAT OF

LOT TWELVE (12), BLOCK TWENTY SIX (26),
AND A 0.032 ACRE TRACT,
ORIGINAL TOWN OF MIDLAND,
MIDLAND COUNTY, TEXAS



TO LIEN HOLDER ISSUING THE INSURANCE UNDERWRITER

THIS SURVEY PLAT IS PROVIDED SOLELY FOR THIS TRANSACTION

PLAT IS COPYRIGHTED AND SHALL NOT BE USED FOR ANY OTHER TRANSACTION.

THE UNDERSIGNED HEREBY CERTIFIES THAT THIS SURVEY WAS MADE ON THE GROUND OF THE PROPERTY LEGALLY DESCRIBED HEREON AND IS CORRECT, AND THAT THERE ARE NO VISIBLE DISCREPANCIES, CONFLICTS, SHORTAGES IN AREA BOUNDARY LINE CONFLICTS, ENCROACHMENTS, OVERLAPPING OF IMPROVEMENTS, VISIBLE EASEMENTS OR RIGHTS OF WAY, EXCEPT AS SHOWN HEREON, AND THIS SAID PROPERTY HAS ACCESS TO AND FROM A DEDICATED ROADWAY AS SHOWN.

Robert D. Bradshaw
REGISTERED PROFESSIONAL LAND SURVEYOR



FILED IN PLAT VOLUME 3, PAGE 232, DEED RECORDS, MIDLAND COUNTY, TEXAS.

THIS PROPERTY LIES WITHIN ZONE "X" AS SHOWN BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY FEDERAL INSURANCE ADMINISTRATION MAP COMMUNITY PANEL 48329C0089F DATED SEPTEMBER 16, 2005.

Stored: 12051574

BRADSHAW AND ASSOCIATES, INC.

CONSULTING ENGINEERS
REGISTERED PROFESSIONAL LAND SURVEYORS

4400 N. BIG SPRING SUITE A-8
MIDLAND, TEXAS 79705
PHONE (432)682-4400 FAX (432)682-7997

	Drawn	Chkd	Surveyed
By	VR/SH	RDB	RG/GG
Date	10-2-2012	10-2-2012	6-21-2012

22.5

V-12-009



October 12, 2012

Midland City Council
City of Midland, Texas

RE: Request for vacation of a 0.032-acre portion of West Ohio Street right-of-way adjacent to Lot 12, Block 26, Original Town Addition, 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 \$2,100.00. 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 blue ink that reads "Courtney Sharp".

Courtney Sharp
City Manager

Exhibit "B"

L:\Ordinances\Planning\Vacate & Abandon\2012\Ohio Street, Blk 26, Original Town 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:
Lot 12 Block 26 Original Town Midland Texas.
- II. Reason for Request: Provide additional parking spaces.
- 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:
No current usage and would facilitate downtown business establishments.

IV. REQUIRED ITEMS:

1. Applicant(s) Information: (Attach extra sheets as necessary.)

Name: Rita + SMA Properties

Address: 319 N. Colorado

Phone: 432-352-6386

Street

Midland

City

TX

State

79701

Zip Code

2. Metes and bounds description of property to be vacated including total square feet of vacation.
3. Map showing:
Property to be vacated and its relationship to the applicant's property
Lot and block numbers of all adjacent tracts
Current zoning of all adjacent tracts
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. ____

The City of Midland will take no action on this request, until items 1-5 are received.

- V. Clearance is needed from the following utility companies: City of Midland / Atmos Energy
Caprock Energy / Oncor 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:

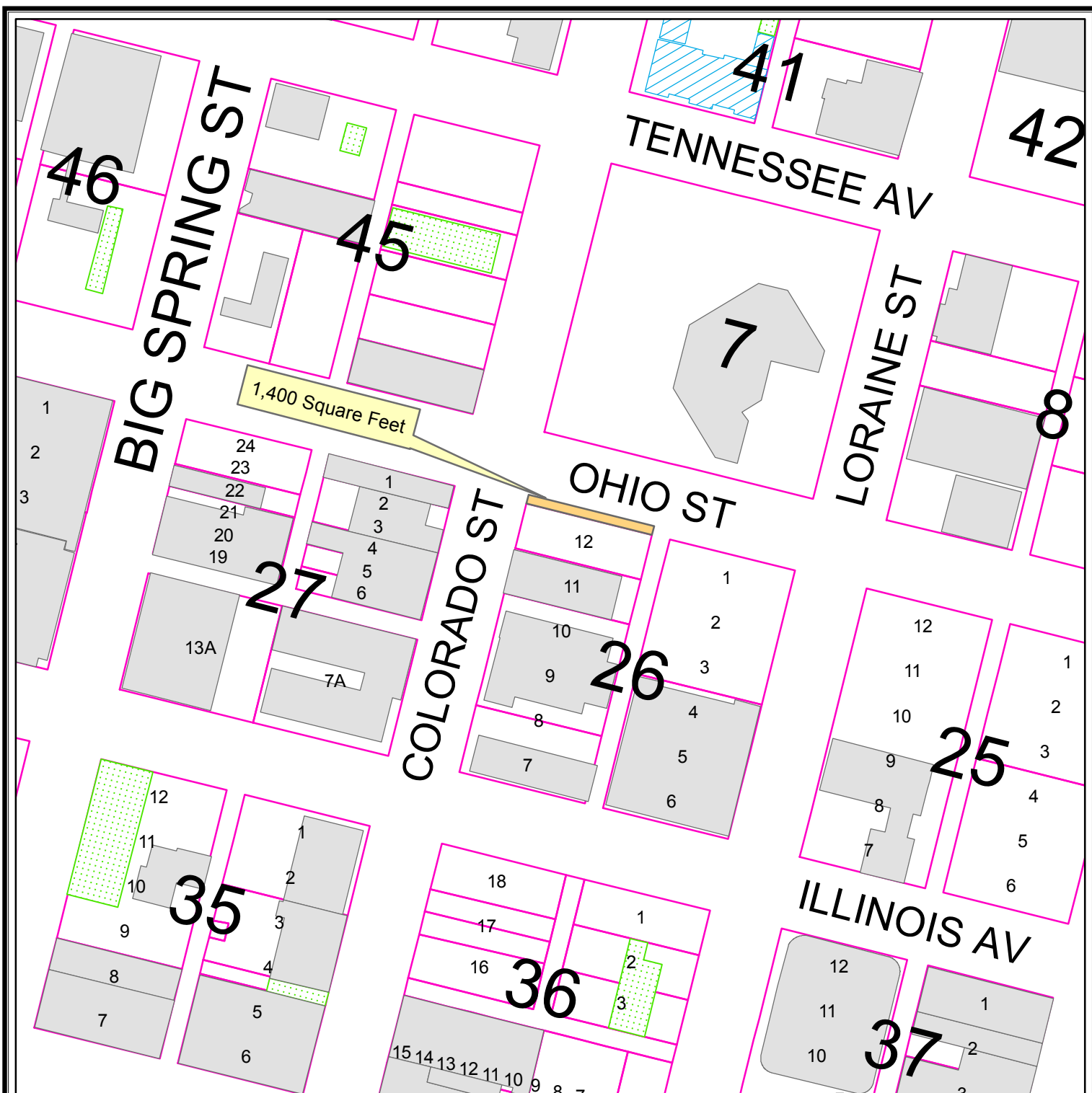
1. If the vacation request involves only a portion of a section right-of-way, such that approval would not affect the public's ability to travel along said right-of-way, then the request will be scheduled for consideration by the City Council. No public hearing will be needed.
2. If the vacation request 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 Transportation Division, must first agree to the proposed vacation. It is the applicant's responsibility to obtain a letter of concurrence signed by the affected landowners.
 - b. If all letters are received indicating that the affected landowners agree to the request, then a public hearing before the City Council will be scheduled. The Transportation Division will mail public notice of the hearing to landowners within 400 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 landowner.

Signature of applicant: _____

Date: _____

****Application will not be considered for scheduling until all required items are reviewed by City Staff.****

FOR OFFICE USE ONLY	
Rec'd. By: <u>RS</u>	Date: <u>8/3/12</u>
Assigned: _____	
For: _____	On: _____



LOCATION MAP

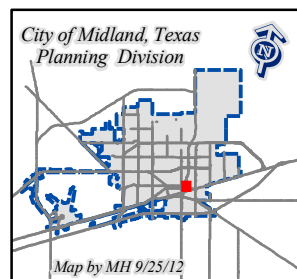
V - 12 - 009

Scale: 1" = 150'

Consider a request for the vacation of a 1,400 square foot portion of the right-of-way of W. Ohio Street adjacent to Lot 12, Block 26, Original Town, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS



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City of Midland
City Secretary's Office
Interoffice Memorandum

Date: October 18, 2012
To: The Honorable Mayor Perry and Council
From: Amy M. Turner, City Secretary
Subject: Membership - Boards and Commissions

Attached is an updated membership listing for the City's Boards and Commissions effective October 23, 2012. Remaining expirations and vacancies are listed below:

AIRPORT PLANNING AND DEVELOPMENT BOARD – Two terms expired on September 30, 2012.

CITY DEVELOPMENT ADVISORY COMMITTEE – One vacancy expiring on September 30, 2013 and two 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.

PERMIAN BASIN AIRPORT BOARD – Two terms expired on September 30, 2010 (Carlsbad and Hobbs New Mexico), two terms expired on September 30, 2011 and two terms expired on September 30, 2012.

PLANING AND ZONING COMMISSION – One term expired on September 30, 2011 and two terms expired on September 30, 2012.

TAX INCREMENT REINVESTMENT ZONE BOARD – One term expired on March 20, 2009 (one College representative), five terms expired on March 20, 2010, one term expired March 20, 2011 and one terms expired on March 20, 2012. (Four City representatives, two Hospital representatives, two County representatives and one College representative.)

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

October 23, 2012

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>
Dr. Tom Green (Veterinarian)	10/07*	Sept 30 2013	Sept 30 2017
Kelly Spencer	09/09	Sept 30 2013	Sept 30 2017
Laura Hollifield	09/08*	Sept 30 2013	Sept 30 2017
Justin Petty	04/07*	Sept 30 2013	Sept 30 2017
Tony Carrillo	09/09	Sept 30 2013	Sept 30 2017
Paul O'Neill	09/09	Sept 30 2013	Sept 30 2017

BUILDING CODES REVIEW COMMITTEE

(Membership – 9; Terms – 2 Years)

	<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

* Indicates appointment to an unexpired term.

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>
(Vacancy)-Lena Margita	10/09	Sept 30 2013	Sept 30 2013
Vicky Hailey	09/10	Sept 30 2012	Sept 30 2014
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

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.

* Indicates appointment to an unexpired term.

Vicky Hailey (Liaison Officer)

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 2013
Dennis Bade	09/12	Oct 2014	Oct 2016
Norma Duran	11/08*	Oct 2014	Oct 2014

ALTERNATES:

Vacancy	Oct 2013	Oct 2015
----------------	-----------------	-----------------

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.

* Indicates appointment to an unexpired term.

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
Greg Turner	(CC)	12/11	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>
Michael Trost	02/11*	Jan 14 2013	Jan 14 2019
Cary J. Love	12/09	Jan 14 2013	Jan 14 2016
Gary Douglas	11/11*	Jan 14 2013	Jan 14 2019
Laura Roman	01/08	Jan 14 2014	Jan 14 2014
Robert Rendall, Chairman	01/09*	Jan 14 2014	Jan 14 2017

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

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)

	<u>Appt. Date</u>
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>
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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
Isabelle Blanchard (Pecos)	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
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>
Janet R. Pritchett (City)	05/09*	June 2014	June 2014
Larry Edgerton	07/10*	June 2013	June 2015

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

* Indicates appointment to an unexpired term.

PLANNING AND ZONING COMMISSION

(Advisory & Decision Making)
(Membership - 9; Terms - 3 Years)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Becky Ferguson, Chairman	03/04*	Sept 30 2011	Sept 30 2011
Bill Woodruff	02/05*	Sept 30 2012	Sept 30 2012
Karen York	01/10*	Sept 30 2012	Sept 30 2018
Jane Wolf	03/09*	Sept 30 2013	Sept 30 2016
Cindy Lanning	09/10	Sept 30 2013	Sept 30 2016
Jay Norris	11/11	Sept 30 2014	Sept 30 2017
Galen Gatten, Vice Chairman	09/08	Sept 30 2014	Sept 30 2014
Kevin Wilton	09/08*	Sept 30 2015	Sept 30 2017
Royce Watkins	02/08*	Sept 30 2015	Sept 30 2017

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>
Neil Florer (College)	07/01	Mar 20 2009	Mar 20 2009
Mark T. Wellen (City), Chairman	07/01	Mar 20 2010	Mar 20 2010
Jay Reynolds (Hospital)	03/02	Mar 20 2010	Mar 20 2010
Ralph Way (College)	07/01	Mar 20 2010	Mar 20 2010
Randy Prude (County)	03/07	Mar 20 2010	Mar 20 2013
Judge Mike Bradford (County)	01/07*	Mar 20 2010	Mar 20 2014
Bob Lanier (City), Secretary	04/03	Mar 20 2011	Mar 20 2011
Brent Kennedy (City)	06/09	Mar 20 2012	Mar 20 2015
Pete Hulder (Hospital)	03/10	Mar 20 2016	Mar 20 2016
Michael Blonkvist	09/12*	Mar 20 2014	Mar 20 2020
John L. Kennedy (City)	10/09*	Mar 20 2015	Mar 20 2018
Ken Burgess (City)	10/12*	Mar 20 2013	Mar 20 2018

Ex-Officio member is President, Board of Trustees, Midland Independent School District

ZONING BOARD OF ADJUSTMENT
AND
AIRPORT ZONING BOARD OF ADJUSTMENT

(Decision Making)

(Membership - 5; Terms - 2 Years expiring 3 odd & 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

AIRPORT PLANNING & DEVELOPMENT BOARD
 (Advisory; Membership - 10: Terms - 3 Years Expiring 3-3-4)
 Ex-Officio Members are the City Manager and the City Attorney.
 The Secretary is the Director of Aviation.

SPECIAL COMPOSITION REQUIREMENTS: Resident of Midland County

MEMBER	TERM EXPIRE SEPT. 2012?	ATTEN- DANCE %	MEETINGS ATTENDED (Out of 6)	ELIGIBLE FOR ANOTHER TERM	BOARD MEMBER'S PHONE #	COUNCIL NOTES
Ronald Schwisow	Yes	100%	6	No		
Herbert Blankinship	Yes	83%	5	No		
Jerry Walton	No 09/15	50%	3	Yes		
Mike Owen	No 09/13	83%	5			
Gregory F. Baiano	No 09/13	67%	4			
John T. Echols	No 09/13	83%	5			
Dallas L. Smith	No 09/13	50%	3			
Earl Erdmann	No 09/14	100%	6			
J. Ross Lacy	No 09/14	N/A	N/A			Appointed September 2012
Don "Woody" Woodward	No 09/14	33%	2			

APPLICANTS: (Listed Alphabetically)

APPLICANT'S NAME	NUMBER OF BOARDS APPLIED FOR	COUNCIL NOTES
J. Ross Lacy	One other board	Appointed 9/25/12
Ronnie Lynch	One other board	
Shannon Smith (Mr.) NEW APPLICATION	One other board	



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

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.

PLEASE TYPE OR PRINT CLEARLY:

Name: Shannon Smith

Address: 5506 Hillcrest

Midland Texas 79707

(City) (State) (Zip)

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland ⁵ years.

Professional and/or Community Activities:

Previously I volunteered as a Court Appointed Special Advocate (CASA) for CASA of West Texas. I currently serve on the Board of Directors for Midland Habitat for Humanity.

Date: 10/3/2012

Phone: 432-689-9998 (Home)

432-687-9110 (Business)

Email: ssmith@fcbtexas.com

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Commercial Loan Officer

What is your personal vision for the City?

As an oil and gas based economy, I would like to see the city continue to attract a more diversified industrial based as it has done with XCor. In the near tear, affordable and available housing is the most pressing issue. Availability will improve over time due to the continuing construction of housing. Unfortunately, the newer housing appears to be out of reach for lower income individuals.

Please specify any time constraints you may have.

Loan committee on Monday and Thursday mornings until 10:00 a.m. Monthly Habitat Board meetings the third Monday of every month at 5:30 p.m.

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:

Airport Planning and Development Board

Please tell us why you are interested in serving on this board or commission.

One major advantage that Midland has for attracting new industries is the International Airport. Along with the Industrial Park, it serves as a major selling point when attracting diversified industries to the Midland area.

What contribution would you most like to make?

Assist with the planning and future development of both airports to ensure that both facilities are meeting the needs of not only the residents of the area, but to do what is necessary to develop new jobs in the Midland area that are not heavily reliant on the oil and gas industry.

Additional pertinent information or references:

(2) Name of Board/Commission:

Midland Housing Finance Corporation

As a Habitat board member, I am well aware of the need for affordable housing options in Midland. I would explore ways for the corporation to make it easier for families to purchase homes, including down payment assistance for those in need.

What contribution would you most like to make?

I would like to see the commission take a more active role in the community and perhaps partner with other agencies in Midland to assist residents in attaining home ownership. The city has many new people residents that are moving here, and some are obtaining jobs after being out of work for extended periods, which makes it difficult for them to afford down payments on homes.

Additional pertinent information or references:

Alynda Best, Midland Habitat for Humanity

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

Shannon Smith

Digitally signed by Shannon Smith
DN: cn=Shannon Smith, o=FirstCapital Bank of
Texas, ou, email=ssmith@fcbtexas.com, c=US
Date: 2012.10.03 18:05:47 -05'00'

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

CITY DEVELOPMENT ADVISORY COMMITTEE
(Advisory)
(Membership - 5; Terms - 2 Years Expiring 2 Even & 3 Odd)

SPECIAL COMPOSITION REQUIREMENTS: None

MEMBER	TERM EXPIRE SEPT. 2012?	ATTEN- DANCE %	MEETINGS ATTENDED (Out of 3)	ELIGIBLE FOR ANOTHER TERM	BOARD MEMBER'S PHONE #	COUNCIL NOTES
Vacancy	Yes			N/A		
Vicky Hailey	Yes	100%	3	Yes		9/6/12 Ms. Hailey called and said she does not want to be reappointed.
Reggie Lawrence	Yes	100%	3	Yes		10/8/12 Mr. Lawrence would like to be reappointed
Alonda Massey	No 09/13	100%	3			
Tim Bryson	No 09/13	100%	3			

APPLICANTS: (Listed Alphabetically)

APPLICANT'S NAME	NUMBER OF BOARDS APPLIED FOR	COUNCIL NOTES
Stella Clifton	Only this board	
Eric F. Nordwald Sr.	Five other boards	
W. Roger Beebe NEW APPLICATION	One other board	
Jeremy Bishop NEW APPLICATION	Only this board	

2012-014



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: Stella Clifton

Address: 3319 Cimmaron Ave.

(City)

(State)

(Zip)

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland ⁴⁴ years.

Professional and/or Community Activities:

Leadership Midland 2004

Meals on Wheels

Date: 8/14/2012

Phone: 432-697-3663 (Home)

432-571-4127 (Business)

Email: stella.clifton@dshs.state.tx.us

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Congregate Settings Coordinator for the State of Te

What is your personal vision for the City?

I would love for Midland to thrive with the younger adults. If they would return to Midland after completing College to begin their career.

Please specify any time constraints you may have.

None 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:

City Development Advisory Committee

Please tell us why you are interested in serving on this board or commission.

I want to be apart of watching new businesses develop and grow within the community.

What contribution would you most like to make?

I work for the Department of State Health so I have become very familiar with the development of Midland and the various population

Additional pertinent information or references:

I worked for the Housing Authority of the City of Midland for four years as a property manager.

I worked for Casa de Amigos writing grants for agency funding.

(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

Stella Clifton

Digitally signed by Stella Clifton
DN: cn=Stella Clifton, o=DSHS, ou,
email=stella.clifton@dshs.state.tx.us, c=US
Date: 2012.08.14 17:08:36 -05'00'

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.

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 spokesmen.

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



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](#)

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

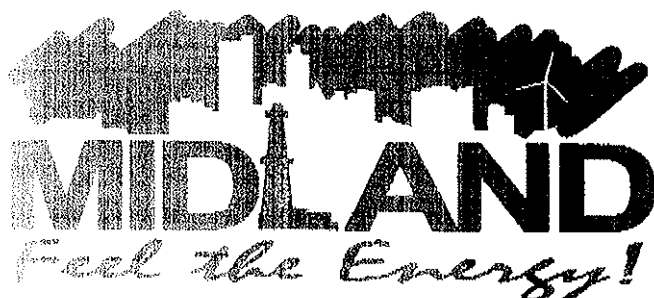
- Projects ranged from residential houses to large commercial and government structures.
- Performed work for the general contractor; framing, trim, welding, concrete, mechanical, electrical, plumbing, roofing, structural steel, flooring, painting & jobsite management

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: W. Roger Beebe
Address: 902 Interstate 20 West
Midland TX 79701
(City) (State) (Zip)

Date: Oct. 1, 2012

Phone: 817-291-0753 (Home)

432-683-1111 (Business)

Email: rbeebe@rimhospitality.co

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 11 years.

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Hotel Manager

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

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 aid 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 Barber

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: Jeremy Bishop

Address: 5311 Widener Strip

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 6 years.

Professional and/or Community Activities:

Rotary Club of Midland (Downtown Club), United Way Volunteer, Habitat for Humanity, 2011 Leadership Midland Graduate

Date: 10/5/2012

Phone: 432-269-8480 (Home)

432-687-9129 (Business)

Email: jbishop@fcbtexas.com

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Lender / Banking

What is your personal vision for the City?

I would like to see Midland grow in population as well as diversity and culture. We have many advantages to attract other businesses and industries outside of the Petroleum industry. I also want to maintain the positive and family-friendly atmosphere that makes this city great to raise children.

Please specify any time constraints you may have.

8:00AM meetings on Monday and Thursday that last until 9:30AM or 10:00AM every week.

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'm interested in the development and growth of our city, as mentioned in my vision for Midland above. I would hope to add insight and direction to the future of the city.

What contribution would you most like to make?

A positive impact on our future development. We are going to eventually leave this city to our children, and I would like to help keep it an attractive place to live for many more generations.

Additional pertinent information or references:

Former Mayor Mike Canon, City Councilman Dufford, County Commissioner Donnelly, School Board President Jay Isaacs.

(2) Name of Board/Commission:

Hotel/Motel Tax Advisory Board

What contribution would you most like to make?

Again, a positive impact on our future development. Choices we make today are going to have a major effect on the City down the road. I would like to help make positive decisions on the funds we have available, and use them to the best of our ability.

Additional pertinent information or references:

Same as above.

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](#)

CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS
(Decision Making)
Membership - 7; Terms - 4 Years expiring 2-2-2-1)

SPECIAL COMPOSITION REQUIREMENTS: 1 Plumbing/Mechanical Industry, 1 Electrical Contracting, 1 Architect, 1 Engineer/Superintendent of Construction, 3 Any Categories, 2 Alternate members from any category. RESIDENT OF CITY.

MEMBER	TERM EXPIRE SEPT. 2012?	ATTEN- DANCE %	MEETINGS ATTENDED (Out of 0)	ELIGIBLE FOR ANOTHER TERM	BOARD MEMBER'S PHONE #	COUNCIL NOTES
Don Woodward (At-Large)	Yes			Yes		NO MEETINGS
Richard D. Dunham	No 09/13					
Greg Turner	No 09/13					
Chris Repman	No 09/14					
Jay K. Bradford	No 09/14					
<u>ALTERNATES:</u>						
Vacancy						
Vacancy						

APPLICANTS: (Listed Alphabetically)

APPLICANT'S NAME	NUMBER OF BOARDS APPLIED FOR	COUNCIL NOTES
Eric F. Nordwald Sr.	Five other boards	
Scott Young	One other board	



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 Midland ³ 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

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.

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 contribution would you most like to make?
First and foremost I would like to build a youth center. I also would contribute as a spokesmen.

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
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- 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) |

2012-015



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: Scott Young
Address: 1212 Breckenridge Ct.
Midland, TX 79705
(City) (State) (Zip)

Date: 8/9/2012
Phone: 432-978-2372 (Home)
432-520-0820 (Business)
Email: syoung@randcoindustries.com

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland ²⁴ years.

Professional and/or Community Activities:

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Commercial Construction

What is your personal vision for the City?

I want Midland to continue its positive growth and diversification of different industries.

I think Midland is an excellent place to raise a family and run a business.

I believe Midland is growing and will continue to grow and I would like to be more involved with the city government.

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:

Construction Board of Adjustments and Appeals

Please tell us why you are interested in serving on this board or commission.

I want to get involved with our community and the direction that Midland is growing. I was born here in Midland and plan on staying the rest of my life and would like to help do my part to make our community a better place to work and live.

What contribution would you most like to make?

I am part of a small business in the construction industry and think that my knowledge in the industry would be beneficial for the city.

Additional pertinent information or references:

(2) Name of Board/Commission:

Zoning Board of Adjustments and Airport Zoning Board of Adjustments

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

Scott Young

Digitally signed by Scott Young
DN: cn=Scott Young, o=Young's Building Systems,
ou, email=syoung@randcoindustri.com, c=US
Date: 2012.08.09 16:45:33 -05'00'

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](#)

HOUSING AUTHORITY COMMISSION
(Membership - 5; Terms - 2 Years expiring 2 even & 3 odds)

SPECIAL COMPOSITION REQUIREMENTS: No member may be an officer or employee of the City of Midland

MEMBER	TERM EXPIRE OCT 2012?	ATTEN- DANCE %	MEETINGS ATTENDED (Out of 11)	ELIGIBLE FOR ANOTHER TERM	BOARD MEMBER'S PHONE #	COUNCIL NOTES
Dennis Bade	No 09/14					Council appointed 9/25/2012
Norma Duran	No 09/15					Council reappointed 9/25/2012
Gregory Maes	No 10/13					
Carla Repman	No 10/13					
James A. Blischke	No 10/13					
<u>ALTERNATE:</u>						
Vacancy						

APPLICANTS: (Listed Alphabetically)

APPLICANT'S NAME	NUMBER OF BOARDS APPLIED FOR	COUNCIL NOTES
	Only this board	

MIDLAND FOOTBALL-SOCCER AND BASEBALL COMPLEX DEVELOPMENT CORPORATION

**Decision Making
(Membership - 7; Terms - 2)**

SPECIAL COMPOSITION REQUIREMENTS: Resident of City.

MEMBER	TERM EXPIRE NOV. 2012?	ATTEN- DANCE %	MEETINGS ATTENDED (Out of 4)	ELIGIBLE FOR ANOTHER TERM	BOARD MEMBER'S PHONE #	COUNCIL NOTES
Ken Marks, Vice Pres.	Yes	100%	4	No		
James G. Smith	Yes	100%	4	No		
Mike Thompson	No 11/13	75%	3			
Tim Bryson	No 11/13	50%	2			
Wesley D. Bownds	No 11/13	100%	4			
John James	No 11/13	50%	2			
Rick Davis (MISD Resp.)	No 11/13	75%	3			

APPLICANTS: (Listed Alphabetically)

APPLICANT'S NAME	NUMBER OF BOARDS APPLIED FOR	COUNCIL NOTES
Eric F. Nordwald Sr.	Five other boards	



APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

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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 Midland ³ 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

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:

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(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.

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 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) |

MIDLAND HIGHER EDUCATION FACILITIES CORPORATION

(Membership - 7; Terms - 2 Years Staggered)

SPECIAL COMPOSITION REQUIREMENTS:

MEMBER	TERM EXPIRE JAN. 2012?	ATTEN- DANCE %	MEETINGS ATTENDED (Out of 0)	ELIGIBLE FOR ANOTHER TERM	BOARD MEMBER'S PHONE #	COUNCIL NOTES
Vacancy	Yes-2007			No		NO MEETINGS
Vacancy	Yes-2007			No		
Vacancy	Yes-2007			No		
Vacancy	Yes-2009			No		
Steve Jones	Yes			No		
Cathy Oestmann	Yes			No		
Curt Kamradt	No 01/14					Reappointed 9/25/2012

APPLICANTS: (Listed Alphabetically)

APPLICANT'S NAME	NUMBER OF BOARDS APPLIED FOR	COUNCIL NOTES
Katey Howard	One other board	
Eric F. Nordwald Sr.	Five other boards	



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: Katey Howard

Address: 2500 W Cuthbert

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 24 years.

Professional and/or Community Activities:

Leadership Midland graduate 2012 - awarded the American Gladiator award for hard work; Aphasia Center Chocolate Decadence

Board Member; Usher, worship choir member and high school volunteer at Stonegate Fellowship; Secretary for the Permian Basin

Bicycle Association; Associate member of the Permian Basin Home Builders Association

What is your personal vision for the City?

To see Midland thrive and maintain an exceptional quality of life in every economic condition.

Please specify any time constraints you may have.

No lunch meeting time constraints.

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:

Parks and Recreation Commission

Please tell us why you are interested in serving on this board or commission.

Being very active in sports and outdoor activities in and around the Permian Basin I believe my experience and love for the outdoors will help bring new ideas and enthusiasm to the board.

Date: 8/20/2012

Phone: 432-638-0826 (Home)

432-694-2595 x 113 (Business)

Email: kateyhoward@gmail.com

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Insurance Agent - Mims & Smith Insurance

What contribution would you most like to make?

New ideas, willingness to work, enthusiasm to see projects through from beginning to end.

Additional pertinent information or references:

Brenda Smith - President and Owner at Mims & Smith Insurance 432-694-2595 ext 102

Stephanie Martin - Events Manager Midland Chamber of Commerce 432-683-3381

Lisa Anderson - President Permian Basin Bicycle Association 432-208-8330

(2) Name of Board/Commission:

Midland Higher Education Facilities Corporation

What contribution would you most like to make?

As a graduate of Midland High, Midland College and UTPB I believe in higher education and its importance to our community.

I want to see our higher education facilities succeed and believe my compassion and ideas will benefit the board.

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

Kately Howard

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.

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 Midland ³ 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

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.

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 contribution would you most like to make?
First and foremost I would like to build a youth center. I also would contribute as a spokesmen.

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
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- 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.
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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) |

MIDLAND HOUSING FINANCE CORPORATION
 (Decision Making)
 Membership - 5; Terms - 2 Years expiring 1-2-2)

SPECIAL COMPOSITION REQUIREMENTS: Resident of City.

MEMBER	TERM EXPIRE SEPT 2012?	ATTEN- DANCE %	MEETINGS ATTENDED (Out of)	ELIGIBLE FOR ANOTHER TERM	BOARD MEMBER'S PHONE #	COUNCIL NOTES
Vacancy	Yes			No		DID NOT RECEIVED ATTENDANCE RECORD
Adrienne Valencia	Yes			No		
Melissa Wicker	Yes			No		
Jerry Morales (Liaison Officer)	Yes			No		
Nathan Miller	Yes			Yes		

APPLICANTS: (Listed Alphabetically)

APPLICANT'S NAME	NUMBER OF BOARDS APPLIED FOR	COUNCIL NOTES
Fran V. Wallace	Only this board	



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: Fran V Wallace

Address: 2605 Whitney Dr

Midland Tx 79705

(City) (State) (Zip)

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 7 1/2 years.

Professional and/or Community Activities:

None of the Above. I married and moved to Midland in 05. My husband was born here in Midland and also went to school here in Midland. His work required traveling to other states and I joined him. He is now retired.

What is your personal vision for the City?

This city has grown so quickly and seems to be bursting at the seams. As the city grows there is a need for teamwork to organize and prepare and help our city to meet its needs within the government and the health and prosperity and needs of our people here in Midland.

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:

Midland Housing Authority Commission

Please tell us why you are interested in serving on this board or commission.

This will give me the opportunity to meet and get acquainted with the people of Midland and help the elderly and those with lower income needs.

Date: 8/24/2012

Phone: 432-699-4271 (Home)

(Business)

Email: dww42@sbcglobal.net

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Retired

What contribution would you most like to make?

To serve this position to the best of my ability. I have no idea what this position entails but I am sure that I am capable of working together and fulfilling whatever is required.

Additional pertinent information or references:

I am a graduate of Timken Vocational High School in Ohio. Attended many learning Seminars on many of the positions I have held in the past. Completed some courses in Criminal Justice online with the University of Phoenix. Organization and management are my best skills. I type, use computer and different software. Great phone etiquette.

(2) Name of Board/Commission:

What contribution would you most like to make?

Additional pertinent information or references:

Barbco Inc in Canton Ohio 330-488-9400 (Barbera, Jim, David or Tony) 15 Yrs

Staffing Resources in Midland Tx 432-684-0527 (Fran) 07 and 08

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

James V Wallace

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](#)

MIDLAND MUNICIPAL MANAGEMENT DISTRICT BOARD
(Ad Hoc)

SPECIAL COMPOSITION REQUIREMENTS:

MEMBER	TERM EXPIRE SEPT 2012?	ATTEN- DANCE %	MEETINGS ATTENDED	ELIGIBLE FOR ANOTHER TERM	BOARD MEMBER'S PHONE #	COUNCIL NOTES
Vacancy	Yes			N/A		
Richard Hatchett						
W. L. "Scooter" Brown						
Ken Burgess						
Jim Hightower						
Ted H. Jones						
Mitch Malouf						
Christi Newton						
Dan Rush						

APPLICANTS: (Listed Alphabetically)

APPLICANT'S NAME	NUMBER OF BOARDS APPLIED FOR	COUNCIL NOTES

MIDLAND-ODESSA URBAN TRANSIT DISTRICT BOARD
(Membership - 6; Terms - 2 Years Staggered)

SPECIAL COMPOSITION REQUIREMENTS: None

MEMBER	TERM EXPIRE SEPT 2012?	ATTEN- DANCE %	MEETINGS ATTENDED (Out of 9)	ELIGIBLE FOR ANOTHER TERM	BOARD MEMBER'S PHONE #	COUNCIL NOTES
Willie Barber	Yes	100%	9	No		
Rebecca Bell	No 09/14	N/A	N/A			Appointed 9/11/2012
Michael Trost	Yes	78%	7	No		
John James	No 09/13	56%	5			
Karen York	No 09/13	33%	8			
Guy McKenzie	No 09/13	33%	8			

APPLICANTS: (Listed Alphabetically)

APPLICANT'S NAME	NUMBER OF BOARDS APPLIED FOR	COUNCIL NOTES
Rebecca Bell	Only this board	Appointed 9/11/2012
J. Ross Lacy	One other board	



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: J. Ross Lacy

Address: P.O. Box 3266

Midland TX 79702

(City) (State) (Zip)

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland ²³ years.

Professional and/or Community Activities:

President, Midland Co. Young Republicans

Member, Young Professionals of Midland

Member, UTPB School of Business Advisory Board

What is your personal vision for the City?

With the current economic growth that Midland is experiencing, I would like to see the city continue to embark on new innovated ideas that focus on garnering new industries to the region and continue to support the oil and gas industry. We need to also focus on promoting young professionals in the city to engage and support various projects within the community.

Please specify any time constraints you may have.

I do not have any time constraints that would not allow me to attend meetings regularly.

Date: 8/16/2012

Phone: 432-254-1126 (Home)

432-683-5542 (Business)

Email: j.rosslacy@gmail.com

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Self Employed / Lacy Capital, LLC.

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:

Airport Planning and Development Board

Please tell us why you are interested in serving on this board or commission.

With the recent announcement of XCOR Aerospace moving to the Midland Airport, Midland is in a unique position to use this newfound partnership for economic growth and garner national attention to the region. The next few years are going to be exciting

for the airports and industrial park, which will just be another feather in the hat for Midland.

What contribution would you most like to make?

I would like to work on obtaining the Spaceport License for the airport. Also would like to work on continuing improve our airport system and work to get another hotel around the airport. The Midland Industrial Park can only benefit greatly in the next few years as of companies follow XCOR and move to the region.

Additional pertinent information or references:**(2) Name of Board/Commission:**

Midland-Odessa Urban Transit District Board

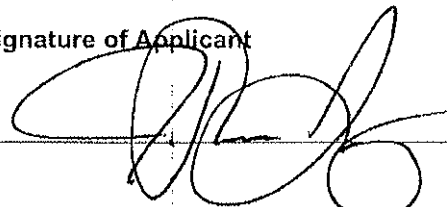
What contribution would you most like to make?

The Board did great in obtaining funding to make 349 a four lane road to Lamesa, however we need to make all entry roads into the region more accessible. Oilfield traffic is at an all time worst in the region causing unprecedented damage to our roads and making traffic accidents horrible. Working to obtain funding to make 349 a four lane road in south Midland Co. would be a major focus.

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

PERMIAN BASIN AIRPORT BOARD
(Advisory)
Membership - 30; Terms - 1 Year)
Ex-Officio Members: City Manager, City Attorney

SPECIAL COMPOSITION REQUIREMENTS: 10 Members of the Airport Planning & Development Board, A Resident of the following Cities: San Angelo, Abilene, Carlsbad, NM, Roswell NM, Artesia, NM, Hobbs NM, Fort Stockton, Seminole, Sweetwater, Pecos, 3 Residents of Odessa, Big Spring, Lamesa, Andrews, Monahans and Snyder.

MEMBER	TERM EXPIRE SEPT. 2012?	ATTEN- DANCE %	MEETINGS ATTENDED (Out of 4)	ELIGIBLE FOR ANOTHER TERM	BOARD MEMBER'S PHONE #	COUNCIL NOTES
Larry Gill (Abilene)	Yes	25%	1			
Elvin Brownlee III (Andrews)	Yes	75%	3			Reappointed 10/9/2012
Jim Little (Big Spring)	No 09/13	100%	4			Reappointed 9/25/2012.
David Hardwick (Ft. Stockton)	Yes	0%	0			
Donald R. Bethel (Lamesa)	No 09/13	50%	2			Reappointed 9/25/2012.
Henry Cutbirth (Monahans)	No 09/13	50%	2			Reappointed 9/25/2012.
Willie Taylor (Odessa)	No 09/13	50%	2			Reappointed 9/25/2012.
Gloria Pena (Odessa)	No 09/13	75%	3			Reappointed 9/25/2012.
Barbara Graff (Odessa)	Yes	75%	3			Reappointed 9/25/2012.
Isabelle Blanchard (Pecos)	Yes	50%	2			
Luis E. Elguezabal (San Angelo)	Yes	0%	0			Reappointed 10/9/2012
Lex Hinds (Seminole)	Yes	0%	0			
John Rogotzke (Snyder)	No 09/13	0%	0			Appointed 9/25/2012.
Glenn Wortham (Sweetwater)	No 09/13	0%	0			Reappointed 9/25/2012.
Lance Goodrich (Artesia, NM)	No 09/13	25%	1			Reappointed 9/25/2012.
Bob Forrest (Carlsbad, NM)	Yes	0%	0			
Larry Shed (Hobbs, NM)	Yes	0%	0			
Larry Fry (Roswell, NM)	No 09/13					Reappointed 9/25/2012.
Frankie Rolfe (Kermit)	No 09/13					Appointed 9/25/2012

APPLICANTS: (Listed Alphabetically)

APPLICANT'S NAME	NUMBER OF BOARDS APPLIED FOR	COUNCIL NOTES
Frankie Rolfe (Kermit)	1	Appointed 9/25/2012

PLANNING AND ZONING COMMISSION
(Advisory & Decision Making)
Membership - 9; Terms - 3 Years expiring 3-4-4)

SPECIAL COMPOSITION REQUIREMENTS: Resident Citizen of City, own real property inside city limits & qualified voter.

MEMBER	TERM EXPIRE SEPT. 2012?	ATTEN- DANCE %	MEETINGS ATTENDED (Out of 19)	ELIGIBLE FOR ANOTHER TERM	BOARD MEMBER'S PHONE #	COUNCIL NOTES
Becky Ferguson, Chairman	Yes	79%	15	No		
Bill Woodruff	Yes	79%	3	No		
Kevin Wilton	No 09/15	53%	10	Yes		Reappointed 9/25/2012
Royce Watkins	No 09/15	74%	14	Yes		Reappointed 9/25/2012
Karen York	Yes	47%	9	Yes		
Jane Wolf	No 09/13	74%	14			
Cindy Lanning	No 09/13	58%	11			
Jay Norris	No 09/14	58%	11			
Galen Gatten, Vice Chairman	No 09/14	79%	15			
<u>ALTERNATE:</u>						
Tony Carrillo	No 09/14	0%	0			

APPLICANTS: (Listed Alphabetically)

APPLICANT'S NAME	NUMBER OF BOARDS APPLIED FOR	COUNCIL NOTES
Brad Bullock New application	Only this board	
W. Roger Beebe New application	One other board	
Abraham Gutierrez	Only this board	
Bart Hotchkiss	One other board	
Sharla Hotchkiss	Only this board	
Warren Ivey New application		
Ronnie Lynch	One other board	
Brandon D. McMorries	Only this board	
Eric F. Nordwald Sr.	Five other boards	
Robert Porter	Only this board	
Ronn Reeger	One other board	
Russell Richards	One other board	
24.65 iesha Truitt	Only this board	



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



Applications may be submitted online via email or print in order to send by mail or fax:

City of Midland

City Secretary's Office

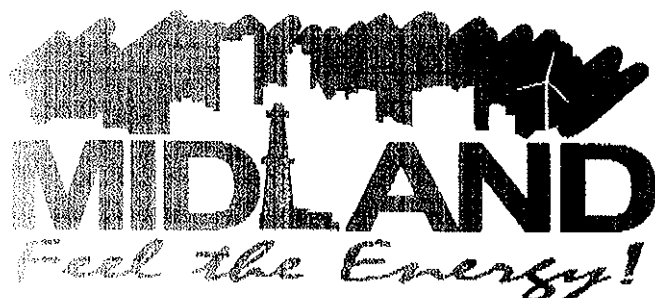
PO Box 1152

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: W. Roger Beebe
Address: 902 Interstate 20 West
Midland TX 79701
(City) (State) (Zip)

Date: Oct. 1, 2012

Phone: 817-291-0753 (Home)

432-683-1111 (Business)

Email: rbeebe@rimhospitality.co

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 11 years.

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Hotel Manager

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

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 aid 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 Barber

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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

2012-024

CITY OF MIDLAND
APPLICATION FOR CITY 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: ABRAHAM GUTIERREZ
Address: 1209 S. FORT WORTH
MIDLAND, TX 79701

Date: 8/30/12
Phone: 432-695-4030(Home)
432-522-1313(Business)
I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 28 years.

Occupation: OWNER INSURANCE + FINANCIAL SERVICES AGENCY

Professional and/or Community Activities: I have been an ACTIVE COMMUNITY member with numerous NON-PROFIT organizations and served on several taxing entity project committees. I'm also a member of the Young Professional of Midland and the WEST TEXAS INSURANCE AND FINANCIAL SERVICE Organizations.

What is your personal vision for the City? My vision for the city is to provide quality services at a great price with exceptional customer service. Foresee the future and plan accordingly.

Please specify any time constraints you may have. _____

Please list below the Board(s) or Commission(s) on which you are interested in serving:
(A complete listing is attached to this application)

(1) Name of Board/Commission: PLANNING AND ZONING COMMISSION

Please tell us why you are interested in serving on this board or commission.

I truly believe in giving back to this wonderful city.

What contribution would you most like to make?

My experience in dealing with several city and county strategic projects has provided me more knowledge of how the city works. My business experience is also something I can bring to the table.

Additional pertinent information or references:

(2) Name of Board/Commission: _____

Please tell us why you are interested in serving on this board or 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 685-7430.


Signature of Applicant

Please return this form to:

City of Midland
City Secretary's Office
P. O. Box 1152
Midland, TX 79702

FAX: (432) 685-7433 (During business hours only)



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: bart hotchkiss

Address: 1701 community lane

midland 79701

(City) (State) (Zip)

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 41 years.

Professional and/or Community Activities:

computer sales, real estate, Murray's Deli, The Fire Place

United Way campaign board, Hospice Midland Board, P & Z Commission 6 years, Council 2 years

volunteer: Keep Midland Beautiful '85 - current, Museum of the Southwest '74 - '80, Tree Keepers 2008 - current

What is your personal vision for the City?

I feel that we need to become very proactive to be able to address our two major issues: 1. water 2. Boom & bust cycles

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:

Parks & recreation

Planning & Zoning

Senior Citizens Center Planning (if such a board is created) not just for selfish reasons

Please tell us why you are interested in serving on this board or commission.

to better our city for future generations

Date: 7/12/2012

Phone: 423-684-6140 (Home)

(Business)

Email: bhotch@grandecom.net

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: retired

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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Signature of Applicant

East Hetchkins

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: Sharla Hotchkiss
Address: 1701 Community Lane
Midland Texas 79701
(City) (State) (Zip)

Date: 8/30/2012
Phone: 432-684-6140 (Home)
____ (Business)
Email: hotchkiss@grandecom.net

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 41 years.

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: nonprofit consultant, trainer

Professional and/or Community Activities:

Keep Texas Beautiful Bd (past president, Director Emeritus), Texas Workforce Inv. Council (Vice Chr), Keep Midland Beautiful &
TreeKeepers, PB Master Gardener, PBRPC Solid Waste Adv. Comm., Bush Childhood Home Fundraising, 1st Methodist Church,
Jr.League, Vision 2020 Steering Committee, local NP involvement. Lead strategic planning, training for NPO's. Facilitator.

What is your personal vision for the City?

Midland is a progressive, proactive City with a positive partnership between citizens, elected officials and City staff.

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:

Planning and Zoning

Please tell us why you are interested in serving on this board or commission.

Our City is growing and facing the challenges of creating infrastructure to support this growth. My prior experience on P&Z enables me to immediately be of value to the Commission. I enjoyed serving before and look forward to working with the excellent staff.

What contribution would you most like to make?

Broad community involvement gives me insight in the needs of the City. I bring skills in organizational development, strategic planning and facilitation. I am level-headed, experienced and want to see our City grow in an organized and progressive manner.

I offer proven leadership to help meet the Commission's goals.

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

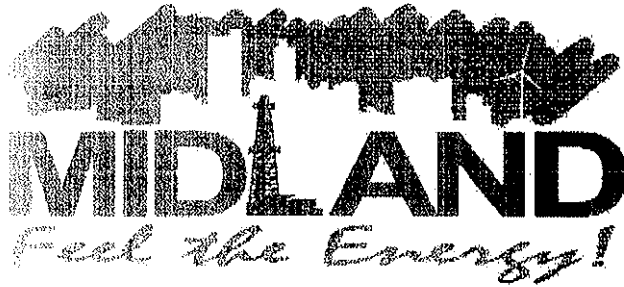


Applications may be submitted online via email or print in order to send by mail or fax:

City of Midland
City Secretary's Office
PO Box 1152
Midland, TX 79702
FAX: (432) 685-7433

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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: Warren Ivey
 Address: 2911 Rebel Drive
Midland TX 79707
 (City) (State) (Zip)

Date: 10/16/2012

Phone: 432-238-7832 (Home)
432-617-3053 (Business)

Email: Warren.Ivey@Century21.com

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 6+ years.

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Real Estate Broker

Professional and/or Community Activities:

President of the Permian Basin Board of REALTORS®, 2012 Applicant of Midland 101. 2013 Regional Vice President of the Texas Association of REALTORS®, Officer of the St. Stephens Knights of Columbus.

What is your personal vision for the City?

I want to see Midland continue to be the "Go To" city in West Texas. I would offer anything that I have learned in my career to help propel our city into further greatness.

Please specify any time constraints you may have.

I currently run all local REALTOR meetings (one or two per month). I will travel to Austin as the Regional VP for TAR.

My schedule is fairly flexible, especially if I know scheduled events ahead of 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 Commission.

Please tell us why you are interested in serving on this board or commission.

I believe it is relevant to my business and hopefully I will be able to contribute.

What contribution would you most like to make?

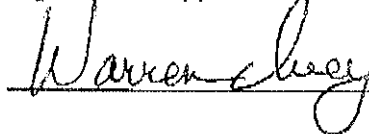
Experience from past commission service. Previously I have served upon the San Elizario Historical Commission Appeals Board.

Additional pertinent information or references:

I have worked with the City of Midland on various Real Estate issues. I hope I can continue to serve.

(2) Name of Board/Commission:**What contribution would you most like to make?****Additional pertinent information or references:**

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Signature of Applicant

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City of Midland

City Secretary's Office

PO Box 1152

Midland, TX 79702

FAX: (432) 685-7433

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APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

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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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Signature of Applicant

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**City of Midland
City Secretary's Office
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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?**

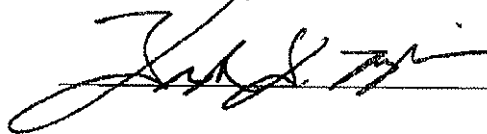
Additionally, I've been an active Realtor for about 8 years.

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



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City of Midland
City Secretary's Office
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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

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.

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 contribution would you most like to make?
First and foremost I would like to build a youth center. I also would contribute as a spokesmen.

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.

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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)

Date: 8/8/2012
Phone: 432-279-0083 (Home)
432-618-075 (Business)
Email: ronn@promisingprojects.com

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 12 **years.**

Are you a graduate of Midland 101? ☐ **yes** ☒ **no**

Occupation: Business Owner - Promising Projects

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.

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:

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

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:

City of Midland

City Secretary's Office

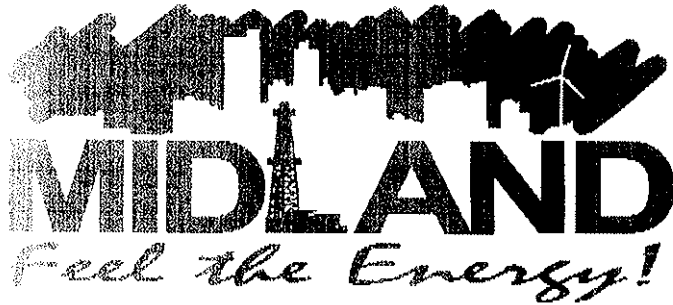
PO Box 1152

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: Russell Richards

Address: 4407 Cherrywood Drive

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 29 years.

Date: 8/31/2012

Phone: 432-689-8199 (Home)

432-682-5241 (Business)

Email: richards@gwdc.com

Are you a graduate of Midland 101? ☒ yes ☐ no

Occupation: Petroleum Geologist

Professional and/or Community Activities:

West Texas Geological Society - Officer (2004-08) including President 2007-08.

Congregational Boards and Committees - current and previous service - multiple years

What is your personal vision for the City?

A City that is thriving through managed growth and development; while recognizing limitations due to infrastructure and available resources (especially water). A City that is supportive of business development and growth (in addition to oil and gas). A City that respects an individual's rights while considering what is best for the entire population. A city that our children want to return to!

Please specify any time constraints you may have.

I generally have a flexible - self directed schedule. Regular meetings are not an issue with some notice given.

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.

Decisions / recommendations made by this commission are critical to the City's future. Process should be well thought out with consideration given to the multiple consequences of development.

What contribution would you most like to make?

Actively participate in decision making process, with the ultimate outcome being in the best interest of the City as a whole.

Additional pertinent information or references:**(2) Name of Board/Commission:**

Oil and Gas Advisory Committee

What contribution would you most like to make?

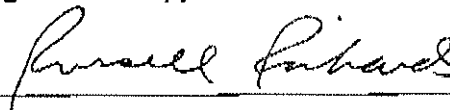
Utilize my thirty plus years industry experience to contribute to the drilling permit application approval process.

Determine how to best resolve conflicts between surface utilization and mineral development.

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

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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: Mrs. Tamesha Truitt
Address: 2905 W. Michigan Ave.
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 ³⁰ years.

Professional and/or Community Activities:

Geo-Tech for a local Oil & Gas Co. , In Church Leadership with my husband of 11 years at True Lite Christian Fellowship in Midland
"Mama Dawg" for Wide Receiver on Midland High School JV Football Team, Class Parent for my daughter's 6th grade class at Lamar
PROUD New Mom of my adopted 2 year old. I Love GOD & Love People

What is your personal vision for the City?

Grow without losing its "Small Town" Flavor or Its Friendliness

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 COUNCIL

PLANNING & ZONING

Please tell us why you are interested in serving on this board or commission.

Interested in what's "Growing" in the city & Would like to be a voice for the people

Date: 9/6/2012

Phone: 432 631-7171 (Home)
432- 684-9696 ext.24 (Business)

Email: wttruitt1@yahoo.com

Are you a graduate of Midland 101? ☒ yes ☐ no

Occupation: Geo-Tech

What contribution would you most like to make?

Being a native MIDLANDER, Experiencing & Being Exposed to the very poor & the very wealthy; I have an unbiased vision and/or v

Additional pertinent information or references:

(2) Name of Board/Commission:

What contribution would you most like to make?

COMMITMENT, TRUTH, GROWTH,

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

Tamesha Truitt

Digitally signed by Tamesha Truitt
DN: cn=Tamesha Truitt, o, ou,
email=wltruitt1@yahoo.com, c=US
Date: 2012.09.06 11:47:43 -05'00'

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

TAX INCREMENT REINVESTMENT ZONE BOARD
(Decision Making)
Membership - 12; Terms - 3 Years)

SPECIAL COMPOSITION REQUIREMENTS: None

MEMBER	TERM EXPIRE MARCH 2012?	ATTEN- DANCE %	MEETINGS ATTENDED (Out of 4)	ELIGIBLE FOR ANOTHER TERM	BOARD MEMBER'S PHONE #	COUNCIL NOTES
Neil Florer (College)	Yes	75%	3	No		
Ken Burgess (City)	Yes	50%	2	No		Appointed 10/9/2012
Mark T. Wellen (City)	Yes	100%	4	No		
Jay Reynolds, (Hospital)	Yes	25%	1	No		
Ralph Way (College)	Yes	75%	3	No		
Randy Prude (County)	Yes	75%	3	Yes		
Judge Mike Bradford (County)	Yes	25%	1	Yes		
Michael Blonkvist (City)	No 09/14	N/A	N/A			Appointed 9/25/2012
Bob Lanier (City)	Yes	100%	4	Yes		
John Kennedy (City)	Yes	100%	4	Yes		Reappointed 10/9/2012
Brent Kennedy (City)	Yes	25%	1	Yes		
Pete Hulder (Hospital)	No 03/16	100%	4			

APPLICANTS: (Listed Alphabetically)

APPLICANT'S NAME	NUMBER OF BOARDS APPLIED FOR	COUNCIL NOTES
Michael Blonkvist	Only this board	Appointed 9/25/2012
Ken Burgess	Only this board	Appointed 10/9/2012

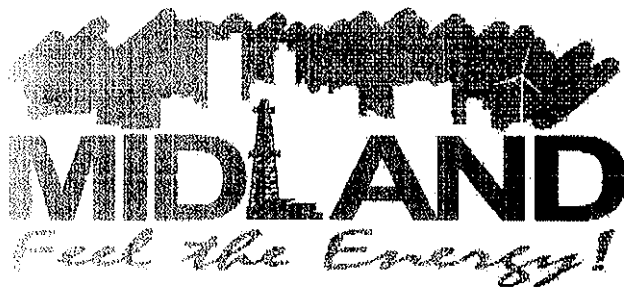
**ZONING BOARD OF ADJUSTMENT
AND
AIRPORT ZONING BOARD OF ADJUSTMENT
(Decision Making)
Membership - 5; Terms - 2 Years expiring 3 odd & 2 even)**

SPECIAL COMPOSITION REQUIREMENTS: None

MEMBER	TERM EXPIRE SEPT. 2012?	ATTEN- DANCE %	MEETINGS ATTENDED (Out of 2)	ELIGIBLE FOR ANOTHER TERM	BOARD MEMBER'S PHONE #	COUNCIL NOTES
Scott Young	No 09/13	N/A				Appointed 9/25/12
Manny Ribera	Yes	100%	2	No		
Todd Byars	No 09/14	100%	2			Reappointed 9/25/12
Ken Morgan	Yes	50%	1	Yes		
Carla Repman	No 09/13	100%	2			
<u>ALTERNATES:</u>						
Vacancy	Yes - 2006					
Vacancy	Yes - 2007					
Annabel Holguin	No 09/13					
Greg Turner	No 09/13					

APPLICANTS: (Listed Alphabetically)

APPLICANT'S NAME	NUMBER OF BOARDS APPLIED FOR	COUNCIL NOTES
Scott Young	One other board	Appointed 9/25/12



APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

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PLEASE TYPE OR PRINT CLEARLY:

Name: Warren Ivey
 Address: 2911 Rebel Drive
Midland TX 79707
 (City) (State) (Zip)

Date: 10/16/2012

Phone: 432-238-7832 (Home)
432-617-3053 (Business)

Email: Warren.Ivey@Century21.com

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 6+ years.

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Real Estate Broker

Professional and/or Community Activities:

President of the Permian Basin Board of REALTORS®, 2012 Applicant of Midland 101. 2013 Regional Vice President of the Texas Association of REALTORS®, Officer of the St. Stephens Knights of Columbus.

What is your personal vision for the City?

I want to see Midland continue to be the "Go To" city in West Texas. I would offer anything that I have learned in my career to help propel our city into further greatness.

Please specify any time constraints you may have.

I currently run all local REALTOR meetings (one or two per month). I will travel to Austin as the Regional VP for TAR.

My schedule is fairly flexible, especially if I know scheduled events ahead of time.

Please list below the Board(s) or Commission(s) on which you are interested in serving:

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(1) Name of Board/Commission:

Planning and Zoning Commission.

Please tell us why you are interested in serving on this board or commission.

I believe it is relevant to my business and hopefully I will be able to contribute.

What contribution would you most like to make?

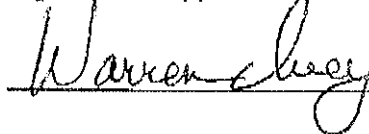
Experience from past commission service. Previously I have served upon the San Elizario Historical Commission Appeals Board.

Additional pertinent information or references:

I have worked with the City of Midland on various Real Estate issues. I hope I can continue to serve.

(2) Name of Board/Commission:**What contribution would you most like to make?****Additional pertinent information or references:**

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Signature of Applicant

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